



California Prop 65



What is Proposition 65?

The Safe Drinking Water and Toxic Enforcement Act, also known as Proposition 65, requires any company doing business in California to follow a series of regulatory measures that adequately warn customers or workers about significant exposure to chemicals that are linked to cancer, birth defects or reproductive harm.

Chemicals Covered under CA Prop 65

The list of chemicals currently includes close to 1,000 substances. Chemicals are added annually based on a series of conditions:

Carcinogen Identification Committee (CIC), Developmental and Reproductive Toxicant, or Identification Committee (DARTIC) can find that a chemical has been clearly shown to cause cancer or birth defects or other reproductive harm.

The CIC and DARTIC have designated certain organizations as “authoritative bodies”. The following organizations are authoritative bodies:

- US Environmental Protection Agency (EPA)
- US Food and Drug Administration (US FDA)
- National Institute for Occupational Safety and Health (NIOSH)
- National Toxicology Program (NTP) and International Agency for Research on Cancer (IARC)

If one of these authoritative bodies formally identifies it as causing cancer, birth defects or other reproductive harm that chemical will be added to Proposition 65.

If an agency of the state or federal government requires that a chemical be labeled or identified as causing cancer or birth defects or other reproductive harm, it will be added to the list.

If the chemical substance meets predetermined scientific standards and is identified in the California Labor Code as causing cancer, birth defects, or other reproductive harm.



New adding substances and companies' obligation deadline

When a chemical is added to the California Proposition 65 list, companies have 12 months to comply with warning label requirements. In it is critical that companies continuously check for updates to the Prop 65 list to ensure chemical compliance.

Safe Harbor Levels

Just because a product or component contains a listed chemical, doesn't necessarily mean it must fulfill all the requirements of Proposition 65. Rather, OEHHA has determined Safe Harbor Levels for Proposition 65 listed substances.

Safe Harbor Levels are divided into two groups:

- No Significant Risk Levels (NSRLs) for cancer-causing chemicals
- Maximum Allowable Dose Levels (MADLs) for chemicals causing reproductive toxicity.

Measured in micrograms per day, substances with an exposure that exceeds one of the groups of Safe Harbor Levels are subject to follow warning label requirements.

Clear and Reasonable Warnings


Under the new rules established in 2018, warning labels must be more specific, clearer and more visible when it comes to expressing the risk.

Examples:

- Standard warning labels must include a warning symbol, the word "WARNING", a specific warning message and a reference to the consumer to the Prop 65 warnings website.
- New warnings for consumer products must say the product "can expose you to chemicals including "substance name" rather than saying "contains." WARNING: is required in both capitalized text and in a supply chain risk pictogram to indicate that a potential hazard is present. Labels must identify at least one of the present chemicals by name.
- Either "cancer," "reproductive harm," or both must be communicated relative to the chemical.
- The warning must be placed directly on the product in an adhesive label form or inserted into the product packaging.



Warning Label

 **WARNING:** This product can expose you to chemicals including Lead, which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov

Who Does California Proposition 65 Apply To?

All products sold or distributed in California including textiles, hard goods, toys, juvenile products, and electrical/electronic components.

Who are being affected?

Manufacturers: Provide product warning label stating “This may include labeling, shelf tags, or labels, as well as appropriate warning language for products sold online.”

Distributors: Transferring information from the manufacturer to an authorized retailer’s seller.

Retailers: Placement and maintenance of the warning materials he/she receives from the product manufacturer, producer, packager, importer, supplier, or distributor.

Penalties for Non-Compliance

Manufacturers without a proper compliance plan for Proposition 65 can fall victim to litigation. Litigators target products containing listed substances whose warning labels may be either non-compliant, not up to date or non-existent. Litigators are not required to prove damages, only if there are any label or warning violations. Fighting or settling are both costly. Businesses found to be in violation of Proposition 65 may be ordered by the court to immediately stop committing the violation in addition to civil penalties up to \$2,500 per day for each violation.



Exemptions

Companies that are exempt from these warning requirements are:

- Businesses with less than 10 employees and government agencies.
- Products whose exposures levels (safe harbor levels) are so low as to create no significant risk of cancer.

Protect Your Company with a Compliance Expert

• SiliconExpert Delivers the Latest Compliance Data

Cost-effective and comprehensive, we provide a compliance solution that helps your business meet the requirements of the law with efficiency, effectiveness and ease of use. That's why SiliconExpert is a world leader in collecting component data and describing the chemical makeup of parts for design, manufacturing and suppliers in order to best recommend the next steps for compliance.

• Be Sure of Every Component and Material of Your Product

Manufacturers and suppliers need to know how each, and every component and material is affected by Proposition 65 regulations. With the complexities in today's data landscape and information exchange, it's easy for manufacturers without a compliance infrastructure to get overwhelmed with warnings.

To help you comb through the data and recommend the actions to take, SiliconExpert makes all parts of your supply chain aware of the chemical composition of products in the market, and shares those crucial insights with you on an accessible, easy to use platform.

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