



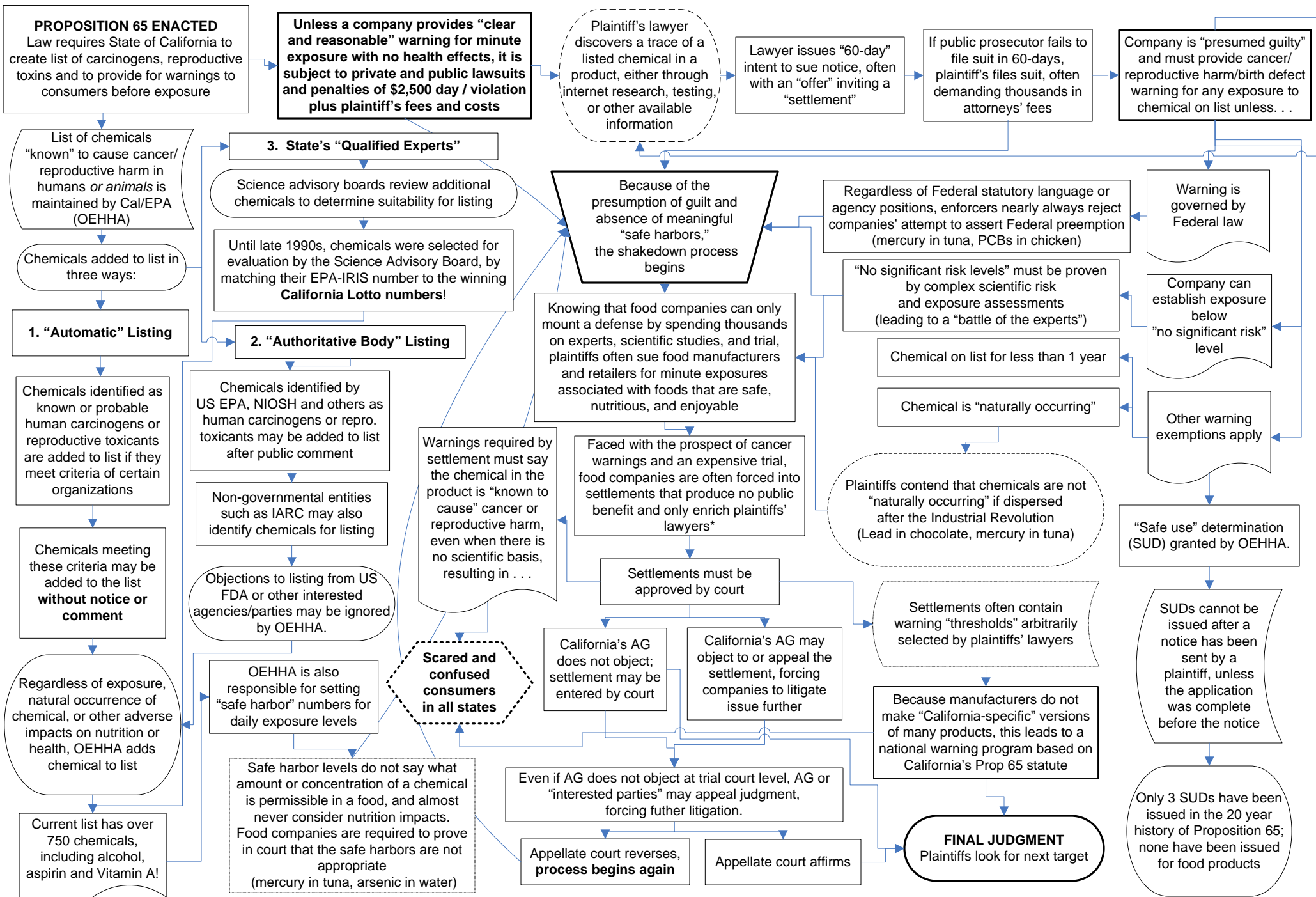


# WHAT S. 3128 WILL REALLY ELIMINATE . . .

	IMPACTS	EVIDENCE
	<p><b>Shakedown lawsuits against food companies by Proposition 65 plaintiffs' lawyers</b></p> <ul style="list-style-type: none"> <li>• "Bounty hunter" litigation only benefits private lawyers, not the public interest.</li> <li>• S. 3128 will ensure that food safety and labeling standards are not set by California trial lawyers.</li> </ul>	<p>Over 900 lawsuits brought since 2000 and over \$35 million in attorney's fees collected by private plaintiff's lawyers</p>
	<p><b>Proposition 65 warnings that needlessly scare consumers and discourage them from eating safe, healthy foods</b></p> <ul style="list-style-type: none"> <li>• Suits have been brought to impose cancer warnings on fish, whole grain hot cereal, red wine vinegar, and chocolate</li> <li>• Based on State of California data, future targets could include prunes, asparagus, coffee, and wheat bread.</li> </ul>	<p>Numerous lawsuits threatened and litigated.</p> <p>Over <b>100</b> 60-day intent to sue notices have been sent on food products</p>
	<p><b>The imposition on consumers in 49 states of California's inaccurate and confusing warnings messages</b></p> <ul style="list-style-type: none"> <li>• Most consumer products are shipped nationwide. This means consumers in states outside California receive products labeled: "WARNING: This products is known to the State of California to cause cancer and birth defects and other reproductive harm"</li> <li>• These warnings are based on Proposition 65's unique standards that require a warning at levels that differ from Federal standards and those of most other states and health regulatory agencies by an order of magnitude.</li> </ul>	<p>Consumer complaints from all states regarding Proposition 65 warnings are commonplace</p>
	<p><b>Food safety regulation by lawyers and litigation rather than health professionals</b></p> <ul style="list-style-type: none"> <li>• Because they grow out of litigation and settlements, warning standards are set by plaintiff's lawyers and are rarely based on sound risk assessments</li> <li>• California judges are not equipped to review appropriateness of these standards.</li> </ul>	<p>Once a chemical is on the Prop. 65 list, warning standards set through litigation are not reviewed by any health or food safety agency</p>

# PROPOSITION 65 AND FOOD SAFETY: A MISLEADING AND LITIGIOUS SCHEME



## \* THE REAL COSTS OF PROPOSITION 65

In the period from 2000 to 2005, private Proposition 65 bounty hunters have brought over 900 separate lawsuits and have recovered attorneys' fees in excess of \$35,000,000. Dollar for dollar, the attorneys' fee recovery for these cases outnumbers the civil penalty awards by a factor of 7, on average. These numbers demonstrate that these cases do not protect the safety of consumers; they generate revenue for plaintiff's lawyers.

## PROPOSITION 65 BENEFITS PRIVATE ATTORNEYS, NOT THE PUBLIC

<b>Year</b>	<b>Prop. 65 settlement dollars paid in private cases (incl. attorneys' fees)</b>	<b>Attorneys' fees</b>	<b>Percent of settlement going to attorneys' fees*</b>	<b>Civil penalties</b>
2000	\$9,030,974	\$5,675,457	63%	\$590,712
2001	\$7,584,034	\$4,704,800	62%	\$559,875
2002	\$6,443,808	\$3,676,455	57%	\$325,015
2003	\$8,090,248	\$5,290,940	65%	\$566,300
2004	\$15,385,638	\$12,656,669	82%	\$1,857,508
2005	\$9,892,989	\$6,145,768	62%	\$1,414,800
<b>Six Year Total</b>	<b>\$56,427,691</b>	<b>\$38,150,089</b>		<b>\$5,314,210</b>
<b>Six Year Average</b>	<b>\$9,404,615</b>	<b>\$6,358,348</b>	<b>65%</b>	<b>\$885,702</b>

\* In addition to attorneys' fees, "Prop. 65 settlement dollars paid" includes additional payments that go directly to the plaintiffs or are steered to organizations that work in conjunction with plaintiffs.

SOURCE: Office of The California Attorney General, data available at <http://ag.ca.gov/prop65/index.htm>