

COVID-19 STATEMENT

Please be advised that the citizen enforcer issuing the enclosed sixty-day notice is taking into consideration the backdrop of the coronavirus that has gripped much of the country and globe alike, while following the process set forth under California Health and Safety Code §25249.6 *et seq.* and its implementing regulations.

We have communicated with the California Attorney General's Office that if it needs a reasonable amount of additional time before deciding whether to exercise its primary jurisdiction under the statute, my client will stand down for a mutually agreeable period. That said, if the parties can reach an out-of-court agreement in furtherance of the public health after the requisite waiting period, and with the required information uploaded to the Department of Justice's website, my client will conclude such negotiations since it will not only provide a substantial benefit to the public, but also avoid the need to involve the judiciary during a time that its resources are stretched.

In sum, my client is neither oblivious nor insensitive to the impact of COVID-19 as it relates to people of all ages especially the most vulnerable. At the same time, our client is continuing on a reduced pace to investigate and, potentially enforce, the right-to-know toxics initiative passed in 1986 by California voters.

Please feel free to contact me directly with any questions regarding the underlying claims in the enclosed document. As always, my client will negotiate financial terms (e.g., civil fines) in good faith after the non-monetary terms such as reformulation have been agreed upon between the parties.



SIXTY-DAY NOTICE OF VIOLATION

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

DATE: February 17, 2021

TO: Jon Barker, Chief Executive Officer – Sportsman’s Warehouse Inc.;
California Attorney General’s Office; and
District Attorneys and Certain City Attorneys Throughout California

FROM: Laurence Vinocur

My name is Laurence Vinocur. I am a citizen of the State of California acting in furtherance of the public interest. I seek to promote awareness of exposures to certain 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 public agencies listed above pursuant to California Health & Safety Code §25249.6 *et seq.* (Proposition 65). As noted above, this letter is also being provided to the alleged violator, Sportsman’s Warehouse Inc. which is a person in the course of doing business in California (Violator). The violations covered by this notice consist of the product exposure, routes of exposure and types of harm potentially resulting from exposure to the hazardous substance identified below (listed chemical), as follows:

Products:	Lead-Based Fishing Sinkers ¹
Listed Chemical:	Lead
Routes of Exposure:	Ingestion and Dermal
Types of Harm:	Birth Defects and Other Reproductive Harm

I. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

Examples of lead-based fishing sinkers that are causing consumer exposures and potentially occupational exposures, in violation of Proposition 65, and that are covered by this letter, are listed on Exhibit A. All such products covered by this notice shall be referred to hereinafter as the “Products.” Exposures to the listed chemical from the use of the Products have been occurring without the “clear and reasonable warning” required by Proposition 65, dating as far back as February 17, 2018. Without proper warnings regarding the toxic effects of exposures to the listed chemical resulting from the use of the Products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the identified toxicant.

California citizens, through the act of buying, acquiring, receiving or utilizing the Products, are exposed to the listed chemical. By way of example, consumers, workers and other individuals, including women

¹ The specific products covered by this letter are limited to those items which reference the toxicant “lead” in: (i) the product’s name; (ii) the product description or information referenced prominently near the online display for the item; (iii) the search “filter,” if any, used to market the products online; (iv) the product packaging or container; or (v) in any other conspicuous manner likely to be read by the online purchaser before payment without considerable effort to be undertaken by the electronic purchaser.

of childbearing age, ingest the listed chemical when they, among other activities, touch the Products and transfer the listed chemical from the Products to their mouths through hand-to-mouth activities that may continue to occur for a significant period after one or more contacts with the Products ceases.

Additionally, consumers, workers and other individuals, including women of childbearing age, are exposed to the listed chemical through direct dermal contact when they, among other activities, handle, touch or otherwise use the Products. Further, there are reasonably foreseeable uses of the Products that result in direct ingestion.

The California State Plan for Occupational Safety and Health incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California so long as they are based in the United States. The approval also provides that a United States employer may use the means of compliance in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement be subject to the supervision of the California Occupational Safety and Health Administration.

Any settlement, civil complaint or substantive court orders in this matter must be submitted to the state Attorney General. Additionally, it is important to note that the sale of the Products through online means of transaction must also provide the customer with a clear and reasonable warning for the risk of reproductive toxicity pursuant to Proposition 65 and its implementing regulations, including 27 CCR §25600.2(d) if the Violator's role is limited to retailer.

II. CONTACT INFORMATION

Please direct all questions concerning this notice to me through my counsel's office at the following address, email and/or telephone number:

Laurence Vinocur
c/o Clifford A. Chanler
Chanler, LLC
72 Huckleberry Hill Road
New Canaan, CT 06840-3801
clifford@chanlerllc.com
Telephone: (203) 594-9246

III. 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 "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" which has been prepared by OEHHA.

IV. POTENTIAL RESOLUTION OF NOTICED CLAIMS

Based on the assertions set forth in this notice, I intend to file a citizen enforcement action (or amend any existing one that may be filed before the expiration of this sixty-day letter) against the Violator unless such alleged person in the course of doing business enters into a binding written agreement (and/or upstream party enters into an agreement which would resolve the relevant branded products shipped to the Violator) to: (a) recall Products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such Products; (b) provide “clear and reasonable warnings” for Products sold in the future or, preferably, reformulate such Products to eliminate potential exposures to lead (or undertake best efforts to ensure upstream entities in the chain of commerce such as manufacturers or exporters do so); and (c) pay an appropriate civil fine, if any, based on the factors enumerated in California Health & Safety Code §25249.7(b). If the alleged Violator is particularly interested in resolving this dispute without resorting to litigation, please feel free to contact my counsel identified in Section II above. It should be noted that neither my counsel nor I can finalize any settlement until after the statutory sixty-day notice period has expired for any covered products, unless there are voluntary compliance commitments made by the Violator; nor speak for the state Attorney General, any state district attorney or the four city attorneys who received this notice.

V. ADDITIONAL NOTICE INFORMATION

Certain Products that were recently purchased or observed as being available for purchase or use in California that are covered by this notice are photographed and identified on Exhibits A and B attached hereto. Based on publicly available information and belief, the vendor, supplier, seller, importer or other person in the course of doing business are also provided on Exhibit A. I allege that the sale of the offending Products has also occurred without the requisite Proposition 65 “clear and reasonable warning” including, but not limited to, transactions made through the internet or over-the-counter.^{2 3}

The specifically identified examples of the Products that are subject to this notice are for the recipient’s benefit to assist in its investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the definition of Products. It is important to note that these examples are not meant to be an exhaustive or comprehensive identification of each specific offending Product. Further, it is this citizen’s position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other lead-based fishing sinkers described above that may have been manufactured, imported, distributed, sold, shipped, stored (or otherwise within the notice recipient’s custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase and use.

² If the manufacturer or supplier of one or more of the specific Products does not have a known agent for process of service in California or employs less than ten employees as defined by the operative regulation, then the online, brick and mortar, or other retail seller is alleged to have heightened regulatory responsibilities beyond 27 CCR §25600.2(d) especially if the Violator is also an importer or fulfills additional upstream roles in the commercial marketplace.

³ In accordance with 27 CCR §25600.2(g), please “promptly” answer the questions on **Exhibit C**, and return with receipt confirmation to Laurence Vinocur c/o Clifford Chanler, Chanler, LLC, 72 Huckleberry Hill Road, New Canaan, CT 06840, or via email to clifford@chanlerllc.com on or before March 1, 2021.

Exhibit A

<i>Products</i>	<i>UPC/Model#/SKU#</i>
Water Gremlins Removable Split Shots, ID p45112, As Illustrated in Exhibit B	UPC# 0 38775 03129 5, PSS-3/0; PSS-BB; PSS-5; PSS-2; PSS-3; PSS-4
Anglers Accessories Soft Lead Shot Refill, ID p70561, As Illustrated in Exhibit B	UPC# 6 13421 23716 2/AA301R-4/Size 4; Size AAA; Size BB; Size 1; Size 6; Size 8
Anglers Accessories 4 Size Split Shot Assortment, ID p70525	SDA; SDB
Anglers Accessories 6 Size Split Shot Assortment, ID p70529	MSA; MSB
Water Gremlins Rubbercor Sinkers, ID p45114	PRC0; PRC1; PRC2; PRC3; PRC5

Exhibit B

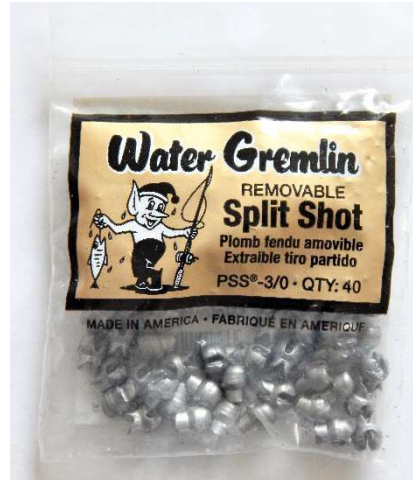


Exhibit C

As it relates to *each* of the Products, including those identified on **Exhibit A**, provide the full legal entity name and any known contact information (on or before March 1, 2021) for:

- (a) Any and all manufacturers
- (b) Any and all producers
- (c) Any and all packagers
- (d) Any and all direct vendors
- (e) Any and all exporters
- (f) Any and all shippers, and
- (g) Any and all sellers

Please email the above-requested information to the address provided in Section II. Thank you.

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am over the age of 18 years and not a party to the within action. I am a resident or employed in the county where the mailing occurred. My business address is 72 Huckleberry Hill Road, New Canaan, CT 06840.

On February 17, 2021, I caused to be served the following documents:

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

CERTIFICATE OF MERIT; AND

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

XXXX **By First Class Certified Mail** through the United States Postal Service by placing true and correct copies of the above documents in a sealed envelope, addressed to each alleged violator listed below and providing such envelope to a United States Postal Service Representative.

Jon Barker, Chief Executive Officer
Sportsman's Warehouse Inc.
165 West 7200 South
Midvale, UT 84047

On February 17, 2021, I caused to be served the following documents:

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

CERTIFICATE OF MERIT

XXXX **By Electronic Mail** by sending true and correct copies of the above documents to the electronic notification (Email) address(es) on the attached "Email Service List."

On February 17, 2021, I caused to be served the following documents:

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

CERTIFICATE OF MERIT; AND

CERTIFICATE OF MERIT ATTACHMENTS

XXXX **By Electronic Upload** by causing true and correct copies of the above documents to be uploaded to the California Attorney General's website at the web address on the attached "Electronic Upload Service List."

Executed on February 17, 2021, in New Canaan, Connecticut.



Lorent Guimaraes

CERTIFICATE OF MERIT

California Health & Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

1. This Certificate of Merit accompanies the attached supplemental sixty-day notice in which it is alleged that 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 and/or the listed chemical in substantially similar products and exposes individuals through the same potential routes;
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 under Health and Safety Code §25249.7(h)(2) including (i) the identity of the persons consulted with and relied on by the certifier, and (ii) certain facts, studies, or other data reviewed by those persons.

Dated: February 17, 2021


Clifford A. Chanler

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ELECTRONIC UPLOAD SERVICE LIST

Office of the California Attorney General
Proposition 65 Enforcement Reporting
ATTN: Prop 65 Coordinator
P.O. Box 70550
Oakland, CA 94612-0550
<https://oag.ca.gov/prop65/add-60-day-notice>