



CALIFORNIA PROPOSITION 65 STATEMENTS

All products shipped by Hit Promotional Products, Inc. into the State of California are subject to Proposition 65 ("Prop 65") or The Safe Drinking Water and Toxic Enforcement Act of 1986. "Prop 65" was created through the ballot initiative process and was intended to protect California citizens and the State's drinking water from a State determined list of over 750 chemicals that are "known" by the State to cause cancer, reproductive harm, or birth defects. This list and other information regarding Prop 65 can be accessed at <http://www.oehha.ca.gov/prop65>.

Prop 65 requires that a "clear and reasonable warning" be provided by a Person/Company in the course of doing business, who manufactures, produces, assembles, processes, handles, distributes, stores, sells, or otherwise transfers a consumer product which he or she knows to contain a chemical known to the state to cause cancer or reproductive toxicity to any person to whom the product is sold or transferred.

The lead state agency handling Proposition 65, the Office of Environmental Health Hazard Assessment (OEHHA ; www.oehha.ca.gov), has established safe harbor levels which include No Significant Risk Levels (NSRLs) for cancer-causing chemicals and Maximum Allowable Dose Levels (MADLs) for chemicals causing reproductive toxicity for many of the 750 chemicals listed under Proposition 65. Exposure levels and discharges to drinking water sources that are below the safe harbor levels are exempt from the requirements of Proposition 65. A document that provides the status of OEHHA's adoption or development of NSRLs and MADLs is available below.

For chemicals that do not have published or established safe harbor levels, the burden is on the defendant to establish an appropriate MADDL or NSRL, and to show that the exposures in its products do not exceed these levels. For exposures to consumer products, such as promotional items, the level of exposure to the listed chemical is calculated using the "reasonably anticipated rate of intake or exposure for average users of the consumer product."

Companies are becoming increasingly vulnerable to lawsuits for Proposition 65 indiscretions. According to the 2009 California Proposition 65 Enforcement Report, there were 321 settlements (a 62% increase over the previous year), with a total cost of \$14.6 million. Proposition 65 may be enforced by the California Attorney General, public enforcers such as district attorneys, and private plaintiffs suing in the public interest (after they have first served a 60-day notice of violation on all public prosecutors and no public prosecutor proceeds to enforce the alleged violation. A plaintiff may seek injunctive relief as well as penalties of \$2,500 per violation per day. A more general California statute allows most successful plaintiffs to recover their attorneys' fees as well. It is important to note the very long reach of Proposition 65 liability. One need not be doing business in California to be in the chain of Proposition 65 litigation. Indeed, you could be a New Jersey distributor of products sold to you by a Massachusetts supplier, and your client could be doing business in New York, with no California affiliation. Should one of the items you sold to your client end up in California, you and your supplier and your client could be named as defendants in a Proposition 65 lawsuit, and the venue would be in California.

Hit Promotional Products is fully committed to providing the highest quality, safest products for our clients and all Hit products meet applicable federal safety and warning requirements, standards and regulations as enforced by the Consumer Product Safety Commission, the U.S. Food and Drug Administration, and the Federal Communications Commission. While procedures have been established as part of our ongoing Product Safety initiatives throughout our supply chain to insure the purchase and use of raw materials that will meet Prop 65 standards, our efforts have to date been focused on the Third Party testing of our products to insure that they are in compliance with the very stringent regulations set forth by the CPSIA in regards to lead content in substrates and surface coatings of Children's Products and Toys along with applicable Phthalate content. While lead content has been the focus of litigation in Proposition 65 cases, our current Proposition strategy has been to use our lead testing program to demonstrate that the products that we ship to California meet the Proposition 65 standards for lead.

Because we cannot test every piece of every order that we ship to California for every one of the Proposition 65 listed 750 chemicals, you may continue to have concerns about compliance with Proposition 65. If so, then the safest option is to include a label on each product that may ship to the State of California which we will do free of charge upon request. The label will read as follows and will ensure full compliance with California Proposition 65 requirements:

WARNING: This product contains chemicals known to the State of California to cause cancer, birth defects, or other reproductive harm.

For a plain language version of the Proposition 65 regulations, please visit:

<http://www.oehha.ca.gov/prop65/background/p65plain.html>.

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