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**SENATE COMMITTEE ON ENVIRONMENTAL QUALITY**

**Senator Blakespear, Chair**

**2025 - 2026 Regular**

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**Bill No:** AB 2577  
**Author:** Connolly  
**Version:** 6/8/2026  
**Urgency:** No  
**Consultant:** Taylor McKie

**Hearing Date:** 7/1/2026  
**Fiscal:** Yes

**SUBJECT:** Safe Drinking Water and Toxic Enforcement Act of 1986:  
settlements: attorney's fees

**DIGEST:** This bill authorizes the courts to approve a settlement under Proposition 65 if the court finds that the settlement is in the public interest and provides a public benefit, as described; and authorizes a plaintiff to submit additional information to support the award of attorney's fees if objected by the Attorney General (AG).

**ANALYSIS:**

Existing law:

- 1) Prohibits, under Proposition 65, a person, in the course of doing business, from knowingly discharging or releasing a chemical known to the state to cause cancer or reproductive toxicity into water or onto or into land where such chemicals pass or probably will pass into any source of drinking water. (Health and Safety Code (HSC) § 25249.5)
- 2) Prohibits a person, in the course of doing business, from knowingly and intentionally exposing an individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual. (HSC § 25249.6)
- 3) Provides that any person who violates the above provisions may be enjoined in any court of competent jurisdiction and be liable for a civil penalty not to exceed \$2,500 per day for each violation, in addition to any other penalty established by law. (HSC § 25249.7)
- 4) Authorizes a person to bring an action, acting in the public interest, if both of the following requirements are met: the private action is commenced more than 60 days after the person filing the action has provided the notice of the alleged violation to the AG, local district attorney, and the alleged violator including the certificate of merit and the factual information sufficient to establish the

basis of the certificate of merit; and neither the AG nor district attorney has commenced prosecuting an action against the violation. (HSC § 25249.7 (d))

- 5) Authorizes a court, when approving a settlement of an action under Proposition 65 brought by a person in the public interest, to approve the settlement if the court makes all of the following findings:
  - a) The warning that is required by the settlement complies with Proposition 65;
  - b) The award of attorney's fees is reasonable under California law; and
  - c) The penalty amount is reasonable based on the criteria set forth in existing law. (HSC § 25249.7 (f)(4))
- 6) Authorizes amendments to Proposition 65, provided that they are passed in each house of the Legislature by a two-thirds vote and further the purposes of Proposition 65. (Initiative Measure, Proposition 65, Sec. 7, Nov. 4, 1986)

This bill, as it pertains to Proposition 65:

- 1) Authorizes the court to approve a settlement of an action brought by a person in the public interest, as described, if the court finds that the settlement is in the public interest and provides a public benefit and the award of attorney's fees is reasonable and appropriate under California law.
- 2) Presumes a settlement for an action brought against a violation of the provisions that require warning before exposure to chemicals is in the public interest and provides a public benefit if it requires the defendant to do either of the following:
  - a) Reduce the exposure to the listed chemical from the level that existed before the settlement; and
  - b) Provide the warning required, if that warning was not provided previously.
- 3) Requires the court to approve a settlement except for the award of fees, as described, if all of the following conditions are met:
  - a) A settlement is submitted to the court for approval, as described;
  - b) The AG objects to the award of attorneys' fees set forth in the settlement, as described; and
  - c) The court finds that the evidence submitted to the court supports all conditions of which a court may approve the settlement, as described.
- 4) Requires, if the court approves the settlement except for the award of fees, the court to set a schedule by which the plaintiff may submit additional briefing

and evidence supporting the proposed fee award and authorizes the defendant, the AG, or both to file responses or objections to the plaintiff's submission.

- 5) Authorizes the court to order an award of attorney's fees, with specified requirements, after review of a submission.
- 6) Amends the required presentation of a notice that is provided to an alleged violator of specified provisions to read "PRINTER PLEASE NOTE: TIP-IN MATERIAL TO BE INSERTED".
- 7) Makes related findings and declarations.

## Background

- 1) *Proposition 65*. In 1986, California voters approved a ballot initiative, the Safe Drinking Water and Toxic Enforcement Act of 1986, commonly referred to as Proposition 65, to address their concern that "hazardous chemicals pose a serious potential threat to their health and well-being, [and] that state government agencies have failed to provide them with adequate protection..." Proposition 65 requires the state to publish a list of chemicals known to cause cancer or birth defects or other reproductive harm. This list, which must be updated at least once a year, currently includes approximately 900 chemicals. The Office of Environmental Health Hazard Assessment (OEHHA) administers the Proposition 65 program, including an evaluation of all currently available scientific information on substances considered for placement on the Proposition 65 list.

Under Proposition 65, businesses in California are required to provide a "clear and reasonable" warning before knowingly and intentionally exposing anyone to a Proposition 65-listed chemical. Warnings can be made in many ways, including labeling a consumer product, posting signs, distributing notices, or publishing notices in a newspaper. Once a chemical is listed, businesses have 12 months to comply with warning requirements.

The original warning requirements took effect in 1988 and initially, most Proposition 65 warnings simply stated that a chemical is present that causes cancer or reproductive harm. The warning did not identify the chemical or provide specific information about how a person may be exposed or ways to reduce or eliminate exposure to it. OEHHA regulations, adopted in August 2016 and that took full effect in August 2018, changed the warning requirements in several important ways. The new warnings for consumer products need to: include the verbiage that the product "can expose you to" a Proposition 65 chemical rather than saying the product "contains" the

chemical; name at least one chemical present in the product that is listed on the Proposition 65 list; provide the internet address for OEHHA's new Proposition 65 warnings website which provides additional information about the health effects of the chemicals on the Proposition 65 list; and, include a triangular yellow warning symbol. The goal of these changes was to provide the consumer with better information about the potential exposure to toxic chemicals and to aid businesses with compliance with Proposition 65.

- 2) *Enforcing Proposition 65.* Proposition 65 authorizes the AG, as well as any district attorney or city attorney (for cities whose population exceeds 750,000), to enforce Proposition 65. In addition, a person may bring an action acting in the public interest if both of the following requirements are met: 1) the private action is commenced more than 60 days after the person filing the action has provided the notice of the alleged violation to the AG, local district attorney and the alleged violator, including the certificate of merit and factual information sufficient to establish the basis of the certificate of merit, and 2) neither the AG nor district attorney has commenced prosecuting an action against the violation.

If a settlement of an action is brought by a person in the public interest, the court is authorized to approve the settlement if the court makes all of the following findings:

- a) The warning that is required by the settlement complies with Proposition 65;
- b) The award of attorney's fees is reasonable under California law; and,
- c) The penalty amount is reasonable based on the criteria set forth in existing law.

The intent of Proposition 65 is twofold: to warn consumers of harmful chemicals in consumer products (so that consumers could make informed choices) and to reduce exposure to harmful chemicals in products (when businesses reduce the chemical below the warning threshold or eliminate it from the product). However, some settlements have not resulted in warnings or a reduction in chemical exposure. Additionally, there have been some concerns raised by the AG that some of the attorneys' fees in these settlements may not be reasonable.

- 3) *AG objections to Proposition 65 settlements.* In the past, the AG has objected to some of the settlements reached under Proposition 65. Below are a few examples of AG objections to Proposition 65 settlements:
  - a) *Blue Water Cosaint, LLC v. Bumble Bee Foods, LLC (2024, San Diego County Superior Court No. 24CU003388C).* The AG objected to a private

party settlement on the grounds that the settlement allowed exposure to mercury to increase without the company having to provide a warning to consumers. The court approved the settlement over the AG's objections;

- b) *Proposition 65 Propane Gas Cases (2012, LA Superior Court, Judicial Council Coordination Proceeding No. 4564)*. The AG objected to the settlements' method for providing warnings regarding exposure to benzene gas from propane gas tanks because the warnings would never actually reach the consumer. The court approved the settlement over the AG's objections;
- c) *Anthony E Held v. Almar Sales Co, Inc. (2014, Alameda County Superior Court Case No. HG12633575)*. The AG objected to the settlement based on attorneys' fees, and the court approved the settlement over the AG's objection even after the court's tentative ruling stated the proposed attorneys' fees "appear to be excessive"; and
- d) *Epps v. Amazon.com, Inc. (2024, San Francisco County Superior Court, CGC-24-613812)*. The AG objected to the settlement based on attorneys' fees and the court granted the AG's objection and did not approve the settlement. Parties had to renegotiate fees, which delayed implementation of the rest of the settlement.

This bill seeks to address the concerns raised by the AG regarding settlements of Proposition 65 cases. Specifically, this bill requires settlements brought under Proposition 65 to be in the public interest and provide a public benefit. To be in the public interest and provide a public benefit, the settlement would have to require the defendant to either reduce the exposure of the listed chemical or provide the required warning. Additionally, this bill establishes a process, where the AG can object to attorneys' fees under Proposition 65 and the court can approve the Proposition 65 settlement, but also require the plaintiff to submit additional information to justify the fee.

## Comments

- 1) *Purpose of Bill*. According to the author, "AB 2577 strengthens judicial oversight and restores accountability to Proposition 65 enforcement by ensuring settlements deliver meaningful public health benefits. This bill gives courts flexibility in awarding attorneys' fees and ensures manufacturers provide clear warning labels. I am proud to author AB 2577, which promotes public trust in Proposition 65 and ensures better protections for our safety and public health."

**Related/Prior Legislation**

AB 1123 (Reyes, Chapter 187, Statutes of 2019) required certain notice to be provided to the AG before certain proceedings involving Proposition 65 are filed in the Supreme Court, court of appeal, or the appellate division of the superior court.

AB 1583 (Chau, Chapter 510, Statutes of 2017) required the AG to serve a letter to the noticing party and the alleged violator that the AG believes there is not merit to the action after reviewing the certificate of merit filed under an action under Proposition 65, if they find that there is not merit to the action; and required the Governor's Office of Business and Economic Development to post on its internet website information relating to a business' obligations under Proposition 65.

AB 471 (Sher, Chapter 578, Statutes of 2001) made changes to Proposition 65 including: requiring any person filing any action in which a violation of the Proposition 65 is alleged to notify the AG that such an action has been filed and requiring any private person filing an action in which a violation of Proposition 65 is alleged, to submit a reporting form to the AG that includes the results of any settlement or judgment and the final disposition of the case; requiring a plaintiff, if there is a specified settlement in an action brought by a person in the public interest, to submit the settlement to the court for approval; and, requiring the court to make specified findings and the plaintiff to have the burden of producing evidence to support those findings.

**SOURCE:** Attorney General Rob Bonta

**SUPPORT:**

State of California Attorney General

**OPPOSITION:**

None received

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