

What the RV Industry Needs to Know about California's Prop 65

Michael Ochs

RVIA Director of Government Affairs



WARNING!

**New Proposition 65 Warning
Regulations Taking Effect**

Purpose of this Webinar

- My goal is to increase the RV industry's awareness of these new Prop 65 warning regulations going into effect in California soon:
 - What is Prop 65?
 - Updated Regulations
 - Elements of a Warning Label
 - Environmental Exposure
- The information provided in this webinar is not intended to be legal advice; companies should consult with their own counsel on the best Prop 65 approach for their company

What is Prop 65?

1

Proposition 65 became law in November 1986, when California voters approved it by a 63-37 percent margin. The official name of Proposition 65 is the Safe Drinking Water and Toxic Enforcement Act of 1986.

2

Prop 65 is administered by the Office of Environmental Health Hazard Assessment (OEHHA), which is part of the California Environmental Protection Agency (CalEPA).

What is Prop 65?



Proposition 65 requires businesses with 10 or more employees to provide “clear and reasonable” warnings to Californians about significant exposures to chemicals that cause cancer, birth defects or other reproductive harm.



Proposition 65 requires California to publish a list of chemicals known to cause cancer, birth defects or other reproductive harm. This list, which must be updated at least once a year, has grown to include approximately 900 chemicals.

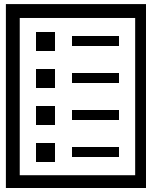


Penalties for violating Proposition 65 by failing to provide warnings can be as high as \$2,500 per violation per day.



Under California law, RV travel trailers are treated as consumer products, while motorhomes are treated as passenger vehicles. This difference changes how they are treated under Prop 65 and what warnings are required.

Updated Regulations for Prop 65



New regulations were written in 2016 and fully take effect on August 30, 2018



These new regulations will significantly alter the “safe harbor” rules for providing Prop 65 warnings



Section 25603, subsections (a) and (b) provide options for safe harbor warning content for consumer products.

Subsection (a) is the standard warning content
subsection (b) allows a business to use truncated, “short-form” warning content on a product label.



Updated Regulations for Prop 65

- There are four safe harbor warning methods allowed:
 - A product-specific warning provided on a posted sign, shelf tag, or shelf sign, at each point of display of the consumer product.
 - A product-specific warning provided via any electronic device that automatically provides the warning to the purchaser before purchase without requiring the purchaser to seek out the warning.
 - A warning on the label that complies with the content requirements in Section 25603(a).
 - An on-product “short-form” warning on the label that complies with the content requirements in Section 25603(b). ***This one will most often be used by RV manufacturers for travel trailers.***

Elements of a Warning Label – Long Form




- The warning symbol must consist of a black exclamation point in a yellow equilateral triangle with a bold black outline. *Note: Can be downloaded at : <https://www.p65warnings.ca.gov/warning-symbol>*
- The word **WARNING** in all capital letters and bold print.
- For carcinogens, the words, “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.”

Elements of a Warning Label – Long Form


- For reproductive toxicants, the words, “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.”
- For a chemical that is both a carcinogen and a reproductive toxicant, the words, “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.”





Elements of a Warning Label – Short Form

- A short-form warning may be provided on the product label using all the following elements:
 - (1) The symbol required in subsection (a)(1). 
 - (2) The word “WARNING:” in all capital letters, in bold print.
 - (A) For exposures to listed carcinogens, the words, “Cancer - www.P65Warnings.ca.gov.”
 - (B) For exposures to listed reproductive toxicants, the words, “Reproductive Harm - www.P65Warnings.ca.gov.”
 - (C) For exposures to both listed carcinogens and reproductive toxicants, the words, “Cancer and Reproductive Harm - www.P65Warnings.ca.gov.”
- A short-form warning label is **not required** to include within the text of the warning the name or names of a chemical.

Examples of Warning Labels

 **WARNING:**
This product can expose you to chemicals including lead, which is known to the State of California to cause cancer. For more information, go to www.P65Warnings.ca.gov.


 **WARNING:**
This product can potentially expose you to chemicals including lead, nickel and chromium which 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**

<p>Cancer</p> <p> 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, visit www.P65Warnings.ca.gov.</p>	<p>Combined Cancer/Birth Defect</p> <p> 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 or birth defects or other reproductive harm. For more information, visit www.P65Warnings.ca.gov.</p>
<p>Birth Defect</p> <p> 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, visit www.P65Warnings.ca.gov.</p>	<p>Truncated on Product Warning</p> <p> WARNING: Cancer and Reproductive Harm—www.P65Warnings.ca.gov</p>

What about Motorhomes?

- Motorhomes are considered passenger vehicles in California and are covered under a separate section of Prop 65
- A warning on a passenger vehicle can be provided using either of the following methods:
 - (1) The warning is printed in the owner's manual for the passenger vehicle or off-highway motor vehicle, in no smaller than 12-point type enclosed in a box printed or affixed to the inside or outside of the front or back cover of the manual or on the first page of the text; or
 - (2) The warning is provided on a label attached to the front window on the driver's side of the passenger vehicle


What's Required in Vehicle Warnings?

- 1) The warning symbol 
- 2) The word **WARNING** in all caps and bold print; and
- 3) The words: “Operating, servicing and maintaining a passenger vehicle or off-highway motor vehicle can expose you to chemicals including engine exhaust, carbon monoxide, phthalates, and lead, which are known to the State of California to cause cancer and birth defects or other reproductive harm. To minimize exposure, avoid breathing exhaust, do not idle the engine except as necessary, service your vehicle in a well-ventilated area and wear gloves or wash your hands frequently when servicing your vehicle. For more information go to www.P65Warnings.ca.gov/passenger-vehicle.”

RV Dealers or Manufacturing Plants – Environmental Exposure

- For indoor environments, a warning sign must be posted at all public entrances to the affected area in no smaller than 72-point type. The warning sign must:
 - (A) Clearly identify one or more sources of exposure.
 - (B) Be provided in a conspicuous manner and under such conditions as to make it likely to be seen, read, and understood by an ordinary individual in the course of normal daily activity.
 - (C) Be provided in English and in any other language used on other signage in the affected area.


What's Required on Environmental Exposure Signs

- (1) The warning symbol 
- (2) The word “**WARNING:**” in all capital letters and bold print.
- (3) For exposures to listed carcinogens, the words, “Entering this area can expose you to chemicals known to the State of California to cause cancer, 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.”

What about Repair Facilities?

- The new regulations impose highly specific safe harbor warning requirements for facilities such as vehicle repair facilities.
- A warning for environmental exposures from vehicle repair facilities meets the requirements if it is posted at each public entrance to the repair facility on a sign that complies with the content requirements. The warning must be printed in no smaller than 32-point type and be enclosed in a box.
- If other signage at the vehicle repair facility is provided for the public in a language other than English, then the warning must be provided in both English and that language.

What Needs to Be on the Sign?

- (1) The symbol required in Section 25603(a)(1). 
- (2) The word “WARNING:” in all capital letters and bold print.
- (3) The words: “Breathing the air in this area or skin contact with petroleum products can expose you to chemicals including benzene, motor vehicle exhaust, and carbon monoxide, which are known to the State of California to cause cancer and birth defects or other reproductive harm. Do not stay in this area longer than necessary. For more information go to www.P65Warnings.ca.gov/vehicle-repair.”



Questions??

For Further Information

- General info on Prop 65: <https://oehha.ca.gov/proposition-65/about-proposition-65>
- FAQs for businesses on Clear and Reasonable Warnings: <https://oehha.ca.gov/media/downloads/crnrr/art6businessqa.pdf>
- RVIA Government Affairs: Michael Ochs; mochs@rvia.org; 571-665-5860