

# MARKETPLACE

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**HEALTH**

## California Spurs Reformulated Products

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When California voters approved Proposition 65 in 1986, makers of some consumer products faced a potential marketing nightmare.

The choice: Put warning labels on products disclosing they contain chemicals known to cause cancer or birth defects or pull out of California's lucrative market.

Some companies decided they couldn't afford to do either. Instead, they reformulated their products, hoping to turn legal adversity into marketing advantage.

Such major manufacturers as Gillette Co., Dow Chemical Co. and Sara Lee Corp. replaced the noxious chemicals in correction fluids, spot removers and waterproofing sprays with new formulas they can now tout as safer—and sometimes even more effective. Other companies are reformulating quietly to avoid calling attention to chemicals in their old products.

About 470 toxic chemicals are on the California list. The law's overall impact so far is hard to measure because manufacturers aren't required to report voluntary removal of toxic chemicals. But early indications are that the law is changing some behavior in California and beginning to have a national effect.

Enforcement occurs mostly through the threat of legal actions filed by environmental groups or the California attorney general. Product makers can avoid negative labels by reformulating or showing expo-

### Pressure From Proposition 65

Effect of California law on some national products

BRAND	COMPANY	ACTION
Liquid Paper correction fluid	Gillette	Carcinogen, toxin causing birth defects removed
K2r Spot-lifter	Dow Chemical	Carcinogen removed
Old El Paso canned foods	Whitman	Lead-soldered cans eliminated
Kiwi waterproofing spray for shoes	Sara Lee	Carcinogen removed
El Producto, Dutch Masters	Consolidated Cigar	Warning labels added for toxicity

sure poses "no significant risk."

Gillette avoided putting an alarming label on its Liquid Paper line of correction fluids. The company substituted a different solvent for trichloroethylene (TCE), a carcinogen; removed lead, which causes birth defects, and made other changes. Now the little bottles sport the marketing plug "New Improved," and Gillette advertises the new formula "covers better than any other leading brand."

Michelle Stacy of Boston-based Gillette says the law "provided an opportunity to improve product performance."

Proposition 65 is having some national impact. For example, the law closed a federal loophole by forcing cancer warnings on cigars and other non-cigarette tobacco. Makers of various spot removers, including Dow Chemical's DowBrands Inc. unit,

maker of K2r Spot-lifter, agreed this year to stop using perchloroethylene (PCE), a cancer-causing solvent. This month, three makers of room deodorizers and mothballs agreed to label products that expose users to high levels of a carcinogen.

Voluntarily complying was Pet Inc., a unit of Whitman Corp., which sped up elimination of lead-soldering in cans for five food products, including Old El Paso tamale/chili gravy and Progresso tomatoes. Sara Lee's Kiwi Brands Inc. unit altered its shoe-waterproofing sprays. And Sears, Roebuck & Co. says its suppliers reformulated "dozens" of products, including car wax and carburetor cleaner.

The law's reach extends beyond California because "national products can't afford to skip" a state representing 15% of

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# Law Prods Removal Of Toxic Chemicals From Some Products

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the U.S. market, says New York marketing consultant Richard Gerstman. It is also cheaper to reformulate or relabel nationally than to have separate distribution for different states.

Environmentalists contend Proposition 65 is proving more effective than federal law in protecting consumers. David Roe, senior attorney for the Environmental Defense Fund, a nonprofit advocacy group, says the risk of lawsuits or scary labels provides "a strong incentive" to use less-harmful substitutes.

In contrast, the U.S. Consumer Product Safety Commission doesn't even regulate TCE or PCE, contending they aren't widely used. Since 1973, the federal agency has either banned or required labels on fewer than a dozen chemicals causing cancer or birth defects.

Industry groups complain that Proposition 65 unfairly targets products that are completely safe, even though they contain small amounts of listed chemicals. They say the California measure imposes standards much stricter than federal law—including a birth-defect threshold that is 10 times lower—without sufficient evidence.

## Market Pressure

Liquid Paper's experience shows how Proposition 65 can apply market pressure. In September 1989, environmental groups notified the state's attorney general that the correction fluid didn't warn consumers. As publicity spread, retailers refused to sell the product. Gillette's Ms. Stacy says the company faced "an immediate market crisis." The company believed Liquid Paper was safe, she says, but would "lose the market" during years of litigation. Instead, it chose to reformulate with a substitute solvent 1,1,1-trichloroethane, or TCA, to protect its 60%-plus share of a \$120 million market.

Liquid Paper's sales dropped nearly 10% nationally during the four months it was out of the California market but recovered by last March and are expected to increase modestly for the year.

Proposition 65 also provided an opportunity for Liquid Paper's main competitor, Wite-Out Products Inc. initially switched to TCA, but continued searching for alternatives because TCA is toxic and an ozone-depletor likely to be banned.

## Fraught With Problems

In June, Wite-Out introduced a correction fluid without TCA that it claims "works on everything" and dries quickly. The Beltsville, Md., concern expects to increase its 28% market share because the new product eliminates the need for separate fluids for copy paper, faxes and ink.

But Proposition 65 is fraught with problems, federal officials say. Topping the list is the law's tendency to regulate or ban

products even when chemical exposures are low enough to be safe.

"If the risks are very, very small, do you really want to spend a lot of society's money regulating them?" asks Terry Davies, assistant administrator at the Environmental Protection Agency.

Another issue is the safety of chemical substitutes that haven't been fully tested. There is "great concern" that TCA could be carcinogenic because it is closely related to solvents it replaces, says Sandra Eberle, program manager for the Consumer Product Safety Commission.

The commission hopes to resolve these issues with proposed regulations, likely to be adopted in 1992, that would require the labeling of all household chemicals for "chronic hazards," such as cancer, birth defects and nerve damage.

Industry's chief concern is that conflicting California and federal rules would cause marketing chaos. Food makers worry that California might adopt stricter standards for common food additives, such as BHA, and for pesticide residues.

Such actions would needlessly "undermine faith in the safety of food" and increase costs, says a Pet spokesman. So far, California isn't enforcing the law for foods, drugs or cosmetics that comply with U.S. Food and Drug Administration regulations. The state is waiting for the courts to resolve whether federal law prevails.

But the Environmental Defense Fund's Mr. Roe asserts, "If the food industry meets the strict health standards it claims to be meeting, then it can't possibly violate Proposition 65."