C A L I F O R N I A
DEPARTMENT OF JUSTICE

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October 24, 2025

By Electronic Transmission

Joel D. Joseph, CEO
California Association for Recycling All Trash
P.O. Box 12184
La Jolla, CA 92039
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RE: Proposition 65 Notice No. 2025-3596

Dear Mr. Joseph:

We write to you pursuant to the Attorney General's authority under Health and Safety Code section 25249.7, subdivision (e)(1)(A), which is part of the Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as "Proposition 65." We have reviewed the above 60-day notice of violation and accompanying certificate of merit that the California Association for Recycling All Trash ("CARAT") sent to Keurig Dr. Pepper on September 1, 2025.[1] The notice alleges that the company sells products that expose persons to chemicals, including epichlorohydrin, polypropylene, Di-n-butyl phthalate, and Bisphenol A, without providing a clear and reasonable warning.

Based on our review of the notice, we have concluded that you have failed to provide sufficient information to indicate that there is a credible basis to conclude that there is merit to each element of the action on which plaintiff will have the burden of proof and that the information relied on does not prove that any affirmative defense has merit. The 60-day notice does not give CARAT authority to file suit in the public interest, or to settle claims based on the alleged violations. We ask that you withdraw the notice immediately. Our position is discussed in more detail below.

[1] We note that the notice is dated June 24, 2025 but was not uploaded to the Attorney General's website until September 1, 2025. There is no evidence that the notice was served on other public enforcers in California (Health & Saf. Code, § 25249.7), and the notice does not include the documents required to be served on the noticed party (Cal. Code Regs., tit. 27, § 25903).

Proposition 65 requires companies with 10 or more employees to provide clear and reasonable warnings to persons prior to knowingly and intentionally exposing them to chemicals known to cause cancer or reproductive toxicity. (Health & Saf. Code, § 25249.6.) Persons acting in the public interest can bring a private action to enforce Proposition 65 at least sixty days after sending a 60-day notice to the alleged violators and public enforcers, unless the Attorney General or other public enforcer is diligently prosecuting an action against the violation. (*Id*., § 25249.7, subd. (d).) Before sending a 60-day notice alleging a failure to warn, the private enforcer must consult with an expert who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical. Based on the consultation, the person sending the notice or his or her attorney must execute a certificate of merit stating his or her belief that, based on the consultation, "there is a reasonable and meritorious case for the private action." (*Id*., subd. (d)(1).) The enforcer must attach to the Attorney General's copy of the certificate of merit factual information sufficient to establish the basis of the certificate of merit. The Attorney General must maintain this information in confidence. (*Id*., subds. (d)(1), (i).) The certificate of merit must document both exposure to the chemical and that there "is merit to each element of the action on which the plaintiff will have the burden of proof." (Cal. Code Regs., tit. 11, § 3101, subd. (a).) Further, the certifier must certify that "the information relied upon does not prove that any affirmative defense has merit." (*Ibid*.) If the Attorney General believes there is no merit to the action after reviewing the certificate of merit and meeting and conferring with the private enforcer, the Attorney General must serve a letter on the noticing party and the alleged violator stating this position and make the letter available to the public. (Health & Saf. Code, § 25249.7, subd. (e)(1).)

The referenced 60-day notice alleges that the company exposes persons to chemicals, including epichlorohydrin, polypropylene, Di-n-butyl phthalate, and Bisphenol A, in certain products without providing the required warning. We are not able to disclose the contents of the supporting information for the certificate of merit. However, based on our review, we have concluded that you have failed to provide sufficient information to indicate that there is a credible basis to conclude that there is merit to each element of the action on which plaintiff will have the burden of proof and that the information relied upon does not prove that any affirmative defense has merit. Thus, the 60-day notice does not give CARAT authority to file suit in the public interest, or to settle claims based on the alleged violations, and we ask that you withdraw the notice immediately.

Sincerely,

/S/ Susan S. Fiering

SUSAN S. FIERING
Deputy Attorney General

For ROB BONTA
Attorney General

cc: By U.S. Mail and Electronic Delivery

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