

## **ASCCA Meet with CalEPA OEHHA Regarding Prop 65 Regulations**

*By Jack Molodanof, Legislative Advocate & Gloria Peterson, Executive Director*

On August 22, ASCCA Legislative Advocate Jack Molodanof and Executive Director Gloria Peterson along with Johan Gallo Executive Director of CalABC met to educate the Office of Environmental Health Hazard Assessment (OEHHA), a division of CalEPA, on the automotive repair industry. One of the primary concerns is that the way the draft regulation is written leaves a likely potential for unnecessary litigation and frivolous lawsuits. ASCCA had previously submitted [comments](#) outlying its concerns.

During the course of our meeting the concern with potential frivolous lawsuits was validated when the OEHHA confirmed that it does not have an enforcement division. Therefore the enforcement will happen at the local level through District Attorney offices.

The OEHHA proposed creating "safe harbor" regulations which would allow Automotive Repair Dealers (ARDs) to post a sign (created by the regulations) that will provide environmental exposure warnings and comply with Prop 65. Both ASCCA and CalABC expressed concerns that the proposed signs (in the regulations) were primarily designed for gas stations and not for ARDs.

The OEHHA clarified that the intent of the regulation is to inform customers of the most common types of exposure, avoiding lengthy notification of every possible exposure regardless of how rare. The OEHHA also provided some clarification as to where the signs can be posted, indicating that just inside the actual service bay is sufficient.

We also expressed concerns that ARDs should have an opportunity to cure and correct within a specified time frame so they would not be subjected to unnecessary fines and litigation. OEHHA indicated that they would consider our concerns; however, under current statute they are limited in what revisions they can make.

The OEHHA indicated that they would be willing to work with the industry on designing specific sign(s) that would be more appropriate for ARDs and auto body shops rather than gas stations. They suggested that we provide them ideas (possible language) as to what type of environmental exposures would be likely in an automotive repair shop. This provides us an opportunity to work with OEHHA on Prop 65 signage that maybe required under the regulations. OEHHA plans on having a final draft ready this fall. They would like to consider our ideas for signage and would appreciate if we send them any suggestions/language in 30 days.

OEHHA indicated that it would translate the sample signage language and make that available for shop owners to print from its website. It also committed to creating a separate web landing page for automotive service and that the URL to that dedicated page would be provided to the consumer on the signage.

If anyone has any input, ideas or would like to work on this issue, please contact Jack Molodanof at 916-447-0313 or by e-Mail: [jack@mgrco.org](mailto:jack@mgrco.org).

## **What Is Proposition 65?**

In 1986, California voters approved an initiative to address their growing concerns about exposure to toxic chemicals. That initiative became the Safe Drinking Water and Toxic Enforcement Act of 1986, better known by its original name of Proposition 65. Proposition 65 requires the State to publish a [list of chemicals](#) known to cause cancer or birth defects or other reproductive harm. This list, which must be updated at least once a year, has grown to include approximately 800 chemicals since it was first published in 1987.

Proposition 65 requires businesses to notify Californians about significant amounts of chemicals in the products they purchase, in their homes or workplaces, or that are released into the environment. By providing this information, Proposition 65 enables Californians to make informed decisions about protecting themselves from exposure to these chemicals. Proposition 65 also prohibits California businesses from knowingly discharging significant amounts of listed chemicals into sources of drinking water.

The Office of Environmental Health Hazard Assessment (OEHHA) administers the Proposition 65 program. OEHHA, which is part of the California Environmental Protection Agency (Cal/EPA), also evaluates all currently available scientific information on substances considered for placement on the Proposition 65 list.

You get more information about the regulations at <http://oehha.ca.gov/prop65/background/p65plain.html>.