

TOMPKINS & DAVIDSON, LLP
Counselors At Law

5 Hanover Square
15th Floor
New York, N.Y. 10004

Phone: (212) 944-6611
Fax: (212) 944-9779
e-mail: customsi@tdllp.com
internet: <http://www.tdllp.com>

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TO CLIENTS AND FRIENDS:

Re: Center for Environmental Health Targets Handbags & Flatgoods

The Center for Environmental Health (CEH) in California has again taken the initiative under California Proposition 65 with respect to lead in consumer products, this time focusing on women's handbags and flatgoods. CEH has announced that its testing of various brands of vinyl handbags and flatgoods purchased in retail stores in California found dozens of these articles to be in violation of California law. Specifically, the CEH press release states that the accessories were found to violate California standards for lead exposure under that state's Proposition 65 consumer protection law, which requires warning labels in such circumstances. The material on the accessories is claimed to have tested at up to 90 times higher than the federal lead paint standard of 600 ppm. The release provides the following additional details:

Purses and other accessories found with high lead levels were purchased from major retailers. Products with high lead levels were found at all but five of the 21 retailers from which the nonprofit shopped. CEH initiated legal action against the retailers and accessory makers today for violating Proposition 65.

...Lead was found in bags of all colors, and was prevalent in yellow and yellow-tinted (e.g., green and orange) bags, suggesting that lead could be contained in the material and/or in the yellow dye.

The release provides access to the details of its report, which includes photos of the samples:

http://www.ceh.org/storage/cehca/documents/accessory_bag_report.pdf.

The CEH has made it clear that they are instituting legal proceedings with respect to the above under California's Proposition 65, which requires warnings to consumers if a product exposes consumers to a wide variety of chemicals, including lead and cadmium. Proposition 65 does not ban sale of any product; it simply requires warnings. Under the law, legal proceedings to enforce Proposition 65 may be instituted by the State of California or by private citizens. If a private citizen is successful in such an action, he or she can receive monetary awards and attorneys fees, with which non-profits finance additional actions.

Importers and Distributors are urged to remember that, although Proposition 65 applies only in California, it covers all products distributed in that state. In 2004, similar lawsuits against numerous companies in the jewelry industry resulted in industry agreement to limit lead levels to 600 ppm in children's jewelry as well as to limit lead levels for adult jewelry, agreements formalized by subsequent state legislation that lowers the allowable lead levels to 200 ppm for various children's jewelry components as of September 1, 2009, and limits lead metal in adult jewelry to ten percent by weight presently, with a drop to six percent by weight, also as of September 1, 2009.

In another prior instance, the 2006 *Children's Lunchbox* issue was prompted by a similar CEH study, and the publicity triggered other states into similar enforcement action utilizing those states' existing

Toxics in Packaging legislation in those states. These states, including New York and Connecticut, interpreted very broadly the definition of “packaging” to take action against the lunchboxes:

"Package" means a container providing a means of marketing, protecting, or handling a product and shall include a unit package, an intermediate package, and a shipping container. "Package" also means and includes unsealed receptacles such as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs.

Should you require additional information on these environmental group actions, and potential impact on your product line, or general information on marking requirements applicable in particular instances under California Proposition 65, please contact us.

Firm Contacts: Louis Shoichet (lshoichet@tdllp.com), Robert Stack (rstack@tdllp.com) or Barbara Wierbicki (bywierbicki@tdllp.com).

Note: The above comments are intended for general information only, and not as legal advice. Legal advice can only be offered after a review of a client's specific facts and circumstances, which may affect the applicability of any general comments contained herein.