

From: [Linda Kelley](#)
To: [P65Public Comments](#)
Subject: Potential Regulations Workshop
Date: Thursday, November 13, 2014 5:03:14 PM

Dear Ms. Monet Vela;

I am writing from a smaller retail business that has been struggling to stay in Proposition 65 compliance since we were first pulled into a lawsuit with one of our supplement suppliers back in 2004. Since then we have had a rigorous program in the supplement department. We monitor the 60 day notice website and work with our suppliers. We spend anywhere from 1 hour up to 8-12 hours per week.

In the past year+, we became aware of food items that were cited in a way that has been confusing. The 60 day notices are now written in a way to cite an entire area of food, i.e. coffee, chocolate, rice, seaweed, (for which again we were cited along with a supplier), maple syrup, honey, vinegar, any baked product (acrylamide) all alcohol, ginger, licorice, etc. The citations are written using a product as an example of everything in a category. I cannot understand how these notices are approved as I can't imagine that every product on the market has been tested. We now have inclusive Prop 65 warning signs all over the store that include all of the above items.

Here is the challenge and what we need as retailers:

- reasonable levels set for heavy metals in food. (1,000 times below the No Observable Limit) is unrealistic for food.
- The ability to differentiate how much of a cited category in a food with multiple ingredients warrants a warning.
- Access to test results on cited products and product category to assess how much in excess the ingredient may be. (This should absolutely be part of any consumer right to know). These should be available online and accompany any 60 day notice.

Unfortunately the manner in which this well meaning Proposition was crafted and applied has eroded consumer confidence in the meaning of these warnings. They have become ubiquitous and because there is no specific information about the product, people are just rolling their eyes.

Further, there is no industry consistency with how this law is applied. We can only guess that businesses with deep enough pockets make the decision to absorb the litigation costs as opposed to the "bad advertising" that these warnings cause.

It is not only costly for a smaller business to administer, it is a difficult task to educate companies not based in California on Prop 65 requirements.

Among other problems with this law is the fact that we see no citations for oil/gas/agriculture areas where the public has valid concerns specifically about water (for which the Proposition was written). Unless polluters are cited, manufacturers are held accountable, and limits for heavy metals in food which are sometimes naturally occurring adjusted to realistic levels, there is little we as retailers can do but scramble around trying to guess how to stay in compliance and cross our fingers that we've got it right.

I am proud of California's efforts to raise the bar on creating a more healthful environment for its citizens, please keep me on any email list you that can notify me of upcoming workshops and ways to participate in creating a more meaningful and functional regulation.

Thank you for your time in considering my thoughts and allowing me to share our experience with Prop 65.

Sincerely;

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