



## CALIFORNIA PROPOSITION 65

### FREQUENTLY ASKED QUESTIONS

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*Proposition 65 is a California law enacted by voters in 1986 in an effort to protect residents and their drinking water resources from chemicals known to cause cancer, birth defects or other reproductive harm. Compliance is both complex and challenging for home furnishings manufacturers. This FAQ sheet was prepared by the American Home Furnishings Alliance to help its members explain the law to their customers. The information below was compiled in March 2013.*

**Q. What does Prop 65 require?**

Prop 65 requires the State of California to publish a list of chemicals known to cause cancer, birth defects or other reproductive harm. The decision about whether to list a chemical falls to the Office of Environmental Health Hazard Assessment (OEHHA), which evaluates available scientific information on substances and then determines whether they should be listed. Although there may be conflicting data or some debate about a chemical under consideration, OEHHA may still decide to list it.

Once a chemical is listed, businesses have one year to provide a “clear and reasonable” warning on all products containing that chemical before knowingly exposing consumers to those products. Even items manufactured before the chemical was listed must be labeled – regardless of where those items are in the stream of commerce. They may be in the back of a retailer’s warehouse or in a store specializing in discontinued merchandise. If the product is for sale in California, the manufacturer is responsible for tracking it down and labeling it.

**Q. How many chemicals require this warning?**

When Prop 65 went into effect in 1987, there were about 30 chemicals listed. Now there are nearly 900. No manufacturer can afford to routinely test for that many chemicals.

In addition, some “naturally occurring” chemicals and substances are included on the list. For example, in 2009 wood dust was listed. In this case, the American Home Furnishings Alliance was able to obtain a ruling from the California Attorney General’s office exempting finished furniture from the warning requirement, as long as the product does not require the consumer to perform any type of assembly activity – such as “sawing, sanding or other actions that would produce wood dust.” However, to be safe, some manufacturers provide the warning anyway, even if consumers are simply required to screw in the legs of a table or chair.

**Q. Has Prop 65 had any positive impact?**

Prop 65 does not limit the types or amounts of chemicals that can be put into products, as long as the warning is given. It does set a “safe harbor” exposure level for about a third of the listed chemicals, below which no warning is required. However, the cost and complexity of performing an exposure analysis to determine whether the concentration of the listed chemical is below the “safe” level is significant. As a result, many companies find it more cost-effective to simply label their products if they believe any level of a listed chemical may be present. So even the impact of labeling could be seen as marginal.

**Q. Why are Prop 65 warnings placed on furniture sold in other states?**

Unless a piece of furniture has been custom-ordered by the consumer, the manufacturer often does not know its final destination when production is completed and hangtags are applied. In addition, many retailers no longer maintain warehouses of merchandise. Instead they rely on manufacturers’ distribution centers to carry inventory. Again, until a product is sold, the manufacturer may not know its final destination. Therefore, to be safe, some manufacturers elect to label all of their merchandise.