Federal Preemption: Legislative and Legal Challenges Facing Prop 65

Prop 65 Clearinghouse

Sept. 24, 2018

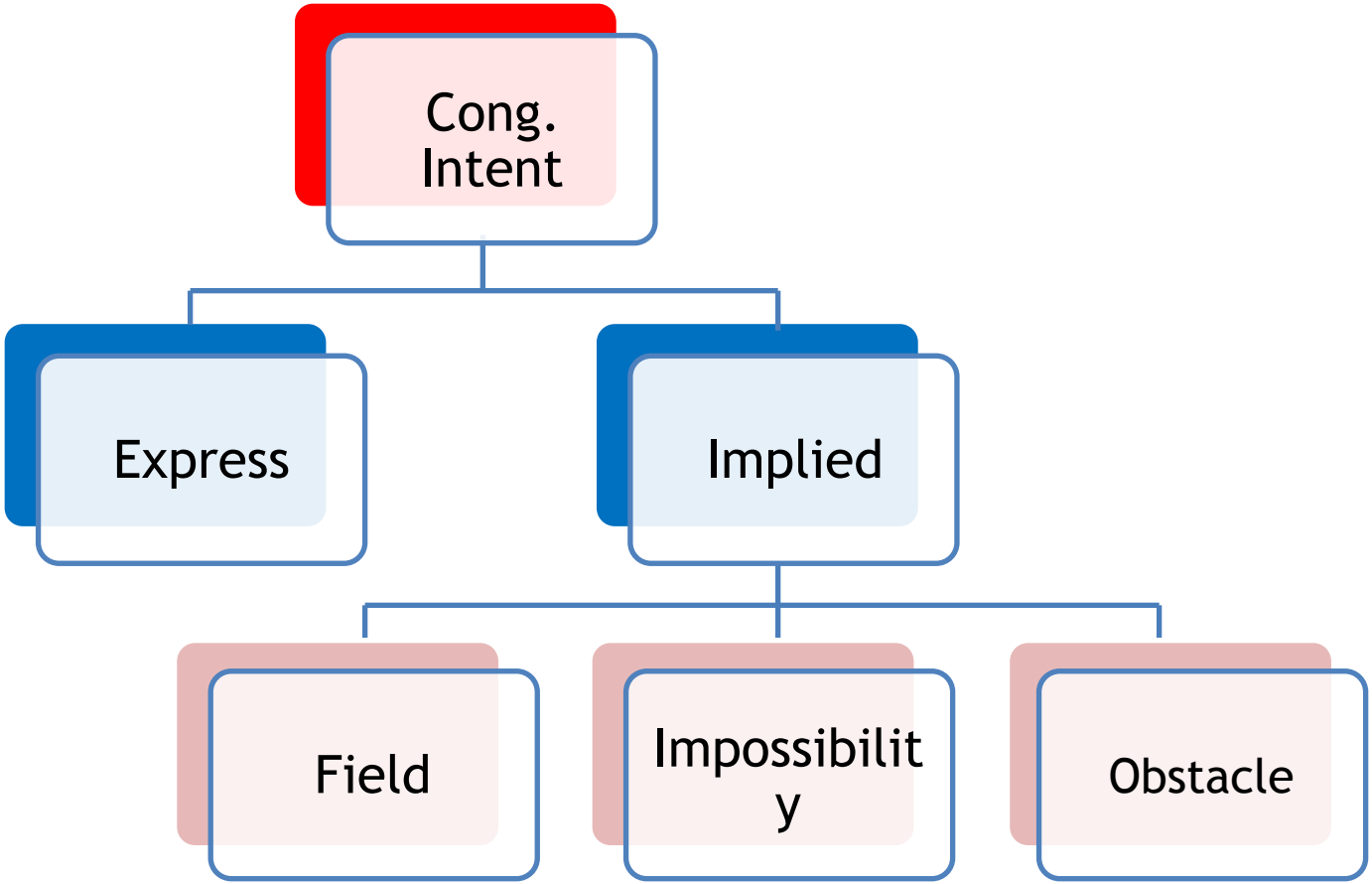
Prop 65

Exemptions from Warning Requirement

**"Section 25249.6 shall not apply to . . .
[a]n exposure for which
federal law governs warning
in a manner that preempts state authority."**

Cal. Health & Safety Code Section 25249.10(a).

Federal Preemption



115TH CONGRESS
2D SESSION

H. R. 6022

To amend the Fair Packaging and Labeling Act to require that Federal and State mandated information declarations and labeling requirements applicable to the chemical composition of, and radiation emitted by, consumer products meet minimum scientific standards to deliver accurate and clear information, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 2018

Mr. KINZINGER (for himself, Mr. SCHRADER, Mr. GUTHRIE, Mr. PETERSON, Mr. CARTER of Georgia, Mr. VELA, Mr. HUDSON, and Mr. COSTA) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend the Fair Packaging and Labeling Act to require that Federal and State mandated information declarations and labeling requirements applicable to the chemical composition of, and radiation emitted by, consumer products meet minimum scientific standards to deliver accurate and clear information, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Accurate Labels Act".

partial

"MINIMUM SCIENTIFIC STANDARDS"

-- must be "based upon a safety evaluation that includes non-linear modeling approaches that are consistent with . . . scientific understanding of . . . a mode of action in lieu of, or at a minimum, in addition to, a linear default method" [*subsection (a)(7)(B)(i)*]

--"takes into consideration . . . the kind and degree of any relevant scientific uncertainties" [*subsection (a)(7)(B)(ii)*]

--is based upon integrating information on multiple hazards from different constituents in the product [*subsection (a)(13)(B)]*

-- is based upon "the recognition of a mode of action within a systematic compilation of scientific data that, within a structured framework, supports a hypothesized, biologically plausible pathway." [*subsection (a)(13)(C)]*

--"integrate[s] evidence as necessary and appropriate based on" . . . "a pre-established protocol" that "comprehensively, objectively, transparently, and consistently identif[ies] and evaluate[s] each stream of evidential information, including the strengths, limitations, and relevance of any study . . . ." [*subsection (a)(15)(B), (A)*]