CONCURRENCE IN SENATE AMENDMENTS
AB 2577 (Connolly)
As Amended August 17, 2026
2/3 vote

SUMMARY

Requires a court, when approving settlements under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) to find, in addition to the findings in existing law, that the settlement provides a public benefit and is in the public interest. Additionally, establishes a procedure for awarding attorneys' fees under Proposition 65 if the Attorney General (AG) objects to the award of attorney's fees within a settlement.

Senate Amendments
Make technical and clarifying changes.

COMMENTS

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.

Changes to Proposition 65 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, which were adopted in August 2016 and 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.

Multiple avenues of enforcement of 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 attorneys' 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.

Concerns raised by AG on Proposition 65 settlements: Over the past couple of decades, 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:

1) 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;

2) Proposition 65 Propane Gas Cases (2012, LA Superior Court, Judicial Council Coordination Proceeding No. 4564) – the AG objected to the settlement's 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;

3) 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,

4) 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: AB 2577 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 provide a public benefit and be in the public interest. 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 parties to renegotiate the attorneys' fees

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 protection for our safety and public health."

Arguments in Support
According to the California Attorney General,

> "The Attorney General is pleased to sponsor your Assembly Bill 2577, which would strengthen judicial oversight over private party Proposition 65 settlements to ensure that private enforcement benefits public health and safety.
>
> Proposition 65 can be enforced by the Attorney General, district attorneys, and some city attorneys, as well as private enforcers bringing actions in the public interest. Private enforcers that filed actions in court are required to submit their settlements to the court for judicial approval, and courts are required to make specified findings in order to approve a settlement. Unfortunately, the court's options are limited to either approving or rejecting the settlement as a whole, which sends parties back into costly and time-consuming further negotiations or litigation. AB 2577 would amend the required statutory findings for court approval of private party settlements to give courts more oversight and flexibility."

Arguments in Opposition
None on file.

FISCAL COMMENTS

According to the Senate Appropriations Committee, this bill met the criteria of Senate Rule 28.8, as having minor, if any, costs.

VOTES:

ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 7-0-0
YES: Connolly, Ellis, Bauer-Kahan, Castillo, Lee, McKinnor, Papan

ASM JUDICIARY: 12-0-0
YES: Kalra, Macedo, Bauer-Kahan, Bryan, Connolly, Dixon, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

ASM APPROPRIATIONS: 14-0-1
YES: Wicks, Hoover, Aguiar-Curry, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa
ABS, ABST OR NV: Arambula

ASSEMBLY FLOOR: 77-0-3
YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas
ABS, ABST OR NV: Arambula, Flora, Celeste Rodriguez

SENATE FLOOR: 40-0-0
YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

UPDATED

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