

**ASSEMBLY BILL**

**No. 1252**

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**Introduced by Assembly Member Jones**

February 27, 2015

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An act to amend Section 25249.7 of the Health and Safety Code, relating to toxic substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1252, as introduced, Jones. Proposition 65: enforcement.

(1) The Safe Drinking Water and Toxic Enforcement Act of 1986, an initiative measure approved by the voters as Proposition 65 at the November 4, 1986, statewide general election (Proposition 65), prohibits a 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, or from knowingly discharging or releasing such a chemical into water, or into or onto land and passing into any source of drinking water, except as specified. The act imposes civil penalties upon persons who violate those prohibitions, and provides for the enforcement of those prohibitions by the Attorney General, a district attorney, or specified city attorneys or prosecutors, and by any person in the public interest. Proposition 65 excludes from the definition of the term “person in the course of doing business” a person employing fewer than 10 employees.

Existing law requires a person filing an enforcement action in the public interest for certain specified exposures to provide a notice to the alleged violator in a specified proof of compliance form, and prohibits an enforcement action from being filed by that person, and the recovery of certain payments or reimbursements from the violator, if the notice

to the alleged violator alleges a failure to provide a clear and reasonable warning for those specified exposures and, within 14 days after receiving the notice, the alleged violator corrects the alleged violation, pays a civil penalty in the amount of \$500 per facility or premises, and notifies the person bringing the action that the violation has been corrected.

This bill would impose similar requirements with regard to a person filing an enforcement action in the public interest upon a person for a violation of the requirement to provide a warning for exposure to a chemical known to the state to cause cancer or reproductive toxicity, if the person employs fewer than 25 employees. The bill would prohibit an enforcement action against the alleged violator, and the recovery of certain payments or reimbursements, if, within 14 days after service of the notice, the alleged violator corrects the alleged violation, agrees to pay a civil penalty in the amount of \$500, and notifies the person bringing the action that the violation has been corrected.

(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: yes.  
 State-mandated local program: no.

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

- 1 SECTION 1. Section 25249.7 of the Health and Safety Code
- 2 is amended to read:
- 3 25249.7. (a) A person who violates or threatens to violate
- 4 Section 25249.5 or 25249.6 may be enjoined in ~~any~~ a court of
- 5 competent jurisdiction.
- 6 (b) (1) A person who has violated Section 25249.5 or 25249.6
- 7 is liable for a civil penalty not to exceed two thousand five hundred
- 8 dollars (\$2,500) per day for each violation in addition to any other
- 9 penalty established by law. That civil penalty may be assessed and
- 10 recovered in a civil action brought in ~~any~~ a court of competent
- 11 jurisdiction.
- 12 (2) In assessing the amount of a civil penalty for a violation of
- 13 this chapter, the court shall consider all of the following:
- 14 (A) The nature and extent of the violation.
- 15 (B) The number of, and severity of, the violations.

1 (C) The economic effect of the penalty on the violator.

2 (D) Whether the violator took good faith measures to comply  
3 with this chapter and the time these measures were taken.

4 (E) The willfulness of the violator’s misconduct.

5 (F) The deterrent effect that the imposition of the penalty would  
6 have on both the violator and the regulated community as a whole.

7 (G) Any other factor that justice may require.

8 (c) ~~Actions~~ *An action* pursuant to this section may be brought  
9 by the Attorney General in the name of the people of the State of  
10 California, by a district attorney, by a city attorney of a city having  
11 a population in excess of 750,000, or, with the consent of the  
12 district attorney, by a city prosecutor in a city or city and county  
13 having a full-time city prosecutor, or as provided in subdivision  
14 (d).

15 (d) ~~Actions~~ *An action* pursuant to this section may be brought  
16 by a person in the public interest if both of the following  
17 requirements are met:

18 (1) The private action is commenced more than 60 days from  
19 the date that the person has given notice of an alleged violation of  
20 Section 25249.5 or 25249.6 that is the subject of the private action  
21 to the Attorney General and the district attorney, city attorney, or  
22 prosecutor in whose jurisdiction the violation is alleged to have  
23 occurred, and to the alleged violator. If the notice alleges a  
24 violation of Section 25249.6, the notice of the alleged violation  
25 shall include a certificate of merit executed by the attorney for the  
26 noticing party, or by the noticing party, if the noticing party is not  
27 represented by an attorney. The certificate of merit shall state that  
28 the person executing the certificate has consulted with one or more  
29 persons with relevant and appropriate experience or expertise who  
30 has reviewed facts, studies, or other data regarding the exposure  
31 to the listed chemical that is the subject of the action, and that,  
32 based on that information, the person executing the certificate  
33 believes there is a reasonable and meritorious case for the private  
34 action. Factual information sufficient to establish the basis of the  
35 certificate of merit, including the information identified in  
36 paragraph (2) of subdivision (h), shall be attached to the certificate  
37 of merit that is served on the Attorney General.

38 (2) Neither the Attorney General, a district attorney, a city  
39 attorney, nor a prosecutor has commenced and is diligently  
40 prosecuting an action against the violation.

1 (e) A person bringing an action in the public interest pursuant  
2 to subdivision (d) and a person filing an action in which a violation  
3 of this chapter is alleged shall notify the Attorney General that the  
4 action has been filed. Neither this subdivision nor the procedures  
5 provided in subdivisions (f) to ~~(k)~~, (l), inclusive, affect the  
6 requirements imposed by statute or a court decision in existence  
7 on January 1, 2002, concerning whether a person filing an action  
8 in which a violation of this chapter is alleged is required to comply  
9 with the requirements of subdivision (d).

10 (f) (1) A person filing an action in the public interest pursuant  
11 to subdivision (d), a private person filing an action in which a  
12 violation of this chapter is alleged, or a private person settling a  
13 violation of this chapter alleged in a notice given pursuant to  
14 paragraph (1) of subdivision (d), shall, after the action or violation  
15 is subject either to a settlement or to a judgment, submit to the  
16 Attorney General a reporting form that includes the results of that  
17 settlement or judgment and the final disposition of the case, even  
18 if dismissed. At the time of the filing of a judgment pursuant to  
19 an action brought in the public interest pursuant to subdivision (d),  
20 or an action brought by a private person in which a violation of  
21 this chapter is alleged, the plaintiff shall file an affidavit verifying  
22 that the report required by this subdivision has been accurately  
23 completed and submitted to the Attorney General.

24 (2) A person bringing an action in the public interest pursuant  
25 to subdivision (d), or a private person bringing an action in which  
26 a violation of this chapter is alleged, shall, after the action is either  
27 subject to a settlement, with or without court approval, or to a  
28 judgment, submit to the Attorney General a report that includes  
29 information on any corrective action being taken as a part of the  
30 settlement or resolution of the action.

31 (3) The Attorney General shall develop a reporting form that  
32 specifies the information that shall be reported, including, but not  
33 limited to, for purposes of subdivision (e), the date the action was  
34 filed, the nature of the relief sought, and for purposes of this  
35 subdivision, the amount of the settlement or civil penalty assessed,  
36 other financial terms of the settlement, and any other information  
37 the Attorney General deems appropriate.

38 (4) If there is a settlement of an action brought by a person in  
39 the public interest under subdivision (d), the plaintiff shall submit  
40 the settlement, other than a voluntary dismissal in which no

1 consideration is received from the defendant, to the court for  
2 approval upon noticed motion, and the court may approve the  
3 settlement only if the court makes all of the following findings:

4 (A) The warning that is required by the settlement complies  
5 with this chapter.

6 (B) The award of attorney’s fees is reasonable under California  
7 law.

8 (C) The penalty amount is reasonable based on the criteria set  
9 forth in paragraph (2) of subdivision (b).

10 (5) The plaintiff subject to paragraph (4) has the burden of  
11 producing evidence sufficient to sustain each required finding.  
12 The plaintiff shall serve the motion and all supporting papers on  
13 the Attorney General, who may appear and participate in a  
14 proceeding without intervening in the case.

15 (6) Neither this subdivision nor the procedures provided in  
16 subdivision (e) and subdivisions (g) to ~~(k)~~, (l), inclusive, affect the  
17 requirements imposed by statute or a court decision in existence  
18 on January 1, 2002, concerning whether claims raised by a person  
19 or public prosecutor not a party to the action are precluded by a  
20 settlement approved by the court.

21 (g) The Attorney General shall maintain a record of the  
22 information submitted pursuant to subdivisions (e) and (f) and  
23 shall make this information available to the public.

24 (h) (1) Except as provided in paragraph (2), the basis for the  
25 certificate of merit required by subdivision (d) is not discoverable.  
26 However, nothing in this subdivision precludes the discovery of  
27 information related to the certificate of merit if that information  
28 is relevant to the subject matter of the action and is otherwise  
29 discoverable, solely on the ground that it was used in support of  
30 the certificate of merit.

31 (2) Upon the conclusion of an action brought pursuant to  
32 subdivision (d) with respect to a defendant, if the trial court  
33 determines that there was no actual or threatened exposure to a  
34 listed chemical, the court may, upon the motion of that alleged  
35 violator or upon the court’s own motion, review the basis for the  
36 belief of the person executing the certificate of merit, expressed  
37 in the certificate of merit, that an exposure to a listed chemical had  
38 occurred or was threatened. The information in the certificate of  
39 merit, including the identity of the persons consulted with and  
40 relied on by the certifier, and the facts, studies, or other data

1 reviewed by those persons, shall be disclosed to the court in an  
2 in-camera proceeding at which the moving party shall not be  
3 present. If the court finds that there was no credible factual basis  
4 for the certifier's belief that an exposure to a listed chemical had  
5 occurred or was threatened, then the action shall be deemed  
6 frivolous within the meaning of Section ~~128.7~~ 128.5 of the Code  
7 of Civil Procedure. The court shall not find a factual basis credible  
8 on the basis of a legal theory of liability that is frivolous within  
9 the meaning of Section ~~128.7~~ 128.5 of the Code of Civil Procedure.

10 (i) The Attorney General may provide the factual information  
11 submitted to establish the basis of the certificate of merit on request  
12 to a district attorney, city attorney, or prosecutor within whose  
13 jurisdiction the violation is alleged to have occurred, or to any  
14 other state or federal government agency, but in all other respects  
15 the Attorney General shall maintain, and ensure that all recipients  
16 maintain, the submitted information as confidential official  
17 information to the full extent authorized in Section 1040 of the  
18 Evidence Code.

19 (j) In an action brought by the Attorney General, a district  
20 attorney, a city attorney, or a prosecutor pursuant to this chapter,  
21 the Attorney General, district attorney, city attorney, or prosecutor  
22 may seek and recover costs and attorney's fees on behalf of a party  
23 who provides a notice pursuant to subdivision (d) and who renders  
24 assistance in that action.

25 (k) (1) *A person who serves a notice of alleged violation of*  
26 *Section 25249.6 pursuant to paragraph (1) of subdivision (d) upon*  
27 *a person who, in the course of business, employs fewer than 25*  
28 *employees, shall complete, as appropriate, and provide to the*  
29 *alleged violator a notice of the special compliance procedure and*  
30 *proof of compliance form pursuant to paragraph (2) and shall not*  
31 *file an action for that exposure against the alleged violator, or*  
32 *recover from the alleged violator in a settlement payment in lieu*  
33 *of penalties or reimbursement for costs and attorney's fees if all*  
34 *of the following conditions have been met:*

35 (A) *Within 14 days after service of the notice, the alleged*  
36 *violator has done all of the following:*

37 (i) *Corrected the alleged violation.*

38 (ii) *Agreed to pay a civil penalty for the alleged violation of*  
39 *Section 25249.6 in the amount of five hundred dollars (\$500).*

1     (iii) *Notified, in writing, the person who served the notice of*  
2 *the alleged violation, that the violation has been corrected. The*  
3 *written notice shall include the notice of special compliance*  
4 *procedure and proof of compliance form specified in paragraph*  
5 *(2), which was provided by the person serving notice of the alleged*  
6 *violation and which shall be completed by the alleged violator as*  
7 *directed in the notice.*

8     (B) *The violator has delivered the civil penalty to the person*  
9 *that served the notice of the alleged violation within 30 days of*  
10 *service of that notice. The person that served the notice of violation*  
11 *shall remit 75 percent of the penalty to the Safe Drinking Water*  
12 *and Toxic Enforcement Fund within 30 days of receipt of the funds*  
13 *from the alleged violator.*

14     (2) *The notice required to be provided to an alleged violator*  
15 *pursuant to this section shall be presented as follows:*

Date:

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Name of Noticing Party or attorney for Noticing Party:

Address:

Telephone number:

**SPECIAL COMPLIANCE PROCEDURE**

**PROOF OF COMPLIANCE**

You are receiving this form because the Noticing Party listed above has alleged that you are violating California Health and Safety Code §25249.6 (Prop. 65).

The Noticing Party may not bring legal proceedings against you for the alleged violation checked below if:

- (1) You have actually taken the corrective steps that you have certified in this form.
- (2) The Noticing Party has received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receipt of this notice.
- (3) The Noticing Party receives the required \$500 penalty payment from you at the address shown above postmarked within 30 days of your receipt of this notice.
- (4) You have fewer than 25 employees.

**PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY**

The alleged violation is for an exposure to a chemical known to the state to cause cancer or reproductive toxicity under Proposition 65.

**IMPORTANT NOTES:**

- (1) You have no potential liability under California Health and Safety Code §25249.6 if your business has nine or fewer employees.
- (2) Using this form will NOT prevent the Attorney General, a district attorney, a city attorney, or a prosecutor in whose jurisdiction the violation is alleged to have occurred from filing an action over the same alleged violations. However, in any such action, the amount of civil penalty shall be reduced to reflect any payment made at this time.

Date:

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Name of Noticing Party or attorney for Noticing Party:

Address:

Telephone number:

**PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE**

**Certification of Compliance**

Accurate completion of this form will demonstrate that you are now in compliance with California Health and Safety Code §25249.6 for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of your receipt of this notice.

I hereby agree to pay, within 30 days of completion of this notice, a civil penalty of \$500 to the Noticing Party only, and certify that I have complied with Health and Safety Code §25249.6 by (check only one of the following):

Posting a warning or warnings about the alleged exposure that complies with the law, and attaching a copy of that warning and a photograph accurately showing its placement on my premises;

Posting the warning or warnings demanded in writing by the Noticing Party, and attaching a copy of that warning and a photograph accurately showing its placement on my premises; OR

Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

**Certification**

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

\_\_\_\_\_  
Signature of alleged violator or authorized representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and title of signatory

1 ~~(k) Any~~

2 (l) A person who serves a notice of alleged violation pursuant  
3 to paragraph (1) of subdivision (d) for an exposure identified in  
4 subparagraph (A), (B), (C), or (D) of paragraph (1) shall complete,  
5 as appropriate, and provide to the alleged violator at the time the  
6 ~~notice of alleged violation is served,~~ *violator*, a notice of special  
7 compliance procedure and proof of compliance form pursuant to  
8 subdivision ~~(l)~~ (m) and shall not file an action for that exposure  
9 against the alleged violator, or recover from the alleged violator  
10 in a settlement ~~any~~ payment in lieu of penalties or ~~any~~  
11 reimbursement for costs and attorney's fees, if all of the following  
12 conditions have been met:

13 (1) The notice given pursuant to paragraph (1) of subdivision  
14 (d) was served on or after ~~the effective date of the act amending~~  
15 ~~this section during the 2013-14 Regular Session~~ *October 5, 2013,*  
16 and alleges that the alleged violator failed to provide clear and  
17 reasonable warning as required under Section 25249.6 regarding  
18 one or more of the ~~following:~~ *following, and no other violation:*

19 (A) An exposure to alcoholic beverages that are consumed on  
20 the alleged violator's premises to the extent onsite consumption  
21 is permitted by law.

22 (B) An exposure to a chemical known to the state to cause cancer  
23 or reproductive toxicity in a food or beverage prepared and sold  
24 on the alleged violator's premises primarily intended for immediate  
25 consumption on or off premises, to the extent of both of the  
26 following:

27 (i) The chemical was not intentionally added.

28 (ii) The chemical was formed by cooking or similar preparation  
29 of food or beverage components necessary to render the food or  
30 beverage palatable or to avoid microbiological contamination.

31 (C) An exposure to environmental tobacco smoke caused by  
32 entry of ~~persons (other persons, other than employees)~~ *employees,*  
33 on premises owned or operated by the alleged violator where  
34 smoking is permitted at any location on the premises.

35 (D) An exposure to chemicals known to the state to cause cancer  
36 or reproductive toxicity in engine exhaust, to the extent the  
37 exposure occurs inside a facility owned or operated by the alleged  
38 violator and primarily intended for parking noncommercial  
39 vehicles.

1 (2) Within 14 days after service of the notice, the alleged violator  
2 has done all of the following:

3 (A) Corrected the alleged violation.

4 (B) (i) Agreed to pay a civil penalty for the alleged violation  
5 of Section ~~25496.6~~ 25249.6 in the amount of five hundred dollars  
6 (\$500), to be adjusted quinquennially pursuant to clause (ii), per  
7 facility or premises where the alleged violation occurred, of which  
8 75 percent shall be deposited in the Safe Drinking Water and Toxic  
9 Enforcement Fund, and 25 percent shall be paid to the person that  
10 served the notice as provided in Section 25249.12.

11 (ii) On April 1, 2019, and at each five-year interval thereafter,  
12 the dollar amount of the civil penalty provided pursuant to this  
13 subparagraph shall be adjusted by the Judicial Council based on  
14 the change in the annual California Consumer Price Index for All  
15 Urban Consumers, published by the Department of Industrial  
16 Relations, Division of Labor ~~Statistics~~, *Statistics and Research*,  
17 for the most recent five-year period ending on December 31 of the  
18 year preceding the year in which the adjustment is made, rounded  
19 to the nearest five dollars (\$5). The Judicial Council shall  
20 quinquennially publish the dollar amount of the adjusted civil  
21 penalty provided pursuant to this subparagraph, together with the  
22 date of the next scheduled adjustment.

23 (C) Notified, in writing, the person that served the notice of the  
24 alleged violation, that the violation has been corrected. The written  
25 notice shall include the notice of special compliance procedure  
26 and proof of compliance form specified in subdivision ~~(l)~~, (m),  
27 which was provided by the person serving notice of the alleged  
28 violation and which shall be completed by the alleged violator as  
29 directed in the notice.

30 (3) The alleged violator shall deliver the civil penalty to the  
31 person that served the notice of the alleged violation within 30  
32 days of service of that notice, and the person that served the notice  
33 of violation shall remit the portion of the penalty due to the Safe  
34 Drinking Water and Toxic Enforcement Fund within 30 days of  
35 receipt of the funds from the alleged violator.

36 ~~(l)~~

37 (m) The notice required to be provided to an alleged violator  
38 pursuant to subdivision ~~(k)~~ (l) shall be presented as follows:

Date:  
Name of Noticing Party or attorney for Noticing Party:  
Address:  
Phone number:

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**SPECIAL COMPLIANCE PROCEDURE**  
**PROOF OF COMPLIANCE**

You are receiving this form because the Noticing Party listed above has alleged that you are violating California Health and Safety Code §25249.6 (Prop. 65):

***The Noticing Party may not bring any legal proceedings against you for the alleged violation checked below if:***

- (1) You have actually taken the corrective steps that you have certified in this form;***
- (2) The Noticing Party has received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice;***
- (3) The Noticing Party receives the required \$500 penalty payment from you at the address shown above postmarked within 30 days of your receiving this notice;***
- (4) This is the first time you have submitted a Proof of Compliance for a violation arising from the same exposure in the same facility on the same premises.***

**PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY**

The alleged violation is for an exposure to: (check one)

Alcoholic beverages that are consumed on the alleged violator’s premises to the extent on-site consumption is permitted by law.

A chemical known to the state to cause cancer or reproductive toxicity in a food or beverage prepared and sold on the alleged violator’s premises for immediate consumption on or off premises to the extent: (1) the chemical was not intentionally added; and (2) the chemical was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination.

Environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises.

Chemicals known to the State to cause cancer or reproductive toxicity in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking noncommercial vehicles.

**IMPORTANT NOTES:**

- (1) You have no potential liability under California Health and Safety Code §25249.6 if your business has nine (9) or fewer employees;***
- (2) Using this form will NOT prevent the Attorney General, a district attorney, a city attorney, or a prosecutor in whose jurisdiction the violation is alleged to have occurred from filing an action over the same alleged violations. However, any in such action, the amount of civil penalty shall be reduced to reflect any payment made at this time.***

Date:

Page 2

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

**PART 2- TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE**

**Certification of Compliance**

Accurate completion of this form will demonstrate that you are now in compliance with California Health and Safety Code §25249.6 for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of completion of this notice, a civil penalty of \$500 to the Noticing Party only and certify that I have complied with Health and Safety Code §25249.6 by (check only one of the following):

- Posting a warning or warnings about the alleged exposure that complies with the law, and attaching a copy of that warning and a photograph accurately showing its placement on my premises;
- Posting the warning or warnings demanded in writing by the Noticing Party, and attaching a copy of that warning and a photograph accurately showing its placement on my premises; OR
- Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

**Certification**

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65):

\_\_\_\_\_  
Signature of alleged violator or authorized representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and title of signatory

Date:

Page 1

Name of Noticing Party or attorney for Noticing Party:

Address:

Telephone number:

**SPECIAL COMPLIANCE PROCEDURE**  
**PROOF OF COMPLIANCE**

You are receiving this form because the Noticing Party listed above has alleged that you are violating California Health and Safety Code §25249.6 (Prop. 65).

**The Noticing Party may not bring legal proceedings against you for the alleged violation checked below if:**

- (1) You have actually taken the corrective steps that you have certified in this form.**
- (2) The Noticing Party has received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receipt of this notice.**
- (3) The Noticing Party receives the required \$500 penalty payment from you at the address shown above postmarked within 30 days of your receipt of this notice.**
- (4) This is the first time you have submitted a Proof of Compliance for a violation arising from the same exposure in the same facility on the same premises.**

**PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY**

The alleged violation is for an exposure to: (check one)

Alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law.

A chemical known to the state to cause cancer or reproductive toxicity in a food or beverage prepared and sold on the alleged violator's premises for immediate consumption on or off premises to the extent: (1) the chemical was not intentionally added; and (2) the chemical was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination.

Environmental tobacco smoke caused by entry of persons, other than employees, on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises.

Chemicals known to the state to cause cancer or reproductive toxicity in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking noncommercial vehicles.

**IMPORTANT NOTES:**

- (1) You have no potential liability under California Health and Safety Code §25249.6 if your business has nine or fewer employees.**
- (2) Using this form will NOT prevent the Attorney General, a district attorney, a city attorney, or a prosecutor in whose jurisdiction the violation is alleged to have occurred from filing an action over the same alleged violations. However, in any such action, the amount of civil penalty shall be reduced to reflect any payment made at this time.**

Date:

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Name of Noticing Party or attorney for Noticing Party:

Address:

Telephone number:

**PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE**

**Certification of Compliance**

Accurate completion of this form will demonstrate that you are now in compliance with California Health and Safety Code §25249.6 for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of completion of this notice, a civil penalty of \$500 to the Noticing Party only and certify that I have complied with Health and Safety Code §25249.6 by (check only one of the following):

- Posting a warning or warnings about the alleged exposure that complies with the law, and attaching a copy of that warning and a photograph accurately showing its placement on my premises;
- Posting the warning or warnings demanded in writing by the Noticing Party, and attaching a copy of that warning and a photograph accurately showing its placement on my premises; OR
- Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

**Certification**

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

\_\_\_\_\_  
Signature of alleged violator or authorized representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and title of signatory

1 ~~(m)~~

2 (n) An alleged violator may satisfy the conditions set forth in  
3 subdivision-~~(k)~~ (l) only one time for a violation arising from the  
4 same exposure in the same facility or on the same premises.

5 ~~(n)~~

6 (o) Nothing in subdivision (k) or (l) shall prevent the Attorney  
7 General, a district attorney, a city attorney, or a prosecutor in whose  
8 jurisdiction the violation is alleged to have occurred from filing  
9 an action pursuant to subdivision (c) against an alleged violator.

10 In any such action, the amount of any civil penalty for a violation  
11 shall be reduced to reflect any payment made by the alleged  
12 violator for the same alleged violation pursuant to *subdivision (k)*  
13 or subparagraph (B) of paragraph (2) of subdivision-~~(k)~~ (l).

14 SEC. 2. The Legislature finds and declares that this act furthers  
15 the purposes of the Safe Drinking Water and Toxic Enforcement  
16 Act of 1986.