

Introduced by Assembly Member Quirk

February 23, 2015

An act to amend Sections 25249.6 and 25249.11 of the Health and Safety Code, relating to toxic substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 543, as introduced, Quirk. Proposition 65: exposure.

(1) The Safe Drinking Water and Toxic Enforcement Act of 1986, an initiative measure approved by the voters as Proposition 65 at the November 6, 1986, statewide general election, prohibits any person, in the course of doing business, from knowingly and intentionally exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without giving a specified warning.

This bill would provide that a person, in the course of doing business, does not knowingly and intentionally expose an individual to a chemical known to the state to cause cancer or reproductive toxicity if there exists an exposure assessment that meets 3 specified requirements.

(2) Proposition 65 provides that it may be amended by a statute, passed by a 2/3 vote of each house of the Legislature, to further its purposes.

This bill would find and declare that it furthers the purposes of Proposition 65.

Vote: 2/3. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- P2 1 SECTION 1.
 Section 25249.6 of the Health and Safety Code
 2 is amended to read:
 3 25249.6.
 Required Warning Before Exposure To Chemicals
 4 Known to Cause Cancer Or Reproductive Toxicity. ~~He~~
 5 (a) No person in the course of doing business shall knowingly
 6 and intentionally expose any individual to a chemical known to
 7 the state to cause cancer or reproductive toxicity without first
 8 giving clear and reasonable warning to such individual, except as
 9 provided in Section 25249.10.
 10 (b) A person, in the course of doing business, does not knowingly
 11 and intentionally expose an individual to a chemical known to the
 12 state to cause cancer or reproductive toxicity if there is an exposure
 13 assessment that meets all of the following conditions:
 14 (1) It has been conducted by, or under the direction of, a
 15 qualified scientist in accordance with the implementing regulations
 16 adopted by the Office of Environmental Health Hazard Assessment
 17 that are relevant to the alleged exposure.
 18 (2) It evaluates the same chemical in or from the relevant source
 19 that is the subject of the alleged exposure and concludes that the
 20 person in the course of doing business is not exposing an individual
 21 to the chemical at a level that requires a warning or, alternatively,
 22 that no specification of the particular chemical is required for a
 23 provided warning.
 24 (3) It is documented, in writing, and has been approved and
 25 signed by the qualified scientist before the person in the course of
 26 doing business receives a written notice of an alleged exposure
 27 pursuant to Section 25249.7.
 28 SEC. 2.
 Section 25249.11 of the Health and Safety Code is
 29 amended to read:
 30 25249.11.
 Definitions.
 31 For purposes of this chapter:
 32 (a) "Person" means an individual, trust, firm, joint stock
 33 company, corporation, company, partnership, limited liability
 34 company, and association.
 35 (b) "Person in the course of doing business" does not include
 36 any person employing fewer than 10 employees in his or her
 37 business; any city, county, or district or any department or agency
 38 thereof or the state or any department or agency thereof or the
 P3 1 federal government or any department or agency thereof; or any
 2 entity in its operation of a public water system as defined in Section
 3 116275.
 4 (c) "Qualified scientist" means a person who meets all of the
 5 following requirements:
 6 (1) He or she has completed a masters, doctoral, or medical
 7 doctor degree and has experience in an area specializing in any
 8 of the following:
 9 (A) Epidemiology.
 10 (B) Oncology.
 11 (C) Pathology.
 12 (D) Medicine.
 13 (E) Public health.
 14 (F) Statistics.
 15 (G) Biology.
 16 (H) Toxicology.
 17 (I) Developmental toxicology.
 18 (J) Reproductive toxicology.
 19 (K) Teratology.
 20 (L) Environmental chemistry.
 21 (M) Fields related to subparagraphs (A) to (L), inclusive.
 22 (2) He or she demonstrates ongoing expertise in the conduct of
 23 work relevant to the evaluation of exposure to chemicals, including
 24 carcinogenic chemicals or chemicals that pose reproductive or
 25 developmental hazards, using generally accepted and scientifically
 26 valid principles and methodologies.
 27 ~~(c)~~
 28 (d) "Significant amount" means any detectable amount except
 29 an amount which would meet the exemption test in subdivision

30 (c) of Section 25249.10 if an individual were exposed to such an
 31 amount in drinking water.
 32 ~~(d)~~
 33 (e) "Source of drinking water" means either a present source of
 34 drinking water or water which is identified or designated in a water
 35 quality control plan adopted by a regional board as being suitable
 36 for domestic or municipal uses.
 37 ~~(e)~~
 38 (f) "Threaten to violate" means to create a condition in which
 39 there is a substantial probability that a violation will occur.
 40 ~~(f)~~
 P4 1 (g) "Warning" within the meaning of Section 25249.6 need not
 2 be provided separately to each exposed individual and may be
 3 provided by general methods such as labels on consumer products,
 4 inclusion of notices in mailings to water customers, posting of
 5 notices, placing notices in public news media, and the like,
 6 provided that the warning accomplished is clear and reasonable.
 7 In order to minimize the burden on retail sellers of consumer
 8 products including foods, regulations implementing Section
 9 25249.6 shall to the extent practicable place the obligation to
 10 provide any warning materials such as labels on the producer or
 11 packager rather than on the retail seller, except where the retail
 12 seller itself is responsible for introducing a chemical known to the
 13 state to cause cancer or reproductive toxicity into the consumer
 14 product in question.
 15 SEC. 3.
 16 The Legislature finds and declares that this act furthers
 17 the purposes of the Safe Drinking Water and Toxic Enforcement
 Act of 1986.

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