

Proposition 65 Clearinghouse

Safe Harbor Warnings for Internet & Catalog Sales

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Proposition 65 -- Internet and Catalogue Sales

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Statutory Warning Requirement:

“No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving *clear and reasonable warning* to such individuals, except as provided in Section 25249.10.”

Health & Safety Code § 25249.6

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“Safe Harbor” Warnings

A warning is “*clear and reasonable*” within the meaning of Section 25249.6 of the Act if the warning complies with all applicable requirements of this article.

Cal. Code Regs, *tit.* 27, §25601(a)

“Nothing in the [safe harbor] regulations shall be construed to preclude a person from providing a warning using content or methods other than those specified in [the safe harbor regulations] that nevertheless complies with Section 25249.6 of the Act.”

Cal. Code Regs., *tit.* 27, §25600(f)

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Methods of Transmission for Consumer Product Exposures

Unless otherwise specified in Section 25607, a warning meets the warning requirements of this article if it complies with the content requirements in Section 25603 and is provided using one or more of the following methods

- (1) A product-specific warning . . . at each point of display
- (2) A product-specific warning provided via any electronic device or process . . .
- (3) A label that complies with the content requirements . . .
- (4) An on-product warning

Cal. Code Regs., tit. 27, 25602 (a)

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Internet Purchases:

“A warning that complies with the content requirements . . . must be provided by including either the warning or a clearly marked hyperlink using the word “**WARNING**” *on the product display page, or by otherwise prominently displaying the warning to the purchaser prior to completing the purchase.* If an on-product warning is provided pursuant to . . . the warning provided on the website may use the same content as the on product warning. For purposes of the [safe harbor regulations], a warning is not prominently displayed if the purchaser must search for it in the general content of the website.”

Cal. Code Regs., *tit.* 27, 25602(b)

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Catalog Purchases:

“the warning must be provided in the catalog *in a manner that clearly associates it with the item being purchased*. If an on-product warning is being provided pursuant to Section 25602(a)(4), the warning provided in that language in addition to English.”

Cal. Code Regs., *tit.* 27, 25602(c)

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Another Resource:

OEHHA Question & Answer Document

www.p65warnings.ca.gov/sites/default/files/art_6_business_qa_internet_warnings.pdf

“Proposition 65

Clear and Reasonable Warnings

Questions and Answers for Businesses

INTERNET AND CATALOGUE WARNINGS

Revised March 2018”