



Product Liability Update

December 2024

California Proposition 65 Warning Changes Go into Effect January 1, 2025

Key Notes:

- New Proposition 65 warning requirements are scheduled to go into effect January 1, 2025.
- Amendments to the Proposition 65 warning regulations will require businesses to review their current warnings and develop a plan to implement the new short-form warning requirements.
- Short-form warnings will require at least one chemical name. Businesses currently using the short-form warnings will have three years to implement the new warnings.
- New warnings will be required for passenger and off-highway motor vehicle parts and recreational marine vessel parts exposures.

On December 6, 2024, the California Office of Environmental Health Hazard Assessment (OEHHA) announced that it has adopted significant amendments to California Proposition 65 regulations, marking the most substantial changes since 2016. These changes, which include updates to short-form warnings on consumer products and new safe harbor warnings for passenger or off-highway motor vehicle and recreational marine vessel parts, will take effect on January 1, 2025. Key updates include:

New Warning Prefatory Language Available

Businesses in the past have expressed concern that the Proposition 65 safe harbor warnings are not specifically limited to California. Businesses can now choose to continue to use the signal word, “**WARNING:**” or the words “**CA WARNING**” or “**CALIFORNIA WARNING:**” in bold, all-

caps text, providing flexibility for both long- and short-form warnings. This language would be preceded by the universal warning symbol depicted by a yellow triangular warning icon featuring a black exclamation point.

Similarly, online warnings may use clearly marked hyperlinks labeled with the same options on the product display page that links to the warning.

Short-Form Warnings Must Now Identify At Least One Chemical Name

OEHHA abandoned its previous proposals to limit use of the short-form warning option for Proposition 65 warnings to small packages. However, short-form warnings must now identify at least one chemical by name, and follow one of the following options:

For Exposures to Listed Carcinogens:

-  [WARNING / CA WARNING / CALIFORNIA WARNING:] Cancer risk from exposure to [name of chemical]. See www.P65Warnings.ca.gov. OR
-  [WARNING / CA WARNING / CALIFORNIA WARNING:] Can expose you to [name of chemical], a carcinogen. See www.P65Warnings.ca.gov.

For Exposures to Listed Reproductive Toxicants:

-  [WARNING / CA WARNING / CALIFORNIA WARNING:] Risk of reproductive harm from exposure to [name of chemical]. See www.p65warnings.ca.gov/. OR

-  [WARNING / CA WARNING / CALIFORNIA WARNING:] Can expose you to [name of chemical], a reproductive toxicant. See www.p65warnings.ca.gov/.

For Exposures to Both Listed Carcinogens and Reproductive Toxicants:

-  [WARNING / CA WARNING / CALIFORNIA WARNING:] Risk of cancer from exposure to [name of chemical] and reproductive harm from exposure to [name of chemical]. See www.p65warnings.ca.gov/. OR
-  [WARNING / CA WARNING / CALIFORNIA WARNING:] Can expose you to [name of chemical], a carcinogen, and [name of chemical], a reproductive toxicant. See www.p65warnings.ca.gov/.

For Exposures to a Chemical That is Listed as Both a Carcinogen and a Reproductive Toxicant:

-  [WARNING / CA WARNING / CALIFORNIA WARNING:] Risk of cancer and reproductive harm from exposure to [name of chemical]. See www.p65warnings.ca.gov/. OR
-  [WARNING / CA WARNING / CALIFORNIA WARNING:] Can expose you to [name of chemical], a carcinogen and reproductive toxicant. See www.p65warnings.ca.gov/.

Short-Form Warnings Now Explicitly Authorized for Food Products

The regulations previously did not expressly authorize the use of the short-form warning for food products. The amendments clearly state that the short-form warning is available for use on food product labels, provided that the website link given in the short-form warning direct to www.P65Warnings.ca.gov/food.

New Tailored Warning for Passenger or Off-Highway Motor Vehicle Parts and Recreational Marine Vessel Parts

A safe harbor warning has been established for Proposition 65 exposures that occur during the purchase, handling or installation of a part for a “passenger vehicle” or “off-highway motor vehicle” as defined in the California Vehicle Code.

-  [WARNING / CA WARNING / CALIFORNIA WARNING:] Handling passenger or off-highway motor vehicle parts can expose you to chemicals such as phthalates and lead, which can cause cancer and reproductive harm. To minimize exposure, service the vehicle in a well-ventilated area, wear gloves, and wash your hands. For more information see www.P65Warnings.ca.gov/motor-vehicle-parts.

A safe harbor warning has also been established for Proposition 65 exposures that occur during the purchase, handling, or installation of a part for a “recreational marine vessel” as defined in the California Harbor and Navigation Code.

-  [WARNING / CA WARNING / CALIFORNIA WARNING:] Handling recreational marine vessel parts can expose you to chemicals such as phthalates and lead, which can cause cancer and reproductive harm. To minimize exposure, service the vessel outdoors or in a well-ventilated area, wear gloves, and wash your hands. For more information see www.p65warnings.ca.gov/marine-vessel-parts.

These warnings may also be provided on a sign no smaller than 5 inches by 5 inches and no smaller than 20-point type, placed at each retail point of sale or display of, as applicable, passenger or off-highway motor vehicle parts or recreational marine vessel parts.

Notably, covered passenger or off-highway motor vehicle parts and marine vessel parts products include any part offered for sale or transferred to a consumer for installation in or service on a passenger or off-highway motor vehicle or recreational marine vessel, but exclude packaged service chemicals, tires, parts containing asbestos, carpeting, upholstery including fillings and coverings, textiles and fabrics.

Effective Dates

The changes take effect on **January 1, 2025**. However, businesses that currently rely on the existing short-form warnings will have a three-year period in which to transition to the new short-form warnings. Products manufactured and labeled with the existing short-form warnings on or before **December 31, 2027**, may continue to be sold as

labeled. During the three-year implementation period, retailers have a 60-day transition period to update online short-form warnings after receiving notice from a manufacturer.

FOR MORE INFORMATION

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