

CA SB 646 Compliance Certificate Requirement

25214.3.1. (a) A manufacturer or supplier of jewelry that is sold, offered for sale, or offered for promotional purposes shall prepare and, at the request of the department, submit to the department no more than 28 days after the date of the request, technical documentation or other information showing that the jewelry is in compliance with the requirements of this article.

(b) A manufacturer or supplier of jewelry that is sold, offered for sale, or offered for promotional purposes shall prepare a certification. This certification shall attest that the jewelry does not contain a level of lead or cadmium that prohibits the jewelry from being sold or offered for sale pursuant to this article.

(c) A manufacturer or supplier of jewelry sold or offered for promotional purposes in this state shall do either of the following:

(1) Provide the certification required by subdivision (b) to a person who sells or offers for sale that manufacturer's or supplier's jewelry.

(2) Display the certification required by subdivision (b) prominently on the shipping container or on the packaging of jewelry.

The above is Section 25214.3.1 of CA Public Law as of 1/1/2012 as per CA SB 646, passed in September 2011. While these rules do not change the requirement that jewelry makers/importers “must prepare” and be ready to submit to DTSC upon request “technical documentation or other information” showing that jewelry is in compliance with CA law for children’s or adult jewelry; what it does do is alter the provision regarding certifications. Prior to the passage of SB 646, these certificates were only required to be provided to sellers *upon request*; starting this year, the compliance certificates *must be included*.

FJATA has been in contact with DTSC seeking information and explanation to help members in developing a policy to comply with the new rules. DTSC stated that they currently deferring to retailers as far as the exact format CA SB 646 compliance certificates should take. The suggested form posted on their web site ([see it here](#)) is one approach they consider a “best practice” but is not a requirement. According to DTSC, companies are only just beginning to comply (as of mid-January) and they stressed that the most important component of compliance is, as always, meeting relevant limits for lead and cadmium. The DTSC suggested compliance certificate provided on the website states the following:

We [identify manufacturer or supplier] certify that the jewelry [provide complete description of jewelry referred to] does not contain a level of lead or cadmium that would prohibit the jewelry from being sold or offered for sale pursuant to Article 10.1.1, Chapter 6.5, Division 20, of the California Health and Safety Code [sections 25214.1 - 25214.4.2].

The certifier’s signature, along with that person’s title and the date, appear on the sample certificate. There is no third party testing requirement, and relevant third party testing for lead

under CPSIA does establish compliance for lead. The law applies to suppliers/manufacturers, who must furnish certificates, and not to retailers, who must however be able to make any certificate available to DTSC upon request *at the time of the visit*. Component manufacturers are not affected, since the law applies only to finished jewelry sold at retail locations.

Some FJATA members have mentioned that the most expeditious method for including the certificate would be in some form on the PO or invoice. This document would contain all the SKU's/item numbers and item descriptions from a shipment and could contain a statement as to compliance with CA law with relevant signatures. DTSC admits that such a document could fulfill the requirement; however, there was concern that the invoice may not be retained and that its sufficiency in a CA court may be debated. On the other hand, an addendum to the invoice that is meant to be stored at the retail location (per instructions) that contained certificate language, signatures, and item description/SKU could hardly be contested.

During the discussion with DTSC, FJATA raised the issue of what a challenge it will be for retailers to store compliance certificates for every item from each manufacturer and how retailers may not save the certificate, leaving the manufacturer/importer open to liability. One way to solve this challenge is to store certificates electronically. DTSC was supportive of this technique. SB 646 requires that certificates be provided either 1) to the retailer or 2) on the shipping container or package. The wording demonstrates that companies can meet the requirement by providing retailers with online access to compliance certificates, either by emailing the link to a designated representative or by including the link on the invoice, or both. The main concern with a digital retrieval of the certificate is the potential lack of information security. FJATA is exploring the possibility of managing a site solely for the purpose of managing this information as a member benefit.