



California Proposition (Prop) 65 was passed into law in 1986 and requires product manufacturers, distributors, and formulators to provide “clear and reasonable” warnings on products sold in California that contain chemicals known to be carcinogenic, or to cause birth defects or other reproductive harm — if exposure to those chemicals from the product exceeds the safe harbor level.

California Prop 65 Program

Companies selling products containing certain chemicals have paid millions of dollars in fines and penalties for alleged failure to properly provide a warning label for consumers. General liability policies, products liability policies, and pollution liability policies do not respond to such claims, and until now there has been no insurance to provide protection to companies who are named in one of these lawsuits.

In conjunction with Hiscox, we’ve developed the first liability insurance program tailored to provide protection for product manufacturers, distributors, and formulators of products that contain some of the plasticizers covered under the Prop 65 definition. These plasticizers are used to add flexibility to a whole host of commonly used products.

California Proposition 65 facts

California Proposition 65 requires product manufacturers, distributors, and formulators to provide “clear and reasonable” warnings on products sold in California that contain chemicals known to be carcinogenic, or to cause birth

*Currently, California
Prop 65 covers over 800
chemicals. Safehold's
Prop 65 insurance
program covers lawsuits
related to a growing list of
plasticizers.
For a current list of
covered chemicals,
please contact your local
broker or Safehold.*

defects or other reproductive harm. Enforcement of this regulation occurs through civil lawsuits. Unlike most other regulations, which require the plaintiff to prove harm related to the claim, private citizens who sue are not required to do so — and many claims are filed by “bounty hunters.” If a lawsuit against a manufacturer or distributor is successful, the result can be costly settlement expenses, including defense costs, plaintiff’s attorney costs, civil penalties, and payments in lieu of civil penalties. These expenses can be costly — and there is no requirement that the plaintiff prove intent or actual violation for a company to be named in a lawsuit. This specialized coverage for Prop 65 — which is endorsed by SPI, the trade association of the Plastics industry — will help companies have peace of mind that they are protecting their business from these onerous suits. You do not have to be a member of SPI to be eligible for this coverage.

Who can file a lawsuit?

- California Attorney General
- Any district attorney
- City attorneys (in larger cities)
- Citizen groups
- Private citizens (in some cases)

The numbers — fines and awards

- Fines can be \$2,500 per exposure per day
- Average settlement cost exceeds \$80,000*
- Individual plaintiff awards are a quarter of the civil penalty paid by the defendant

Coverage to help protect your business from plasticizer lawsuits under California Prop 65

Companies can mitigate their risk by securing Prop 65 coverage to provide protection from the costs associated with defending a Prop 65 lawsuit specific to plasticizers, including:

- Fines
- Penalties
- Legal costs
- Expenses

To qualify for California Prop 65 coverage, you must complete a tutorial on what the legislation covers, what triggers the warning requirements, and what penalties can be levied under the legislation. You can access this tutorial and acknowledgment by registering at the link below:

advance.captus.com/spi/register.aspx



Contact us today to learn more. safehold.com

* This figure was calculated using data provided on the California Attorney General's website.

Products and services are offered through Safehold Special Risk, Inc., dba Safehold Special Risk & Insurance Services, Inc. in California, a non-bank insurance agency affiliate of Wells Fargo & Company.

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