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Address: 15401 Cobalt St. Sylmar, CA 91342

Website: www.roncofurniture.com

Toll Free: 1800 - 468 - 8738

Local: 818 - 362 - 1578

Fax: 818 - 362 - 1484

Email: info@roncofurniture.com



MEMBER ALERT: CALIFORNIA PROP 65 UPDATE

PLEASE NOTE: *This document has been updated. The original alert sent on August 3, 2012, contained an illustration that used incorrect language for the Prop 65 warning label.*

August 24, 2012 – In October 2011, the California Office of Environmental Health Hazard Assessment (OEHHA) added tris(1,3-dichloro-2-propyl) phosphate (TDCPP) to its Proposition 65 list of chemicals “known to the State to cause cancer.”

Once a chemical is listed, businesses have 12 months to comply with the Prop 65 warning requirements.

Because TDCPP is used in the residential furniture industry as a flame retardant – particularly to meet California’s TB 117 upholstery flammability standard – the Prop 65 listing impacts many AHFA member companies that manufacture upholstered furniture and sell it in the State of California.

Beginning October 28, 2012, businesses are required to provide a “clear and reasonable” warning if a product they sell contains TDCPP.

This warning can be provided by labeling the product and/or posting signs at the point of sale. An AHFA webinar in April explained Prop 65 compliance options. It can be found on the AHFA University website (<http://university.ahfa.us>). **Only AHFA member companies can access the webinar.**

The California Attorney General’s office enforces Prop 65, which is a “right to know” law that was passed by the state in 1986. Any district attorney or city attorney (for cities with a population exceeding 750,000) may also enforce the law, in addition to individuals “acting in the public interest.” Prop 65 lawsuits have been filed by consumer advocacy groups, law firms and private citizens, in addition to attorneys general. In 2011, settlements totaled more than \$17 million.

According to the Polyurethane Foam Association, the removal of TDCPP from your company’s foam supply may not be sufficient protection against possible Prop 65 actions. In a June 2012 bulletin to members, PFA advised: