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A Summer Surge in Proposition 65 Notices of Violation- Bisphenol S (BPS) in Receipts, UPC Stickers and Thermal Labels- Are Your Receipts Putting You at Risk?

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California Proposition 65 (formally the Safe Drinking Water and Toxic Enforcement Act of 1986) ("Prop. 65") enforcement is hot—and this time, the spotlight is on Bisphenol S (BPS), a chemical often used in thermal receipt paper, packing slips, stickers and shipping labels. According to California's Office of Environmental Health Hazard Assessment ("OEHHA") the lead agency in charge of implementing Prop. 65, Bisphenol S ("BPS") is a chemical used to make hard plastic items and synthetic fibers for clothing and other textiles, and as a color developer in thermal paper, and is structurally similar to Bisphenol A ("BPA"). On **December 29, 2024**, BPS was added to the Prop. 65 list of chemicals known to cause **reproductive harm**, with enforcement beginning **January 1, 2025**. As a result, any significant exposure to BPS in California must carry the following **clear and reasonable warning**:

 **WARNING:** This product* can expose you to Bisphenol S (BPS), which is known to the State of California to cause birth defects or other reproductive harm. For more information, visit www.P65Warnings.ca.gov. (*If posting this at a cash register state, "Thermal receipt paper can expose you to Bisphenol S (BPS), which is known to the State of California to cause birth defects or other reproductive harm. For more information, visit www.P65Warnings.ca.gov.)

Potential Violations and Penalties Under Proposition 65

Prop. 65 requires businesses with 10 or more employees to provide a "clear and reasonable warning" before knowingly exposing individuals to cause cancer or reproductive harm. The law is enforced through private citizen lawsuits and has become a powerful and costly tool for targeting alleged product and workplace exposures. A business that fails to provide the required warning prior to exposure is in **violation of Prop. 65**, regardless of intent or harm. Each violation is subject to civil penalties of up to **\$2,500 per day, per exposure**, and enforcement is primarily driven by private citizen enforcers, who are also entitled to recover **attorney's fees and costs**.

Notice Volume Is Exploding

A review of the Prop. 65 60-Day Notice database maintained by the California Attorney General's office reveals a dramatic spike in BPS-related notices in the first half of 2025. Over 325 notices for BPS have been filed as of July 21st with filings increasing dramatically every day.

Unlike most Prop. 65 enforcement involving consumer products offered for sale, this is an industry-agnostic trend, with notices targeting a wide range of businesses from retailers, restaurants, gas stations,



cafes, and service businesses which are alleged to provide receipts, UPC stickers and thermal paper containing BPS. The notices typically allege consumer exposure to BPS through handling thermal receipts, which transfer trace amounts of BPS through the skin. These notices often lead to civil penalties, attorney's fees and injunctive relief.

Practical Compliance Steps to Undertake Immediately

To mitigate Prop. 65 liability related to BPS, businesses should take the following steps:

- Contact your receipt supplier or point-of-sale vendor immediately.
 - Request written documentation confirming that receipt paper, thermal labels, and UPC stickers are free of BPA, BPS, and all other phenols (i.e., "phenol-free" paper).
 - Save these certifications in your compliance files.
- If you cannot confirm your materials are BPS-free, post a clear and reasonable **safe harbor** Prop. 65 warning at the point-of-sale.
 - Follow OEHHA's "safe harbor" guidelines—a generic sign behind the register may not suffice.
- Make the switch to BPS free paper proactively—even if you haven't received a notice yet.
- Add specific Prop. 65 indemnity clauses for BPS in your supply contracts and purchase orders.
 - Ensure your paper suppliers warrant BPS-free status and agree to cover costs of defense or settlement.
- Review and update standard operating procedures to include receipt-paper sourcing as part of your chemical compliance checks.
- Ensure Prop. 65 compliance is integrated across departments, including legal, operations, and procurement.
- Remember: even if you don't operate retail locations, you may still be liable as a distributor, e-commerce seller, or private label partner.

The Bottom Line

The sharp rise in **BPS-related Prop. 65 notices** is the latest wave of enforcement targeting businesses across the supply chain. While thermal paper may seem like a low-risk item, it has become a high-profile source of liability in 2025.

With enforcement ramping up, **retailers, service providers, distributors, and suppliers** must act swiftly to ensure compliance, not just to protect consumers, but to avoid the **burdens of private litigation**, defense costs, and reputational risk.

Need Help?

If your business has received a BPS notice, or wants to evaluate its Prop. 65 readiness—contact one of the members of the Buchalter Chemical Law and Prop. 65 Industry Group team for strategic guidance, supply chain audits, and response planning.



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