

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 543

Introduced by Assembly Member Quirk
(Coauthor: Assembly Member Brown)

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 amended, 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 $\frac{2}{3}$ 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: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

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.

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
11 knowingly and intentionally expose an individual to a chemical
12 known to the state to cause cancer or reproductive toxicity if there
13 is an exposure assessment that meets all of the following
14 conditions:

15 (1) It has been conducted by, or under the direction of, a
16 qualified scientist in accordance with the implementing regulations
17 adopted by the Office of Environmental Health Hazard Assessment
18 that are relevant to the alleged exposure.

19 (2) It evaluates the same chemical in or from the relevant source
20 that is the subject of the alleged exposure and concludes that the
21 person in the course of doing business is not exposing an individual
22 to the chemical at a level that requires a warning or, alternatively,
23 ~~that no specification of the particular chemical is required for a~~
24 ~~provided warning.~~ *warning.*

25 (3) It is documented, in writing, and has been approved and
26 signed by the qualified scientist before the person in the course of
27 doing business receives a written notice of an alleged exposure
28 pursuant to Section 25249.7.

29 SEC. 2. Section 25249.11 of the Health and Safety Code is
30 amended to read:

31 25249.11. Definitions.

32 For purposes of this chapter:

33 (a) "Person" means an individual, trust, firm, joint stock
34 company, corporation, company, partnership, limited liability
35 company, and association.

36 (b) "Person in the course of doing business" does not include
37 any person employing fewer than 10 employees in his or her
38 business; any city, county, or district or any department or agency

1 thereof or the state or any department or agency thereof or the
2 federal government or any department or agency thereof; or any
3 entity in its operation of a public water system as defined in Section
4 116275.

5 (c) “Qualified scientist” means a person who meets all of the
6 following requirements:

7 (1) He or she has completed a masters, doctoral, or medical
8 doctor degree and has experience in an area specializing in any of
9 the following:

10 (A) Epidemiology.

11 (B) Oncology.

12 (C) Pathology.

13 (D) Medicine.

14 (E) Public health.

15 ~~(F) Statistics.~~

16 ~~(G)~~

17 (F) Biology.

18 ~~(H)~~

19 (G) Toxicology.

20 ~~(I)~~

21 (H) Developmental toxicology.

22 ~~(J)~~

23 (I) Reproductive toxicology.

24 ~~(K)~~

25 (J) Teratology.

26 ~~(L)~~

27 (K) Environmental chemistry.

28 ~~(M)~~

29 (L) Fields related to subparagraphs (A) to ~~(L)~~; (K), inclusive.

30 (2) He or she demonstrates ongoing expertise in the conduct of
31 work relevant to the evaluation of exposure to chemicals, including
32 carcinogenic chemicals or chemicals that pose reproductive or
33 developmental hazards, using generally accepted and scientifically
34 valid principles and methodologies.

35 (d) “Significant amount” means any detectable amount except
36 an amount which would meet the exemption test in subdivision
37 (c) of Section 25249.10 if an individual were exposed to such an
38 amount in drinking water.

39 (e) “Source of drinking water” means either a present source of
40 drinking water or water which is identified or designated in a water

1 quality control plan adopted by a regional board as being suitable
2 for domestic or municipal uses.

3 (f) “Threaten to violate” means to create a condition in which
4 there is a substantial probability that a violation will occur.

5 (g) “Warning” within the meaning of Section 25249.6 need not
6 be provided separately to each exposed individual and may be
7 provided by general methods such as labels on consumer products,
8 inclusion of notices in mailings to water customers, posting of
9 notices, placing notices in public news media, and the like,
10 provided that the warning accomplished is clear and reasonable.
11 In order to minimize the burden on retail sellers of consumer
12 products including foods, regulations implementing Section
13 25249.6 shall to the extent practicable place the obligation to
14 provide any warning materials such as labels on the producer or
15 packager rather than on the retail seller, except where the retail
16 seller itself is responsible for introducing a chemical known to the
17 state to cause cancer or reproductive toxicity into the consumer
18 product in question.

19 SEC. 3. The Legislature finds and declares that this act furthers
20 the purposes of the Safe Drinking Water and Toxic Enforcement
21 Act of 1986.