

# Buchalter

## New Hurdles Facing The Marijuana Industry

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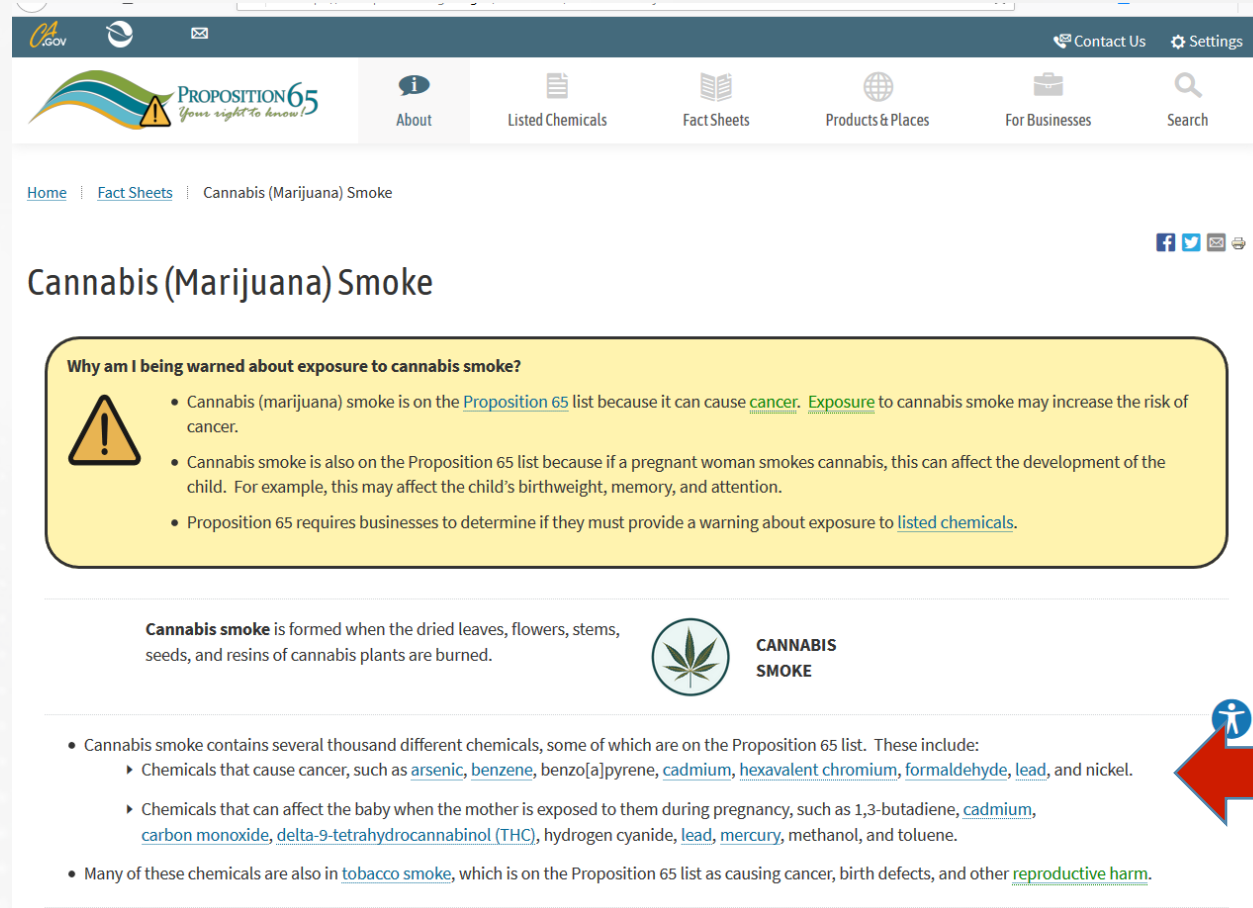
September 21, 2020

LOS ANGELES  
NAPA VALLEY  
ORANGE COUNTY  
PORTLAND  
SACRAMENTO  
SAN DIEGO  
SAN FRANCISCO  
SCOTTSDALE  
SEATTLE  
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# Cannabis Smoke

- Complex mixture of several thousand chemicals, including THC which is one of at least 60 different cannabinoid compounds in the cannabis plant and in cannabis smoke
- On December 11, 2019 the Developmental and Reproductive Toxicant Committee (DARTIC) voted unanimously that cannabis (marijuana smoke) has been clearly shown to cause **reproductive toxicity**
- In 2009, marijuana smoke was added as **cancer causing**

# Cannabis Smoke Fact Sheet



The screenshot shows the Proposition 65 website with the following elements:

- Header:** CA.GOV logo, navigation links (About, Listed Chemicals, Fact Sheets, Products & Places, For Businesses, Search), and Contact Us/Settings links.
- Breadcrumbs:** Home | Fact Sheets | Cannabis (Marijuana) Smoke
- Section Header:** Cannabis (Marijuana) Smoke
- Warning Box:**
  - Why am I being warned about exposure to cannabis smoke?**
  - Cannabis (marijuana) smoke is on the [Proposition 65](#) list because it can cause [cancer](#). [Exposure](#) to cannabis smoke may increase the risk of cancer.
  - Cannabis smoke is also on the Proposition 65 list because if a pregnant woman smokes cannabis, this can affect the development of the child. For example, this may affect the child's birthweight, memory, and attention.
  - Proposition 65 requires businesses to determine if they must provide a warning about exposure to [listed chemicals](#).
- Cannabis Smoke Definition:**

**Cannabis smoke** is formed when the dried leaves, flowers, stems, seeds, and resins of cannabis plants are burned.
- Cannabis Smoke Icon:** A green cannabis leaf icon with the text **CANNABIS SMOKE**.
- Chemicals List:**
  - Cannabis smoke contains several thousand different chemicals, some of which are on the Proposition 65 list. These include:
    - ▶ Chemicals that cause cancer, such as [arsenic](#), [benzene](#), benzo[a]pyrene, [cadmium](#), [hexavalent chromium](#), [formaldehyde](#), [lead](#), and nickel.
    - ▶ Chemicals that can affect the baby when the mother is exposed to them during pregnancy, such as 1,3-butadiene, [cadmium](#), [carbon monoxide](#), [delta-9-tetrahydrocannabinol \(THC\)](#), hydrogen cyanide, [lead](#), [mercury](#), methanol, and toluene.
  - Many of these chemicals are also in [tobacco smoke](#), which is on the Proposition 65 list as causing cancer, birth defects, and other [reproductive harm](#).

A red arrow points to a blue icon of a person with a speech bubble, located at the bottom right of the page.

## Sources – smoking, vaping, dabbing, edibles



WARNING


Smoke from cannabis contains chemicals, including benzene and lead, which are known to the State of California to cause cancer. For more information go to [www.p65warnings.ca.gov](http://www.p65warnings.ca.gov).



## Recent Notices

- Beaker/tube/bong/ bubbler/water pipe (May - Sep. 2020)
- Marijuana flowers, buds and pre-rolled products (May 2020)
- 1 settlement in August 2020 (\$25k)- \$2,500 non-contingent civil penalty, Attorneys' fees/costs- \$22,500- paraphernalia
- Environmental Health Advocates, Inc./ Glick Law Group
- Kelli Smith/Kevin J. Cole, Esq.
- Michael DiPirro/David Bush, Esq.

# Note the Price Points!



★★★★★ (5)

\$ 45.00

Color: Ink Blue

QTY: 1

ADD TO CART


DESCRIPTION SHIPPING

Our classic Hammer Bubbler features a flat base and a carb on the left side. The conveniently flat base allows you to use it as a hand pipe. A carb on the left side allows you to use it as a bong. The 6 inches long design is perfect for your collection.

• 6 inches long

Home ▸ Shop ▸ Straight ▸ 14" straight Tubes ▸ ROOR® Classic

## ROOR® CLASSIC STRAIGHT 5MM ORANGE & BLUE



Downstem: Open Ended

\$334.00

Add to cart

Straight

- Sandblasted Straight
- Spring Specials *\*Sold Out\**
- 14" straight Tubes
- 18" straight Tubes
- 45mmx5mm
- 50mmx5mm
- 50mmx7mm
- 50mmx9mm
- ROOR® X 1130 STRAIGHT

Beaker

Holiday Sale

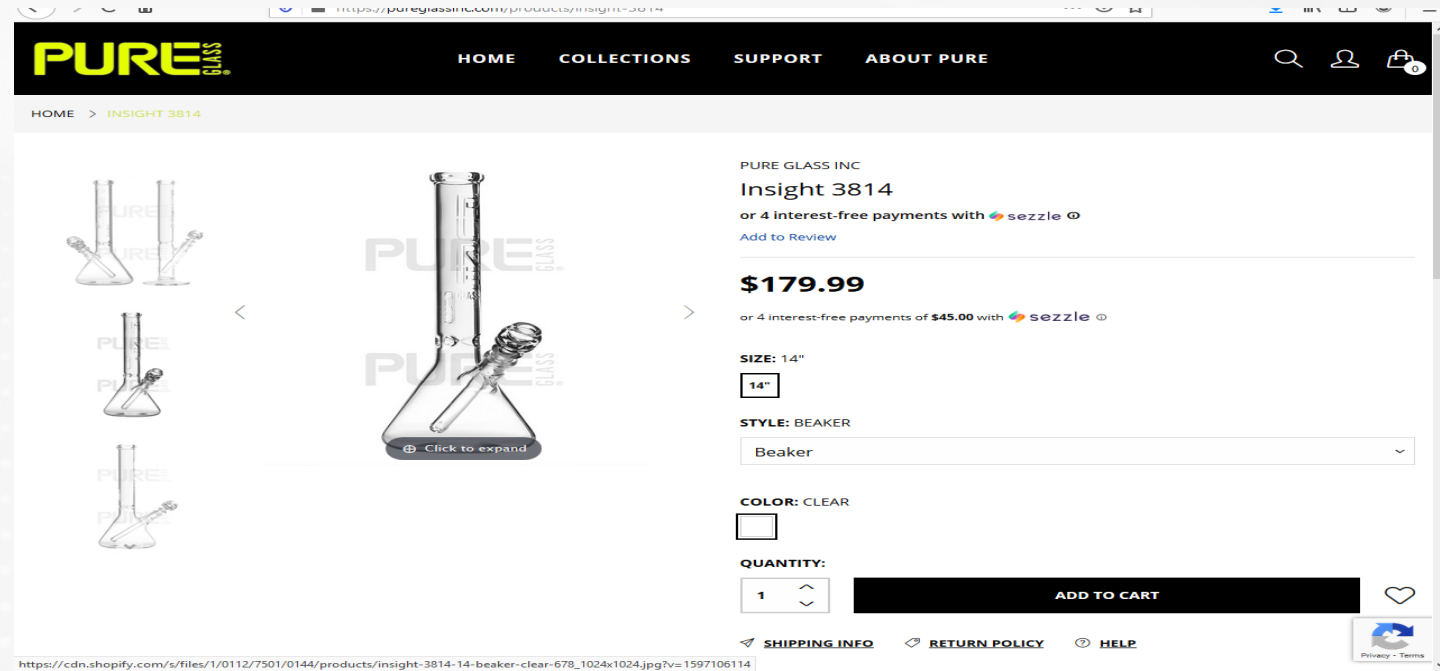
ROOR®tech

Accessories

NINETY NINE

# Recent Notices

- 1 complaint for civil penalties and injunctive relief filed Sep. 2020 in Alameda County
- *Environmental Health Advocates, Inc. v. Pure Glass* (HG20072154)



## Recent Notices

- Marijuana (August 2019)
- House Joint (August 2018)- consent judgment against Mid City Cannabis Club involving flowers, buds, leaves, stems, other organic parts of the cannabis and marijuana plants intended for combustion via smoking and/or inhalation
- (\$35k)- non contingent civil penalty (\$4k), attorneys' fees/costs (\$31k)



## No Safe Harbor

- Marijuana currently has no safe harbor
  - Likely for inhalation route
- By January 3, 2021, will need to also include a warning for reproductive harm: on site, on packaging and website (or catalog)



## **Anne Marie Ellis**

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Anne Marie Ellis' practice focuses on product liability defense, personal injury litigation, commercial litigation, regulatory compliance and client counseling.

She has significant experience with motor vehicles, motorcycles, food and cosmetics, off-road vehicles, sporting goods equipment, power tools, exercise equipment, large scale wildland fires, restaurants, trash and recycling haulers and amusement park venues.

Ms. Ellis provides advice and counsel to clients dealing with complex regulatory schemes such as the FDA, CPSC and California's Proposition 65. Anne Marie has been recognized as a thought leader on Prop. 65, and frequently publishes and speaks about defense related issues. Ms. Ellis also defends clients facing Consumer Legal Remedies Act, false advertising and unfair business practices claims.