

American Sportfishing Association

Policy Alert

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For Immediate Release

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New California Proposition 65 Threat Against The Sportfishing Industry

On December 20, 2014, the Proposition 65 warning requirement for DINP exposures in California became effective. DINP, diisononyl phthalate, is a commonly used plasticizer. Beginning the next day, "private enforcers" begin issuing notices of intent to sue companies whose products contained DINP. To date, over 160 notices have been issued by approximately one dozen different "bounty hunters."

Each notice went to several companies and involve a wide range of items that are also produced by ASA members including packaging, vinyl clothing (vests, boots, gloves), tool grips and soft baits. Last week, one of the new bounty hunters, Kingpun Cheng, targeted several of the American Sportfishing Association's (ASA) members producing soft baits. We believe more of these notices will be issued in the near future.

ASA recommends you take the following steps:

Evaluate your product line and identify any products or their packaging that is "soft vinyl" or plastic. Determine if the product contains DINP. If so, provide warning labels on your products:
WARNING: This product contains a chemical known to the State of California to cause cancer.

Keep ASA informed. If you have received a notice of intent to sue, please notify ASA as soon as possible so we can continue to monitor the impact of this issue on our members.

Check the Members Only section of our website next week for more information and compliance suggestions. If you don't have the password, please contact Membership Director Jill Calabria at jcalabria@asafishing.org.

ASA members use vinyl and soft plastic in many products. One of the constituents of vinyl is phthalates - a class of chemicals that include DINP. The Consumer Product Safety Improvement Act of 2008 (CPSIA) banned six different phthalates, not including DINP. As a result of the CPSIA ban, most plastic manufacturers reformulated plastic products to use DINP. Currently, DINP is not subject to the CPSIA restrictions, and is approved by FDA for use as a food contact surface. However, California has listed the chemical as a carcinogen, based on animal data.

The listing of DINP is controversial, and there is data that indicates DINP does not cause cancer in humans. In addition, exposure analysis indicates that DINP is not readily absorbed through the skin and that ingestion does not pose a significant risk. As such, the amount of DINP that a consumer may be exposed to from touching fishing tackle and accessories – even wearing vinyl gloves – is well below the level at which a Proposition 65 warning would be required. Consequently, the listing of DINP and the bounty hunter claims are without merit. The problem, as always, is the cost to defend these meritless claims – a factor that bounty hunters count on to divide, conquer and keep coercive litigation going for years.

ASA's board of directors and staff are monitoring this situation. We have retained Carol Brophy, Sedgwick, LLP, of California, who previously represented ASA and many members with regards to lead in fishing tackle. Ms. Brophy is currently working with ASA members, and other clients in the vinyl glove industry, which is in negotiations with both California's Office of Environmental Health Hazard Assessment (OEHHA) and the Office of the Attorney General concerning regulatory measures that can be taken to stay or slow the tide of litigation. Although these negotiations with regulators are progressing the desired results are likely months away.