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## California Proposition 65



California Proposition 65 otherwise known as the Safe Drinking Water and Toxic Enforcement Act of 1986 is applicable to all products sold or distributed in California.

The act is to protect Californian citizens and the State's drinking water sources from chemicals known to cause cancer, birth defects or other reproductive harm, and to inform citizens about exposure to such chemicals.

Proposition 65 can be considered a consumer “right-to-know-law” that informs consumers if certain hazardous chemicals are present in any product or its packaging or service sold in the State of California.

Proposition 65 has more recently become a product safety directive under which any retailer of a product or service can be challenged legally regarding the chemical content of a product against a list in excess of 850 potential chemical candidates.

Proposition 65 does not ban the sale of any product; it requires, however, that warnings are issued at point of sale advising citizens and consumers of potential risk.

Proposition 65 only applies in the State of California and covers all products distributed within the State. The list of chemicals is extensive (in excess of 859) and can be found at [http://www.oehha.org/prop65/prop65\\_list/files/P65single061110.pdf](http://www.oehha.org/prop65/prop65_list/files/P65single061110.pdf)

Since its conception, Proposition 65 has resulted in hundreds of lawsuits against retailers and manufacturers of products that contain the listed hazardous substances including leads, cadmium and phthalates. Whilst the initial lawsuits were related to food containers, cookware and food items such as chocolate and potato chips, the prosecutors have moved into the area of fashion

and accessories which covers leather and synthetic (PVC/PU) products. Which have become the latest targets for Proposition 65 litigation.

Environmental groups and private litigators have now filed lawsuits against many prominent retailers alleging high levels of lead and phthalates in leather containing products which are considered under the law to pose a risk to the consumer.

Such lawsuits have resulted in Consent judgements that advise on standards for safe level of lead and phthalates in products and agreed timescales by which products should meet these standards.

The cost of participating in a settlement can be very high but does give some immunity from prosecution within the agreed timescale for the chemical in question.

In view of this, leather and PVC/PU products should be considered within any business trading in California to be at risk of litigation.

The settlement values for lead are largely in line with CPSIA standards (for products sold to under 12 years).

Since its conception, Proposition 65 concluded consent agreements on lead, phthalates and other listed chemicals that have been found in a variety of consumer products.

Of particular importance to leather and leather products is the legal activity and settlements surrounding lead and phthalates.

### How to comply with Proposition 65

If you are selling or distributing product into California, it is vital that your products comply with Proposition 65.

This will mean that your products are tested at a specialist chemical testing laboratory to ensure that your products meet the Proposition 65 legislation.

Failure to comply with Proposition 65 is considered a violation, potentially resulting in fines of up to \$2500 per day.

Membership

Training

Testing

Technology



## How can BLC help with Proposition 65?

Proposition 65 is constantly evolving, new limits and guidance is regularly released, we frequently monitor Proposition 65, keeping us and you updated at all times.

It is essential to have a testing process in place to ensure compliance with Proposition 65.

BLC offers Proposition 65 compliance testing at our CPSC/UKAS accredited laboratory.

Established for over 90 years, we have the technical pedigree in restricted chemical testing to ensure fast accurate support.

We are one of the fastest testing laboratories in Europe and our aim is to deliver results within 3-5 working days.

Whilst many testing laboratories are only able to supply simple pass/fail test reports; BLC is able to offer additional support and advice immediately following report of a sample failure.

In addition our in-depth understanding of Proposition 65 means that we ensure the appropriate test methods are used at all times.

If you are not currently complying with Proposition 65, BLC can help. We offer technical consultations where we will look at your products, risk assess and produce a testing programme to ensure compliance with Proposition 65.

## Proposition 65 Compliance Training Course

BLC offer training courses on Proposition 65 and product safety, courses are designed to give delegates a better understanding of Proposition 65 and will allow for delegates to ask questions and raise any concerns.

We can also provide bespoke corporate training courses suitable to your requirements. Please contact us for further information to discuss your requirements.

We are here to help, if you are selling product into California and would like further interpretation of Proposition 65, more information on Proposition 65 testing, the settlements or ensuring compliance within your supply chain please contact us.

## BLC Membership

BLC membership will give you access to a wide range of specialist products and services including testing, training, problem solving and supply chain advice and support at discounted rates.

A major benefit of membership is the provision of performance and chemical specifications for all types of finished product including garment, footwear, accessories and upholstery.

**BLC members receive 30% discount on all testing, training and problem solving support.**

## Contact us

For more information:  
**+44 (0) 1604 679999**

[info@blcleathertech.com](mailto:info@blcleathertech.com)

[www.blcleathertech.com](http://www.blcleathertech.com)