

# California's Proposition 65

## Safe Drinking Water and Toxic Enforcement Act of 1986

Proposition 65 (Prop. 65) is a uniquely Californian statute that requires warnings for products containing chemicals listed as "known to the State" to cause cancer or reproductive harm. Failure to provide these warnings can result in substantial financial penalties.

Both government law enforcement authorities and private citizens can bring judicial actions alleging failure to give required warnings. These actions typically involve claims also brought under Section 17200 of the California Business & Professions (B&P) Code, which prohibits unlawful or fraudulent and unfair business acts and practices in California.

Successful citizen suits can result in the payment of the plaintiffs' attorney fees in addition to penalties and injunctive relief.

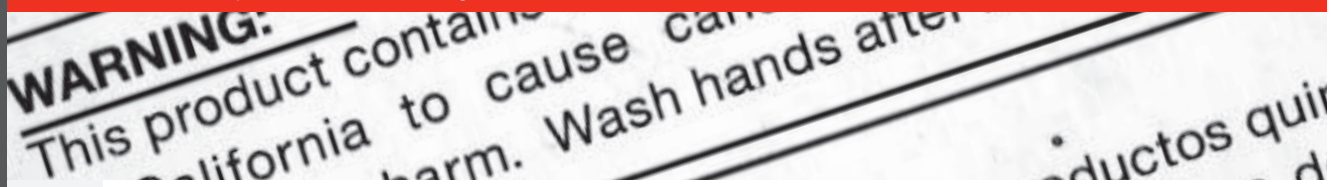
Shook Hardy & Bacon lawyers have years of experience providing compliance advice and handling enforcement matters involving Prop. 65, B&P Code sec. 17200, and related state law requirements. SHB attorneys have provided legal counsel and representation to clients on

Prop. 65 matters involving a broad range of chemicals, products and different exposure scenarios.

Understanding that our clients need advice and counsel not only when they are facing litigation, SHB attorneys have been involved with proceedings before the California Office of Environmental and Health Hazard Assessment, which makes listing decisions about various chemicals that may be present in our clients' products.

Where warranted, we have helped clients negotiate settlements to address the potential for liability at the earliest possible stage, often before a lawsuit is filed. When litigation becomes inevitable, we have aggressively and successfully represented clients in both California trial and appellate courts.

In defending Prop. 65 matters, we provide a distinct combination of legal skill, practical sensibility, and a capacity to understand complex scientific issues involving physical and biological chemistry, health risk assessment, toxicology, and related subjects.



## Our Prop. 65 Experience:

- Represented over-the-counter drug manufacturers in litigation over alleged exposures to lead and cadmium contained in zinc oxide-based skin care products.
- Represented baby monitor manufacturers in litigation over alleged exposure to lead contained in electrical cords.
- Represented major vaccines distributor in litigation over alleged exposure to mercury contained in product preservatives.
- Represented trade associations for the cosmetics, fragrances and toiletries and medical device industries in litigation over preemption claims under the federal Food, Drug and Cosmetics Act.
- Represented a major hotel chain in litigation over alleged exposures to environmental tobacco smoke.
- Represented wineries in case involving the alleged presence of lead in wine wrappers.
- Represented chemical manufacturer in a case involving the alleged presence of Prop. 65-listed chemicals in a pool test chemicals kit.
- Tried a case involving alleged exposure to lead in paint.
- Represented building owners in connection with claims of alleged exposure to Prop. 65-listed chemicals in exhaust fumes from vehicles in parking garages.
- Represented oil company in connection with claims related to alleged chemical releases from underground storage tanks.
- Represented manufacturer of grocery bags in connection with claims based on alleged exposure to lead.
- Represented container manufacturer in connection with alleged exposure to plasticizers.
- Advised petroleum product retailers and electronics manufacturers on Prop. 65 compliance.

For additional information about SHB's Proposition 65 practice, please contact:



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