May 5, 2017

NOTICE OF VIOLATION OF CALIFORNIA HEALTH AND SAFETY CODE SECTION 25249.6 (Proposition 65)

Sent by USPS Postage Fully Prepaid

A Green Alternative MMCC
2335 Roll Dr. Suite #4
San Diego, California 92154

We represent Michael Murphy, a California citizen acting in the interest of the general public. This letter serves as notice that A Green Alternative MMCC ("Alleged Violator") is in violation of "Proposition 65," which is otherwise known as the Safe Drinking Water and Toxic Enforcement Act of 1986 and is codified at California Health & Safety Code section 25249.5 *et seq*. Specifically, this notice is being sent in regard to a violation of section 25249.6, which provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without giving clear and reasonable warning to such individual . . . ."

Michael Murphy has identified that the Alleged Violator has violated (and continues to violate) section 25249.6 by exposing consumers within the State of California to the chemicals listed below (which are present at unsafe levels in the products listed below) without providing proper warnings about exposure to those chemicals or the toxic effects of exposure to those chemicals, which are known to the state to cause cancer or reproductive toxicity.

This letter serves as notice to both the Alleged Violator and the appropriate public enforcement agencies that Michael Murphy intends to file a private enforcement action, pursuant to section 25249.7(d) 60 days after effective service of this notice unless the public enforcement agencies have commenced and are earnestly prosecuting an action in regard to the violation alleged herein.

Alleged Violator:

A Green Alternative MMCC
2335 Roll Dr. Suite #4
San Diego, California 92154

Violation:

The Alleged Violator knowingly and intentionally exposed and continues to expose consumers within the State of California to the chemicals listed below without providing clear and reasonable warning of the exposure while employing more than 9 employees.[1 8]

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[1] Employees of the Violator organization include all persons who are employees of the organization under 27 Cal. Code Regs.§ 25102(h), which includes the officers of the organization and all members of the organization who are compensated, directly or indirectly, for their services to the organization—including, without limitation, any member compensated for cultivating, purchasing, possessing, transporting or distributing medical cannabis.

Consumer Product(s) in Violation of 25249.6 and Listed Chemical(s):

Cheeba Chews Sativa 70 mg (tested positive for Myclobutanil, which was added to the list of chemicals known by the state to cause reproductive toxicity on April 16, 1999).

Cheeba Chews Hybrid 70 mg (tested positve for Malathion, which was added to the list of chemicals known by the state to cause cancer on May 20, 2016; and Myclobutanil, which was added to the list of chemicals known by the state to cause reproductive toxicity on April 16, 1999).

Kiva Blueberry Terra Bites (tested positive for Malathion, which was added to the list of chemicals known by the state to cause cancer on May 20, 2016).

Kiva Espresso Terra Bites (tested positive for Malathion, which was added to the list of chemicals known by the state to cause cancer on May 20, 2016).

Kushy Punch Hybrid Tropical Punch 100 mg (tested positve for Carbaryl, which was added to the list of chemicals known by the state to cause cancer on February 5, 2010 and to the list of chemicals known by the state to cause reproductive toxicity on August 7, 2009; Malathion, which was added to the list of chemicals known by the state to cause cancer on May 20, 2016; and Myclobutanil, which was added to the list of chemicals known by the state to cause reproductive toxicity on April 16, 1999).

Korova Black Bar 1000mg (tested positive for Malathion, which was added to the list of chemicals known by the state to cause cancer on May 20, 2016; and Myclobutanil, which was added to the list of chemicals known by the state to cause reproductive toxicity on April 16, 1999).

Korova Fifty One Fifty Bar 500 mg (tested positive for Malathion, which was added to the list of chemicals known by the state to cause cancer on May 20, 2016; and Myclobutanil, which was added to the list of chemicals known by the state to cause reproductive toxicity on April 16, 1999).

Korova Mint Dip Cookie 250 mg (tested postiive for Malathion, which was added to the list of chemicals known by the state to cause cancer on May 20, 2016; and Myclobutanil, which was added to the list of chemicals known by the state to cause reproductive toxicity on April 16, 1999).

Kushy Punch Indica Plum 100 mg (tested postive for Malathion, which was added to the list of chemicals known by the state to cause cancer on May 20, 2016).

Korova Chocolate Chip Cookie 150 mg (tested positive for Myclobutanil, which was added to the list of chemicals known by the state to cause reproductive toxicity on April 16, 1999).

Korova Triple Chocolate Brownie 150 mg (tested positive for Myclobutanil, which was added to the list of chemicals known by the state to cause reproductive toxicity on April 16, 1999).

Kushy Punch TKO 200 mg (tested postive for Carbaryl, which was added to the list of chemicals known by the state to cause cancer on February 5, 2010 and to the list of chemicals known by the state to cause reproductive toxicity on August 7, 2009; and Malathion, which was added to the list of chemicals known by the state to cause cancer on May 20, 2016).

Cheeba Chews Deca Dose 175 mg (tested positve for Myclobutanil, which was added to the list of chemicals known by the state to cause reproductive toxicity on April 16, 1999).

Caviar Gold Cavi Cone Strawberry 60 mg (tested positive for Carbaryl, which was added to the list of chemicals known by the state to cause cancer on February 5, 2010 and to the list of chemicals known by the state to cause reproductive toxicity on August 7, 2009; Malathion, which was added to the list of chemicals known by the state to cause cancer on May 20, 2016; and Myclobutanil, which was added to the list of chemicals known by the state to cause reproductive toxicity on April 16, 1999).

Caviar Gold Cavi Cone Apple (tested positive for Carbaryl, which was added to the list of chemicals known by the state to cause cancer on February 5, 2010 and to the list of chemicals known by the state to cause reproductive toxicity on August 7, 2009; Malathion, which was added to the list of chemicals known by the state to cause cancer on May 20, 2016; and Myclobutanil, which was added to the list of chemicals known by the state to cause reproductive toxicity on April 16, 1999).

Caviar Gold Cavi Cone Grape (tested postive for Carbaryl, which was added to the list of chemicals known by the state to cause cancer on February 5, 2010 and to the list of chemicals known by the state to cause reproductive toxicity on August 7, 2009; and Malathion, which was added to the list of chemicals known by the state to cause cancer on May 20, 2016).

Caviar Gold Cavi Cone Original (tested positive for Carbaryl, which was added to the list of chemicals known by the state to cause cancer on February 5, 2010 and to the list of chemicals known by the state to cause reproductive toxicity on August 7, 2009; and Malathion, which was added to the list of chemicals known by the state to cause cancer on May 20, 2016).

Route of Exposure:

Each of the products listed above is a medical marijuana product, which has been designed to be consumed by individuals seeking relief from various medical issues. Accordingly, the primary route of exposure to the chemicals listed in the above products is through direct ingestion. Unfortunately, while consumers believe that these medical products are safe and healthy, in reality, they contain unsafe levels of a variety of chemicals that the state has deemed to be dangerous.

Approximate Time of Violations:

The violations are ongoing and have occurred on each date that you sold the products listed above starting approximately on July 1, 2015. The violations will continue every day until clear and reasonable warnings are provided to product purchasers and users or until the toxic chemical at issue is either removed from the products listed above or reduced to allowable levels.

Contact Information:

Please direct all questions concerning this notice to the undersigned attorney at the following address:

Morrison Law Firm
548 Market ST No. 34835
San Francisco CA 94914-5401
mark@morlawllc.com
949-610-0834

Consistent with the public interest goals inherent in Proposition 65 litigation, Michael Murphy is interested in seeking a constructive resolution to this matter. Should the Alleged Violator desire to resolve this matter, they should communicate directly with Michael Murphy's attorneys.

Dated: May 5, 2017

/s/ Mark Morrison
Mark Morrison
Morrison Law Firm
5015 Birch ST Suite 111
Newport Beach CA 92660
mark@morlawllc.com
949-610-0834
Counsel for Michael Murphy

Attachments:

1) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary
2) Certificate of Merit
3) Additional Supporting Documentation (to AG only)

CERTIFICATE OF SERVICE

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, over the age of 18 years, and am not a party to the within entitled action. My business address is 21372 Brookhurst St, Unit 713, Huntington Beach, CA 92646. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail in Huntington Beach, California.

On May 5, 2017, I served the following documents: **Notice of Violation of California Health and Safety Code Section 25249.6 (Proposition 65); 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 the party listed below, and depositing it at the U.S. Postal Service Office with the postage fully prepaid for delivery by USPS Postage Fully Prepaid:

A Green Alternative MMCC
2335 Roll Dr. Suite #4
San Diego, California 92154

On May 5, 2017, I verified that the following documents: **Notice of Violation of California Health and Safety Code Section 25249.6 (Proposition 65); Certificate of Merit; Additional supporting documents as required by California Health and 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
Oakland, CA 94612-0550

On May 5, 2017, I served the following documents: **Notice of Violation of California Health and Safety Code Section 25249.6 (Proposition 65); Certificate of Merit on** each of the parties on the Service List attached below 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 at the U.S. Postal Service Office with the postage fully prepaid for delivery by USPS Postage Fully Prepaid.

Executed on May 5, 2017 in Huntington Beach, California.

/s/ Jon Unroe
Jon Unroe

Distribution List

Alameda County District Attorney 1225 Fallon St, Room 900 Oakland, CA 94612	Los Angeles County District Attorney 210 W Temple St, 18th Floor Los Angeles, CA 90012	Mono County District Attorney PO Box 617 Bridgeport, CA 93517
Alpine County District Attorney PO Box 248 Markleeville, CA 96120	Madera County District Attorney 209 W Yosemite Ave Madera, CA 93637	San Joaquin County District Attorney PO Box 990 Stockton, CA 95201 -0990
Amador County District Attorney 708 Court, Suite 202 Jackson, CA 95642	Mariposa County District Attorney P.O. Box 730 Mariposa, CA 95338	San Francisco County District Attorney 850 Bryant St, Rm 322 San Francisco, CA 94103
Butte County District Attorney 25 County Center Dr. Oroville, CA 95965-3385	Marin County District Attorney 3501 Civic Center Drive, #130 San Rafael, CA 94903	San Diego County District Attorney 330 W. Broadway, Ste 1300 San Diego, CA 92101-3803
Calaveras County District Attorney 891 Mountain Ranch Road San Andreas, CA 95249	Mendocino County District Attorney P.O. Box 1000 Ukiah, CA 95482	San Bernardino County District Attorney 316 N Mountain View Ave San Bernardino, CA 92415-0004
Office of the Attorney General P.O. Box 70550 Oakland, CA 94612-0550	Los Angeles City Attorney 200 N Main St Ste 1800 Los Angeles CA 90012	San Francisco City Attorney # 1 Dr. Carlton B. Goodlett Place, Suite 234 San Francisco, CA 94102
Colusa County District Attorney 346 5th Street, Suite 101 Colusa, CA 95932	Inyo County District Attorney P.O. Drawer D Independence, CA 93526	Placer County District Attorney 10810 Justice Center Drive Suite 240 Roseville, CA 95678-6231
Contra Costa County District Attorney 725 Court St., Room 402 Martinez, CA 94553	Orange County District Attorney PO Box 808 Santa Ana, CA 92702	Merced County District Attorney 650 W. 20th Street Merced, CA 95340
Del Norte County District Attorney 450 "H" St. Crescent City, CA 95531	Nevada County District Attorney 201 Commercial Street Nevada City, CA 95959	Napa County District Attorney 931 Parkway Mall Napa, CA 94559
El Dorado County District Attorney 515 Main St. Placerville, CA 95667-5697	Plumas County District Attorney 520 Main Street, Rm 404 Quincy, CA 95971	Riverside County District Attorney 3960 Orange St. Ste. 5 Riverside, CA 92501
Fresno County District Attorney 2220 Tulare St, Ste. 1000 Fresno, CA 93721	Sacramento County District Attorney 901 G Street Sacramento, CA 95814	San Benito County District Attorney 419 4th St Hollister, CA 95023
Glenn County District Attorney PO Box 430 Willows, CA 95988	San Luis Obispo County District Attorney County Government Center, Rm 450 San Luis Obispo, CA 93408	Siskiyou County District Attorney PO Box 986 Yreka, CA 96097
Humboldt County District Attorney 825 5th St., 4th Floor Eureka, CA 95501	San Mateo County District Attorney 400 County Center Redwood City, CA 94063	Solano County District Attorney 600 Union Ave Fairfield, CA 94533
Imperial County District Attorney 939 W. Main St., 2nd Floor El Centro, CA 92243-2860	Santa Barbara County District Attorney 1112 Santa Barbara St. Santa Barbara, CA 93101	Sonoma County District Attorney 600 Administration Dr., Rm 212-J Santa Rosa, CA 95403
Kern County District Attorney 1215 Truxtun Ave. Bakersfield, CA 93301	Santa Clara County District Attorney 70 W Hedding St. San Jose, CA 95110	Shasta County District Attorney 1355 West Street Redding, CA 96001
Kings County District Attorney Gov't Ctr, 1400 W Lacey Blvd Hanford, CA 93230	Santa Cruz County District Attorney 701 Ocean Street, Rm. 200 Santa Cruz, CA 95060	Sierra County District Attorney PO Box 457 Downieville, CA 95936-0457
Lake County District Attorney 255 N Forbes St Lakeport, CA 95453-4790	Stanislaus County District Attorney PO Box 442 Modesto, CA 95353	Trinity County District Attorney PO Box 310 Weaverville, CA 96093
Modoc County District Attorney 204 S. Court Street Alturas, CA 96101-4020	Sutter County District Attorney 446 Second Street Yuba City, CA 95991	Yuba County District Attorney 215 5th St Marysville, CA 95901
San Diego City Attorney City Center Plaza 1200 3rd Ave # 1100 San Diego, CA 92101	Lassen County District Attorney 200 S Lassen St, Suite 8 Susanville, CA 96130	Monterey County District Attorney PO Box 1131 Salinas, CA 93902
Tuolumne County District Attorney 2 S Green St Sonora, CA 95370	Tulare County District Attorney County Civic Center, Rm 224 Visalia, CA 93291	Yolo County District Attorney 310 Second St Woodland, CA 95695
Ventura County District Attorney 800 S Victoria Ave Ventura, CA 93009	Tehama County District Attorney P.O. Box 519 Red Bluff, CA 96080	San Jose City Attorney 151 W. Mission St. San Jose, CA 95110

CERTIFICATE OF MERIT

I, Mark Morrison, hereby declare:

1. This Certificate of Merit accompanies the 60-day notice in which it is alleged that the parties identified in the notice have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an 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 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 5, 2017

/s/ Mark Morrison_____

Mark Morrison
Morrison Law Firm
5015 Birch ST Suite 111
Newport Beach CA 92660
mark@morlawllc.com
949-610-0834
Counsel for Michael Murphy

Correction to 60-Day Notice and Certificate of Merit Regarding Malathion and Effective Date of its Listing as a Chemical Known to Cause Cancer

I, Mark Morrison, hereby declare:

1. This Correction to 60-day Notice and Certificate of Merit accompanies a 60-day notice in which it is alleged that the parties identified in the notice have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney for the noticing party.

3. On May 20, 2016, the chemical Malathion was added to the list of chemicals known to the State of California to cause cancer for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).[1] Businesses are required to provide a 'clear and reasonable' warning before knowingly and intentionally exposing anyone to a listed chemical. This warning can be given by a variety of means, such as by labeling a consumer product, posting signs at the workplace, distributing notices at a rental housing complex, or publishing notices in a newspaper. Once a chemical is added to the list of chemicals known to cause cancer, businesses have 12 months to comply with warning requirements.[2]

4. The Plaintiff, Michael Murphy, accordingly does not allege there is any Proposition 65 violation for the failure to warn of the presence of Malathion as of May 5, 2017—the date that his NOTICE OF VIOLATION OF CALIFORNIA HEALTH AND SAFETY CODE SECTION 25249.6 (Proposition 65) was served on the Defendant.

Dated May 5, 2017

/s/ Mark A Morrison
MARK A. MORRISON

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[1] https://oehha.ca.gov/proposition-65/crnr/chemicals-listed-effective-may-20-2016-known-state-california-cause-cancer

[2] https://oehha.ca.gov/proposition-65/general-info/proposition-65-plain-language.

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. Please refer to the statute and OEHHA's 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 say 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 Periods. 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 full and part-time 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 a 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 contaminant[2] 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.

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[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, 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 private party may not file an action against the alleged violator for these exposures, or recover in a settlement any payment in lieu of penalties or any reimbursement for costs and attorney's fees, if the notice of violation was served on or after October 5, 2013, and the alleged violator has done *all* of the following within 14 days of being served notice:

- Corrected the alleged violation;
- Agreed to pay a civil penalty of $500 (subject to change as noted below) to the private party within 30 days; and
- Notified the private party serving the notice in writing that the violation has been corrected.

The written notification to the private-party must include a notice of special compliance procedure and proof of compliance form completed by the alleged violator as directed in the notice. On April 1, 2019, and every five years thereafter, the dollar amount of the civil penalty will be adjusted by the Judicial Council based on the change in the annual California Consumer Price Index. The Judicial Council will publish the dollar amount of the adjusted civil penalty at each five-year interval, together with the date of the next scheduled adjustment.

An alleged violator may satisfy these conditions only one time for a violation arising from the same exposure in the same facility or on the same premises. The satisfaction of these conditions does not prevent the Attorney General, a district attorney, a city attorney of a city greater than 750,000 in population, or any full-time city prosecutor with the consent of the district attorney, from filing an enforcement action against an alleged violator. The amount of any civil penalty for a violation shall be reduced to reflect any payment made by the alleged violator for the same alleged violation to a private-party.

A copy of the notice of special compliance procedure and proof of compliance form is included with this notice and can be downloaded from OEHHA's website at: http://oehha.ca.gov/prop65/law/p65law72003.html. The notice is reproduced here:

Date:
Name of Noticing Party or attorney for Noticing Party:
Address:
Phone 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 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, and that in any such action, the amount of civil penalty shall be reduced to reflect any payment made at this time.

Date :
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

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 2014

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.