

# 60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)

NOVEMBER 3, 2004

**TO:** William J. Coyne, President – Raley’s Inc.

California Attorney General’s Office;  
District Attorney’s Office for 58 Counties;  
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles;

**FROM:** Whitney R. Leeman

## I. INTRODUCTION

My name is Whitney R. Leeman. I hold a Doctor of Philosophy degree in Environmental Engineering. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the parties listed above pursuant to California Health & Safety Code §25249.6 et seq. ("Proposition 65"). As noted above, notice is being provided to the violator, Raley’s Inc. (the "Violator"). The violations covered by this Notice consist of the product exposures, routes of exposures, and types of harm potentially resulting from exposure to the following toxic chemical or chemicals ("listed chemicals"):

<i>Listed Chemicals</i>	<i>Routes of Exposure</i>	<i>Types of Harm</i>	<i>Product Exposures</i>
Polychlorinated dibenzo- <i>p</i> -dioxins	Ingestion	Cancer	See Section VI. Exhibit A
Polychlorinated biphenyls	Ingestion	Birth Defects and Other Reproductive Harm	See Section VI. Exhibit A

## II. NATURE OF ALLEGED VIOLATION (CONSUMER PRODUCT EXPOSURE)

The product category exposing consumers to listed chemicals is *Beef Liver Products*. The specific type or types of products (hereafter the "products") that are causing consumer exposures in violation of Proposition 65 (and that are covered by this notice) are listed on Exhibit A in section VI below. The Violator’s sales of these beef liver products have been occurring from at least November 3, 2001 to the present. As a result of the sales of these products, exposures to the listed chemicals have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effect of exposure to the listed chemicals in the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure from reasonably foreseeable use of the products.

California consumers, through the act of consuming the products, are exposed to the listed chemicals. By way of example but not limitation, exposures occur when California citizens eat, sample or otherwise consume the products. These acts cause consumers to be exposed through the routine consumption of the parts or portions of the products containing the listed chemicals. People likely to be exposed include both children and adults.

**III. CONTACT INFORMATION**

Please direct all questions concerning this notice to my counsel at the following address:

Clifford A. Chanler  
 Stephen S. Sayad  
 Chanler Law Group  
 655 Redwood Highway, Suite 216  
 Mill Valley, California 94941  
 Telephone: (415) 380-9222  
 Facsimile: (415) 380-9223

**IV. PROPOSITION 65 INFORMATION**

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violator's reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

**V. ADDITIONAL NOTICE INFORMATION**

THIS INFORMATION IS *NOT* REQUIRED TO BE PROVIDED UNDER CAL. CODE REGS., TITLE 22 § 12903(b)(4).

Identified below are specific examples of the type of offending food products recently purchased and witnessed as being available for purchase or consumption in California. Based on publicly available information, the retailers, distributors and/or manufacturers of the products at issue are also provided below. Dr. Leeman believes and alleges that the sale of the offending products has also occurred without the requisite warning at other locations including, but not limited to, transactions made over-the-counter, between business-to-business, through the internet and/or via a catalogue by the Violator.

<i>Products</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributors</i>
Beef Liver (#0 201920 501497, #2 01920 80152 8 and #0 201920 301530)	Raley's Inc. (Food Source)	Tyson Foods Inc.

**VI. EXHIBIT A**

<i>Products</i>	<i>Such As*</i>	<i>Toxins</i>
Beef Liver	Beef Liver (#0 201920 501497, #2 01920 80152 8 and #0 201920 301530)	Polychlorinated dibenzo- <i>p</i> -dioxins
Beef Liver	Beef Liver (#0 201920 501497, #2 01920 80152 8 and #0 201920 301530)	Polychlorinated biphenyls

\*The specifically identified example of the type of food products subject to this Notice are for the benefit of each recipient to assist in its investigation of, among other things, the magnitude of potential exposure to the listed chemicals from other items within the product category listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under Products in Exhibit A. Further, it is this citizen's position that the alleged violator is obligated to continue to conduct a good faith investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold or stored during the relevant period so as to ensure that the requisite toxic warnings are provided to California citizens prior to purchase.

## P R O O F   O F   S E R V I C E

I, the undersigned, declare under penalty of perjury:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is 11501 Dublin Blvd., Suite 200, Dublin, CA 94568.

On November 3, 2004, I served the following document:

**60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH  
HEALTH & SAFETY CODE §25249.7(d);**

**PROPOSITION 65: A SUMMARY;**

**CERTIFICATE OF MERIT; AND**

**CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE  
ATTORNEY GENERAL)**

served on the Violator listed below via 2<sup>nd</sup> Day Air Service by placing a true and correct copy in each sealed envelope, addressed to the Violator and placing such envelope in a Federal Express Drop-Off Box:

William J. Coyne, President  
Raley's Inc.  
500 West Capitol Avenue  
West Sacramento, CA 95605  
Tel. (916) 373-3333

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

<i>Via 2<sup>nd</sup> Day Air Service by placing such envelope in a Federal Express Drop-Off Box:</i>	The Attorney General of the State of California;
<i>By placing each envelope in a United States Postal Service mailbox, first class postage prepaid:</i>	The District Attorney for Each of the 58 counties in California; and  The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento;

*A list of addresses for each of these recipients is attached.*

Executed on November 3, 2004, at Dublin, California.

## CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice has 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.
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 chemicals that are the subject of this 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 plaintiff's 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 information identified in Health and Safety Code §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: 11/3/04

\_\_\_\_\_  
Cliff

\_\_\_\_\_

## SERVICE LIST

The Honorable Tom Orloff  
Alameda County District Attorney  
1225 Fallon Street, Room 900  
Oakland, CA 94612

The Honorable William Richmond  
Alpine County District Attorney  
P.O. Box 248  
Markleeville, CA 96120

The Honorable Todd Riebe  
Amador County District Attorney  
708 Court Street, #202  
Jackson, CA 95642

The Honorable Michael Ramsey  
Butte County District Attorney  
25 County Center Drive,  
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The Honorable Jeffrey Tuttle  
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The Honorable John R. Poyner  
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The Honorable Paul Gallegos  
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The Honorable Gilbert Otero  
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939 West Main Street  
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Inyo County District Attorney  
P.O. Drawer D  
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The Honorable Edward R. Jagels  
Kern County District Attorney  
1215 Truxtun Avenue  
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The Honorable Ronald Calhoun  
Kings County District Attorney  
1400 West Lacey Boulevard  
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The Honorable Gerhard Luck  
Lake County District Attorney  
255 North Forbes Street  
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The Honorable Robert Burns  
Lassen County District Attorney  
220 S. Lassen Street, Ste. 8  
Susanville, CA 96130

The Honorable Steve Cooley  
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210 West Temple Street  
Los Angeles, CA 90012

The Honorable Ernest LiCalsi  
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209 West Yosemite Avenue  
Madera, CA 93637

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3501 Civic Center Drive, Room 130  
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Mariposa, CA 95338

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The Honorable Gordon Spencer  
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The Honorable Jordan Funk  
Modoc County District Attorney  
204 S. Court Street, Room 202  
Alturas, CA 96101

The Honorable George Booth  
Mono County District Attorney  
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Bridgeport, CA 93517

The Honorable Dean Flippo  
Monterey County District Attorney  
240 Church Street, #101  
Salinas, CA 93901

The Honorable Gary Lieberstein  
Napa County District Attorney  
931 Parkway Mall  
Napa, CA 94459

The Honorable Michael Ferguson  
Nevada County District Attorney  
201 Church Street, Suite B  
Nevada City, CA 95959

The Honorable Tony Rackauckas  
Orange County District Attorney  
401 Civic Center Drive West  
Santa Ana, CA 92701

The Honorable Bradford Fenocchio  
Placer County District Attorney  
11562 B Avenue  
Auburn, CA 95603

The Honorable Jeff Cunan  
Plumas County District Attorney  
520 Main Street, Room 404  
Quincy, CA 95971

The Honorable Grover Trask II  
Riverside County District Attorney  
4075 Main Street  
Riverside, CA 92501

The Honorable Jan Scully  
Sacramento County District Attorney  
901 G Street  
Sacramento, CA 95814

The Honorable John Sarsfield  
San Benito County District Attorney  
419 4<sup>th</sup> Street, Second Floor  
Hollister, CA 95203

The Honorable Michael Ramos  
San Bernardino County District Attorney  
316 N. Mountain View Avenue  
San Bernardino, CA 92415

The Honorable Bonnie Dumanis  
San Diego County District Attorney  
330 W. Broadway Street, Suite 1320  
San Diego, CA 92101

The Honorable Kamala Harris  
San Francisco County District Attorney  
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San Francisco, CA 94103

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San Joaquin County District Attorney  
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Stockton, CA 95201

The Honorable Gerald Shea  
San Luis Obispo County District Attorney  
1050 Monterey Street, Room 450  
San Luis Obispo, CA 93408

The Honorable James Fox  
San Mateo County District Attorney  
400 County Center, Third Floor  
Redwood City, CA 94063

The Honorable Thomas Sneddon, Jr.  
Santa Barbara County District Attorney  
1105 Santa Barbara Street  
Santa Barbara, CA 93101

The Honorable George Kennedy  
Santa Clara County District Attorney  
70 West Hedding Street, West Wing  
San Jose, CA 95110

The Honorable Bob Lee  
Santa Cruz County District Attorney  
701 Ocean Street, Room 200  
Santa Cruz, CA 95060

The Honorable Gerald Benito  
Shasta County District Attorney  
1525 Court Street, Third Floor  
Redding, CA 96001

The Honorable Lawrence Allen  
Sierra County District Attorney  
P.O. Box 457  
Downieville, CA 95936

The Honorable Peter Knoll  
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P.O. Box 986  
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The Honorable David Paulson  
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Stanislaus County District Attorney  
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