



The Fashion Jewelry & Accessories Trade Association
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Newsletter – June 2018

Save the Date! FJATA 2018 Annual Meeting in New York City.

The FJATA Board of Directors invites you to attend the 2018 Annual Meeting being held in New York City this August 6th from 4:30 to 7:30 pm. Meet your board, get Prop 65 updates, have your questions answered, and network. Space is limited, to register, email bcleaveland@fjata.org. Location: FASA, 137 West 25th Street, 3rd Floor, NYC
This meeting is open to both members and non-members, in fact, you are encouraged to bring a friend! This meeting will shape our future and it's free! See you there.

Phew, the coffee is OK!

We've known for a long time that Prop 65 was bad. After the Burlington Coat Factory Settlement nearly 15 years ago, when over 120 businesses were held accountable for alleged violations of the Proposition 65 Safe Harbor Limit for lead in jewelry, we saw just how bad it was. That case cost businesses over \$2,700,000 in settlement payments and it hit the industry at a time when many were struggling to stay in the black. We were a relatively small group of jewelry businesses fighting a state government and well-financed bounty hunter lawyers, hoping to find fairness, but were trampled by overreaching regulation. FJATA was born to represent and give voice to those adversely affected. We are the voice of the industry.

As we have stated before, we were hopeful that our goal of sound, science-based standards for chemicals in products would be realized when California initiated a review of Prop 65 a few years ago. But instead of reining in senseless lawsuits, the newest law requires warnings that products contain chemicals that WILL expose consumers to a chemical when that is quite unlikely in practice. FJATA seeks federal legislation passed that would require label warning mandates to meet a minimum science quality floor. We are now closer to achieving that goal.



We previously reported that the state of California mandated that all coffee packaging sold in California must state that coffee contains acrylamide, a chemical that causes cancer as part of Prop 65. A case was brought in 2010 by the Council for Education and Research on Toxics that sought to also require coffee vendors to warn customers about the presence of cancer causing acrylamide in coffee products. In March, the Los Angeles Superior Court sided with the Council and held that coffee shops with 10 employees or more would have to post acrylamide warnings.

The coffee industry fought back. Bipartisan bills were introduced in Congress to require science-based justification for all labels on products. (These are the same bills the Coalition for Accurate Product Labels (CAPL) introduced.) One of the bills' sponsors, Rep. Kurt Schrader (D-Oregon), used the California coffee lawsuit as an example of misleading warnings. FJATA and 70 other trade associations have joined forces to create, support, and promote these bills.

As a result of outside pressure, OEHHA stepped in and has now nullified the court ruling and proposed new regulations that would abolish the requirement for coffee packaging to bear warning labels. OEHHA cited 1000 studies published by the World Health Organization that failed to establish that coffee causes cancer. The review of new proposed regulation is in progress and closes at the end of August, and a public hearing will take place on August 16 in Sacramento.

Next month, after additional internal meetings, we will have a clearer legislative strategy to promote the labeling bills. Right now, our main goal is to obtain more Democratic cosponsors. We'll be reaching out to FJATA members once additional Capital Hill meetings are set up. We are also working with our bill sponsors to schedule House/Senate hearings. We don't have exact dates yet, but should know within the next few weeks.

Visit Accurate Labels here. The coalition's Twitter account is @accuratelabels.

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 and sent 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, Chair of the House Committee on Bills in the 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 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, many 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 require a recall of such products. 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

Coalition for Accurate Product Labels-(CAPL). FJATA, along with 70 trade associations, participated in a conference call on June 6 concerning potential legislative solutions to the burdensome Proposition 65. The goal is 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 or all Prop 65 listings and warnings mandates for consumer products would fail to meet this obligation, it would offer a tool to get a federal court to invalidate the requirement. Though the prospects of any such legislation are far from certain, particularly given the current political climate, the benefits of such a law are too great to ignore.

International Jewelry Show in Paris

Come to **Bijorhca Paris** and discover fine and fashion jewelry from all over the world! Last year Bijorhca welcomed 12,000 visitors and showcased 300+ exhibitors from 31 countries. Join us September 7 – 10, 2018 at Paris Porte de Versailles to discover new brands and experience our unique trend spaces presenting the colors, textures, and concepts that will shape next season’s jewelry and accessories. FJATA members, click below for your free VIP badge!



European Union

RoHS renews 7 lead exemptions. On May 18, 2018, the European Commission renewed 7 RoHS exemptions in Annex III. These applications were evaluated and no reliable alternatives are available. As compared with the proposal,¹ there is no technical change in the published RoHS exemptions. The amendment covers diversified applications of materials and components containing lead.

The renewed exemptions are listed in Table A below. Details such as scope and expiry dates can be referred to our previous E-ssentials.²

Table A. List of 7 RoHS exemptions in Annex III

Exemption No.	Exemption application	Directive
6(a), 6(a)-I	Lead as an alloying element in steel	Directive 2018/739/EU ³
6(b), 6(b)-I, 6(b)-II	Lead as an alloying element in aluminium	Directive 2018/740/EU ⁴
6(c)	Lead as an alloying element in copper	Directive 2018/741/EU ⁵
7(a)	Lead in high melting temperature solders	Directive 2018/742/EU ⁶
7(c)-I	Lead in glass or ceramic	Directive 2018/736/EU ⁷
24	Lead in solders for the soldering to machined through hole discoidal and planar array ceramic multilayer capacitors	Directive 2018/737/EU ⁸
34	Lead in cermet-based trimmer potentiometer elements	Directive 2018/738/EU ⁹





Senate Staffer Peter Feldman Nominated for Final CPSC Commissioner. By FJATA's counsel, Keller & Heckman:

Senior counsel to the U.S. Senate Commerce Committee Peter Feldman was nominated by President Trump as commissioner to the Consumer Product Safety Commission (CPSC). If confirmed, Feldman will fill the post left vacant by Joe Mohorovic, who resigned last October. Although Feldman would initially serve out Mohorovic's term, which expires in October 2019, President Trump has already re-nominated him for a full 7-year term.

Feldman worked most recently as senior counsel on the U.S. Senate Commerce Committee having oversight of consumer protection issues at the FTC, CPSC and the National Highway Traffic Safety Administration (NHTSA). Previously, he served former U.S. Senator Mike Dewine (R-OH) and was a campaign aide to Senator McCain in his run for president in 2008.

The Senate Committee on Commerce, Science, and Transportation convened a full committee hearing Wednesday, June 20, to consider Feldman's nomination. Senate Commerce will be marking up the Feldman nomination on Wednesday, June 27.

Feldman's confirmation would put the CPSC under a Republican majority 3-2, following the long-awaited confirmation of Dana Baiocco two weeks ago. The Senate still has not scheduled a vote for Acting Chair Ann Marie Buerkle, who President Trump re-nominated for permanent chair and a second term as commissioner in January 2018.

Sarah Pierce at the Association of Home Appliance Manufacturers is leading the CPSC Coalition's effort to drum up support for confirming Buerkle and Feldman. Also, Congressman Robert Latta (R-OH) agreed this month to lead a 'Dear Colleague' letter effort in the House to garner House GOP members' support for confirming Buerkle and Feldman and to compel Senate Majority Leader Mitch McConnell to bring both nominees to the Senate floor for final confirmation. FJATA fully supports the confirmation of both nominees.

Consumer Groups Meet with New CPSC Commissioner. Advocacy groups, including Consumer Federation of America, Kids in Danger, and others have begun meeting with Dana Baiocco, CPSC's newest commissioner, to make her aware of their concerns. FJATA is also planning to meet with the new commissioners, once they are all confirmed, to discuss harmonization issues, cost of compliance, and additional items of concern.

Sixth United States-China-European Union Product Safety Summit. The CPSC, the Department of Customs of the People's Republic of China, and the European Commission, and other stakeholders took part in this event, which is designed to enhance trilateral cooperation among the three product safety regulators. Topics discussed ranged from coordinated approaches to emerging hazards to addressing the safety challenges presented by direct-to-consumer cross-border e-commerce. The Summit took place in Bethesda, MD.



FTC Staff Submits Comments to CPSC on Potential IoT Safety Hazards.

Keller & Heckman reports that the CPSC held a public hearing in May on the potential safety risks and hazards related to connected consumer products. The CPSC noted in its request for comments that its remit does not extend to the risks associated with personal data security and privacy. On June 15, staff of the FTC and the Bureau of Consumer Protection (BCP) submitted a comment that reiterated the FTC's expertise and jurisdiction over IoT information privacy and security issues. The FTC comments also noted that IoT products could pose both physical hazards, such as burns and chemical exposure, as well as technological hazards "associated with the loss of critical safety function, loss of connectivity, or degradation of data integrity," saying that the CPSC could play a helpful role in mitigating these risks.

The BCP staff comment focused on three aspects for the CPSC to consider in evaluating its role: What are some best practices for predicting and mitigating against safety hazards? How can the CPSC encourage consumers to register for safety alerts and recall information? What is the appropriate role of government in IoT security?

BCP staff suggested that the CPSC consider the following in assessing a possible regulatory approach to IoT:

Consider how consumers could sign up for safety and recall notification for IoT devices;

CPSC's approach to regulating IoT devices should be technology-neutral to avoid becoming obsolete as technology changes;

The CPSC should consider requiring manufacturers to state the standard to which they adhere and provide consumers information to assess the safety and security of their devices.

Staff also summarized FTC **guidance** on how to mitigate against information privacy and security risks. In evaluating risk, the FTC notes that "there is no "one size fits all" approach to securing IoT devices. Reasonable security will depend on a variety of factors including the magnitude of potential risks, the likelihood of such risks, and the availability of low-cost tools to address the risks." These comments recognize that mandatory standards and certifications risk freezing technology and undermining a sound risk-based approach.

It is important for all agencies to keep abreast of technology and safety issues related to IoT products. Since the FTC and other agencies have years of expertise and jurisdiction over privacy and data security, it will be important for agencies to collaborate. The FTC is the lead agency on information security. It makes sense for the CPSC to focus on product security flaws that implicate physical safety in the operation of the product rather than information privacy and security questions. For more information, contact Sheila A. Millar at millar@khlaw.com.



FJATA Signs Letter to Congress on Counterfeiting.



FJATA, as part of the Coalition to Combat Counterfeiting, CCC, signed onto a letter to the Honorable Kevin Brady, Chairman Committee on Ways and Means, and the Honorable Richard Neal, Ranking Member Committee on Ways and Means, in response to the Trump administration's recent imposition of tariffs against key trade allies and on imports that are critical to U.S. industries.

FJATA fully supports the administration's efforts to protect American consumers, jobs, and the economy from trade partners that continue to participate in unfair trade practices. We are hopeful that the government's efforts will crack down on the theft of American intellectual property and the trade of counterfeit goods that totals 2.5% of international trade (\$461 billion).

Twenty percent of all global seizures infringe upon U.S. intellectual property. However, the administration's Section 232 and Section 301 tariffs place significant barriers on the fight against harmful fakes. Abroad, industries targeted by retaliatory tariffs will lose out on market access to international competitors.

China needs to respect U.S. intellectual property rights, and FJATA urges the administration to continue its efforts to hold them accountable.

Read a recent article detailing FJATA's concerns over tariffs.



FJATA Compliance Management Program. Most forward-thinking companies strive to conduct themselves as responsible businesses and good corporate citizens, 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 cost saving solutions and innovative

ideas.

To date: 267 Audits have been conducted
 139 Have been remediated
 121 Are under remediation
 7 Are to be scheduled
 17 Have been shared

Note: For those interested in purchasing a previously conducted audit via the Sumerra Audit Sharing Service, please contact Jeff Berry (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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