



The Fashion Jewelry & Accessories Trade Association  
25 Sea Grass Way, Wickford, RI 02852  
Phone (401) 667-0520 Fax (401) 267-9096

[www.fjata.org](http://www.fjata.org)



## Newsletter – May 2018

**Attorney General Becerra Secures \$1.6 Million Judgment Against Seller of Lead and Cadmium Tainted Jewelry.** The following is a press release from the California State Attorney General's office on an important enforcement action involving excess lead and cadmium in jewelry. The California Attorney General's enforcement initiative is a reminder that each and every company that chooses to produce and sell fashion jewelry – whether or not they are FJATA members – must adhere to limits on lead and cadmium consistent with applicable laws and standards.

LOS ANGELES – California Attorney General Xavier Becerra announced that the Attorney General's Office and the Department of Toxic Substances Control (DTSC) secured a default judgment against Luxy Accessory, Inc. (Luxy), a jewelry distributor based in Los Angeles, and its owner Hyun Sook Kim for selling jewelry with excessive levels of lead and cadmium. Much of the jewelry was intended for children, and some was mislabeled as "lead free." These acts constitute a violation of California's Metal Containing Jewelry Law and the Unfair Competition Law. They also constitute unlawful advertising. The judgment consists of \$1,626,000 in civil penalties and an order to comply with all statutes and regulations applicable to the manufacture, distribution, or sale of jewelry in California.

Attorney General Becerra said, "Today's judgment should send a strong message to all: the California Department of Justice will aggressively prosecute those who violate our laws and jeopardize the well-being of our sons and daughters."

In 2012, the AG and DTSC jointly sued Luxy and other jewelry distributors for selling jewelry that contained prohibited levels of lead. Luxy's owner, Hyun Sook Kim, failed to respond to the lawsuit and ignored repeated attempts that were made to contact her. As a result, in 2014, the Attorney General's Office obtained a default judgment against Luxy for \$145,000 in penalties and injunctive relief.

Last November, inspectors from DTSC returned to Luxy's warehouse to inspect jewelry for lead and cadmium. Using XRF devices, the inspectors identified 150 boxes of jewelry suspected to contain excessive amounts of lead and cadmium. DTSC seized the jewelry and conducted laboratory testing to confirm the violations. The Attorney General's Office obtained a preliminary injunction against Luxy in January to prevent it from selling any more noncompliant jewelry, and the Court has issued the default judgment after the owner failed to appear in court.

Read the judgment [here](#). Photos of the Luxy jewelry items may be viewed [here](#).

## Legislative Update



**NY S2440A**, sponsored by Senator Parker (D), would regulate cadmium in children's jewelry to conform to the ASTM F2923-14. This FJATA-supported bill is founded on risk assessment and scientific principles adopted in the Standard Specification for Consumer Product Safety for Children's Jewelry. It was referred to the Health Committee on January 2018, where it now sits.

**NY A7723A** would require a warning label on children's jewelry that contains between 40 ppm and 600 ppm total content lead in any component part, regardless of any other regulations that might apply. Although the bill previously passed the Assembly, it died in the Senate in January. However, the Assembly passed it again on March 26, 2018, sending it back to the Senate.

**NY S2433A** has now been referred to the Environmental Conservation Committee. The bill does nothing to advance safety and conflicts with the ASTM F2923-14. FJATA opposes this bill and filed a Memo in Opposition.

**NY A8266**, sponsored by Assemblyman Englebright (D), is similar to the chemical reporting rules in Washington State, Oregon, Maine, and Vermont. This bill would require manufacturers to identify children's products (including jewelry) that contain any intentionally added chemical on the state's list of priority chemicals, state its purpose, and include a \$600 fee per chemical. The Senate version, NY S1454A, remains stalled in the Environmental Conservation Committee. FJATA opposes this bill.

**Massachusetts H. 187**, a bill that would require conformity with ASTM F2923-14, remains stuck in the House Steering, Policy and Scheduling Committee. Bill sponsor Rep. Elizabeth Poirier (R-North Attleboro) and Rep. Speliotis, the chair of Third Reading, expressed their support for this bill. FJATA members doing business in Massachusetts can help advance this legislation by emailing [theodore.speliotis@mahouse.gov](mailto:theodore.speliotis@mahouse.gov) to express support for H187. FJATA's statement of support is [here](#).

The current Massachusetts legislative session will wind down by July 31, when the legislature goes into a recess for the month of August. The current 2-year session closes at the end of 2018, but, as elections are in November, legislators will be focused on re-election. Rep. Poirier, with the support of FJATA will continue to work to get the bill advanced.

NJ 559 would prohibit the sale, distribution, import, or manufacture any children's product intended for use by a child under the age of 6 that is made with lead, mercury, or cadmium, and would have to be recalled. This bill would set a 0 ppm threshold for these chemicals in jewelry products, which is impossible to achieve. Thankfully, this bill is stuck in the Consumer Affairs Committee. FJATA opposes this bill and does not expect it to move.



## Regulatory News



**San Francisco bans fur products.** The city of San Francisco, California issued an [ordinance](#) to prohibit the sale of fur products. The city's press release stated "The goal of enacting the fur ban is to send a strong message to the fur industry that the cruelty these animals endure for the purpose of becoming clothing and accessories is not consistent with the values of our city." The city also

stated that fur farming can damage the environment and uses chromium and formaldehyde.

The City of San Francisco defines "Fur Product" as "any article of clothing or covering for any part of the body, or any fashion accessory, including but not limited to handbags, shoes, slippers, hats, earmuffs, scarves, shawls, gloves, jewelry, and keychains that is made in whole or in part of fur. "Fur Product" – *oddly enough – does not include dog or cat fur products!*

The ordinance will go into effect on January 1, 2019.

**Coalition for Accurate Product Labels.** FJATA, along with 63 trade associations, participated in a conference call to discuss potential legislative solutions to the burdensome Proposition 65. The goal is to pass federal legislation that would relieve some Prop 65 pressure by requiring state or local label warning mandates to meet a minimum science quality floor. Since most Prop 65 listings and warnings mandates for consumer products would fail this obligation, such legislation would offer a tool to get a federal court to invalidate the requirement. Given the current and potential future political climate, the prospects for this kind of legislation are uncertain, but its potential benefits are too great to ignore. The next call is scheduled for June 6<sup>th</sup>.

Visit the Coalition [here](#) and follow the Twitter account [@accuratelabels](#).

## Canada

On May 2, 2018, Health Canada published changes to the Children's Jewelry Regulations in the Canada Gazette. The amended requirements are intended to improve the safety of children's jewelry as well as align to the 90 mg/kg proposed limit under the Canada Consumer Product Safety Act (CCPSA) for other products.

The following changes have been made to the Children's Jewelry Regulations under CCPSA:

- Adds a 130 mg/kg total cadmium limit for children's jewelry items small enough to be swallowed by a child.
- Replaces the current 600 mg/kg total lead limit and 90 mg/kg migratable lead limit with a single 90 mg/kg total lead limit for all children's jewelry items.

Children's jewelry is defined as jewelry that is manufactured, sized, decorated, packaged, or advertised in a manner that appeals primarily to children under 15 years of age but does not include merit badges, medals for achievement, or other objects normally worn occasionally. The amended regulation will go into effect November 2, 2018. The full text of the legislation can be found on [Canada Gazette](#).





**Dana Baiocco confirmed as new CPSC commissioner.** Our outside counsel, Keller and Heckman, reports:

After a lengthy process that involved two committee hearings and a re-nomination, lawyer Dana Baiocco was [confirmed](#) by the Senate as commissioner at the CPSC for a seven-year term. Baiocco, a Republican, replaces Democrat Marietta Robinson, an Obama appointee whose term expired in October 2017. (Under the agency's statute, a commissioner whose term has expired may continue to serve for up to a year or until a replacement has been confirmed for the seat.)

Baiocco, who was nominated by President Trump in September 2017, failed to receive Senate confirmation by the end of the Senate session that ended last year. Under Senate rules that Democrats refused to waive (breaking with typical protocol), her nomination was returned to the president along with that of CPSC Acting Chair Ann Marie Buerkle. In January 2018, President Trump re-nominated both Baiocco and Buerkle.

Several Democratic senators and some consumer groups expressed concern over Baiocco's potential conflicts of interest, since, as a former partner with a law firm, she represented manufacturers. In September 2017, Baiocco sent a letter to the CPSC's special counsel stating that she would recuse herself from any matters involving former clients, but still faced a bumpy road in committee hearings. The Senate approved her nomination to serve on the Commission by a 50-to-45 vote, mostly along party lines (the only Democrat to vote in favor of her nomination was Sen. Joe Manchin (WV)).

Baiocco's confirmation will result in an even split of two Republican and two Democratic Commissioners with one seat open for another nominee. Senate action is still needed to confirm the nomination of Buerkle to serve as permanent chair and to serve another full term on the Commission. (Buerkle's current term formally ends this coming October, although she is also likely to have a hold-over year.)

*For more information, contact Sheila A. Millar at [millar@khlaw.com](mailto:millar@khlaw.com) or +1 202.434.4143 or Nathan A. Cardon at [cardon@khlaw.com](mailto:cardon@khlaw.com) or +1 202.434.4254*

**In an email to FJATA, Acting CPSC Commissioner Buerkle reported:**

On May 3rd and May 4th, CPSC hosted Health Canada and Mexico's PROFECO for the North America Consumer Product Safety Summit, the fourth of its kind. Day One of the summit featured government-only meetings; each country's staff met to discuss further practical mechanisms for our collaboration over the next few years. The second day of the summit was open to the public and featured stakeholder panels discussing important product safety issues, including North American cooperation, e-commerce, high-energy batteries, and stakeholder perspectives on trends, products, and hazards. Since consumer products flow easily across our shared borders, our consumers and other stakeholders benefit from this cooperation to the extent that hazardous products do not find their way into our markets. All three of our countries reap the benefits of our cooperation and I was honored to host both Health Canada and PROFECO in Bethesda.



FJATA certainly supports the ongoing effort to harmonize standards between Health Canada and PROFECO with the U.S. standards. Harmonization will reduce consumer confusion and cut compliance costs while ensuring safe products are on the counters. We continue to believe that national harmonization around the ASTM jewelry safety standards in the U.S. would provide great benefits to both consumers and to our industry,

**CPSC Holds Hearing on Connected Product Hazards.** The Consumer Product Safety Commission (CPSC) held a public forum on connected product safety on May 16, 2018. Our outside counsel, Keller & Heckman, reported that many of the panels focused on connected toys, although toy safety is extensively regulated by the mandatory toy safety standard, ASTM F963. Many of the advocates who presented are attempting to argue that privacy and security issues are product safety issues, although information privacy and security are regulated under other laws, like the Children’s Online Privacy Protection Act (COPPA) for children’s online services, including connected children’s products, or the Health Information Portability and Accountability Act (HIPAA) for health privacy.

## Federal Update



**White House Proceeds with Tariffs Against China.** President Trump confirmed plans to impose 25% tariffs on \$50 billion worth of Chinese imports and place new limits on Chinese investments in U.S. high-tech industries. The tariffs are intended to curb Chinese acquisition of U.S. technology and will cover goods related to Beijing’s “Made in China 2025” program including electric power equipment, robotics, new-energy vehicles, and biotech products, among others. The administration also vowed to continue “to pursue litigation at the World Trade Organization for violations of the Agreement on Trade-Related Aspects of Intellectual Property Rights based on China’s discriminatory practices for licensing intellectual property” filed on March 23, 2018.

The full list of covered imports is expected to be finalized by June 15 and will take effect shortly afterwards. The restrictions on investment will be announced by June 30 and will come into force at a future date.

Many in industry condemned the tariffs, fearing it will ignite a trade war that will hurt U.S. businesses. In April, China vowed to retaliate by placing its own tariffs on soybeans, chemical products and other items in addition to \$3 billion worth of existing tariffs on pork, fruit, nuts, recycled aluminum, and other goods that went into effect last month.

**New GSP Action Committee Formed.** The Trade Partnership is launching the GSP Action Committee, a new group for responding quickly to broad, non-legislative GSP issues that arise. The initiative stems from importer concerns about Administrative reviews that could kick India and Indonesia out of GSP but which fall outside the Coalition for GSP’s longstanding legislative mission (e.g., renewal).



The GSP Action Committee will weigh in with the Administration and others as appropriate, including making submissions to discuss the potential harm to U.S. companies of suspending GSP benefits at certain USTR hearings and in meetings with congressional offices. We believe that all companies – particularly those with a strong desire that imports from India and Indonesia remain eligible for future GSP benefits – will consider joining this initiative.

Information on the Committee’s activities will be published on Renew GSP Today to the list of paid members. Interested companies must join either the GSP Coalition or the Action Committee to receive updates. The cost to receive review updates is the same as general GSP Coalition dues (see [here](#) for more info). New Action Committee members may opt to receive general Coalition updates at no additional cost (and vice versa). The GSP Action Committee will focus on high-level arguments about GSP’s benefits for American companies but will not dive into the nitty-gritty details about countries’ compliance with GSP eligibility criteria or product-specific reviews. If you wish to make a more specific case for a country at risk of losing GSP, we recommend you get involved in the process individually and/or with counsel.

As we previously reported, President Trump signed the omnibus spending bill on March 23, including the GSP renewal language (Pub. L. 115–141, Title V), effective through December 31, 2020. The bill refunds tariffs paid from January 1 through the reinstatement date. It goes without saying that a 3-year renewal is of limited value if the benefits don’t apply to your imports. FJATA will continue to monitor this situation.

## Association News



**FJATA Compliance Management Program.** Most forward-thinking companies strive to conduct themselves as a responsible business and good corporate citizen, which starts with being compliant with all rules and regulations. Compliance is expensive and is exacerbated when competing with Amazon-style factory-direct shipping. FJATA is committed to offering members saving solutions and innovative ideas.

To date:

265 Audits have been conducted

139 Have been remediated

118 Are under remediation

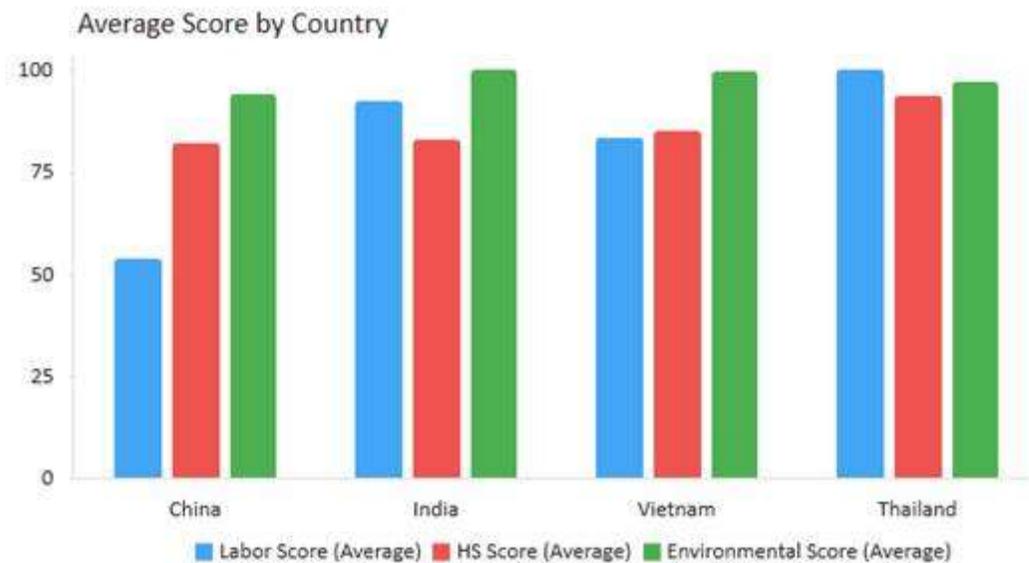
8 Are to be scheduled

17 Have been shared

This [link](#) provides the current pricing schedule for services offered by Sumerra.

**Note:** For those interested in purchasing a previously conducted audit via the Sumerra Audit Sharing Service, please contact Jeff Berry ([jberry@sumerra.com](mailto:jberry@sumerra.com)) or visit Sumerra’s [website](#) for more information. A comprehensive listing of [available audit reports](#) by facility name can be found on the Sumerra FJATA [website](#).





**FJATA on Social Media**

FJATA is on [LinkedIn](#), [Twitter](#), [Facebook](#), and [Google+](#). Please take a moment to click on the links and “like” or “follow” as appropriate.

***Our Mission** – We continue our leadership role in legislative issues and advancing internationally recognized, sensible standards for the jewelry and accessories industries on behalf of our members.*

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