

Proposition 65

What Showrooms NOT in California Need to Know

What is Proposition 65?

Proposition 65 is a California state law (meaning the law only governs California) that requires businesses to provide clear and reasonable warnings to California consumers about the significant exposure to chemicals that are known to the state of California to cause cancer, birth defects or other reproductive harm.

Takeaway: The requirement for clear and reasonable warning applies to products of the lighting industry. Despite the California-required warnings, lighting products are safe for consumers.

Why, all of a sudden, am I hearing so much about Proposition 65? On Aug. 30, 2018, new amendments went into effect concerning the clear and reasonable warnings requirements.

Takeaway: The effects of the new amendments have begun to trickle through the supply chain. Many manufacturers have started to put warnings on the outside and inside of their product cartons. Even though Proposition 65 may not affect your business, your customers might have questions about the warnings and you should be prepared to explain them.

My business is not in California, why am I seeing the warnings?

California is the tail that wags the dog.

Takeaway: Because it is the largest consumer market in the United States, manufacturers typically produce products and written materials to coincide with the more stringent California requirements. The cost to make and print a second run of non-California related materials is cost prohibitive.

Like I said, my business is not in California, but I do business in California. What do I need to know?

Proposition 65 requires out-of-state sellers to comply with the clear and reasonable warnings requirements when doing business in California via internet or catalog sales.

Takeaway: For internet and catalog sales, warnings must be provided prior to completion of the sale. This differs from sales conducted in a brick-and-mortar locations where the warning must be provided prior to the point of exposure.

I carry several different manufacturers. Some of them provide Proposition 65 warnings on the carton and some of them do not? Why the inconsistency?

Presently, there is no consistency amongst ALA's manufacturers when it comes to Proposition 65 warnings.

Takeaway: Many manufacturers feel there is too much ambiguity in the requirements. Some manufacturers fear that including the warning sends the wrong message to consumers (again, lighting products are not harmful). Some manufacturers have binding agreements with the state of California as the result of previous Proposition 65 lawsuits. Some manufacturers have paid to have their products tested to prove their products do not contain any Proposition 65 chemicals. And yet, some manufacturers are choosing not to warn, simply because they feel they do not need to warn.

If a customer asks why the warnings apply only to California consumers, what should I tell them?

Regardless of the new requirements, lighting products are safe for consumers. California has an aggressive regulatory practice aimed at protecting Californians and the environment. In this instance, the new Proposition 65 warning requirements were designed to be more relevant to California consumers. Unfortunately, the new requirements are having the reverse effect, as a mass of unnecessary warnings are flooding into the marketplace.

Takeaway: Often times, regulations in California are hastily enacted and common sense is forced to take a back seat. Lighting products are safe for consumers throughout the U.S.

ALA members can visit the ALA-member website for additional Proposition 65 resources:

<https://alamembers.com/Government-Engagement/Prop-65>