

**60-DAY NOTICE OF VIOLATION**  
California Safe Drinking Water and Toxic Enforcement Act

<b>Date:</b>	06/13/23
<b>To:</b>	Evergreen Enterprises, 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
<b>From:</b>	Michael DiPirro

**This Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d). For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, you may contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. Attached for your reference is a summary, "Appendix A: The Safe Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary," provided by the California Office of Environmental Health Hazard Assessment's ("OEHHA") (copies not provided to public enforcement agencies).**

This Notice of Violation is provided by Michael DiPirro. I am a citizen of the State of California acting in the interest of the general public. I am dedicated to protecting the environment, promoting awareness of exposures to toxic chemicals in products sold in California, improving human health and supporting environmentally sound practices.

Identified below are specific examples of products recently purchased and/or witnessed as being available for purchase or use in California that are within the categories or types of offending products covered by this Notice. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 "clear and reasonable warnings" at one or more location and/or via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the internet and/or via a catalog by the Violator(s) and other retailers and distributors of the manufacturer, including, but not limited to the retailer(s) and/or distributor(s) listed below.

**Description of Violations:**

<b>Violator(s):</b>	Evergreen Enterprises, Inc.
<b>Toxic Chemicals:</b>	Di(2-ethylhexyl) Phthalate [DEHP]
<b>Product Category:</b>	PVC Bottle Openers
<b>Non-exclusive Example of Type of Product<sup>1</sup>:</b>	Cheesehead PVC Bottle Opener
<b>Retailer(s):</b>	Green Bay Packers, Inc. [www.packersproshop.com]
<b>Manufacturer(s)/Distributor(s):</b>	Evergreen Enterprises, Inc.

<sup>1</sup> The specifically identified examples of the types of products that are subject to this Notice are for the recipients' benefit to assist in their investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the product categories/types listed herein. These examples are not meant to be an exhaustive or comprehensive identification of each specific offending product of the types listed under "Product Category." Further, it is this citizen's position that the alleged Violator(s) are obligated to continue to conduct in good faith an investigation into other specific products within the types or categories described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipients' 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.

<b>Types of Harm:</b>	Cancer and birth defects or other reproductive harm
<b>Description of Exposure:</b>	These exposures occur in homes, schools, some workplaces and everywhere else throughout California where these products are handled or used. As a result of the sales of these products, exposures to the listed chemical have been occurring without clear and reasonable warnings as required by Proposition 65.
<b>Routes of Exposure:</b>	Dermal; Hand-to-mouth Testing has revealed that the Products contain Di(2-ethylhexyl) Phthalate. Reasonably foreseeable use of the products identified in this Notice of Violation results in human exposures to Di(2-ethylhexyl) Phthalate. The route of exposure for the violations is dermal absorption directly through the skin, when consumers touch, use, or handle the products in ways that are intended and/or foreseeable, as well as hand-to-mouth exposure following dermal contact.
<b>Time Period of Exposure:</b>	The violations have been occurring as far back as 06/13/20 and are continuing to this day.

**Resolution of Noticed Claims:** Based on the allegations set forth in this Notice of Violation, I intend to file a citizen enforcement lawsuit against the alleged Violator unless such Violator enters into a binding written agreement to: (1) recall products already sold; (2) take effective measures to prevent unwarned DINP exposures from products sold in the future and to ensure that the requisite health hazard warnings are provided to those who have received such products; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249(b). If the alleged Violator is interested in resolving this dispute without resorting to expensive and time consuming litigation, please feel free to contact me through my counsel identified below. It should be noted that neither my counsel nor I can: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received this Notice of Violation. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

**Please direct any inquiries regarding this Notice of Violation to Michael DiPirro through his counsel:**

**Jeremy Fietz at Jeremy Fietz, Attorney-at-Law**, 4241 Montgomery Drive, #123, Santa Rosa CA 95405  
Telephone: (707) 236-0888; E-mail: [Jeremy@superawesomelawyer.com](mailto:Jeremy@superawesomelawyer.com); or

**David Bush at Law Office of David R. Bush** 321 South Main Street #502, Sebastopol, CA 95472  
Telephone: (707) 321-5028; E-mail: [drbush@drbushlaw.com](mailto:drbush@drbushlaw.com)

**CERTIFICATE OF MERIT**  
Health & Safety Code § 25249.7(d)

I, David R. Bush, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day Notice of Violation in which it is alleged that the parties identified in the Notice of Violation have violated Health & Safety Code § 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney who represents the noticing party.
3. Members of my firm and I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies or other data regarding the alleged exposures to the listed chemical 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(s) will be able to establish any of the affirmative defenses set forth in the statute.
5. The copy of the Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the voluntary information requested by the Attorney General's office as well as mandatory information identified in Health & 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.

06/13/23



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David R. Bush  
Attorney for Michael DiPirro

**PROOF OF SERVICE**

I declare that:

I am employed in Sonoma County, California; my business address is 321 South Main Street #502, Sebastopol CA 95472. I am over the age of 18 years and not a party to the within cause. On the date executed below, I served true copies of the following documents:

**-60-DAY NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;**

**-APPENDIX A: THE SAFE WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY; OEHHA/CAL EPA (only sent to the Violator(s));**

**-CERTIFICATE OF MERIT; and**

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

On the alleged Violator(s) listed below via First Class Certified Mail by placing a true and correct copy in a sealed envelope addressed to the entities listed below and by dropping each envelope in an official receptacle of the United States Post Office located in Sebastopol, CA:

Evergreen Enterprises, Inc.  
c/o John Toler  
5915 Midlothian Turnpike, Richmond, VA, 23225

Evergreen Enterprises, Inc.  
c/o Corporation Service Company as agent for  
service  
100 Shockoe Slip Fl 2, Richmond, VA 23219

And by providing electronic copies to the addressees listed on the following page, as well as by sending hard copies to the District Attorney for each of the remaining counties and The City Attorney for Los Angeles, San Jose, and Sacramento.

I swear under penalty of perjury under the law of the State of California the foregoing is true and correct. Executed on 06/13/23, at Sebastopol, California.



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David Bush

## **Public Agency E-mail Service List**

The Attorney General of the State of California: Electronic upload via the Attorney General website

Alameda County-Nancy O'Malley , District Attorney: CEPDProp65@acgov.org

Calaveras County-Barbara Yook, District Attorney: Prop65Env@co.calaveras.ca.us

Contra Costa County- Stacey Grassini, Deputy District Attorney: sgrassini@contracostada.org

Fresno County-Lisa A. Smittcamp-District Attorney: consumerprotection@fresnocountyca.gov

Inyo County-Thomas Hardy, District Attorney: inyoda@inyocounty.us

Lassen County-Michelle Latimer, program Coordinator: mlatimer@co.lassen.ca.us

Mariposa County-Walter Wall, District Attorney: mcda@mariposacounty.org

Merced County-Kimberly Lewis, District Attorney: Prop65@countyofmerced.com

Monterey County-Janine M. Pacioni, District Attorney: Prop65DA@co.monterey.ca.us

Napa County-Allison Haley, District Attorney: CEPD@countyofnapa.org

Nevada County-Clifford H. Newell, District Attorney: DA.Prop65@co.nevada.ca.us

Placer County-Morgan Briggs Gire, District Attorney: prop65@placer.ca.gov

Plumas County-David Hollister, District Attorney: davidhollister@countyofplumas.com

Riverside County-Paul E. Zellerbach, District Attorney: Prop65@rivcoda.org

Sacramento County-Anne Schubert, District Attorney: Prop65@sacda.org

San Diego County-Summer Stephan, District Attorney: SanDiegoDAProp65@sdacda.org

San Diego City-Mark Ankcorn, Deputy City Attorney: CityAttyProp65@sandiego.gov

San Francisco County-Alexandra Grayner, Asst. District Attorney: alexandra.grayner@sfgov.org

San Francisco City-Valerie Lopez, Deputy City Attorney: Starla.Sousa@sfcityatty.org

San Joaquin County-Tori Verber Salazar, District Attorney: DAConsumer.Environmental@sjcda.org

San Luis Obispo County-Eric Dobroth, Deputy District Attorney: edobroth@co.slo.ca.us

Santa Barbara County-Christopher Dalbey, Deputy District Attorney: DAProp65@co.santa-barbara.ca.us

Santa Clara County-Bud Porter, Deputy District Attorney: EPU@da.sccgov.org

Santa Clara City-Nora Frimann, City Attorney: Proposition65notices@sanjoseca.gov

Santa Cruz County-Jeffrey Rosell, District Attorney: Prop65DA@santacruzcounty.us

Sonoma County-Jill Ravitch, District Attorney: Jeannie.Barnes@sonoma-county.org

Tulare County-Phillip J. Cline, District Attorney: Prop65@co.tulare.ca.us

Ventura County-Gregory Trotten, District Attorney: daspecialops@ventura.org

Yolo County-Jeff W. Reisig, District Attorney: cfepd@yolocounty.org

**Public Agency USPS Mail Service List**

District Attorney, Alpine County  
Attn: Prop. 65 Enforcement  
P.O. Box 248  
Markleeville, CA 96120

District Attorney, Amador County  
Attn: Prop. 65 Enforcement  
708 Court Street, #202  
Jackson, CA 95642

District Attorney, Butte County  
Attn: Prop. 65 Enforcement  
25 County Center Drive  
Oroville, CA 95965

District Attorney, Colusa County  
Attn: Prop. 65 Enforcement  
547 Market Street  
Colusa, CA 95932

District Attorney, Del Norte County  
Attn: Prop. 65 Enforcement  
450 H Street, Ste. 171  
Crescent City, CA 95531

District Attorney, El Dorado County  
Attn: Prop. 65 Enforcement  
515 Main Street  
Placerville, CA 95667

District Attorney, Glenn County  
Attn: Prop. 65 Enforcement  
Post Office Box 430  
Willows, CA 95988

District Attorney, Humboldt County  
Attn: Prop. 65 Enforcement  
825 5th Street  
Eureka, CA 95501

District Attorney, Imperial County  
Attn: Prop. 65 Enforcement  
939 West Main Street  
El Centro, CA 92243

District Attorney, Kern County  
Attn: Prop. 65 Enforcement  
1215 Truxtun Avenue  
Bakersfield, CA 93301

District Attorney, Mono County  
Attn: Prop. 65 Enforcement  
Post Office Box 617  
Bridgeport, CA 93517

District Attorney, Orange County  
Attn: Prop. 65 Enforcement  
401 Civic Center Drive West  
Santa Ana, CA 92701

District Attorney, San Benito County  
Attn: Prop. 65 Enforcement  
419 Fourth Street, 2nd Floor  
Hollister, CA 95023

District Attorney, San Bernardino Co.  
Attn: Prop. 65 Enforcement  
316 N. Mountain View Avenue  
San Bernardino, CA 92415-0004

District Attorney, San Mateo County  
Attn: Prop. 65 Enforcement  
400 County Ctr., 3rd Floor  
Redwood City, CA 94063

District Attorney, Sutter County  
Attn: Prop. 65 Enforcement  
446 Second Street  
Yuba City, CA 95991

District Attorney, Santa Cruz County  
Attn: Prop. 65 Enforcement  
701 Ocean Street, Room 200  
Santa Cruz, CA 95060

District Attorney, Shasta County  
Attn: Prop. 65 Enforcement  
1525 Court Street, Third Floor  
Redding, CA 96001-1632

District Attorney, Sierra County  
Attn: Prop. 65 Enforcement  
Courthouse, Post Office Box 457  
Downieville, CA 95936

District Attorney, Siskiyou County  
Attn: Prop. 65 Enforcement  
Post Office Box 986  
Yreka, CA 96097

District Attorney, Kings County  
Attn: Prop. 65 Enforcement  
1400 West Lacey Boulevard  
Hanford, CA 93230

District Attorney, Lake County  
Attn: Prop. 65 Enforcement  
255 N. Forbes Street  
Lakeport, CA 95453

District Attorney, Los Angeles County  
Attn: Prop. 65 Enforcement  
210 West Temple Street, Rm 345  
Los Angeles, CA 90012

District Attorney, Madera County  
Attn: Prop. 65 Enforcement  
209 West Yosemite Avenue  
Madera, CA 93637

District Attorney, Marin County  
Attn: Prop. 65 Enforcement  
3501 Civic Center, Room 183  
San Rafael, CA 94903

District Attorney, Mendocino County  
Attn: Prop. 65 Enforcement  
Post Office Box 1000  
Ukiah, CA 95482

District Attorney, Modoc County  
Attn: Prop. 65 Enforcement  
204 S Court Street  
Alturas, CA 96101-4020

District Attorney, Solano County  
Attn: Prop. 65 Enforcement  
600 Union Avenue  
Fairfield, CA 94533

District Attorney, Stanislaus County  
Attn: Prop. 65 Enforcement  
800 11th Street, Room 200  
Modesto, CA 95353

District Attorney, Tehama County  
Attn: Prop. 65 Enforcement  
Post Office Box 519  
Red Bluff, CA 96080

District Attorney, Trinity County  
Attn: Prop. 65 Enforcement  
Post Office Box 310  
Weaverville, CA 96093

District Attorney, Tuolumne County  
Attn: Prop. 65 Enforcement  
2 South Green  
Sonora, CA 95370

District Attorney, Yuba County  
Attn: Prop. 65 Enforcement  
215 Fifth Street  
Marysville, CA 95901

Los Angeles City Attorney's Office  
Attn: Prop. 65 Enforcement  
200 N. Main Street, Suite 1800  
Los Angeles, CA 90012