

Companies Agree to New Leather Tanning Process in Prop. 65 Hexavalent Chromium Settlement

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The Center for Environmental Health (CEH) and numerous manufacturers and retailers have [reached a settlement](#) of Proposition 65 litigation related to the presence of the carcinogen hexavalent chromium in leather shoes and gloves.

Under the settlement, the companies deny CEH's claims that they ran afoul of Prop. 65's requirement to warn about exposures to harmful chemicals, but they have agreed to change their manufacturing processes to reduce the presence of hexavalent chromium in their products. They will also pay \$997,000 in civil penalties and attorney's fees and costs.

Leather product manufacturers often use trivalent chromium (chromium III), which is not listed under Prop. 65, in the tanning process, according to the consent judgment. Under certain environmental conditions, though, chromium III in the leather can oxidize into hexavalent chromium, or chromium VI. In response, the settlement creates a "reformulation protocol" that "requires tanneries to take steps to minimize the potential introduction of [chromium VI] to leather during the tanning process for chrome-tanned leather and to use antioxidants that are baked into the hides during the tanning process," according to the consent judgment.

"If a tannery follows the reformulation protocol, the antioxidants will prevent or inhibit the oxidation process such that there will not likely be detectable [chromium VI] on the surface of the leather," according to the consent judgment.

Currently, roughly 30 of the defendant companies have signed onto the consent judgment, which was approved by Alameda County Superior Court Judge Noel Wise in February. There are about 20 defendants who previously settled their cases, and who will now adopt the reformulation protocol. There are at least another 20 defendants that have not yet settled. These defendants have the option to opt-in to the settlement until May of this year. The [plaintiffs and defense counsel have created a website](#) with information on how companies can opt-in to the agreement. The settlement calls for defendants to source their leather from a tannery that is a verified user of the antioxidation method in a phased-in schedule "starting with at least 50 percent of covered products in compliance by one year after the court approves the opt-in, at least 75 percent by June 31, 2025, and 100 percent in compliance by the final compliance date of December 31, 2025," according to the settlement website.

If companies use a verified tannery, then they do not need to place a Prop. 65 warning on their products and do not need to test their products, according to the website.

"The settlement provides an exception from the final compliance date for a limited percentage of covered products where it is not feasible to obtain skin contact leather/components from a certified tannery," according to the website. "If this exception is used, products using leather from non-certified tanneries must be labeled with a Prop 65. warning and the company must report certain information to CEH each year, including the factual basis for its feasibility determination."

Under the agreement, the settling companies will pay the following:

- \$131,285 in civil penalties, with 75 percent of that going to the Office of Environmental Health Hazard Assessment (OEHHA), which implements Prop. 65, and 25 percent to CEH;
- \$98,395 in additional settlement payments to CEH;
- \$767,500 in attorneys' fees and costs to Lexington Law Group.

Defendants that opt-in to the settlement will each also have to pay \$60,000 to \$85,000 in penalties and costs based on their sales figures and product types sold. In all, CEH has filed three Prop. 65 lawsuits over hexavalent chromium in leather shoes and gloves since 2019, all in Alameda County Superior Court—[CEH v. Bali Leathers Inc.](#), [CEH v. Tommy Bahama Group Inc.](#), and [CEH v. The Kooples Bloom Inc.](#).