



California Proposition 65

California Proposition 65 (commonly known as Prop 65) was enacted as a ballot initiative in November 1986. In brief, Prop 65 as the “right-to-know law” informs consumers whether hazardous substances are present in a product or its packaging. Since its implementation, Prop 65 has become a reference standard for hazardous substances in the United States, affecting all products offered for sale or distribution in California, covering textile products, hard goods, toys, children’s products, electrical and electronic equipment.

However, the compliance procedure can be quite complex. The Act itself sets no limits for hazardous substances but only safe harbour levels. While substantial data are required from businesses to apply such safe harbour levels. Currently, product limits and test methods are established based on settlement agreements from litigation filed by individuals or groups.

What is California Proposition 65?

California Proposition 65 (also known as Safe Drinking Water and Toxic Enforcement Act) was enacted as a ballot initiative in November 1986. Prop 65 businesses are required to provide a "clear and reasonable" warning before knowingly and intentionally exposing anyone to a listed chemical “Known to the State” to cause cancer or reproductive harm.

Prop 65 requires that the Governor revise and republish at least once per year the list of chemicals known to the State to cause cancer or reproductive toxicity. Up to now, there are nearly 1,000 chemical listings. Businesses using the listed chemicals shall provide a warning unless they can demonstrate the inhalation concentration of the listed chemical is lower than safe harbour level during normal use of consumers by virtue of scientific data. It deserves special attention that penalties for violating Prop 65 by failing to provide notices can be as high as \$2,500 per violation per day and each piece sold in California would be deemed as a separate violation.



Purposes

1. To protect California citizens and the drinking water from contamination from chemicals to cause cancer or birth defects or other reproductive toxicity;
2. To inform Californians about significant amounts of chemicals in the products they purchase, in their homes or workplaces, or that are released into the environment.

Core Requirements

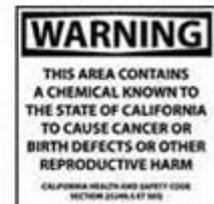
1. Prohibition on contaminating drinking water: Businesses producing, using or releasing the listed chemicals or conducting other activities involving the listed chemicals shall not discharge such chemicals into drinking water;
2. A clear and reasonable warning: Once a chemical is listed, businesses have 12 months to comply with warning requirements, unless exposure is low enough to pose no significant risk;
3. Limit for hazardous substances: The Act itself sets no limits for hazardous substances but only safe harbour levels. Rather, product limits are established based on settlements resulting from litigation brought forward by individuals or groups challenging the safety of chemical levels in particular products. Usually, the limits are subject to the settlement agreements;
4. During Prop 65 compliance, businesses should first compare the requirements identified in litigation cases for the particular product category before taking them as a reference.

Proposition 65 Warning

This warning can be given by a variety of means, such as by labelling a consumer product, posting signs at the workplace, distributing notices at a rental housing complex, or publishing notices in a newspaper.

Exemption

- Businesses with less than 10 employees and government agencies
- The exposures the businesses cause are so low as to create no significant risk of cancer or birth defects or other reproductive harm



Prop 65 Scope and Settlement Agreements

Prop 65 targets at jewellery, garment, luggage, sports equipment, toys, ceramic ware and glassware, aluminum cookware, bicycles and their attachments, electric equipment, electric wires and cables, covering almost all products. Also, it describes exposures of hazardous articles.

Among all cases, some products are forbidden to be sold in California as they exceed specific limits, while some are required to be labelled with warnings.

Settlement Agreements (Partial)

Product	Court Case Reference	Requirements
Garment, including gloves and headwear	CIV1103513	Phthalates: Each of DEHP, BBP and DBP ≤ 0.1% (accessible)
Backpacks	112-CV-234450	Lead ≤ 100mg/kg; and Lead (sample surface) ≤ 1µg (NIOSH 9100)
	112-CV-230462	Phthalates: Each of DEHP, BBP and DBP ≤ 0.1%
Cosmetic cases/bags	CGC-11-516586	Lead ≤ 50mg/kg (accessible); and Lead (sample surface) ≤ 1µg (NIOSH 9100)
	112-CV-230462	Phthalates: Each of DEHP, BBP and DBP ≤ 0.1%

Scope	Court Case Reference	Requirements
Belts	CIV1103513	Phthalates: Each of DEHP, BBP and DBP ≤ 0.1% (accessible)
	11-CV-201061	Lead ≤ 100mg/kg; and Lead (sample surface) ≤ 1µg (NIOSH 9100); and
	RG-09-459448	Lead (paint or other coatings) ≤ 90mg/kg
Footwear	CIV1106338	Phthalates Each of DEHP, BBP and DBP ≤ 0.1% (accessible)
	RG-09-459448	Lead: Paint or other coatings ≤ 90mg/kg For accessible components PVC components ≤ 200mg/kg Leather (including synthetic leather) and other components: ≤ 300mg/kg Exempt from materials set forth in 16 CFR 1500.91(d) and (e) except to leather

How to comply with Prop 65?

- Understand the chemicals used in your products and manufacturing procedures
- Communicate chemical requirements of Prop 65 in your company as well as the entire supply chain
- Support and monitor your supply chain by
 - Trainings and awareness
 - Bill of Materials and Bill of Substances
 - Managing and reviewing chemicals in a systematic manner
 - Sustainable compliance and review
 - Product compliance testing

C&K Testing keeps a close eye on the updates on “Chemicals Known to the California State to Cause Cancer or Reproductive Toxicity” and No Significant Risk Levels (NSRLs) or Maximum Allowable Dose Levels (MADLs) *. By researching into enforcement actions and settlement agreements, we are able to render analytic testing for customers to identify the concentration of the listed chemicals under Prop 65, and conduct test as per the existing settlements. Furthermore, we also can help you design compliant warnings to deal with Prop 65.

*Visit our website (en.cirs-ck.com) for updates



Company Profile

C&K Testing is a leading testing company to render you specialised solutions concerning green and sustainable development of products. Established in 2008, we've helped thousands of customers to minimise the risks of their products to human health and the environment through our testing services.

Our company is a member of CIRS which is a leading product safety management consulting firm. With our offices in Ireland and the United States as well as our laboratory in China, a global network of testing facilities enables you to meet all the relevant regulatory requirements across different markets more cost-efficiently.

Combining widely global recognition and extensive local experience, staffed by knowledgeable experts, C&K Testing will help you to gain a competitive advantage in the global marketplace by ensuring product safety and quality, removing trade barriers and optimising manufacturing procedures.

Our Testing Services: food and food-related products, cosmetics, environment, consumer products, industrial goods and chemicals. etc.



An Authoritative Platform for 3rd-Party Testing

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