



**MOTORCYCLE
INDUSTRY
COUNCIL®**



December 20, 2023

VIA: OEHHA Web Portal (<https://oehha.ca.gov/comments>)

Monet Vela, Regulations Coordinator
Office of Environmental Health Hazard Assessment
1001 I Street, MS 23rd Floor 11F
Sacramento, CA 95814

Re: Proposed Prop 65 Short-Form Warning Amendments

Dear Ms Vela:

The Motorcycle Industry Council (MIC), the Specialty Vehicle Institute of America (SVIA), and the Recreational Off-Highway Vehicle Association (ROHVA) represent hundreds of vehicle, parts, accessory, garment, and other product manufacturers, distributors, dealers, and retailers in the powersport industry. We respectfully submit these comments to California's Office of Environmental Health Hazard Assessment (OEHHA) regarding its proposed Prop 65 Short-Form Warning amendments.

OEHHA's proposed Prop 65 Short-Form Warning amendments set requirements for manufacturers to identify at least one specific substance known to the State of California to be carcinogenic and/or cause reproductive harm. The proposed amendments also offer alternatively prescribed Short-Form Warning language for manufacturers of vehicle parts. Our members continue to support Prop 65's overall goal of informing consumers about the presence of materials which may potentially cause cancer or reproductive harm, but we remain concerned that OEHHA's proposed amendments have significant impacts on manufacturers, California businesses, and consumers. The proposed amendments:

- **Significantly under-estimate the cost to manufacturers**
- **Generate unnecessary waste**
- **Potentially create confusing messaging for consumers**

Industry has invested significant resources to comply with current Prop 65 requirements and MIC, SVIA, and ROHVA request OEHHA to allow continued use of the current Short-Form Warning language.

Significant under-estimates of the cost to manufacturers

OEHHA's notice of proposed rulemaking (NPRM), dated and published October 27, 2023, states overall estimated total costs per business of: \$4,273.46 to change existing short-form labels, internet, and catalog warnings; and \$697.30 to use the proposed new tailored warning sign for passenger and off-highway motor vehicle parts. We believe OEHHA's overall estimated costs under-estimate the actual cost of the proposed amendments to manufacturers by orders of

magnitude, especially considering manufacturers have hundreds if not thousands of products in the market that will be impacted by this proposal.

Manufacturers have invested considerable resources to comply with the existing Prop 65 Short-Form Warning requirements. OEHHA's proposed amendments require manufacturers to abandon or overhaul existing systems and subjects them to additional significant expense for compliance with the proposed revisions. The existing Short-Form Warning language adequately informs consumers of the presence of materials known to the State of California to cause cancer or reproductive harm and we don't feel it requires changes.

Generate unnecessary waste

OEHHA's proposed amendments require manufacturers to generate considerable waste through reworking and disposing of numerous previously printed labels, packaging materials, catalogs, and other printed materials. Many products sold in California and subject to OEHHA's proposed amendment are manufactured for nationwide, if not global, sales.

The proposed amendments require manufacturers to unnecessarily consume valuable resources which could be better utilized. OEHHA must avoid wasteful proposals and allow manufacturers to continue using the existing Prop 65 Short-Form Warning language.

Potentially confusing messaging for consumers

It is not feasible for manufacturers to recall the hundreds if not thousands of SKUs of labelled products already in the market having the existing Short-Form Warning language. Additionally, it will be difficult for manufacturers to understand when existing stock labeled with the current language will be sold out. OEHHA's proposed amendment requires manufacturers to generate products labelled with new messaging that will be sold alongside existing products having the current language. Different messaging on the same product may cause consumer confusion and may be viewed as manufacturer's mis-informing consumers about risks.

Manufacturer's support an approach that reduces confusion and clearly informs consumers about the presence of substances known to the State of California to cause cancer or reproductive harm. The existing Prop 65 Short-Form Warning language does this. Upon reading the existing Short-Form Warning language, consumers may choose to use other products, or take other measures, including the use of suitable personal protective equipment (PPE), as specified by the product manufacturer. OEHHA must avoid proposals that cause consumer confusion.

Manufacturers understand the importance of informing consumers about the presence of substances known to the State of California to cause cancer or reproductive harm and support Prop 65's goal of providing reasonable warnings. The existing Short-Form Warning language fulfills these needs. OEHHA must allow manufacturers to continue using the existing Short-Form Warning language and avoid unnecessarily burdening manufacturers with increasingly costly and wasteful proposals which can cause consumer confusion. We request OEHHA to stand by the existing Prop 65 Short-Form Warning language.

Regards,

A handwritten signature in black ink, appearing to read 'Eric Barnes', is positioned above the contact information.

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