

FINAL AMENDED TEXT

Title 27 California Code of Regulations Article 6 Clear and Reasonable Warnings

§ 25600.1. Definitions.

(a) “Affected area” means the area in which an exposure to a listed chemical can occur at a level that requires a warning.

(b) “Authorized agent” means the person or entity, including a monitored electronic mailbox or post office box, designated by a retail seller to receive notices from product manufacturers, producers, packagers, importers, suppliers, and distributors under this article.

(c) “Consumer information” includes warnings, directions for use, ingredient lists, and nutritional information. “Consumer information” does not include the brand name, product name, company name, location of manufacture, or product advertising.

(d) “Consumer product” means any article, or component part thereof, including food, that is produced, distributed, or sold for the personal use, consumption or enjoyment of a consumer.

(e) “Consumer product exposure” means an exposure that results from a person’s acquisition, purchase, storage, consumption, or any reasonably foreseeable use of a consumer product, including consumption of a food.

(f) “Environmental exposure” means an exposure that occurs as the result of contact with an environmental source, such as ambient air, indoor air, drinking water, standing water, running water, soil, vegetation, or manmade or natural substances or objects, through inhalation, ingestion, or skin or other contact with the body. All exposures that are not consumer product exposures or occupational exposures are environmental exposures.

(g) “Food” has the same meaning as defined in Health and Safety Code Section 109935 and includes “dietary supplements” as defined in California Code of Regulations, title 17, section 10200.

(h) “Knowingly” has the same meaning as defined in Article 1, section 25102(n).

(i) “Label” means a display of written, printed or graphic material that is printed on or affixed to a product or its immediate container or wrapper.

(j) “Labeling” means any written, printed, graphic, or electronically provided communication that accompanies a product, such as a package insert~~including tags at the point of sale or display of a product.~~

(k) “Occupational exposure” means an exposure to any employee at his or her place of employment.

(l) “Retail seller” means a person or business that sells or otherwise provides consumer products directly to consumers by any means, including via the internet. For purposes of this article, a retail seller includes those functions of a business involved in the sale of consumer products, including foods, directly to consumers, even if the business or facility is primarily devoted to non-retail activities.

(m) “Sign” means a physical presentation of written, printed, graphic, or electronically provided communication, including shelf signs, other than a label or labeling, posted in a conspicuous manner that is associated with the exposure for which the warning is being provided ~~requiring a warning~~ under the Act and is clearly visible under all lighting conditions normally encountered during business hours and under such conditions as to make it likely to be seen, read, and understood by an ordinary person.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.6 and 25249.11, Health and Safety Code.

§ 25600.2. Responsibility to Provide Consumer Product Exposure Warnings.

(a) Section 25249.11 of the Act requires the lead agency to minimize the burden on retail sellers of consumer products, to the extent practicable, when it adopts regulations concerning clear and reasonable warnings, except where the retail seller itself is responsible for introducing a listed chemical into the product.

(b) The manufacturer, producer, packager, importer, supplier, or distributor of a product may comply with this article either by providing a warning on the product label or labeling ~~affixing a label to the product bearing a warning~~ that satisfies Section 25249.6 of the Act, or by providing a written notice directly to the authorized agent for a retail seller who is subject to Section 25249.6 of the Act, which:

- (1) States that the product may result in an exposure to one or more listed chemicals;
- (2) Includes the exact name or description of the product or specific identifying information for the product such as a Universal Product Code or other identifying designation;
- (3) Includes all necessary warning materials such as labels, labeling, shelf signs or tags, and warning language for products sold on the internet, that satisfies Section 25249.6 of the Act;
- (4) Has been sent to the authorized agent for the retail seller, and the manufacturer, producer, packager, importer, supplier, or distributor has obtained confirmation electronically or in writing of receipt of the notice.

(c) If the manufacturer, producer, packager, importer, supplier, or distributor of a product is complying with this section by providing a written notice directly to the authorized agent for the retail seller:

(1) The notice must be renewed, and receipt of the renewed notice confirmed electronically or in writing by the retail seller's authorized agent ~~within six months during the first year after the effective date of this section~~ by no later than February 28, 2019, then annually thereafter during the period in which the product is sold in California by the retail seller.

(2) An additional notice is required within 90 days when a different or additional chemical name or endpoint (cancer or reproductive toxicity) is included in the warning.

(d) The retail seller is responsible for the placement and maintenance of warning materials, including warnings for products sold over the internet, that the retail seller receives pursuant to subsections (b) and (c).

(e) The retail seller is responsible for providing the warning required by Section 25249.6 of the Act for a consumer product exposure only when one or more of the following circumstances exist:

(1) The retail seller is selling the product under a brand or trademark that is owned or licensed by the retail seller or an affiliated entity;

(2) The retail seller has knowingly introduced a listed chemical into the product, or knowingly caused a listed chemical to be created in the product;

(3) The retail seller has covered, obscured or altered a warning label that has been affixed to the product pursuant to subsection (b);

(4) The retail seller has received a notice and warning materials for the exposure pursuant to subsections (b) and (c) and the retail seller has sold the product without conspicuously posting or displaying the warning; or

(5) The retail seller has actual knowledge of the potential consumer product exposure requiring the warning, and there is no manufacturer, producer, packager, importer, supplier, or distributor of the product who:

(A) Is a "person in the course of doing business" under Section 25249.11(b) of the Act, and

(B) Has designated an agent for service of process in California, or has a place of business in California.

(f) For purposes of subsection (e)(5), "actual knowledge" means specific knowledge of the consumer product exposure received by the retail seller from any reliable source. If the source of this knowledge is a notice served pursuant to Section 25249.7 (d)(1) of the Act, the retail seller shall not be deemed to have actual knowledge of any consumer product exposure that is alleged in the notice until five business days after the retail seller receives a notice that provides a description of the product with sufficient specificity for the retail seller to readily identify the product in accordance with Article 9, section 25903(b)(2)(D).

(g) The retail seller of a product that may cause a consumer product exposure shall promptly provide the name and contact information for the manufacturer, producer, packager, importer, supplier, and distributor of the product to the following persons on written request, to the extent that this information is reasonably available to the retail seller:

(1) The lead agency;

(2) The Attorney General, any district attorney, or any city attorney or city prosecutor with authority to bring an action under the Act; or

(3) Any person who has served notice under Section 25249.7(d)(1) of the Act alleging that the consumer product causes an exposure that requires a warning under the Act.

(h) A person or entity making a written request pursuant to subsection (g) must provide a description of the product with sufficient specificity for the retail seller to readily identify the product in accordance with Article 9, section 25903(b)(2)(D).

(i) Provided that the consumer receives a warning that meets the requirements of Section 25249.6 of the Act prior to exposure, the manufacturer, producer, packager, importer, supplier, or distributor of a product that may cause a consumer product exposure may enter into a written agreement with the retail seller of the product to allocate legal responsibility among themselves for providing a warning for the product, which shall bind the parties to that agreement and which shall supersede the requirements of subsections (b), (c), (d), and (e).

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

§ 25601. Safe Harbor Clear and Reasonable Warnings – Methods and Content.

(a) A warning is “clear and reasonable” within the meaning of Section 25249.6 of the Act if the warning complies with all applicable requirements of this article.

(b) Except as provided in Section 25603(c), a warning meets the requirements of this subarticle if the name of one or more of the listed chemicals in the consumer product or affected area for which the warning is being provided is included in the text of the warning. Where a warning is being provided for more than one endpoint (cancer and reproductive toxicity) the warning must include the name of one or more chemicals for each endpoint, unless the named chemical is listed as known to cause both cancer and reproductive toxicity and has been so identified in the warning.

(c) Consumer product exposure warnings must be prominently displayed on a label, labeling, or sign, and must be displayed with such conspicuousness as compared with other words, statements, designs or devices on the label, labeling, or sign, as to render the warning likely to be seen, read, and understood by an ordinary individual under customary conditions of purchase or use.

(d) Environmental exposure warnings must be provided in a conspicuous manner and under such conditions as to make the warning likely to be seen, read, and understood by an ordinary individual in the course of normal daily activity.

(e) The warning content may contain information that is supplemental to the content required by this subarticle only to the extent that it identifies the source of the exposure or provides information on how to avoid or reduce exposure to the identified chemical or chemicals. Such supplemental information is not a substitute for the warning content required by this subarticle.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.6 Health and Safety Code.

§ 25602. Consumer Product Exposure Warnings – Methods of Transmission.

(a) Unless otherwise specified in Section 25607.1 et seq, a warning meets the requirements of this subarticle if it complies with the content requirements in Section 25603 and is provided using one or more of the following methods:

(1) A product-specific warning provided on a posted sign, shelf tag, or shelf sign, for the consumer product at each point of display of the product.

(2) A product-specific warning provided via any electronic device or process that automatically provides the warning to the purchaser prior to or during the purchase of the consumer product, without requiring the purchaser to seek out the warning.

(3) A warning on the label that complies with the content requirements in Section 25603(a).

(4) ~~An on-product~~ short-form warning on the label that complies with the content requirements in Section 25603(b). The entire warning must be in a type size no smaller than the largest type size used for other consumer information on the product. In no case shall the warning appear in a type size smaller than 6-point type.

(b) For internet purchases, a warning that complies with the content requirements of Section 25603(a) must also be provided by including either the warning or a clearly marked hyperlink using the word “**WARNING**” on the product display page, or by otherwise prominently displaying the warning to the purchaser prior to completing the purchase. ~~If an on-product~~ warning is provided using the short-form warning label content pursuant to Section 25602(a)(4), the warning provided on the website may use the same content ~~as the on-product warning~~. For purposes of this subarticle, a warning is not prominently displayed if the purchaser must search for it in the general content of the website.

(c) For catalog purchases, ~~the~~ warning that complies with the content requirements of Section 25603(a) must also be provided in the catalog in a manner that clearly associates it with the item being purchased. ~~If an on-product~~ short-form warning is being provided on the label

pursuant to Section 25602(a)(4), the warning provided in the catalog may use the same content as the ~~on-product warning~~.

(d) Where a ~~consumer-product sign, or label or shelf tag~~ used to provide a warning includes consumer information about a product in a language other than English, the warning must also be provided in that language in addition to English.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.6, Health and Safety Code.

§ 25603. Consumer Product Exposure Warnings – Content.

(a) Unless otherwise specified in Section 25607.1 et seq., a warning meets the requirements of this subarticle if it is provided using one or more of the methods required in Section 25602 and includes all the following elements:

(1) A symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline. Where the sign, label or shelf tag for the product is not printed using the color yellow, the symbol may be printed in black and white. The symbol shall be placed to the left of the text of the warning, in a size no smaller than the height of the word “**WARNING**”.

(2) The word “**WARNING:**” in all capital letters and bold print, and:

(A) For exposures to listed carcinogens, the words, “This product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to cause cancer. For more information go to www.P65Warnings.ca.gov.”

(B) For exposures to listed reproductive toxicants, the words, “This product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to cause birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.”

(C) For exposures to both listed carcinogens and reproductive toxicants, the words, “This product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to cause cancer, and [name of one or more chemicals], which is [are] known to the State of California to cause birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.”

(D) For exposures to a chemical that is listed as both a carcinogen and a reproductive toxicant, the words, “This product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.”

(E) Where a warning is being provided for an exposure to a single chemical the words “chemicals including” may be deleted from the warning content set out in subsections (A), (B), ~~(C)~~ and (D).

(b) ~~An on-product~~ short-form warning may be provided on the product label using all the following elements:

(1) The symbol required in subsection (a)(1).

(2) The word “**WARNING:**” in all capital letters, in bold print.

(A) ~~For consumer products that cause~~ exposures to a-listed carcinogens, the words, “Cancer - www.P65Warnings.ca.gov.”

(B) ~~For consumer products that cause~~ exposures to a-listed reproductive toxicants, the words, “Reproductive Harm - www.P65Warnings.ca.gov.”

(C) ~~For consumer products that cause~~ exposures to both a-listed carcinogens and a-reproductive toxicants, the words, “Cancer and Reproductive Harm - www.P65Warnings.ca.gov.”

(c) A person providing ~~an on-product~~ short-form warning on the product label pursuant to subsection (b) is not required to include within the text of the warning the name or names of a listed chemical.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.6 and 25249.11, Health and Safety Code.

§ 25607. Specific Product, Chemical and Area Exposure Warnings.

(a) Section 25607.1 et seq. provides warning methods and content for specific types of exposures that are subject to the warning requirements of Section 25249.6 of the Act. Except as provided in subsection (b), where warning methods or content are included in Section 25607.1 et seq., a person must use the specified warnings in order to satisfy the requirements of this subarticle.

(b) If a person does not cause an exposure to a listed chemical required to be identified in a warning set out in Section 25607.1 et seq., the name of that listed chemical need not be included in the warning in order to meet the requirements of this subarticle. The name of at least one listed chemical ~~requiring a warning~~ for which the warning is being provided must be included in all warnings.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.6 and 25249.11, Health and Safety Code

§ 25607.2. Food Exposure Warnings – Content.

(a) A warning for food exposures, including dietary supplements, meets the requirements of this subarticle if it is provided via one or more of the methods specified in Section 25607.1 and includes all the following elements:

(1) The word “**WARNING:**” in all capital letters and bold print.

(2) For exposure to a listed carcinogen, the words, “Consuming this product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to cause cancer. For more information go to www.P65Warnings.ca.gov/food.”

(3) For exposure to a listed reproductive toxicant, the words, “Consuming this product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to cause birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov/food.”

(4) For exposure to both listed carcinogens and reproductive toxicants, the words, “Consuming this product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to cause cancer and [name of one or more chemicals], which is [are] known to the State of California to cause birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov/food.”

(5) For exposure to a chemical that is listed as both a carcinogen and a reproductive toxicant, the words, “Consuming this product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov/food.”

(6) Where a warning is being provided for an exposure to a single chemical the words “chemicals including” may be deleted from the warning content set out in subsections (2), (3), (4) and (5).

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.6 and 25249.11, Health and Safety Code.

§ 25607.5. Food and ~~Non-Alcoholic~~ Beverage Exposure Warnings for Restaurants – Methods of Transmission.

(a) A warning for exposures to listed chemicals in foods or ~~non-alcoholic~~ beverages that are sold or served by restaurants or other food facilities, as defined in Health and Safety Code Section 113789, and that are intended for immediate consumption, meets the requirements of this subarticle if it complies with the content requirements in Section 25607.6 and is provided using one or more of the following methods:

(1) An 8½ by 11 inch sign, printed in no smaller than 28-point type placed so that it is

readable and conspicuous to customers as they enter each public entrance to the restaurant or facility where food or beverages may be consumed.

(2) A notice or sign no smaller than 5 by 5 inches, printed in no smaller than 20-point type placed at each point of sale so as to assure that it is readable and conspicuous.

(3) A warning on any menu or list describing food or non-alcoholic beverage offerings, in a type size no smaller than the largest type size used for the names of general menu items.

(b) The warning must be provided in English and in any other language used on other signage or menus provided on the premises.

(c) In addition to the warning specified in this section, warnings must also be provided for alcoholic beverages pursuant to Sections 25607.3 and 25607.4, if alcoholic beverages are sold or served by the restaurant or other food facility.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.6 and 25249.11, Health and Safety Code.

§ 25607.6. Food and ~~Non-Alcoholic Beverage~~ Exposure Warnings for Restaurants – Content.

(a) A warning at restaurants or other facilities that sell food or beverages primarily for on-site consumption, ~~not including alcoholic beverages,~~ meets the requirements of this subarticle if it is provided using one or more of the methods required in Section 25607.5 and includes all the following elements:

(1) The word “**WARNING:**” in all capital letters and bold print.

(2) The words, “Certain foods and beverages sold or served here can expose you to chemicals including acrylamide in many fried or baked foods, and mercury in fish, which are known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov/restaurant.”

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.6 and 25249.11, Health and Safety Code.

§ 25607.7. Prescription Drug Exposure and Emergency Medical or Dental Care Exposure Warnings.

(a) For prescription drugs, the labeling approved or otherwise provided under federal law ~~or~~ and the prescriber’s accepted practice of obtaining a patient’s informed consent complies with this subarticle.

(b) For exposures resulting from emergency or urgent medical or dental care as defined in Article 1, Section 25102(g), no warning is required when any of the following circumstances

exists:

(1) The patient is unconscious; or

(2) The procedure must be undertaken because the licensed medical personnel, licensed dental personnel, or certified emergency medical personnel responsible for administering the care, as these terms are defined in Sections 25102(q), 25102(d), and 25102(b), respectively, reasonably believes that the procedure should be undertaken immediately; and therefore, there is insufficient time to fully inform the patient; or

(3) The procedure must be performed on a person legally incapable of giving consent, and the licensed medical personnel, licensed dental personnel, or certified emergency medical personnel responsible for administering the care reasonably believes the procedure should be undertaken immediately; and therefore, there is insufficient time to obtain the informed consent of a person authorized to give such consent for the patient.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.6 and 25249.11, Health and Safety Code.

§ 25607.12. Furniture Product Exposure Warnings – Methods of Transmission.

(a) A warning for consumer product exposures from furniture meets the requirements of this subarticle if it complies with the content requirements in Section 25607.13 and is provided using the following process:

(1) A warning on a label ~~is~~ affixed to the furniture product in the same manner as other consumer information or warning materials that are provided on the product and

(A) A notice or sign no smaller than 8 ½ by 11 inches ~~is~~ displayed either at each public entrance or point of display, and printed in no smaller than 28-point type, or

(B) A notice ~~is~~ printed or stamped in no smaller than 12-point type on each receipt.

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.6 and 25249.11, Health and Safety Code.

§ 25607.13. Furniture Product Exposure Warnings – Content.

(a) A warning for consumer product exposures from furniture meets the requirements of this subarticle if it is provided using the combination of methods required in Section 25607.12 and it includes all the following elements:

(1) ~~An on-product warning~~ on a label printed on or affixed to a furniture product label ~~provided pursuant to Section 25607.12(a)(1), that must contains~~ all the following elements:

(A) The symbol described in Section 25603(a)(1).

(B) The word “**WARNING:**” in all capital letters and bold print.

(C) The words, “This product can expose you to chemicals including [name of one or more chemicals known to cause cancer, name of one or more chemicals known to cause reproductive toxicity, or name of one or more chemicals known to cause both cancer and birth defects or other reproductive harm], which is [are] known to the State of California to cause cancer or birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov/furniture.”

(2) A notice displayed pursuant to Section 25607.12(a)(1)(A) or stamped on a receipt pursuant to Section 25607.12(a)(1)(B) ~~must contain~~that includes all the following elements:

(A) The word “**NOTICE:**” in all capital letters and bold print.

(B) The words, “Some furniture products can expose you to chemicals known to the State of California to cause cancer and/or birth defects or other reproductive harm. Please check the ~~on~~-product label for warning information.”

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.6 and 25249.11, Health and Safety Code.