

GUIDANCE FOR SMALL BUSINESSES THAT RECEIVE A 60-DAY NOTICE FOR A CONSUMER PRODUCT

Businesses with fewer than 10 employees are exempt from Proposition 65 by law.

If your business receives a 60-day notice for a consumer product, please review the following guidance.

This document is not intended as legal advice. You should consult with an attorney for any legal questions.

I received a 60-day notice. What should I do?

1.

Read the notice thoroughly. Plaintiffs have an obligation to provide you with the following information in the notice:

- a. The name, address, and telephone number of the noticing individual, or a responsible individual within the noticing entity and the name of the entity.
- b. The name of the alleged violator or violators.
- c. The approximate time period during which the violation is alleged to have occurred.
- d. The name of each listed chemical involved in the alleged violation.
- e. The route by which exposure is alleged to occur (e.g., by inhalation, ingestion, dermal contact).
- f. The name of the consumer product or service, or the specific type of consumer product or services, that caused the alleged violation. (27 CCR § 25903(b)(2))

2.

Determine if you have fewer than 10 employees.

3.

Determine if your business has any responsibility for complying with Proposition 65 under its contracts.

For example, a small business may have contractual obligations that could include indemnification agreements or agreements to “comply with all California laws.”

4.

Even if you have fewer than 10 employees, you may wish to take additional steps to protect yourself from any risk of liability.

For instance, when a retail seller only knows about an exposure covered by Proposition 65 because of a 60-day notice for a consumer product, the retailer seller has five business days after receiving the notice to correct the alleged violation.

This can be done by providing a Proposition 65 warning on the product or by discontinuing sale of that product. (27 CCR § 25600.2(f)(2))

5.

Respond to the individual or entity that sent the notice.

a. If you believe you are exempt from Proposition 65, you should inform the noticing party.

b. If you are a retailer and have corrected the alleged violation within the five-business day grace period, you should inform the noticing party.

6.

If you are a retail seller and you receive a request for the name and contact information for the manufacturer, producer, packager, importer, supplier, and/or distributor of the product that is subject to the notice, you must provide this information to the noticing party to the extent that this information is reasonably available.
([27 CCR § 25600.2\(g\)](#))

Additional Resources:

California Office of the Attorney General [Frequently Asked Questions](#)

California Office of the Attorney General [Contact Information](#)



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PROPOSITION 65 WARNINGS
OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT
WWW.P65WARNINGS.CA.GOV



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