



## OEHHA Augments Record on Proposed Consumer Product Warnings

### OEHHA, WARNINGS, PROPOSITION 65

By ROGER PEARSON, April 1, 2020

The Office of Environmental Health Hazard Assessment has filed a notice augmenting the record supporting some recent proposed changes to its regulations on what constitutes a "clear and reasonable warning" under Proposition 65 with **respect to catalog and internet sales and the sale of alcoholic beverages<sup>1)</sup>**. The record augmentation would incorporate a recent consent judgment against 13 online sellers of alcoholic beverages who failed to provide adequate Prop. 65 warnings to their customers.

On January 31 OEHHA issued proposed changes to sections 25602, 25607, 25607.1, and 25607.3 of its warning regulations [see **OEHHA Proposes New Changes to Proposition 65 Warning Regulations<sup>2)</sup>**, February 16, 2020]. Comments were required by March 16, 2020. On February 11, 2020 Attorney General Xavier Becerra's office filed a consent judgment in **People v. 1800Flowers.com<sup>3)</sup>** with the 13 online sellers of alcoholic beverages. The settlement derives from 60-day notices against the defendant-sellers originally filed by Prop. 65 private party plaintiffs John Devlin and Patricia Forrester. As permitted the AG's office notified the two plaintiffs that it was taking over prosecution of the proposed lawsuit.

The consent judgment commits each of the 13 defendants to add proper warning requirements to their online sale documents. It also requires them to pay civil penalties, fees, and costs that will be shared by the Attorney General's office and OEHHA. It also requires them to reimburse attorneys for Devlin and Forrester for their costs in preparing the 60-day notices.

#### Further Comments

The original comment deadline was extended from March 16 through March 31 to enable interested parties to comment on this proposed record augmentation.

#### Resources for this article

**1. respect to catalog and internet sales and the sale of alcoholic beverages**

<https://oehha.ca.gov/proposition-65/crnrr/notice-augmentation-record-and-extension-public-comment-period-proposed>

**2. OEHHA Proposes New Changes to Proposition 65 Warning Regulations**

<https://prop65clearinghouse.com/articles/14116>

**3. People v. 1800Flowers.com**

<https://prop65clearinghouse.com/cases/6230>