

Section 25603.3 Warnings for Specific Consumer Products Exposure.

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(f) Responsibility to Provide Warnings for Exposure to Bisphenol A from Canned and Bottled Foods and Beverages.

(1) Notwithstanding any other provision of sections 25603, 25603.1, 25603.2, and 25603.3, canned and bottled foods and beverages that are offered for retail sale in California after May 10, 2016, that contain bisphenol A, are deemed to comply with the warning requirements of section 25249.6 of the Act if the following provisions are met:

(A) The manufacturer, producer, packager, importer or distributor of the canned and bottled food or beverage either:

1. Affixes a label to the product bearing a warning that complies with section 25603.2(a)2., or

2. Provides written notice directly or through an authorized agent or trade association to the retailer or its authorized agent. The written notice must:

a. State that the canned or bottled food or beverage may result in an exposure to bisphenol A; and

b. Include the name or description of the canned or bottled foods or beverages, such as a Universal Product Code or other identifying designation; and

c. Provide, or offer to provide, to the retail seller, at no cost, a sufficient number of point-of-sale warning signs that satisfy the requirements of subsection (g).

(2) If a retail seller receives a notice pursuant to subsection (1)(A)2., the retail seller must post a warning sign that satisfies subsection (g) at each point of sale in the retail facility. The placement and maintenance of warning signs is the responsibility of the retail seller.

(A) Where a retail seller complies with all the provisions of subsections (f) and (g), an opportunity to cure exists to correct the absence of the warning sign, which:

1. Is not the result of intentional neglect or disregard for the requirements of this section, and

2. Is not avoidable using normal and customary quality control or maintenance, and

3. Is corrected within 24 hours of discovery or notification.

(3) For purposes of subsection (f) and subsection (g), “canned and bottled foods and beverages” means foods and beverages packaged in hermetically sealed, durable metal or glass containers, including, but not limited to, those containing fruits, vegetables, soups, pasta products, milk, soda, and alcoholic beverages.

(4) For purposes of subsection (f) and subsection (g), “point of sale” means the area within a retail facility where customers pay for foods and beverages, such as the cash register or checkout line where the warning sign is likely to be seen and understood, prior to the consumer purchasing the canned or bottled food or beverage. Point of sale also includes electronic checkout functions on internet websites.

(5) This subsection shall become inoperative one year after the date of adoption unless reenacted by the lead agency.

(g) Warnings for Exposure to Bisphenol A from Canned and Bottled Foods and Beverages.

(1) Method of Transmission:

Warnings for canned and bottled foods and beverages, as defined in subsection (f)(3), that contain bisphenol A shall be provided at each point of sale, as defined in subsection (f)(4), by posting a warning sign that includes the language set out in subsection (g)(2). Such warning signs must be no smaller than 5 by 5 inches and be displayed with such conspicuousness, as compared with other words, statements, designs, or devices at the point of sale, as to render it likely to be read and understood by an ordinary individual prior to purchase of the products that contain bisphenol A. For products sold over the internet, the warning must be prominently displayed to the purchaser either on the product display page or otherwise on a webpage prior to completing the purchase.

(2) Content of Warning Sign:

(A) The word “WARNING” in all capital letters and bold print, and

(B) The words: “Many food and beverage cans have linings containing bisphenol A (BPA), a chemical known to the State of California to cause harm to the female reproductive system. Jar lids and bottle caps may also contain BPA. You can be exposed to BPA when you consume foods or beverages packaged in these containers. For more information go to: www.P65Warnings.ca.gov/BPA.

(3) This subsection shall become inoperative one year after the date of adoption unless reenacted by the lead agency.

NOTE: Authority cited: Sections 25249.12 and 25249.11(f), Health and Safety Code.
Reference: Sections 25249.6, 25249.7(k) and 25249.11, Health and Safety Code.