



Brown Bear Law, APC  
818-457-1543  
shant@brownbearlaw.com  
PO Box 573423  
Tarzana, CA 91357

August 27, 2020

NutraVia Inc.  
18503 Pines Blvd, Ste 308F  
Pembroke Pines, FL 33029

Amazon.com Services LLC  
Amazon.com Inc. c/o Corporation Service Company  
251 Little Falls Drive  
Wilmington DE 19808

### **60-Day Notice of Violation**

#### **Sent in Compliance with California Health & Safety Code § 25249.7(d)**

To: NutraVia Inc., Amazon.com Services LLC, Amazon.com Inc., and the public prosecutors listed on the proof of service attached hereto:

#### **I. INTRODUCTION**

Brown Bear Law, APC represents Citizens of California Safety Corp, a California Corporation with an interest in protecting the general public, which includes promoting awareness of exposure to toxic chemicals, reducing exposure to hazardous substances found in consumer products, and the promotion and improvement of human health. This correspondence shall serve as a 60 day notice NutraVia Inc., Amazon.com Services LLC, and Amazon.com Inc. (hereinafter "Violators") are in violation of the California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which codified at Cal. Health & Safety Code §25249.5 et seq.

Cal. Health & Safety Code §25249 states in relevant part "No 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 first giving clear and reasonable warning to such individual"

This correspondence serves to provide notification that the Violators and elected prosecutors. Unless, notice is provided that the appropriate public enforcement agencies are diligently prosecuting said violations, Brown Bear Law, APC intends to bring an enforcement action on behalf of Citizens of California Safety Corp sixty days or more after service of said notice.

## II. VIOLATIONS

Product Types/Categories: The specific types or categories of products that are causing consumer exposures in violation of Proposition 65, and that are covered by this Notice, include the following:

| Product Name                    | UPC          |
|---------------------------------|--------------|
| Powerbite Organic Ginger Powder | 750783985536 |

The products listed above are products recently purchased and/or are available for purchase for use in California. Although, attempts have been made to diligently search for each and every product offered by the Violators, the list above may not be exhaustive.

Each of the products listed involve exposures to the Proposition 65-listed chemical “lead” through ingestion, and exposure to the skin (dermal) such as touching the product. Lead is listed pursuant to Proposition 65 as a chemical known to cause birth defects or other reproductive harm. Lead is hereinafter referred to as the “Listed Chemical”. As a result of the Violators failing to provide reasonable warnings, individuals in California have been exposed to the listed chemical since April 2020 without the proper warning. Thus, California citizens lacked the information necessary to make an informed decision to reduce the risk of the listed chemical from reasonable and foreseeable use.

## III. PROPOSITION 65 INFORMATION

For the Violators’ reference, attached is a copy of "Proposition 65: A Summary" which has been prepared by Office of Environmental Health Hazard Assessment (“OEHHA”). For more information concerning the provisions of Proposition 65, contact OEHHA or visit their website.

## IV. RESOLUTION OF NOTICED CLAIMS

Brown Bear Law, APC, intends to file a private enforcement action pursuant to Proposition 65 on behalf of Citizens of California Safety Corp unless the Violators agree to enter into a binding enforceable written instrument to (1) recall the listed products to avoid continued exposure or undertake diligent efforts to ensure that the requisite health hazard warnings are provided to those who already received such products; (2) (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code §25249.7(b). In order to avoid costly litigation, if the alleged Violators are interested in resolving this dispute, please feel free to contact counsel Shant Vayvayan, Brown Bear Law, APC, PO Box 573423, Tarzana, CA 91357, (818)-457-1543, shant@brownbearlaw.com. It should be noted pursuant to Proposition 65 a Private Enforcer cannot: (1) finalize any settlement until after the 60-day notice period has expired; or (2) speak for the Attorney General or any District or City Attorney who received this Notice. Therefore, while reaching an agreement will resolve my claims, such agreement may not satisfy the public prosecutors.

## V. PRESERVATION OF EVIDENCE

This Notice also serves as a demand that the Notice Recipients preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to the presence or potential presence of the Listed Chemical in the Covered Products; purchase and sales information for Covered Products; efforts to comply with Proposition 65 with respect to the Covered Products; communications with any person relating to the presence or potential presence of the Listed Chemical in Covered Products; and representative exemplars of each specific model falling within the Covered Products. This demand applies to all relevant evidence for Covered Products sold in the State of California, as far back as April 2020, through the date of any trial of the claims alleged in this Notice.

## VI. CONTACT INFORMATION

Plaintiff has retained me as legal counsel in this matter. Please direct all communications related to this Notice of Violation to the following:

Shant Vayvayan, Esq.  
Brown Bear Law, APC  
P.O. Box 573423  
Tarzana, CA 91357  
[shant@brownbearlaw.com](mailto:shant@brownbearlaw.com)

Sincerely,



Shant Vayvayan

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

Attachments: Certificate of Merit; Proof of Service; The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary (NutraVia Inc., Amazon.com Services LLC, and Amazon.com Inc); and Confidential Information in Support of Certificate of Merit (Attorney General Only)

**CERTIFICATE OF MERIT**  
Health and Safety Code Section 25249.7(d)

I, Shant Vayvayan, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health and Safety Code § 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 chemical that is 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 violators 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) certain facts, studies, or other data reviewed by those persons.

Dated: August 27, 2020

  
\_\_\_\_\_  
Shant Vayvayan

**PROOF OF SERVICE BY MAIL - 1013(a)(3) 2015.5 C.C.P.**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am a resident of the County aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is P.O. Box 573423, Tarzana CA, 91357.

On **8/27/2020**, I served the within documents:

- 1. 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE §25249.7(d);**
- 2. PROPOSITION 65: A SUMMARY (not sent to the public enforcement agencies);**
- 3. CERTIFICATE OF MERIT;**
- 4. CONFIDENTIAL INFORMATION IN SUPPORT OF CERTIFICATE OF MERIT (Attorney General Only)**

[x] by placing a true copy thereof enclosed in a sealed envelope with postage for first class mail thereon fully prepaid in Los Angeles, California, in the United States mail addresses attached hereto as **Exhibit A**:

[x] by electronic service through transmission via electronic mail the documents listed above to each addresses attached hereto as Exhibit B:

Additionally, on this date, I uploaded the documents listed above to the California Attorney General via its website:

Office of the California  
Attorney General Proposition 65  
Enforcement Reporting ATTN:  
Prop 65 Coordinator  
1515 Clay Street, Suite 2000  
P.O. Box 70550  
Oakland, CA 94612-0550  
<http://oag.ca.gov/prop65>

:

I declare under penalty of perjury that under the laws of the State of California that the foregoing is true and correct.

Dated: August 27, 2020

  
\_\_\_\_\_  
Shant Vayvayan

## **EXHIBIT A**

### **U.S. MAIL SERVICE**

|                                                                                             |                                                                                                                                |                                                                                        |
|---------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| NutraVia Inc.<br>18503 Pines Blvd, Ste 308F<br>Pembroke Pines, FL 33029                     | Amazon.com Services LLC<br>Amazon.com Inc. c/o Corporation Service<br>Company<br>251 Little Falls Drive<br>Wilmington DE 19808 |                                                                                        |
| Alpine County District Attorney<br>P.O. Box 248<br>Markleeville, CA 96120                   | Los Angeles County District Attorney<br>211 West Temple Street, Suite 1200<br>Los Angeles, CA 90012                            | San Mateo County District Attorney<br>400 County Center<br>Redwood City, CA 94063      |
| Amador County District Attorney<br>708 Court Street<br>Jackson, CA 95642                    | Madera County District Attorney<br>209 West Yosemite Avenue<br>Madera, CA 93637                                                | Shasta County District Attorney<br>1355 West Street<br>Redding, CA 96001               |
| Butte County District Attorney<br>25 County Center Drive, Suite 245<br>Oroville, CA 95965   | Marin County District Attorney<br>3501 Civic Center Drive, Suite 145<br>San Rafael, CA 94903                                   | Sierra County District Attorney<br>P.O. Box 457<br>Downieville, CA 95936               |
| Colusa County District Attorney<br>346 Fifth Street, Suite 101<br>Colusa, CA 95932          | Mariposa County District Attorney<br>P.O. Box 730<br>Mariposa, CA 95338                                                        | Siskiyou County District Attorney<br>311 4th Street<br>Yreka, CA 96097                 |
| Del Norte County District Attorney<br>450 H Street, Room 171<br>Crescent City, CA 95531     | Mendocino County District Attorney<br>P.O. Box 1000<br>Ukiah, CA 95482                                                         | Solano County District Attorney<br>675 Texas Street, Suite 4500<br>Fairfield, CA 94533 |
| El Dorado County District Attorney<br>778 Pacific Street<br>Placerville, CA 95667           | Merced County District Attorney<br>550 W. Main Street<br>Merced, CA 95340                                                      | Stanislaus County District Attorney<br>832 12th Street, Suite 300<br>Modesto, CA 95354 |
| Fresno County District Attorney<br>2220 Tulare Street, Suite 1000<br>Fresno, CA 93721       | Modoc County District Attorney<br>204 S. Court Street, Suite 202<br>Alturas, CA 96101                                          | Sutter County District Attorney<br>463 Second Street, Suite 102<br>Yuba City, CA 95991 |
| Glenn County District Attorney<br>P.O. Box 430<br>Willows, CA 95988                         | Mono County District Attorney<br>P.O. Box 617<br>Bridgeport, CA 93517                                                          | Tehama County District Attorney<br>444 Oak Street, Room L<br>Red Bluff, CA 96080       |
| Humboldt County District Attorney<br>825 5th Street, Fourth Floor<br>Eureka, CA 95501       | Nevada County District Attorney<br>201 Commercial Street<br>Nevada City, CA 95959                                              | Trinity County District Attorney<br>P.O. Box 310<br>Weaverville, CA 96093              |
| Imperial County District Attorney<br>940 West Main Street, Suite 102<br>El Centro, CA 92243 | Orange County District Attorney<br>401 Civic Center Drive West<br>Santa Ana, CA 92701                                          | Tuolumne County District Attorney<br>423 North Washington Street<br>Sonora, CA 95370   |
| Kern County District Attorney<br>1215 Truxtun Avenue, 4th Floor<br>Bakersfield, CA 93301    | Placer County District Attorney<br>10810 Justice Center Drive, Suite 240<br>Roseville, CA 95678                                | Yuba County District Attorney<br>215 Fifth Street<br>Marysville, CA 95901              |

|                                                                                     |                                                                                                        |                                                                                                                                       |
|-------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| Kings County District Attorney<br>1400 West Lacey Boulevard<br>Hanford, CA 93230    | Plumas County District Attorney<br>520 Main Street, Room 404<br>Quincy, CA 95971                       | Office of the City Attorney, Los Angeles<br>James K. Hahn City Hall East<br>200 North Main Street, 8th Floor<br>Los Angeles, CA 90012 |
| Lake County District Attorney<br>255 North Forbes Street<br>Lakeport, CA 95453      | San Benito County District Attorney<br>419 4th Street<br>Hollister, CA 95023                           | San Bernardino County District Attorney<br>303 West 3rd Street, 6th Floor<br>San Bernardino, CA 92415-0502                            |
| San Diego County District Attorney<br>330 W. Broadway Street<br>San Diego, CA 92101 | Office of the City Attorney, San Jose 200 East<br>Santa Clara Street, 16th Floor San Jose, CA<br>95113 |                                                                                                                                       |

## EXHIBIT B

### ELECTRONIC SERVICE

|                                                                                                                                                      |                                                                                                                                                           |                                                                                                                                                                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Nancy O'Malley, District Attorney<br>Alameda County District Attorney<br>7776 Oakport Street, Suite 650<br>Oakland, CA 94621<br>CEPDProp65@acgov.org | Paul E. Zellerbach, District Attorney<br>Riverside County<br>3072 Orange Street<br>Riverside, CA 92501<br>Prop65@rivcoda.org                              | Eric J. Dobroth, Deputy District Attorney<br>San Luis Obispo County<br>County Govt Center Annex, 4th Floor<br>San Luis Obispo, CA 93408<br>edobroth@co.slo.ca.us |
| Gary Lieberstein<br>District Attorney<br>931 Parkway Mall<br>Napa, CA 94559<br>CEPD@countyofnapa.org                                                 | Tori Verber Salazar, District Attorney<br>San Joaquin County<br>222 E. Weber Avenue, Room 202<br>Stockton, CA 95202<br>DAConsumer.Environmental@sjcda.org | Stephan R. Passalacqua, District Attorney<br>Sonoma County<br>600 Administration Dr<br>Sonoma, CA 95403<br>jbarnes@sonoma-county.org                             |
| Gregory Alker, Assistant District Attorney<br>San Francisco County<br>732 Brannan Street<br>San Francisco, CA 94103<br>gregory.alker@sfgov.org       | Jeffrey S. Rosell, District Attorney<br>Santa Cruz County<br>701 Ocean Street<br>Santa Cruz, CA 95060<br>Prop65DA@santacruzcounty.us                      | Dije Ndreu, Deputy District Attorney<br>Monterey County<br>1200 Aguajito Road<br>Monterey, CA 93940<br>Prop65DA@co.monterey.ca.us                                |
| Yen Dang<br>Supervising Deputy District Attorney<br>Santa Clara County<br>70 W Hedding St<br>San Jose, CA 95110<br>EPU@da.sccgov.org                 | Jeff W. Reisig, District Attorney<br>Yolo County<br>301 Second Street<br>Woodland, CA 95695<br>cfepd@yolocounty.org                                       | Mark Ankcorn, Deputy City Attorney<br>City of San Diego<br>1200 Third Avenue<br>San Diego, CA 92101<br>CityAttyProp65@sandiego.gov                               |
| Gregory D. Totten, District Attorney<br>Ventura County<br>800 S Victoria Ave<br>Ventura, CA 93009<br>daspecialops@ventura.org                        | Michelle Latimer, Program Coordinator<br>Lassen County<br>220 S. Lassen Street<br>Susanville, CA 96130<br>mlatimer@co.lassen.ca.us                        | Christopher Dalbey,<br>Deputy District Attorney<br>Santa Barbara County<br>1112 Santa Barbara St.<br>Santa Barbara, CA 93101<br>DAProp65@co.santa-barbara.ca.us  |
| Stacey Grassini, Deputy District Attorney<br>Contra Costa County<br>900 Ward Street<br>Martinez, CA 94553<br>sgrassini@contracostada.org             | Anne Marie Schubert, District Attorney<br>Sacramento County<br>901 G Street Sacramento, CA 95814<br>Prop65@sacda.org                                      | Phillip J. Cline, District Attorney<br>Tulare County<br>221 S Mooney Blvd<br>Visalia, CA 95370<br>Prop65@co.tulare.ca.us                                         |
| Barbara Yook, District Attorney<br>Calaveras County<br>891 Mountain Ranch Road.<br>San Andreas, CA 95249<br>Prop65Env@co.calaveras.ca.us             | Thomas L. Hardy, District Attorney<br>Inyo County<br>168 North Edwards Street<br>Independence, CA 93526<br>inyoda@inyocounty.us                           | Valerie Lopez, Deputy City Attorney<br>City of San Francisco<br>1390 Market Street, 7th Floor<br>San Francisco, CA 94102<br>Valerie.Lopez@sfcityatty.org         |

## 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.<sup>1</sup> 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

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<sup>1</sup> 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](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 contaminant<sup>2</sup> 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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<sup>2</sup> 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](mailto: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.

# CERTIFICATE OF MERIT

## Health and Safety Code Section 25249.7(d)

I, Stephen Ure, 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 §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 chemical that is 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 August 10, 2020



Stephen Ure

## PROOF OF SERVICE

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, 11622 El Camino Real, Suite 100, San Diego, CA 92130.

On 08/10/2020, I served the following documents:

60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY  
CODE §25249.7(d);  
PROPOSITION 65: SUMMARY;  
CERTIFICATE OF MERIT; AND  
CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE ATTORNEY  
GENERAL)

on the Violator listed below via First Class Certified Mail/Registered Mail through the United States Postal Service by placing true and correct copy in a sealed envelope, addressed to the Violator and providing such envelope to a United States Postal Service Representative:

Current Owner, President or CEO  
ePrague, LLC  
868 S. Spokane St.  
Post Falls, ID 83854

H. Kim Sim  
Conkle, Kremer & Engel, PLC  
3130 Wilshire Blvd, Ste 500  
Santa Monica, CA 90403

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:

|                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| By Uploading onto <a href="http://oag.ca.gov/prop65/add-60-day-notice">http://oag.ca.gov/prop65/add-60-day-notice</a> | The Attorney General of the State of California                                                                                                                                                                                                                                                                                                                  |
| By placing each envelope in a United States Postal Service Box, first class postage pre-paid                          | The District Attorneys for 33 California Counties and; The City Attorneys for Los Angeles, San Jose.                                                                                                                                                                                                                                                             |
| By sending electronic mail                                                                                            | The following District Attorneys: Alameda, San Joaquin, San Luis Obispo, Sonoma, Santa Clara, Napa, Lassen, Riverside, Tulare, Ventura, Yolo, Monterey, Sacramento, San Francisco, Santa Barbara, San Diego, Santa Cruz, Contra Costa, Inyo, Mariposa, Merced, Nevada, Placer, Plumas and Calaveras County<br>The City Attorneys for San Diego and San Francisco |

A list of address for each of the recipient's is attached.

Executed on 08/10/20 San Diego, California

  
\_\_\_\_\_  
Stephen Ure  
Attorney at Law

**By US First Class Mail:**

COLUSA COUNTY  
547 Market Street, Ste. 102  
Colusa, CA 95932

DEL NORTE COUNTY  
450 H Street, Room 171  
Crescent City, CA 95531

ALPINE COUNTY  
PO Box 248  
Markleeville, CA 96120

EL DORADO COUNTY  
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