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Attorneys for Plaintiff Environmental Research Center, Inc.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

**ENVIRONMENTAL RESEARCH CENTER,
INC., a California non-profit corporation**

**Plaintiff,
vs.**

**SUPERHUMAN, INC., individually and dba
ALPHA LION, a Delaware corporation;
ALPHA LION LLC, a Delaware limited
liability company; and DOES 1-100**

Defendants.

CASE NO. 26STCV24065

**COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF AND
CIVIL PENALTIES**

[Miscellaneous Civil Complaint (42)]
Proposition 65, Health & Safety Code
Section 25249.5 et seq.]

Plaintiff Environmental Research Center, Inc. hereby alleges:

I

INTRODUCTION

1. Plaintiff Environmental Research Center, Inc. (hereinafter "Plaintiff" or "ERC") brings this action as a private attorney general enforcer and in the public interest pursuant to Health & Safety Code section 25249.7, subdivision (d). The Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code section 25249.5 *et seq.*) also known as "Proposition 65," mandates that businesses with ten or more employees must provide a "clear and reasonable warning" prior to exposing any individual to a chemical known to the state to cause cancer or

1 reproductive toxicity. Lead is a chemical known to the State of California to cause cancer, birth
2 defects, and other reproductive harm. This Complaint seeks injunctive and declaratory relief
3 and civil penalties to remedy the ongoing failure of Defendants Superhuman, Inc., individually
4 and dba Alpha Lion, and Alpha Lion LLC (collectively “Superhuman”) and Does 1-100
5 (hereinafter individually referred to as “Defendant” or collectively as “Defendants”), to warn
6 consumers that they have been exposed to lead from a number of Superhuman’s nutritional
7 health products as set forth in paragraph 3 at levels exceeding the applicable Maximum
8 Allowable Dose Level (“MADL”) and requiring a warning pursuant to Health & Safety Code
9 section 25249.6.

10 II

11 PARTIES

12 2. Plaintiff ERC is a California non-profit corporation dedicated to, among other causes,
13 helping safeguard the public from health hazards by reducing the use and misuse of hazardous
14 and toxic chemicals, facilitating a safe environment for consumers and employees, and
15 encouraging corporate responsibility.

16 3. Defendant Superhuman, Inc., individually and dba Alpha Lion, is a Delaware
17 corporation that develops, manufactures, markets, distributes, and/or sells nutritional health
18 products that have exposed users to lead in the State of California within the relevant statute of
19 limitations period. Defendant Alpha Lion LLC is a Delaware limited liability company that
20 develops, manufactures, markets, distributes, and/or sells nutritional health products that have
21 exposed users to lead in the State of California within the relevant statute of limitations period.
22 These “SUBJECT PRODUCTS” (as identified in the Notices of Violation dated April 22, 2026
23 and May 20, 2026, attached hereto as **Exhibits A** and **B** and incorporated herein by reference)
24 are: (1) Alpha Lion Be Superhuman Super Human Pump Stim-Free Pump & Performance Pre-
25 Workout Peach Pumps Peach Rings, (2) Alpha Lion Be Superhuman Super Human Burn 2-In-1
26 Fat Burning Pre-Workout Cherry Popper Sweet Black Cherry, (3) Alpha Lion Be Superhuman
27 Super Human Pre Original Performance Pre-Workout Orange Gainsicle Orange Creamsicle, (4)
28 Alpha Lion Be Superhuman Super Human Pump Stim-Free Pump & Performance Pre-Workout

1 Mango Veiniac Mango Strawberry Sherbet, (5) Alpha Lion Be Superhuman Super Human
2 Hydration Daily Hydration and Recovery Powerhouse Lemonardo Da Vinci Sweet Lemonade
3 Natural and Artificial Flavors, (6) Alpha Lion Be Superhuman Super Human Pump Stim-Free
4 Pump & Performance Pre-Workout Blue Steel Blueberry Mojito Natural and Artificial Flavors,
5 (7) Alpha Lion Be Superhuman Super Human Pre Original Performance Pre-Workout
6 Grapezilla Grape Bubblegum Natural and Artificial Flavors, (8) Super Human Pump Stim-Free
7 Pump & Performance Pre-Workout Muscle Melon Watermelon Cucumber Natural and
8 Artificial Flavors, (9) Alpha Lion Be Superhuman Super Human Pre Original Performance Pre-
9 Workout Miami Vice Piña Colada Strawberry Daiquiri Natural and Artificial Flavors, and (10)
10 Alpha Lion Be Superhuman Super Human Extreme Extreme Energy Pre-Workout Formula
11 Hulk Juice Sour Gummy Bear Natural and Artificial Flavors. Superhuman, Inc., individually
12 and dba Alpha Lion, and Alpha Lion LLC are companies subject to Proposition 65 as each
13 company employs ten or more persons and has employed ten or more persons at all times
14 relevant to this action.

15 4. Defendants Does 1-100, are named herein under fictitious names, as their true names
16 and capacities are unknown to ERC. ERC is informed and believes, and thereon alleges, that
17 each of said Does is responsible, in some actionable manner, for the events and happenings
18 hereinafter referred to, either through said Does' conduct, or through the conduct of its agents,
19 servants or employees, or in some other manner, causing the harms alleged by ERC in this
20 Complaint. When said true names and capacities of Does are ascertained, ERC will seek leave
21 to amend this Complaint to set forth the same.

22 III

23 **JURISDICTION AND VENUE**

24 5. This Court has jurisdiction pursuant to California Constitution Article VI, Section 10,
25 which grants the Superior Court original jurisdiction in all causes except those given by statute
26 to other trial courts. The statute under which this action is brought does not specify any other
27 basis for jurisdiction.

28 6. This Court has jurisdiction over Superhuman because Superhuman has sufficient

1 minimum contacts with California, and otherwise intentionally avails itself of the California
2 market through the marketing, distribution, and/or sale of the SUBJECT PRODUCTS in or into
3 the State of California so as to render the exercise of jurisdiction over it by the California courts
4 consistent with traditional notions of fair play and substantial justice.

5 7. The Complaint is based on allegations contained in the Notices of Violation dated
6 April 22, 2026, and May 20, 2026, served on the California Attorney General, other public
7 enforcers, and Superhuman. The Notices of Violation constitute adequate notice to
8 Superhuman because they provided adequate information to allow Superhuman to assess the
9 nature of the alleged violations, consistent with Proposition 65 and its implementing
10 regulations. A certificate of merit and a certificate of service accompanied each copy of the
11 Notices of Violation, and both certificates comply with Proposition 65 and its implementing
12 regulations. The Notices of Violation served on Superhuman also included a copy of “The Safe
13 Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary.” Service of
14 the Notices of Violation and accompanying documents complied with Proposition 65 and its
15 implementing regulations. Attached hereto as **Exhibits A and B** are true and correct copies of
16 the Notices of Violation and associated documents. More than 60 days have passed since ERC
17 mailed the Notices of Violation, and no public enforcement entity has filed a Complaint in this
18 case.

19 8. This Court is the proper venue for the action because the causes of action have arisen in
20 the County of Los Angeles where some of the violations of law have occurred, and will
21 continue to occur, due to the ongoing sale of Superhuman’s products. Furthermore, venue is
22 proper in this Court under Code of Civil Procedure section 395.5 and Health & Safety Code
23 section 25249.7.

24 IV

25 **STATUTORY BACKGROUND**

26 9. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute
27 passed as “Proposition 65” by an overwhelming majority vote of the people in November of
28 1986.

1 10. The warning requirement of Proposition 65 is contained in Health & Safety Code
2 section 25249.6, which provides:

3 No person in the course of doing business shall knowingly and
4 intentionally expose any individual to a chemical known to the state to
5 cause cancer or reproductive toxicity without first giving clear and
6 reasonable warning to such individual, except as provided in Section
7 25249.10.

8 11. The Office of Environmental Health Hazard Assessment (“OEHHA”), a division of the
9 California Environmental Protection Agency (“Cal EPA”), is the lead agency in charge of the
10 implementation of Proposition 65. OEHHA administers the Proposition 65 program and
11 administers regulations that govern Proposition 65 in general, including warnings to comply
12 with the statute. The warning regulations are found in Title 27 of the California Code of
13 Regulations, Article 6. The regulations define expose as “to cause to ingest, inhale, contact via
14 body surfaces or otherwise come into contact with a listed chemical. An individual may come
15 into contact with a listed chemical through water, air, food, consumer products and any other
16 environmental exposure as well as occupational exposures.” (Cal. Code Regs., tit. 27, § 25102,
17 subd. (i).)

18 12. In this case, the exposures are caused by consumer products. A consumer product is
19 defined as “any article, or component part thereof, including food, that is produced, distributed,
20 or sold for the personal use, consumption or enjoyment of a consumer.” (Cal. Code Regs., tit.
21 27, § 25600.1, subd. (d).) Food “includes ‘dietary supplements’ as defined in California Code
22 of Regulations, title 17, section 10200.” (*Id.* at subd. (g).) A consumer product exposure is “an
23 exposure that results from a person’s acquisition, purchase, storage, consumption, or any
24 reasonably foreseeable use of a consumer product, including consumption of a food.” (*Id.* at
25 subd. (e).)

26 13. On August 30, 2016, the Office of Administrative Law approved the adoption of
27 OEHHA’s amendments to Article 6, Clear and Reasonable Warnings of the California Code of
28 Regulations. This action repealed virtually all of the regulatory provisions of Title 27 of the
California Code of Regulations, Article 6 (sections 25601 *et seq.*) and replaced the repealed

1 sections with new regulations set forth in two new Subarticles to Article 6 that became
2 operative on August 30, 2018 (the “New Warning Regulations”). The New Warning
3 Regulations provide, among other things, methods of transmission and content of warnings
4 deemed to comply with Proposition 65. Superhuman is subject to the warning requirements set
5 forth in the New Warning Regulations that became operative on August 30, 2018.

6 14. Health & Safety Code section 25249.6 provides that “No person in the course of doing
7 business shall knowingly and intentionally expose any individual to a chemical known to the
8 state to cause cancer or reproductive toxicity without first giving clear and reasonable warning
9 to such individual” The New Warning Regulations apply when clear and reasonable
10 warnings are required under Section 25249.6. Pursuant to the New Warning Regulations,
11 consumer product warnings “must be prominently displayed on a label, labeling, or sign, and
12 must be displayed with such conspicuousness as compared with other words, statements,
13 designs or devices on the label, labeling, or sign, as to render the warning likely to be seen,
14 read, and understood by an ordinary individual under customary conditions of purchase or use.”
15 (*Id.* at § 25601, subd. (c).)

16 15. Proposition 65 establishes a procedure by which the State is to develop a list of
17 chemicals “known to the State to cause cancer or reproductive toxicity.” (Health & Safety Code,
18 § 25249.8.) There is no duty to provide a clear and reasonable warning until 12 months after
19 the chemical is published on the State list. (Health & Safety Code, § 25249.10, subd. (b).)

20 16. Lead was listed as a chemical known to the State of California to cause developmental
21 toxicity in the fetus and male and female reproductive toxicity on February 27, 1987. Lead was
22 listed as a chemical known to the State of California to cause cancer on October 1, 1992.
23 (OEHHA Chemicals Considered or Listed Under Proposition 65 -
24 <https://oehha.ca.gov/proposition-65/chemicals/lead-and-lead-compounds>.) The MADL for lead
25 as a chemical known to cause reproductive toxicity is 0.5 micrograms per day. (Cal. Code
26 Regs., tit. 27, §25805, subd. (b).) The No Significant Risk Level for lead as a carcinogen is 15
27 micrograms per day. (Cal. Code Regs., tit. 27, §25705, subd. (b).)

28 17. Proposition 65 provides that any person “violating or threatening to violate” Proposition

65 may be enjoined in any court of competent jurisdiction. (Health & Safety Code, §25249.7, subd. (a).) To “threaten to violate” means “to create a condition in which there is a substantial probability that a violation will occur.” (Health & Safety Code, § 25249.11, subd. (e).) Furthermore, violators are subject to a civil penalty of up to \$2,500 per day for each violation. (Health & Safety Code, § 25249.7, subd. (b)(1).)

18. Proposition 65 may be enforced by any person in the public interest who provides notice sixty days before filing suit to both the violator and designated law enforcement officials. The failure of law enforcement officials to file a timely Complaint enables a citizen suit to be filed pursuant to Health & Safety Code section 25249.7, subdivisions (c) and (d).

V

STATEMENT OF FACTS

19. Superhuman has developed, manufactured, marketed, distributed, and/or sold the SUBJECT PRODUCTS containing lead in or into the State of California, including in or into Los Angeles County. Consumption of the SUBJECT PRODUCTS according to the directions and/or recommendations provided for said products causes consumers to be exposed to lead at levels exceeding the 0.5 micrograms per day MADL, requiring a warning. Consumers have been ingesting these products for many years, without any knowledge of their exposure to this very dangerous chemical.

20. For many years, Superhuman has knowingly and intentionally exposed numerous persons to lead without providing any type of Proposition 65 warning. Prior to ERC’s Notices of Violation and this Complaint, Superhuman failed to provide a warning on the labels of the SUBJECT PRODUCTS or provide any other legally acceptable warning. Superhuman has, at all times relevant hereto, been aware that the SUBJECT PRODUCTS contained lead and that persons using these products have been exposed to this chemical. Superhuman has been aware of the presence of lead in the SUBJECT PRODUCTS and has failed to disclose the presence of this chemical to the public, who undoubtedly believe they have been ingesting totally healthy and pure products pursuant to the company’s statements.

21. Both prior and subsequent to ERC’s Notices of Violation, Superhuman failed to provide

1 consumers of the SUBJECT PRODUCTS with a clear and reasonable warning that they have
2 been exposed to a chemical known to the State of California to cause cancer, birth defects and
3 other reproductive harm. This failure to warn is ongoing.

4 **FIRST CAUSE OF ACTION**

5 **(Violation of Section 25249.6 of the Health and Safety Code, Failure to Provide Clear and**
6 **Reasonable Warning under Proposition 65)**

7 22. ERC refers to paragraphs 1-21, inclusive, and incorporates them herein by this
8 reference.

9 23. By committing the acts alleged above, Superhuman has, in the course of doing business,
10 knowingly and intentionally exposed users of the SUBJECT PRODUCTS to lead, a chemical
11 known to the State of California to cause cancer, birth defects, and other reproductive harm,
12 without first giving clear and reasonable warning to such individuals within the meaning of
13 Health & Safety Code section 25249.6. In doing so, Superhuman has violated Health & Safety
14 Code section 25249.6 and continues to violate the statute with each successive sale of the
15 SUBJECT PRODUCTS.

16 24. Said violations render Superhuman liable for civil penalties, up to \$2,500 per day for
17 each violation, and subject Superhuman to injunction.

18 **SECOND CAUSE OF ACTION**

19 **(Declaratory Relief)**

20 25. ERC refers to paragraphs 1-24, inclusive, and incorporates them herein by this
21 reference.

22 26. There exists an actual controversy relating to the legal rights and duties of the Parties,
23 within the meaning of Code of Civil Procedure section 1060, between ERC and Superhuman,
24 concerning whether Superhuman has exposed individuals to a chemical known to the State of
25 California to cause cancer, birth defects, and other reproductive harm without providing clear
26 and reasonable warning.

27 ///

28 **VI**

1 **PRAYER**

2 WHEREFORE ERC prays for relief as follows:

3 1. On the First Cause of Action, for civil penalties for each and every violation according
4 to proof;

5 2. On the First Cause of Action, and pursuant to Health & Safety Code section 25249.7,
6 subd. (a), for such temporary restraining orders, preliminary and permanent injunctive orders, or
7 other orders as are necessary to prevent Superhuman from exposing persons to lead without
8 providing clear and reasonable warning;

9 3. On the Second Cause of Action, for a declaratory judgment pursuant to Code of Civil
10 Procedure section 1060 declaring that Superhuman has exposed individuals to lead without
11 providing clear and reasonable warning; and

12 4. On all Causes of Action, for reasonable attorneys' fees pursuant to Code of Civil
13 Procedure section 1021.5 or the substantial benefit theory;

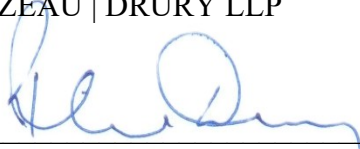
14 5. For costs of suit herein; and

15 6. For such other relief as the Court may deem just and proper.

16 ///

17 DATED: July 30, 2026

LOZEAU | DRURY LLP

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19 _____
20 Richard Drury
21 Kylah Staley
22 Attorneys for Plaintiff
23 Environmental Research Center, Inc.
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EXHIBIT A



Environmental Research Center
3111 Camino Del Rio North, Suite 400
San Diego, CA 92108
619-500-3090

April 22, 2026

**NOTICE OF VIOLATIONS OF
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 *ET SEQ.*
(PROPOSITION 65)**

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"). ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

**Superhuman, Inc., individually and dba Alpha Lion
Alpha Lion LLC**

Consumer Products and Listed Chemical. The specific types of products causing the violations are dietary and/or nutritional pre-workout powders and which contain lead ("Products"). Exemplars of the Products that are the subject of this notice and the specific chemical in those Products identified as exceeding allowable levels include but are not limited to:

1. **Alpha Lion Be Superhuman Super Human Pump Stim-Free Pump & Performance Pre-Workout Peach Pumps Peach Rings - Lead**
2. **Alpha Lion Be Superhuman Super Human Burn 2-In-1 Fat Burning Pre-Workout Cherry Popper Sweet Black Cherry - Lead**
3. **Alpha Lion Be Superhuman Super Human Pre Original Performance Pre-Workout Orange Gainsicle Orange Creamsicle - Lead**
4. **Alpha Lion Be Superhuman Super Human Pump Stim-Free Pump & Performance Pre-Workout Mango Veiniac Mango Strawberry Sherbet - Lead**
5. **Alpha Lion Be Superhuman Super Human Hydration Daily Hydration and Recovery Powerhouse Lemonardo Da Vinci Sweet Lemonade Natural and Artificial Flavors - Lead**
6. **Alpha Lion Be Superhuman Super Human Pump Stim-Free Pump & Performance Pre-Workout Blue Steel Blueberry Mojito Natural and Artificial Flavors - Lead**
7. **Alpha Lion Be Superhuman Super Human Pre Original Performance Pre-Workout Grapezilla Grape Bubblegum Natural and Artificial Flavors - Lead**

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least April 22, 2023, as well as every day since the products were introduced into the California marketplace and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last

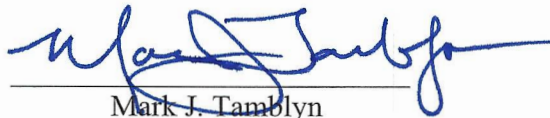
April 22, 2026

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three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as expensive and time-consuming litigation.

ERC's Executive Director is Chris Heptinstall, and is located at 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. 619-500-3090. ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the office address and telephone number indicated on the letterhead or at mjtamblyn@gmail.com** or Chris Heptinstall, Executive Director of ERC, or Charles Poss, In-House Counsel for ERC, at charles.poss@erc501c3.org.

Sincerely,



Mark J. Tamblyn

Attorney for Environmental Research Center

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Superhuman, Inc., individually and dba Alpha Lion and Alpha Lion LLC and their Registered Agents for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Superhuman, Inc., individually and dba Alpha Lion and Alpha Lion LLC

I, Mark J. Tamblyn, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2. I am the attorney for the noticing party, Environmental Research Center.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: April 22, 2026


Mark J. Tamblyn

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States and over the age of 18 years of age. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On April 22, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Jordan Fares, Chief Executive Officer
or Current President or CEO
Superhuman, Inc., individually and dba Alpha Lion
and Alpha Lion LLC
1200 Brickell Avenue, Ste 1950
PMB 1012
Miami, FL 33131

Jordan Fares, Chief Executive Officer
or Current President or CEO
Superhuman, Inc., individually and dba Alpha Lion
and Alpha Lion LLC
99 Wall Street #859
New York, NY 10005

Jordan Fares, Chief Executive Officer
or Current President or CEO
Superhuman, Inc., individually and dba Alpha Lion
and Alpha Lion LLC
1200 Brickell Avenue, Ste 1950
PMB 1022
Miami, FL 33131

Incorp Services, Inc.
(Registered Agent for Superhuman, Inc.,
individually and dba Alpha Lion
and Alpha Lion LLC)
131 Continental Dr, Ste 301
Newark, DE 19713

The Corporation
(Registered Agent for Superhuman, Inc.,
individually and dba Alpha Lion)
208 Avenue B, Apt 1
New York, NY 10009

On April 22, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On April 22, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

April 22, 2026

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CEPDProp65@acgov.org

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David Hollister, District Attorney
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davidhollister@countyofplumas.com

Paul E. Zellerbach, District Attorney
Riverside County
3072 Orange Street
Riverside, CA 92501
Prop65@rivcoda.org

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

April 22, 2026

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April 22, 2026

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On April 22, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by First Class Mail.

Executed on April 22, 2026, in Fort Oglethorpe, Georgia.



Morgan Ralis

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

April 22, 2026

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Service List

District Attorney, Amador
County
708 Court Street, Suite 202
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District Attorney, Butte
County
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245
Oroville, CA 95965

District Attorney, Colusa
County
310 6th St
Colusa, CA 95932

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El Centro, CA 92243

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings
County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los Angeles
County
Hall of Justice
211 West Temple St., Ste 1200
Los Angeles, CA 90012

District Attorney, Madera
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District Attorney, Modoc
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Alturas, CA 96101-4020

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District Attorney, San Benito
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District Attorney, San
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Office of the City Attorney,
Sacramento
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APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as “Proposition 65”). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The “Proposition 65 List.” Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and 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;
- An exposure to 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;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at
P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

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EXHIBIT B



Environmental Research Center
3111 Camino Del Rio North, Suite 400
San Diego, CA 92108
619-500-3090

May 20, 2026

**NOTICE OF VIOLATIONS OF
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 *ET SEQ.*
(PROPOSITION 65)**

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"). ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

**Superhuman, Inc., individually and dba Alpha Lion
Alpha Lion LLC**

Consumer Products and Listed Chemical. The specific types of products causing the violations are dietary and/or nutritional pre-workout powders which contain lead ("Products"). Exemplars of the Products that are the subject of this notice and the specific chemical in those Products identified as exceeding allowable levels include but are not limited to:

1. **Super Human Pump Stim-Free Pump & Performance Pre-Workout Muscle Melon Watermelon Cucumber Natural and Artificial Flavors - Lead**
2. **Alpha Lion Be Superhuman Super Human Pre Original Performance Pre-Workout Miami Vice Piña Colada Strawberry Daiquiri Natural and Artificial Flavors - Lead**
3. **Alpha Lion Be Superhuman Super Human Extreme Extreme Energy Pre-Workout Formula Hulk Juice Sour Gummy Bear Natural and Artificial Flavors - Lead**

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least May 20, 2023, as well as every day since the products were introduced into the California marketplace and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as expensive and time-consuming litigation.

ERC's Executive Director is Chris Heptinstall, and is located at 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. 619-500-3090. ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the office address and telephone number indicated on the**

May 20, 2026

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letterhead or at mjtamblyn@gmail.com or Chris Heptinstall, Executive Director of ERC, or Charles Poss, In-House Counsel for ERC, at charles.poss@erc501c3.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark J. Tamblyn", is written over a horizontal line.

Attorney for Environmental Research Center

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Superhuman, Inc., individually and dba Alpha Lion and Alpha Lion LLC and their Registered Agents for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Superhuman, Inc., individually and dba Alpha Lion and Alpha Lion LLC

I, Mark J. Tamblyn, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2. I am the attorney for the noticing party, Environmental Research Center.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: May 20, 2026



CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States and over the age of 18 years of age. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On May 20, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Jordan Fares, Chief Executive Officer
or Current President or CEO
Superhuman, Inc., individually and dba Alpha Lion
and Alpha Lion LLC
1200 Brickell Avenue, Ste 1950
PMB 1012
Miami, FL 33131

Jordan Fares, Chief Executive Officer
or Current President or CEO
Superhuman, Inc., individually and dba Alpha Lion
and Alpha Lion LLC
99 Wall Street #859
New York, NY 10005

Jordan Fares, Chief Executive Officer
or Current President or CEO
Superhuman, Inc., individually and dba Alpha Lion
and Alpha Lion LLC
1200 Brickell Avenue, Ste 1950
PMB 1022
Miami, FL 33131

Incorp Services, Inc.
(Registered Agent for Superhuman, Inc.,
individually and dba Alpha Lion
and Alpha Lion LLC)
131 Continental Dr, Ste 301
Newark, DE 19713

The Corporation
(Registered Agent for Superhuman, Inc.,
individually and dba Alpha Lion)
208 Avenue B, Apt 1
New York, NY 10009

On May 20, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On May 20, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

May 20, 2026

Page 6

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Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

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Page 7

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Jeff W. Reisig, District Attorney
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Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

May 20, 2026

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On May 20, 2026, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by First Class Mail.

Executed on May 20, 2026, in Fort Oglethorpe, Georgia.


Morgan Ralls

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

May 20, 2026

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Service List

District Attorney, Amador
County
708 Court Street, Suite 202
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District Attorney, Butte
County
25 County Center Drive, Suite
245
Oroville, CA 95965

District Attorney, Colusa
County
310 6th St
Colusa, CA 95932

District Attorney, Del Norte
County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, Glenn
County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt
County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial
County
940 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings
County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los Angeles
County
Hall of Justice
211 West Temple St., Ste 1200
Los Angeles, CA 90012

District Attorney, Madera
County
300 South G Street, Ste 300
Madera, CA 93637

District Attorney, Mendocino
County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Modoc
County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono
County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, San Benito
County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San
Bernardino County
303 West Third Street
San Bernadino, CA 92415

District Attorney, San Mateo
County
400 County Ctr., 3rd Floor
Redwood City, CA 94063

District Attorney, Shasta
County
1355 West Street
Redding, CA 96001

District Attorney, Sierra
County
Post Office Box 457
100 Courthouse Square, 2nd
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District Attorney, Siskiyou
County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano
County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Stanislaus
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832 12th Street, Ste 300
Modesto, CA 95354

District Attorney, Sutter
County
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District Attorney, Tehama
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District Attorney, Trinity
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800 Los Angeles, CA 90012

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Sacramento
915 I Street, 4th Floor
Sacramento, CA 95814

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as “Proposition 65”). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The “Proposition 65 List.” Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and 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;
- An exposure to 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;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at
P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.