

→ Proposition 65

If you manufacture, sell, or distribute any product directly or indirectly in California – through a distributor, online or otherwise – you need to understand and comply with Prop 65. Sheppard Mullin has the expertise to help.

Prevention is Our Goal

Our main goal is to help you avoid government and private bounty hunter enforcement actions in the first place. We know that is not always possible, but we can help you assess and implement a Prop 65 compliance program that will minimize the likelihood of an enforcement action. We also can audit your website to make sure you are following best practices.

Early Resolution

We will work with you to develop creative solutions to foster early resolution of claims, from pre-lawsuit negotiations to accelerated litigation and appeal of key issues.

Expertise

We have experience in all aspects of Prop 65, including compliance, response to notices of intent to sue, defense of lawsuits and appeals. We routinely guide clients, both large and small, through the process of responding to 60-Day Notice letters, interfacing with the California Attorney General's Prop 65 unit and defending enforcement actions in court.

Why Sheppard Mullin?

- A long history of great results, including published appellate opinions
- Experience with a multitude of products and industries
- Geographic reach and the bench strength to get things done virtually anywhere and in any forum
- Willingness to fight and take a case to trial or appeal if necessary

We are nimble and tough. We make it our business to understand your business, and we make sure your objectives guide our strategy and tactics.

Experience

Representative Experience

Warnings: We have successfully obtained summary judgment, dismissal or settlement of, or counseled clients on, claims involving the following chemicals and products:

Chemical

Product

Client(s)

Acrylamide

Food
Snacks

Food service representatives
Retailer

Asbestos

Commercial property

Owners

Benzene

Propane cooking appliances

Manufacturer

BPA

Electronics

Manufacturer

Cadmium

Halloween costumes
Chocolate

Manufacturer
Manufacturer

Cocomide DEA/DEA

Pet shampoo

Manufacturer

DEHP

Eyewear/glasses/ sunglasses
Makeup cases/bags
Gaming headsets
Halloween costumes

Children's footwear
Photo albums
Fashion accessories
Electronics accessories
Rainwear
Electrical tape
Safety equipment Laptop skin/cover
Back scrubber
Plastic Case

Distributors and retailers
Manufacturer
Importers and distributors
Manufacturer
Retailer
Retailer
Manufacturer
Importer/distributor
Importer
Distributor
Distributor
Manufacturer
Manufacturer
Manufacturer

Diesel exhaust and benzene

School buses
Parking garages

School bus operator
Parking garage owner

DIWP

Automotive Accessories

Distributor

DBP

Halloween costumes
Children's footwear

Manufacturer
Retailer

Ethylbenzene

Spray paint

Manufacturer

Formaldehyde

Particle board and wood floor coverings

Plant emissions

Halloween costumes

Dietary Supplements

BBQ equipment

Manufacturers

Owner of industrial facility

Manufacturer

Manufacturer

Manufacturer

Furfuryl Alcohol

Candy

Manufacturer

Lead

Battery Recycler

Cookware

Computer equipment

Carpet/artificial turf

Food

Industrial emissions

Solder

Tableware, crystal products, candle holders, terrariums, picture frames, light bulbs, cosmetics

Garden tools and hose accessories

Shoes

Brass Nozzles

Fidget spinners

Locks

Supplements

Manufacturer

Manufacturer

Manufacturer

Manufacturer

Manufacturer

Manufacturer

Manufacturer
Retailer

Manufacturer

Retailer
Manufacturer
Manufacturer
Distributor
Distributor

Methylene Chloride

Furniture

Furniture refinisher

Mercury / Methyl Mercury

Food

Restaurant chains

Naphthalene

Tea

Retailer

Propoxur

Pet flea-prevention collars

Manufacturer

Silica

Wall board

Manufacturer

TDCPP

Acoustic and soundproofing foam

Retailer

Titanium dioxide (airborne, unbound particles of respirable size)

Powdered makeup

Manufacturer/retailer

Toluene

Furniture polish

Nail polish

Shutters

Manufacturer/distributor

Manufacturer

Manufacturer

Discharge to soil or water: We have successfully defended lawsuits alleging discharges of chemicals to soil or water in violation of Prop 65 and subsequent appeals, including:

- Represented a major oil company in successful litigation and appeal of lawsuit seeking over \$62 million in civil penalties for alleged releases of Proposition 65 chemicals from gasoline service stations. Resulted in landmark environmental decision, *Consumer Advocacy Group v. Exxon Mobil Corporation*, 104 Cal. App. 4th 438 (2002), where California Court of Appeal held that “passive migration” or “continued presence” of chemicals in soil or water did not constitute a “discharge or release” under Proposition 65.
- Represented a major oil company in lawsuits filed by California Attorney General and Solano County District Attorney seeking injunction and civil penalties for alleged releases of Proposition 65 chemicals from a refinery and a marketing terminal.
- Represented a major oil company in lawsuit seeking injunction and civil penalties for alleged releases and threatened releases of Proposition 65 chemicals and alleged environmental exposures from former landfill.