

RetailLawBCLP

## PROP. 65 SHORT-FORM WARNINGS ARE ABOUT TO GET LONGER

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California's proposed amendments to the Proposition 65 short-form warning requirements have been approved and are set to take effect on January 1, 2025. Businesses that use the current version of the short-form warning will have three years to implement the changes, which require identifying at least one chemical name in the warnings.

As we previously reported, California's Office of Environmental Health Hazard Assessment (OEHHA) proposed amendments to the Prop. 65 short-form warning requirements in October 2023, and modified the proposed amendments in June 2024. The proposed amendments were approved on November 26, 2024.[1] Key provisions include the following:

### SHORT-FORM WARNINGS MUST IDENTIFY A CHEMICAL

Under the new regulations, a short-form Prop. 65 warning must specify at least one chemical for which the warning is being provided, using one of the following language versions:


#### FOR EXPOSURES TO LISTED CARCINOGENS

 **WARNING:** Cancer risk from exposure to [name of chemical]. See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)

 **WARNING:** Can expose you to [name of chemical], a carcinogen. See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)

#### FOR EXPOSURES TO LISTED REPRODUCTIVE TOXICANTS

 **WARNING:** Risk of reproductive harm from exposure to [name of chemical]. See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)

 **WARNING:** Can expose you to [name of chemical], a reproductive toxicant. See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)

## FOR EXPOSURES TO BOTH LISTED CARCINOGENS AND REPRODUCTIVE TOXICANTS



**WARNING:** Risk of cancer from exposure to [name of chemical] and reproductive harm from exposure to [name of chemical]. See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)



**WARNING:** Can expose you to [name of chemical], a carcinogen, and [name of chemical], a reproductive toxicant. See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)

## FOR EXPOSURES TO A CHEMICAL THAT IS LISTED BOTH AS A CARCINOGENS AND A REPRODUCTIVE TOXICANT



**WARNING:** Risk of cancer and reproductive harm from exposure to [name of chemical]. See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)



**WARNING:** Can expose you to [name of chemical], a carcinogen and reproductive toxicant. See [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)

Both long and short-form warnings can be preceded by the language “CA WARNING” or “CALIFORNIA WARNING” instead of just “WARNING.”[2]

As with the previous version of the statute, the type size of the warning can be no smaller than 6-point type; however, the previous requirement that the short-form warning be in type size no smaller than the largest type size used for other consumer information is no longer required.[3]

The statute provides a three-year implementation period—from January 1, 2025 to January 1, 2028—during which the current version of the short-form warning (that doesn’t specify any particular chemical) will still be considered by OEHHA to be “clear and reasonable.”[4]

## ONLINE WARNINGS

Under the amended statute, warnings for products sold only over the internet can be provided in one of three ways: (1) on the product display page; (2) through a clearly marked hyperlink using the words “WARNING,” “CA WARNING,” or “CALIFORNIA WARNING,” that links to the warning; or (3) an otherwise prominently displayed warning provided prior to purchase that the consumer does not have to search for in the general contents of the website.[5] This modification is significant in that it removes the previous requirement that products sold online have both a warning on the website as well as on the product itself.

Additionally, under a new provision of the amendment statute, internet retailers are given a 60-day grace period during the three-year implementation period to update internet warnings when they

receive a notice from the manufacturer or distributor that a new short-form warning is required. This grace period gives internet retailers 60 days to provide updated warning language on websites after receiving a 60-day notice.<sup>[6]</sup>

## FOOD EXPOSURE WARNINGS

Under the amended statute, short-form warnings similar to those above may be used for food products—the only difference being the hyperlink must site: [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

As previously mentioned, the effective date for the regulation is January 1, 2025 with a three year implementation period. The finalized language reflecting the amendments can be found [here](#).

For questions or more information, contact the authors listed, [Merrit Jones](#), [Tom Lee](#) or [Anna Donald](#).

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[1] 27 C.C.R. §§ 25601, *et seq.* The amendments modify 27 C.C.R. sections 25601, 25602, 25603, and 25607.2, and add new sections 25607.50 through 25607.53.

[2] § 25603(a)(2), (b)(2).

[3] § 25602(a)(4).

[4] § 25603(c).

[5] § 25602(b)(1).

[6] § 25602(b)(2).

## RELATED PRACTICE AREAS

- Retail & Consumer Products

## MEET THE TEAM



**Merrit M. Jones**

San Francisco

[merrit.jones@bcplaw.com](mailto:merrit.jones@bcplaw.com)

[+1 415 675 3435](tel:+14156753435)



**Thomas S. Lee**

San Francisco

[tom.lee@bcplaw.com](mailto:tom.lee@bcplaw.com)

[+1 415 675 3447](tel:+14156753447)



**Anna Valerie Donald**

San Francisco

[anna.donald@bcplaw.com](mailto:anna.donald@bcplaw.com)

[+1 415 675 3438](tel:+14156753438)

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