

Landlords and Proposition 65 Warnings

What is Proposition 65?

It's a law that requires businesses to give a "clear and reasonable" warning to any person "exposed" to dangerous listed chemicals. There are over 900 listed chemicals.

Who is exempt?

1. This law only applies to businesses employing ten or more people. Therefore, a landlord or property manager who employs nine or fewer individuals (excluding independent contractors) is exempt.
2. Businesses are also exempt from the warning requirement if the chemical exposures they cause are so low as to create no significant risk of cancer or are significantly below levels observed to cause birth defects or other reproductive harm.

In what circumstances should signs be posted?

First, it's not altogether clear whether any warning is required for a typical rental property. Many landlords and property managers post the signs out of an abundance of caution. Some of the environmental hazards within the 900 listed chemicals are common in residential housing, such as asbestos, lead, building materials, cleaning materials, pool chemicals, car exhaust, barbecues and tobacco smoke. For this reason, in most residential properties, non-exempt landlords or property managers should consider posting Proposition 65 signs.

What should the signs contain?

Effective August 30, 2018, a new regulation changes the warnings and creates a safe harbor when new sign standards are implemented. While not mandatory, the new sign standards are recommended and if used create a presumption that the law's clear and reasonable warning standards have been met. The new signs must include:

- A yellow triangle with the word "WARNING" in bold print
- The statement: "Entering this area can expose you to asbestos from [insert name of one or more sources of exposure, such as "asbestos"], which is known to the State of California to cause cancer. For more information, go to www.P65Warnings.ca.gov."
- Clearly identify one or more sources of exposure
- Be provided in a conspicuous manner and under such conditions as to make it likely to be seen, read, and understood by an ordinary individual during normal daily activity
- Be provided in English and in any other language used on other signage in the affected area
- Be in a 20 X 20-inch sign posted at each public entrance and no smaller than 72-point type

What about "enclosed parking facilities" and "designated smoking areas?"

For "enclosed parking facilities" and "designated smoking areas," there are specific warning signs that must be used to receive the safe harbor. To see a list of warning signs, go to OEHHA site at: <https://www.p65warnings.ca.gov/products-places>.