

Prop 65 Clearinghouse

Plaintiffs' Statutory Changes Panel

Panel:

Rachel Doughty, Founder and Shareholder, Greenfire Law

Laralei Paras, Partner, Seven Hills LLP

Mark Todzo, Partner, Lexington Law Group

Bill Verick, CEO, Mateel Environmental Justice Foundation

Moderator:

Jeff Margulies, Partner, Norton Rose Fulbright

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Norton Rose Fulbright US LLP



Proposed statutory changes

- Require all chemicals to be listed in warnings.
- Reformulation should be a penalty factor.
- Private settlements should be prohibited.
- Change the burden of proof on the application of the retailer regulations.
- Condition application of the retailer exemption to promptly providing upstream information in response to a 60-day notice.

Proposed statutory changes

- Provide definition/factors for determining when enforcement is “in the public interest.”
- Define public benefit for settlement approval purposes.
- Provide explicit authority for the AG’s office to take over “cookie-cutter” cases.
- Eliminate “knowingly and intentionally” in the warning requirement/require manufacturers to investigate which chemicals are present.
- Endpoints covered by P65
 - Redefine developmental toxicity to include post-natal exposures.
 - Add other toxic endpoints.

Proposed statutory changes

- Remove protections for old consent judgments that are not consistent with the mandatory provisions in the implementing.
- Prohibit “notice-and-cure” provisions in settlements. Require some minimal liquidated damages.
- Prohibit retailers from obtaining indemnity from exempt suppliers.