

Section 25603.3(f)

Responsibility to Provide Warnings for Exposures to Bisphenol A in Canned and Bottled Foods and Beverages

(1) Notwithstanding any other provision of Section 25603, canned and bottled foods and beverages that are offered for retail sale in California after May 11, 2016, that cause exposures to bisphenol A, are deemed to comply with the warning requirements of Section 25249.6 of the Act if the following provisions are met:

(A) The manufacturer, producer, packager, importer or distributor of the canned and bottled food or beverage either affixes a label to the product bearing a warning that satisfies Section 25249.6 of the Act, or

(B) Provides written notice directly or through an authorized agent or trade association to the retailer or its authorized agent. The written notice must:

(i) State that the canned or bottled food or beverage may result in an exposure to bisphenol A; and

(ii) Include the name or description of the canned or bottled foods or beverages for which a warning is being provided, such as a Universal Product Code or other identifying designation; and

(iii) Provide, or offer to provide, to the retail seller, at no cost, a sufficient number of point-of-sale warning signs that satisfy the requirements of subsection 25603.3(g).

(2) If the retail seller receives a notice pursuant to subsection (1)(B), the retail seller must post the warning sign at each point-of-sale in the retail facility. The placement and maintenance of warning signs is the responsibility of the retail seller of the affected products.

(A) For the purpose of this section, where a retail seller substantially complies with all the provisions of this section, a limited opportunity to cure exists where there is a minor deviation from the requirements of this section such as the short-term absence of a required sign, which:

(i) Is not the result of intentional neglect or disregard for the requirements of this section, and

(ii) Is not avoidable using normal and customary quality control or maintenance, and

(iii) Is corrected within 24 hours of discovery or notification

(3) For purposes of subsection (f) and subsection (g), "canned and bottled foods and beverages" means foods and beverages packaged in hermetically sealed, durable

metal or glass containers; including, but not limited to those containing fruits, vegetables, soups, pasta products, milk, soda, and alcoholic beverages.

(4) For purposes of subsection (f) and subsection (g), “point-of-sale” means the area within a retail facility where customers pay for foods and beverages, such as the cash register or check-out line where the warning sign is likely to be seen and understood prior to the consumer purchasing the canned or bottled food or beverage. Point-of-sale also includes electronic check-out functions on Internet websites.

NOTE: Authority cited: Sections 25249.12 and 25249.11(f), Health and Safety Code. Reference: Sections 25249.6 and 25249.7(k), Health and Safety Code.

Section 25603.3(g)

Warnings for Exposure to Bisphenol A in Canned and Bottled Foods and Beverages

(1) Method of Transmission:

Warnings for canned and bottled foods and beverages that cause exposures to bisphenol A as defined in subsection 25603.3(f)(3) may be provided at each point-of-sale, as defined in subsection 25603.3(f)(4), by posting a warning sign that includes the language set out in subsection 25603.3(g)(2). Such warning signs must be no smaller than 5 by 5 inches and be displayed with such conspicuousness, as compared with other words, statements, designs, or devices at the point-of-sale, as to render it likely to be read and understood by an ordinary individual prior to purchase of the affected products. For products sold over the internet, the warning must be provided either on the product display page or otherwise be prominently displayed to the purchaser prior to completing the purchase.

(2) Content of Warning Sign:

- (A) The word “WARNING” in all capital letters and bold print, and
- (B) The words: “Many food and beverage cans have linings containing bisphenol A (BPA), a chemical known to the State of California to cause harm to the female reproductive system. Jar lids and bottle caps may also contain BPA. You can be exposed to BPA when you consume foods or beverages packaged in these containers. For more information go to: www.P65Warnings.ca.gov/BPA.

NOTE: Authority cited: Sections 25249.12 and 25249.11(f), Health and Safety Code. Reference: Sections 25249.6 and 25249.7(k), Health and Safety Code.

Example (Not part of regulatory text):

WARNING: Many food and beverage cans have linings containing bisphenol A (BPA), a chemical known to the State of California to cause harm to the female reproductive system. Jar lids and bottle caps may also contain BPA. You can be exposed to BPA when you consume foods or beverages packaged in these containers. For more information, go to:
www.P65Warnings.ca.gov/BPA.