

Wine Institute: Update on Prop 65 Compliance

New Prop 65 clear and reasonable warning regulations, which apply to alcohol beverage products, take effect on Aug. 30, 2018. In January 2018, warning signs compliant with these new regulations were sent to California retailers and winery tasting rooms. What follows is additional guidance based on clarification of these evolving requirements.

- All direct-to-consumer shipments must include a Prop 65 alcohol warning in or on the package for orders sent to a California address. If the product contains BPA, the new [Point of Display BPA Warning](#) must also be included.
- Wineries that opted in to the 2014 Proposition 65 Consent Judgment negotiated by Wine Institute can continue to use the existing Prop 65 alcohol warning. If they offer products with BPA, they must also display the new [Point of Sale BPA Warning](#) in tasting rooms, websites and catalogs.
- Wineries that did not opt in to the Consent Judgment agreement are advised to use the new BPA warning signage as well as the new [General Alcohol Warning](#) from the new regulations in all areas required by law.

The chart below provides a quick reference to General and BPA warning sign requirements. Background and additional details follow.

Proposition 65 Alcohol Beverages Warning & BPA Warning Posting Requirements for Wineries			
Prop. 65 Warning Type:	Website/Catalog	DTC Shipment on or inside box	Tasting Room
General Alcohol Warning	X	X	X
BPA Point of Sale*	X		X
BPA Point of Display*		X	
* Not Required for Products Determined to Not Contain BPA			

NEW BISPHENOL A (BPA) WARNINGS

The temporary “safe harbor” regulation issued by the Office of Environmental Health Hazard Assessment (OEHHA) for warning signage covering Bisphenol A (BPA), a chemical listed under Proposition 65 as a reproductive toxin, expired at the end of 2017. To meet the new requirements, Sign Management (funded by Wine Institute, Beer Institute and DISCUS) sent the new BPA Warning Signs (Point of Sale and Point of Display) to all California ABC retail licensees including winery tasting rooms in January 2018.

Alcohol beverage companies that produce products with can, lid and/or bottle cap liners containing BPA can rely on the warning signs sent by Sign Management to California ABC retail licensees since they follow the format of the new Proposition 65 regulations (effective Aug. 30, 2018) authorized by OEHHA. Under OEHHA regulations, it is the responsibility of retailers to post and maintain the new Point of Display (POD) and Point of Sale (POS) signs not the producers. If members encounter any retailer opposition to posting POD signs, please contact Tracy Genesen.

Winery Websites/Catalogs and Tasting Rooms Offering BPA Products

To comply with OEHHA regulations, California winery tasting rooms must post the [Point of Sale BPA Warning](#) at cash registers. Wineries that sell products with BPA online should add the new Point of Sale warning to websites and catalogs to be visible before the point of purchase.

Direct-to-Consumer (DTC) Shipments of BPA Products

For direct-to-consumer sales, wineries selling products with BPA must include both a general alcohol warning and the new [Point of Display BPA warning](#) in or on the package for orders sent to a California address.

GENERAL ALCOHOL WARNING

Wine Institute advises wineries to post Prop 65 warning signage required for wine and other alcohol beverages in tasting rooms and on websites in a location visible before the point of purchase. Additionally, all products with or without BPA should include the general alcohol beverage Prop 65 warning in or on DTC shipment packages when they are sent to a California address.

Wineries that opted in to the 2014 Proposition 65 Consent Judgment can continue to use the previous warning language (without reference to the

OEHHA website), as permitted under the new regulations and deemed to be clear and reasonable. Wineries not covered by the Consent Judgment should use the new [General Alcohol Warning](#) (with reference to the OEHHA website) since it is authorized as a safe harbor warning for alcohol beverages.

QUESTIONS

The above are guidelines for member review and consideration. It does not constitute legal advice. Wine Institute members with questions concerning Proposition 65 warnings should contact Tracy Genesen, Wine Institute Vice President and General Counsel, at 415/356-7531 or tgenesen@wineinstitute.org.

NVV members that do not belong to Wine Institute should contact Michelle Novi, associate director of industry relations, at 707.968.4206 or mnovi@napavintners.com.