



April 1, 2015

Monet Vela
Office of Environmental Health Hazard Assessment
P. O. Box 4010
Sacramento, California 95812-4010
c/o E-mail: P65Public.Comments@oehha.ca.gov

Subject: "Clear and Reasonable Warning Regulations"

Dear Ms. Vela

I am writing you today on behalf of our members regarding the proposed changes to the Prop 65 Regulation.

In a recent Bureau of Automotive Advisory Meeting, a couple of members on your staff gave a presentation regarding the proposed changes to Prop 65 Regulations.

We have had the opportunity to review these proposed changes, as well as the public comments that were made by your staff at the Advisory Meeting with our members.

While we are in support of the proposed changes in the regulation, we believe there is still a mischaracterization of Automotive Repair Shops versus Gas or Service Stations. These are really two separate business entities and "Gas Stations" as we once knew them, have changed dramatically over the years as many no longer provide automotive repairs and have become more of a convenience store.

Automotive Repair Shops and dealerships on the other hand, do provide full vehicle services and repairs, but they do not dispense gasoline or diesel, for the most part.

When you look at sections 25608.22, 23, 24 and 25, this would primarily deal with "Gas Stations" and yet you have included automotive repair shops.

We do not believe that it's your intent with the change in the regulation to include the roughly 37,000 registered automotive repair dealers in the state that do not dispense gasoline or diesel. Therefore, we believe the automotive repair shops should be excluded from the current draft that you're proposing.

When we reviewed the other sections of the revised regulation with our members, we unanimously agreed to the language regarding the posting of the required signage for businesses to be in compliance.

We believe that businesses need the revised regulation to address an adequate warning for businesses that have not posted the required signage for Prop 65 to become compliant. As in the proposed newly revised regulation, there have been discussions about allowing a business to receive a notice that would give the business 48 hours (2 business days) to post the required signage and become compliant.

One critical point is that our members believe that any notice must be provided to the owner of the business because sometimes the "manager" of the business fails to pass this information along to the actual owner of the business.

Once the notice was given to the owner and the business is still found not to be compliant, legal action could proceed.

621 Capitol Mall, 25th Floor Sacramento, CA 95814
Phone: 916 498 7633 Fax: 916 442 0382
Email: dhjohnson@nossaman.com

Our member's concerns are that too many California Businesses are plagued by what we will refer to as "drive by" law suits. This is where attorneys file on behalf of "a client" (they may have never even done business with the location) for failing to comply with the law. This has been especially true for Prop 65 and ADA compliance cases.

Based on our recommendations above, if the Office of Environmental Health Hazard Assessment still believes they want to include automotive repair shops under the revised regulations, another area that would need to be addressed is the definition of a "Retailer".

The definition of "Retailer" under Section 25600.1 Definitions (i) needs to be more clearly defined. Our members are concerned that "wholesalers" that provide the Automotive Repair Shops the chemicals and lubricant products that may fall under Prop 65 Warnings are then sold to "retail" consumers (who would never come into contact with these products) are not addressed in the regulations.

We believe that any wholesaler that provides the chemicals and lubricants should provide the repair shops the adequate Prop 65 warning labels for their consumers. This will ensure the correct information is passed on to the end user, which is the operator of the vehicle being serviced.

We sincerely encourage the Office of Environmental Health Hazard Assessment to clarify the warning language change for Prop 65 that would afford a business a short two day window of opportunity to post the required signage. This should also include how that notice is communicated to the business owner.

We would also encourage the Office of Environmental Health Hazard Assessment to clarify the requirements that wholesalers' have in providing the Repair Shops the Prop 65 warnings they would need to communicate to their consumers.

Don't hesitate to contact me, or Johan Gallo, our Executive Director (Phone 949-433-4513 or email gallojm@sbcglobal.net)

Thank you for your time.

Sincerely,

A handwritten signature in black ink that reads "Bud". The signature is stylized and written in a cursive-like font.

Bud Rice
President
CalABC
Phone: 925-570-4012
Email address: bud.rice@outlook.com