

## CHANGES TO PROPOSITION 65 NEW WARNING LANGUAGE MANDATORY AS OF AUGUST 31, 2018

California has made changes to its Proposition 65 warning language requirements. These changes are **mandatory as of August 31, 2018**; however, companies can voluntarily elect to follow them now. The changes modify the current Prop 65 warnings.

This document is intended to supplement The Vision Council's existing guidance document on Prop 65, which is found at [https://www.thevisioncouncil.org/sites/default/files/VC\\_CA-Prop-65-Guide-2-2016.pdf](https://www.thevisioncouncil.org/sites/default/files/VC_CA-Prop-65-Guide-2-2016.pdf). You may continue to use the warning language spelled out in this document until the August 31, 2018 deadline.

### I. Changes to the Prop 65 Warning for Consumer Product Exposure

1. Warning Image. The first change will be the inclusion on the warning of a yellow equilateral triangle with a bold black outline, containing a black exclamation point.



- A. The symbol can be in black and white if the sign, label or hang tag it is placed on does not incorporate yellow already.
  - B. The symbol must be put to the left of the warning text, in a font size no smaller than the height of the word "WARNING."
2. Must Identify the Chemicals in the Product. You must identify by name one or more of the Prop 65 chemical substances found in your consumer product.
    - A. The new language for product exposure where the Prop 65 substance is a **carcinogen** is as follows: "**WARNING**: This product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to cause cancer. For more information go to [www.P65Warnings.ca.gov/product](http://www.P65Warnings.ca.gov/product)."
    - B. The new language for product exposure where the Prop 65 substance is a **reproductive toxicant** is as follows: "**WARNING**: This product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to cause birth defects or other reproductive harm. For more information go to [www.P65Warnings.ca.gov/product](http://www.P65Warnings.ca.gov/product)."
    - C. If the product contains **at least one substance that causes cancer**, and **at least one other substance that causes reproductive harm** then the warning must read: "**WARNING**: This product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to cause cancer, and [name of one or more chemicals], which is known to the State of

California to cause birth defects or other reproductive harm. For more information go to [www.P65Warnings.ca.gov/product](http://www.P65Warnings.ca.gov/product)."

- D. If the product contains one substance that is identified on the Prop 65 list as **both a carcinogen and a reproductive toxicant** then the warning language must read: "**WARNING:** This product can expose you to chemicals including [name of one or more chemicals], which is [are] 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/product](http://www.P65Warnings.ca.gov/product)."

### 3. Changes to the Warning if you put the Warning Directly on the Product

You will now have the option to use an abbreviated warning if the warning is affixed directly on the product. An on-product warning requires the following elements:

- A. The warning symbol.



- B. The word "**WARNING**" in all capital letters, in bold print.

- C. And the appropriate warning based on the substance in the product:

- a. "Cancer - [www.P65Warnings.ca.gov/product](http://www.P65Warnings.ca.gov/product)"
- b. "Reproductive Harm - [www.P65Warnings.ca.gov/product](http://www.P65Warnings.ca.gov/product)"
- c. "Cancer and Reproductive Harm - [www.P65Warnings.ca.gov/product](http://www.P65Warnings.ca.gov/product)"

- D. The font size can be no smaller than 6-point font, but must be no smaller than the largest typeface used on the product for other consumer information.

- E. If you place the warning directly on the product you are excused from having to identify the actual chemical substance(s) found in the product.

### 4. Other Requirements for Consumer Products

- A. The manufacturer, producer, packager, importer or distributor is the party responsible for Prop 65 warning compliance, except in certain circumstances discussed below.

- B. The warning label can be affixed to the product or to its immediate container or wrapper.

- C. A product specific warning can also be on a posted sign, shelf tag or shelf sign.

- a. But must be at each point of display of the product.

- D. For internet purchases, the warning language goes on the actual page where the consumer product is displayed, or is accessed via a hyperlink on the product-display page.

- a. The word "WARNING" must be associated with the hyperlink.

- E. For catalog purchases, the warning must be clearly associated with the item being purchased.

- F. When a sign, label or shelf tag used with a consumer product to provide the warning includes

consumer information in a language other than English, then the warning must also be provided in that additional language.

#### 5. Shifting the Responsibility to the Retailer

A manufacturer, producer, packager, importer, supplier or distributor of a consumer product subject to Prop 65 can push the compliance responsibility to the retailer by doing the following:

- A. Provide written notice directly to a retail seller's authorized agent.
- B. State that the product may result in the exposure to one or more chemicals on the Prop 65 list.
- C. Provide the exact name or description of the product, or specific identifying information such as the UPC.
- D. Include all necessary warning materials, such as labels, shelf signs, or tags.
- E. Obtain confirmation either electronically or in writing of the retailer's receipt of the notice.
- F. You must renew this notice within 6 months of the first time it is served, and then annually thereafter.
- G. An additional notice is required within 90 days when a new chemical(s) or end point(s) is included in the warning.

If you do this, then the responsibility for placing and maintaining the warning materials, and the liability for failing to do so, is shifted to the retailer.

#### 6. Other Areas of Retailer Responsibility for Warning Labels

- A. In addition to the above-described situation, the retailer is responsible for providing the warning in the following situations:
  - a. It is selling the product under its brand or trademark.
  - b. It has knowingly introduced a listed chemical into the product.
  - c. It has covered, altered or obscured the warning label already affixed to the consumer product.
  - d. It has actual knowledge that the product requires a warning and the manufacturer, producer, packager, importer, supplier, distributor is not within the jurisdiction of California.

## II. **Changes to the Prop 65 Warning for Occupational Exposure**

- 1. TVC members with facilities in California have the additional requirement of warning their employees if Prop 65 substances are in the workplace. Under the revised regulations, the Prop 65 warning is satisfied by any warning that complies with all the information, training and labeling requirements set out in the Federal Hazard Communication Standard, the California Hazard Communication Standard, or for pesticides, the Pesticides and Worker Safety Regulations.
- 2. Alternatively, you can achieve workplace compliance by posting specific Prop 65 warning signage that includes:

- A. The warning symbol.



B. The word “**WARNING**” in all capital letters, in bold print.

C. And the appropriate warning based on the substance in the product:

- a. For single carcinogens: “Entering this area can expose you to [name of the chemical] from [name of one or more sources of exposure]. [Name of chemical] is known to the State of California to cause cancer. For more information, go to [www.P65Warnings.ca.gov/product](http://www.P65Warnings.ca.gov/product).
- b. For multiple carcinogens: “Entering this area can expose you to chemicals known to the State of California to cause cancer, including [name of the chemicals], from [name of one or more sources of exposure]. For more information, go to [www.P65Warnings.ca.gov/product](http://www.P65Warnings.ca.gov/product).
- c. For single reproductive toxicants: “Entering this area can expose you to [name of chemical] from [name of one or more sources of exposure]. [Name of chemical] is known to the State of California to cause birth defects or other reproductive harm. For more information, go to [www.P65Warnings.ca.gov/product](http://www.P65Warnings.ca.gov/product).
- d. For multiple reproductive toxicants: “Entering this area can expose you to chemicals known to the State of California to cause birth defects or other reproductive harm, including [name of one or more chemicals], from [name of one or more sources of exposure]. For more information, go to [www.P65Warnings.ca.gov/product](http://www.P65Warnings.ca.gov/product).
- e. For exposure to both listed carcinogens and reproductive toxicants: “Entering this area can expose you to chemicals known to the State of California to cause cancer and birth defects or other reproductive harm, including [name of one or more chemicals known to cause cancer and name of one or more chemicals known to cause birth defects or other reproductive harm, from [name of one or more sources of exposure]. For more information, go to [www.P65Warnings.ca.gov/product](http://www.P65Warnings.ca.gov/product).
- f. For exposure to a single chemical that is listed both as a carcinogen and as a reproductive toxicant: “Entering this area can expose you to [name of chemical] from [name of one or more sources of exposure]. [Name of chemical] 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/product](http://www.P65Warnings.ca.gov/product).

3. The warning sign must be posted at all public entrances to the affected area

A. Must use at least 72-point font.

B. Sign must be in English, unless other languages are used on other signage in the affected area, in which case it must be in that language too.

C. Must be conspicuous, likely to be read, and call out the source of exposure.

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