



## FJATA NEWSLETTER July 2022 Edition



Truckers have flooded the streets to protest the Supreme Court’s decision to refuse independent truck drivers’ exemption from AB5 enforcement.

### **SUPREME COURT DENIES CTA’s APPEAL TO AB5**

The Supreme Court has denied certiorari on the California Trucking Association’s case of appeal against California’s AB5 legislation. Despite the Trucking Association’s efforts to protect their independent contractors, the law will soon be enacted in the California trucking industry. The law will require that truck drivers be employees of the companies they drive for, despite personal ownership of their vehicles. This law will have costly consequences for California drayage companies as it effectively puts an end to independent truck drivers and forces them all into a truckers’ union.

While this bill was initially designed to protect gig-workers at companies such as Uber, Lyft, and DoorDash, its unexpected impact on the drayage industry has left drivers and business owners frantic to find a solution. In Oakland, for example, though there are around nine thousand trucks serving their ports daily, 90 percent of the vehicles are owned by independent contractors. For most companies in the region who face a shortage of vehicles or employee truck drivers, these independent contractors are the only available source of transportation for the company’s overflow of business. Furthermore, there is a sense of pride and independence for these owner-operators who have made significant investments toward obtaining their own trucks in order to avoid being anyone’s employee, which has just been stripped away from them. Unless these independent drivers each establish their own drayage companies, Calif. AB5 has essentially rendered their vehicles useless by making it illegal for them to seek independent work using their own resources.

The enactment of AB5 is expected to push many truck drivers out of California towards regions of the country that will allow them to continue their independent work, which will only continue to disrupt the state’s supply chain operations and ultimately harm an already struggling US economy.

## **“CARGO WON’T FLOW UNTIL AB5 GOES”**

With tensions heightened after the Supreme Courts’ recent refusal to exempt independent truck drivers from AB5 enforcement, massive protests have unraveled in major ports across California. Crowds of truckers and their supporters have flooded the street shouting “Cargo won’t flow until AB5 goes”. Staying true to their word, protestors managed to shut down operations at the Las Angeles port earlier this month and currently have the port of Oakland in a standstill. The more than 70,000 owner-operators who make up the bulk of California truck drivers are urging the Governor to pause AB5 enforcement until a more reasonable compromise can be reached. The truckers are imploring Governor Newsom to protect their freedoms as independent contractors to conduct the business of their personal vehicles as they see fit, without needing to be classified as a motor carrier employee. After several days, state legislators released an open letter responding to the truckers’ protests. The letter did very little to acknowledge the truckers’ grievances and ultimately reinforced the state’s intentions to uphold the bill.

## **FJATA SIGNS CTA COALITION LETTER OPPOSING AB5**

In our continued support of industry activism, FJATA has signed onto a letter addressed to President Biden from the California Trucking Association (CTA) regarding the Supreme Court’s refusal to review its case of appeal against California’s AB5. The enactment of AB5 has sent a ripple through California’s trucking industry as the existence of independent truck operators has essentially been outlawed. AB5 requires trucking companies to categorize their truck drivers as employees unless it can be proven that the driver is a sovereign entity, engages in additional work apart from that of one trucking company, and is routinely involved in an independent trade or occupation. The CTA argues that the second condition is almost impossible to meet and will force a majority of independent truck drivers into a worker’s union.

The letter to the Biden administration, signed by FJATA alongside 72 other organizations, urges Congress to do the following in order to avoid disastrous disruptions to the US supply chain at a time when our economy is already struggling:

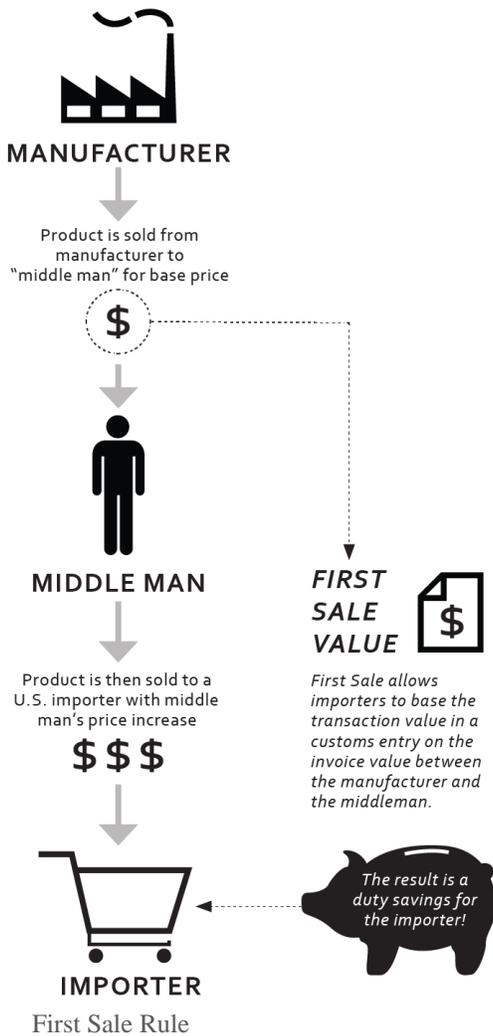
1. Institute an executive order to temporarily halt the enforcement of California’s AB5
2. Gather representatives from labor and industry and facilitate reasonable negotiations between the two so that both parties are satisfied with the results

## **VEGAN LEATHER FASHION TRENDS ON THE RISE**

New alternatives are being produced to replace the unsustainable manufacture of animal leather. Plant-based alternatives to traditional leather are now in high demand from consumers for ethical and environmental reasons. Mushroom leather is beginning to reduce the need for animal leather in the fashion industry, using a natural material that requires minimal energy and resources. Various brands, including Adidas, Lululemon and Hermes are adopting this new sustainable option in their designing processes. This mushroom substitute is created from mycelium, the underground thread-like roots of a mushroom. Under controlled conditions, mycelium grows into a thick material with the assistance of other organic components. The material is then processed and dyed to create the leather-like quality. The synthetic leather is engineered to closely resemble animal leather in appearance and feel, but without the environmental consequences. The revolution of mushroom leather, along with various other

emerging plant-based production methods, signals the fashion industry’s growing concern for the environment while paving a way for sustainable means of production for years to come.

## FIRST SALE RULE



The “First Sale Rule” is a great method for companies to save money on various tariff duties that may be assessed to imports at the US border. This rule allows importers to report to the CBP the initial market price paid by the original purchaser, rather than the most recent price they actually paid for the product. By eliminating the middleman of the transaction, importers can decrease the value of the good upon US entry in order to avoid paying higher fees at the border.

For example, let’s say a US business imports 10,000 units for \$100 each, for a total cost of \$1 million in merchandise. With a duty rate of 25 percent ad valorem, the company would owe the CBP \$250,000 in duties upon entry to the US. However, let’s pretend the factory that manufactured the product initially sold it to a vendor (middleman) for \$90 per unit before the importer was involved in the transaction. The First Sale Rule allows US importers to value their merchandise at that original price; in this case, \$90 for a total cost of \$900,000. Using the same duty rate of 25 percent ad valorem, that same shipment of 10,000 goods would only be assessed \$225,000 in fees at the border. That’s \$25,000 in savings on a single shipment. Imagine the savings that would accumulate over the course of just one year!

Above is a basic diagram outlining the

In order to qualify for the “First Sale Rule”, the following criteria must be met:

- The designated value of the product must be based upon a bona fide sale for export
- The goods must be bound for the United States
- No prior relationship or meticulous plan organized between the transactional parties

If a company meets all the prerequisites of the First Sale Rule, they must gather and report all documentation that is required along with anything that may support their case. The importer will need to prove that the initial transaction of the product, upon which the value of the good is being determined, was made in good faith for export. They will also need to provide evidence of purchase orders, invoices, and any payments or other documents required by the first sale rule. If the use of the first sale rule has been approved for a company’s shipment of merchandise, it is important that they continue to meet all the annual maintenance requirements to uphold their legal use of the rule.

## **AMERICAN PORT ACCESS PRIVILEGES ACT**

While partially attributing the massive inflation currently plaguing our nation to the poor logistical operations at ports around the country, Congress has become increasingly concerned with the vexatious inefficiencies throughout the US supply chain. Looking to build off the congressional momentum following the enactment of OSRA22, Congressman John Garamendi introduced the American Port Access Privileges Act on June 29, aiming to prioritize American exporters in the nation's efforts to restore the economy. Garamendi urged Congress to enact laws that will grant American exporters preferential access to West Coast ports in order to eliminate our nation's trade imbalance with adversaries like China. He argues that "Foreign exporters' access to the American market and our consumers is a privilege, not a right" and should the foreign ships benefit from US ports, then there must be laws in place requiring them to extend equal opportunities to American exporters in return.

The bill's primary focus: preferential berthing for US shipments.

The bill maintains that detailed regulations regarding preferential berthing must be released no longer than 90 days after the bill has been signed into law. This preferential berthing will reward vessels serving both foreign importers and American exporters by prioritizing the loading and unloading of these ships at West Coast ports. It will also incentivize ocean carriers to seek opportunities for second-leg voyages along the US coast in order to earn preference at the ports, inadvertently expediting domestic shipments and ultimately benefiting the entire American economy. Other notable aspects of the proposed bill include the following:

- Exporting vessels seeking preferential berthing are required to report their cargo to port operators no less than several days prior to arrival.
- Established safeguards to prevent preferential berthing from interfering with the US Coast Guard's orders regarding commercial ships, port safety, or negotiations with port workers.
- Formally codify the preferences already in place for the military, Jones Act, and various US-flagged vessels at major US ports.
- Authorizes the US Department of Transportation's Bureau of Transportation Statistics to collect, analyze, and report annual data of berthing and cargo practices at American ports.

## **GREEN TRADE STRATEGY**

The US Customs and Border Protection has formally launched the Green Trade Strategy in its latest efforts to prevent environmental harm at the hands of the supply chain. Global supply chain operations have been found to contribute up to 80 percent of the planet's total carbon emissions, forcing the CBP to crack down on perpetrators with additional regulations and increased enforcement in order to reduce the industry's environmental footprint. The CBP hopes to encourage customs authorities around the world to further increase and enforce their environmental-safety standards in accordance with the Green Trade Strategy for a more collaborative effort against climate change.

CBP Commissioner Chris Magnus has reported that the "Green Trade Strategy offers a forward-looking framework to help the agency prepare for climate-related challenges, while seizing opportunities to grow the green economy and foster American innovation". Not only are they proactively protecting the environment we live in, but they are also simultaneously taking

innovative initiatives in the Green Industry that will inevitably be at the forefront of future business ventures.

Using the agency's influence on global supply chain practices and enforcement of laws against environmental crimes, the CBP is proactively working to make the world's Green future a reality.

The Strategy includes four primary goals in its vision for a Green future:

1. Incentivize Green Trade
2. Strengthen Environmental Enforcement Posture
3. Accelerate Green Innovation
4. Improve Climate Resilience and Resource Efficiency

[Here](#) is the CBP's official release of the goals and guiding principles for the Green Trade Strategy.

## **SHOP SAFE ACT HAS LAPSED**

The SHOP SAFE Act, which we discussed with our members last month, has reached a roadblock in the legislative process on the congressional floor. While we were hopeful the act would be codified as an amendment to the China competition bill, bipartisan negotiations were unable to reach an agreement on its terminology and ultimately rejected the addition of SHOP SAFE to the broader bill. While the results of the congressional meeting were not favorable, we are optimistic that a settlement can soon be reached once some revisions are made to the act. We are working closely with members of congress to determine whether SHOP SAFE will be reintroduced to legislators as a standalone bill or as an amendment to a larger bill at a later point. With midterms on the horizon, it is likely that most legislative processes will be put on the back burner until after November as members prepare their campaigns for the upcoming elections. We will continue to keep our members informed of any updates regarding the SHOP SAFE legislation in the months to come.

## **MARKET DATE SURVEY**

We are reaching out to seek your input on the best timing for New York Market Weeks in 2023. Historically, dates were scheduled by the accessory trade shows, the Fashion Accessories Shippers Association, retailer input and an industry committee. Currently, there are no planned accessory specific New York trade shows, though there are other trade shows that encompass accessory categories. May is likely the most notable gap, with no dedicated trade show on the books. This year, we aim to work with our colleagues at the Accessories Council along with other industry partners to collect and understand your preferences in order to determine the 2023 scheduling dates.

Please take a few moments to submit your input on 2023 trade show scheduling dates at the link below. Note that all responses are confidential. Feel free to share the survey with colleagues in the industry. We greatly appreciate your time and input and look forward to reviewing your responses!

[SURVEY LINK](#)

## EPA RELEASES NEW HEALTH ADVISORY LEVELS IN CALIFORNIA



EPA Administrator Michael Regan announces new Health Advisory Levels for PFAS chemicals in California.

On June 15, the EPA released new Health Advisory Levels (HALs) for PFAS, which may subject two new PFAS to be listed on California’s Prop 65 List. Prop 65 requires products containing a listed chemical to provide a “clear and reasonable” warning upon sale to consumers. In 2017, perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) were the first two PFAS chemicals whose harmful effects on reproductive health earned them top spots on the Prop 65 List. Recent updates from the California Office of Environmental Health Hazard Assessment (OEHHA), require warning labels to mention PFOA as a carcinogen, in addition to its warning regarding reproductive health. While these two PFAS have almost entirely been eradicated from United States production, they continue to integrate themselves into the California market through foreign imports and must therefore continue to be regulated in the interest of consumers’ health. This past December, Perfluorononanoic Acid (PFNA) became Prop 65’s newest member due to its reproductive health impacts and will be officially subject to enforcement measures beginning January 1, 2023.

As the OEHHA continues to review a variety of high priority PFAS chemicals for the Prop 65 List, two chemicals remain in the spotlight: Perfluorohectansulfonic acid (PFHxS) and Perfluoroundecanoic acid (PFUnDA). The EPA’s most recent Health Advisory Levels for PFAS potentially subject these chemicals to Prop 65’s “authoritative bodies” standard. Some products notable containing PFAS chemicals include clothing and footwear; cookware; cans and containers; dental hygiene products; electronics; cosmetics; cleaning products; paint; carpets and furniture; among many other commonly used everyday items. Though certain products contain trace amounts of PFAS, even the lowest levels of these chemicals can be subject to Prop 65’s enforcement of warning labels as the EPA’s Fifth Unregulated Contaminant Monitoring Rule (UCMR 5) limits PFAS levels to 3 parts per trillion. The new HALs for PFAS are so low that current testing technologies are not yet accurate enough to determine legal qualification. It is imperative that businesses remain vigilant of any updates to Prop 65 listings and regulations in order to avoid any unintentional subjection to its persecution. Some precautionary measures that business should take include the following:

- Remain aware of any Prop 65 regulatory updates
- Launch periodic reviews of regulatory compliance
- If a Prop 65 chemical has been identified in one of your products, you can appeal to the OEHHA to establish safe harbor levels in order to justify and protect the sale of your product
- Establish legal procedures and contractual provisions along the supply chain to regulate and minimize liability
- Remain attentive to legal claims and any subsequent requirements in order to minimize future expenses

A Prop 65 Listing not only subjects a product to Prop 65 legal enforcement, it also exposes it to further state and local regulatory measures. Any PFAS chemicals added to the Prop 65 list will likely result in additional regulations beyond Prop 65. Now is the time for businesses to sufficiently inspect their PFAS-exposure in order to avoid these increasingly demanding consequences in the future.

## **NEW ADDITIONS TO CALIFORNIA'S PROP 65 LIST**

In accordance with industry expectations based on the EPA's newly released federal Health Advisory Levels, several PFAS chemicals have officially been added to California's Prop 65 List. As California continues to lead the way in the nation's fight against these harmful forever chemicals, it is no surprise that PFAS have fallen victim to California's Prop 65 enforcement. The state now requires any business selling products containing any amount of PFAS to provide a label that warns consumers of the potentially harmful effects of these chemicals. Under Prop 65 enforcement, any business that fails to adequately disclose this information to consumers will be charged a violation fee of \$2,500 for each offense. Being that California is the world's fifth largest economy and PFAS are prevalent in a wide range of commonly owned products, the additions to Prop 65 will impact sellers and manufacturers far beyond than the state of California. Consumers around the world will begin seeing warning labels that contain the words "cancer" and "reproductive harm" on even the most basic products such as shampoo, cookware, and clothing. In order to minimize Prop 65 liability, it is crucial that all businesses adamantly review their PFAS exposure and ensure they are labeled in accordance with Prop 65 regulations. California's Prop 65 List will inevitably continue to grow in the years to come and businesses of all origins must remain vigilant in their adherence to these evolving expectations.

## **PROP 65 SHORT-FORM WARNING LABELS**

Despite a 120-day extension from its initial deadline of January 2022, the OEHHA failed to complete the regulatory requirements in order to enact their proposed modifications to the Prop 65 short-form warnings.

On May 20, the California Office of Environmental Health Hazard Assessment reported that it has terminated the legislative process for its proposed modifications to the Prop 65 short-form warnings. Despite a 120-day extension from its initial deadline of January 2022, the OEHHA failed to promptly complete the regulatory requirements needed to enact their proposed modifications to Prop 65. As a result, OEHHA will need to restart the rulemaking process, which it intends to do in the next several weeks.

The original proposal established various restrictions on short form warnings, including, requiring businesses to identify at least one listed chemical on the label; limiting the use of short-form warning to labels smaller than 5 square inches; and banning any use of short-form warnings for online purchases. After much backlash, the OEHHA took various criticisms into account and re-released a proposal that omitted the label size restriction, removed font size requirements, and extended the effective date of the proposed modifications an extra year. Despite the various adjustments, no conclusion was reached due to the OEHHA continuously upholding the proposal that requires a minimum of one chemical being identified on the label, which remains a primary point of controversy amongst businesses and legislators. The upcoming proposal will include additional recommendations suggested by various stakeholders during negotiations. While the newest modifications have not yet been released, it is expected that the provision requiring at least one Prop 65 chemical to be listed on the label will remain in place. As we continue to follow updates from the OEHHA, it is crucial that businesses continue to remain vigilant of their compliance with Prop 65 legislation.

## **PROP 65 BPA SETTLEMENT FOR SOCKS**

In 2015, Bisphenol A, or BPA, was added to California's Prop 65 List due to its detrimental impacts on human development and female reproduction. The current exposure limit for BPA is set at 3 micrograms per day. BPA can be found in various products such as food/beverage containers, receipt tape, and many rigid plastic materials. Socks have recently fallen under Prop 65 scrutiny due to their alarming levels of BPA. In the past year, several sock manufacturers and retailers have been issued 60 Day Notices regarding their production of BPA-containing materials.

A settlement has been finalized for socks primarily made of polyester but incorporate spandex containing BPA chemicals. The settlement has resulted in the following clarifications regarding BPA containing products:

- In order to be considered a BPA-containing product, BPA chemicals must be intentionally added to the product or must contain over 1 part per million (ppm) BPA.
- BPA cannot be substituted with other similarly harmful chemicals, such as BPS
- Products with more than 1ppm BPA must be issued warning labels for consumer awareness

## **COLORADO BANS PFAS IN CHILDREN'S PRODUCTS**

In accordance with the nationwide crackdown on human exposure to PFAS chemicals, HB 22-1345 was signed into law by Colorado Governor Jared Polis on June 3. This law prohibits the intentional use of these forever chemicals in various consumer products such as: carpets and rugs; cosmetics; food packaging; oil and gas products; indoor and outdoor furniture; cookware; Class B firefighting foam; and any product catered toward children. Most of the restrictions listed under this law are expected to go into effect in 2024.

The fully detailed legislative bill can be found [here](#).

## **FJATA SIGNS COALITION LETTER PLEADING BIDEN TO ACT ON THE WEST COAST PORT LABOR NEGOTIATIONS**

In our continued efforts to collaborate with other associations on crucial trade issues, FJATA, along with 156 other cosignatory trade associations, recently signed onto a letter penned to President Biden imploring him to act in the West Coast Port Labor Negotiations. In light of the expiration of the West Coast Port Labor Contracts on July 1, trade associations across the country have become increasingly concerned regarding potential disruptions to supply chain operations. We are urging President Biden to help foster resolute negotiations between both parties in order to reach an agreement as soon as possible and ultimately mitigate the risk of chaos at ports along the coast.

As mentioned in last month's newsletter, the joint letter advises the Biden administration to do the following:

- Extend the impending expiration date of the current contracts until an agreement is reached and a final contract is put in place.
- Continue facilitating purposeful negotiations with both parties
- Refuse any government support in any activities that may cause disruptions at the ports

## **FJATA SIGNS IANA COALITION LETTER ON RAIL**

FJATA signed onto a letter that the Intermodal Association of North America (IANA) recently penned to President Biden. IANA is urging the Biden administration to take action in the labor disputes between rail workers and the Class one railroads, before chaos ensues at every major port and rail hub in the country. The letter primarily claims that “failure to reach a reasonable agreement could result in disruptions not just in the rail industry but the broader supply chain, from manufacturers to retailers to consumers”. IANA warns that the ongoing delays in the labor negotiations will inevitably result in continued supply shortages and increased costs on American consumers if no conclusion is soon reached. In efforts to avoid a worsening economy, especially at a time when inflation is continually surpassing record levels, IANA is advising the Presidential Emergency Board to establish a team of mediators from the American Arbitration Association who are responsible for facilitating productive negotiations and ultimately reach a conclusion as soon as possible. This team of arbitrators should have experience with railroad labor issues along with a comprehensive understanding of the Railway Labor Act in order to promote informed and efficient negotiations that satisfy both the employees and the Class I freight railroads. As the governing body of this nation, it is the responsibility of Congress to protect the operations of the US supply chain, and subsequently the US economy, by ensuring that the labor negotiations reach a conclusion before disruptions begin to influence the fluidity of various supply chain levels. FJATA is a proud member of IANA and fully supports the mission of this letter to Congress.

## **BIDEN SIGNS EXECUTIVE ORDER TO FACILITATE EFFICIENT RAILWAY LABOR NEGOTIATIONS**



On July 15<sup>th</sup>, President Biden signs his executive order into law.

In response to industry calls for action as tensions continue to grow between unions and industry employers across the country, President Biden recently signed an Executive Order in efforts to mitigate the risk of rail operational disruptions along the US supply chain. The EO – signed on July 15<sup>th</sup>, effective on July 18<sup>th</sup> – established a Presidential Emergency Board responsible for mediating the current disputes between rail carriers and industry unions. The emergency board will investigate the current conflicts and facilitate legitimate and effective negotiations between workers and employers in the rail industry. Within 30 days, the board will release an official report suggesting a reasonable resolution to the matters at hand.

President Biden enacted the executive order in hopes of avoiding any substantial disruptions to America’s freight rail system after the Congressional Research Service recently reported that growing tensions could result in full halt to the railway systems, which would undoubtedly cripple the nation’s supply chain. If both parties fail to reach an agreement over the next month and operations correspondingly continue to face congestion and disruption, our economy is at risk of serious turmoil.

## **EMTC ADDRESSES LETTER TO CONGRESS**

The E-Merchants Trade Council (EMTC) recently penned a letter to congress urging legislators to remove the Import Security and Fairness Act from the America COMPETES Act, which is currently awaiting its final legislative steps on the congressional floor. The EMTC was established in July of 2021 to advocate in the interest of small and medium sized e-commerce businesses against trade, tax, and transportation issues in the industry. In the letter addressed to Congress, the EMTC claims the inclusion of the Import Security and Fairness Act would “double

the total cost of the item with the addition of customs duties, section 301 duties, Merchandise Processing Fee (MPF) and customs brokerage fee to file a customs entry”. The letter also estimates that the Act would impose an additional cost of \$499 billion on e-sellers, which the EMTC states would primarily impact smaller ecommerce businesses due to their low price elasticity.

The EMTC declares that the sharp increase in operational costs brought about by the Import Security and Fairness Act would put approximately 30% of e-sellers, who are classified as micro small & medium enterprises, at risk of bankruptcy. The letter implores congressional leaders to modify the US trade policy to incorporate much more simplified international selling standards.

In order to do so, the EMTC advises congress to do the following:

- Implement Article 6.1 of the World Trade Organization’s Trade Facilitation Agreement by voiding any new requirements of customs brokers
- Establish simplified processes under the Trade Facilitation Agreement
- Increase the *de minimis* level for low value shipments under the Trade Facilitation Agreement
- Consider alternatives to “one size fits all” regulations to better accommodate MSMEs
- Cease customs duties on electronic transmissions to promote the international spread of data, goods, and information on digital services

The letter urges Congress to delay the legislative process until the CBP has concluded its 321 data pilot so that an accurate *de minimis* value can be determined using CBP data. Though the EMTC accepts congressional authority over foreign trade relations, the council claims the Import Security and Fairness Act under the America COMPETES Act may interfere with Section 301 Tariffs and must therefore be reevaluated. The full letter to Congress can be found [here](#).

## **VERMONT CHCC REPORTING DATE: JULY 31**

In accordance with the Act 36(2021) amendments to 18 V.S.A § 1773, which officially took effect on July 1, three new chemicals have been added to Vermont’s Chemicals of High Concern List: PFHxS (perfluorohexane sulfonic acid), PFHpA (perfluoroheptanoic acid), and PFNA (perfluorononanoic acid).

Bear in mind, children’s products containing chemicals on the CHCC list that were offered for sale in Vermont between February 1, 2022, and July 31, 2022, must be reported to the Vermont Department of Health by July 31, 2022. Products sold after this deadline through the end of the year must be reported by January 31, 2023. A product being sold through the second half of the year does not require report resubmission prior to January 2023 so long as it has already been reported since February 1, 2022.

Please note that the upcoming deadline falls on Sunday, July 31, 2022. Reporting should be done to the Vermont Department of Health as soon as possible to avoid any possible delays. For further guidance on the reporting process, members are encouraged to review the information from the following materials: [guidance document](#), [PQL document](#), [user manual](#), and tutorial [video](#). Be sure to also review your contact profile and ensure all information is up to date.

## **FMC RELEASES GUIDANCE FOR CHARGE COMPLAINTS**

The Federal Maritime Commission has released several guidelines clarifying the procedure for reporting a complaint regarding unwarranted charges by ocean carriers. Should a fee fail to abide by the OSRA 2022 regulations, parties may file a “charge complaint” with the FMC using the following steps:

1. Identify the common carrier that imposed the undue charge
2. Pinpoint the specific law under 46 U.S.C §§ 41102 or 41104(a) that is being violated
3. Present any documents supporting your case to the FMC (e.g., invoice, bill of lading numbers, documentation of payment or lack thereof).
4. Verify that the charge in question was assessed on or after the enactment of [P.L. 117-146](#) on June 16, 2022.
5. Submit all case material for your complaint in one email to the FMC at [chargecomplaints@fmc.gov](mailto:chargecomplaints@fmc.gov)

Following the submission of a “charge complaint” the Commission will launch an investigation to determine whether there is sufficient evidence for a refund of paid charges and/or basis for a civil penalty on the ocean carriers. While these complaints with the FMC do not require or involve legal processes, separate legal steps can be taken under 46 U.S.C § 41301(a) and Part 502 of FMC regulations should the complaint filer choose to do so.

Instructions for filing a formal complaint with the FMC can be found [here](#).

Informal complaints for claims under \$50,000 can be made [here](#).

## **CPSC CRACKING DOWN ON LEGISLATIVE ENFORCEMENT**

The U.S. Consumer Product Safety Commission (CPSC) has resolved its case against Vornado Air with a \$7.5 million settlement. Vornado, an air circulation manufacturer, was charged with violating Section 15(b) of the Consumer Product Safety Act (CPSA) after they failed to promptly report their defective space heaters to the CPSC. Vornado was accused of intentionally selling a product they knew could potentially overheat and ignite into flames. Evidence allegedly showed that the company was aware of the defects in the product and knowingly exposed their consumers to serious injury or death without warning. Though Vornado did eventually report the defects to the CPSC, their lack of urgency in the matter ultimately violated CPSA regulations and brought them under commission scrutiny. The conclusion of this drawn-out case faced heavy criticism as many argued the civil penalty assessed on Vornado was far too lenient. The public announcement of the outcome came alongside three personal statements from commission members outlining the CPSC’s intentions to promote stricter enforcement of regulatory compliance.

As the commission continues to expand its expectations, some additional CPSA requirements include the following:

- Detailed annual report of company compliance program to CPSC
- Confirmation that each company has adequately reviewed its compliance program for effectiveness
- Identifying and reporting any regulatory violations
- Verification of program adjustments, if necessary

Companies should continue to remain informed of modifications to CPSC expectations to avoid any misguided violation in the future. These newly stringent compliance processes expose companies to a range of penalty-inducing mistakes. Though Vornado had a considerably low incident rate resulting from their defective product, commissioners are unsatisfied with a hefty \$7.5 million penalty and intend to impose larger fines on future offenders. It is clear that the commission is cracking down on regulatory enforcement; companies should consider reviewing their product safety liability while remaining vigilant of CPSC updates to come.

## **USTR SEEKING SUGGESTIONS TO COMBAT FORCED LABOR INDUSTRY**

The Office of the U.S. Trade Representative is working with various US federal agencies to develop the world's first trade strategy primarily aimed toward combating the forced labor industry. The strategy will utilize both current and potential trade tools in efforts to identify crucial steps and ultimately establish a collaborative plan to eradicate forced labor. In order to best combat such a vast, seemingly overwhelming problem, the USTR has turned to the public to help design the most effective and encompassing game plan possible.

The USTR has asked for public response to the following inquiries:

- What actions could the U.S. Government pursue with like-minded trade partners and allies to combat forced labor as an unfair trade practice?
- How can the U.S. Government bolster the forced labor components of trade agreements and trade preference programs to have greater effect?
- What new and innovative trade tools can the U.S. Government develop and utilize to advance efforts to combat forced labor in traded goods and services?
- How can the U.S. Government make the development of trade policy on forced labor a more inclusive process?
- Do you have additional recommendations for monitoring, tracing, or eliminating forced labor in traded goods and services in supply chains?

The deadline for submissions to the USTR is August 5, 2022. Responses should be submitted electronically through the Federal eRulemaking Portal (<http://www.regulations.gov>) using Docket Number USTR-2022-0006. If the online portal fails to work, or you prefer another method for submission, please contact the Director for Labor Affairs, Jennifer Oetken, at [jennifer.l.oetken@ustr.eop.gov](mailto:jennifer.l.oetken@ustr.eop.gov) or (202) 395-2870.

Fully detailed instructions to the submission process can be found [here](#).

## **CBP e-RECORDATION PROGRAM FOR INCREASED IP PROTECTION**

The U.S. Customs and Border Protection's e-Recordation program is a great way for Intellectual Property owners to ensure their rights are being protected along US ports. The Intellectual Property Right e-Recordation Program allows trademark and copyright holders to obtain information from the CBP regarding the enforcement of their intellectual property rights. This program essentially allows copyright owners and the CBP to collaborate in their efforts against any infringements on intellectual property in the US.

The CBP has released 5 important steps that intellectual property owners can take to guarantee their trademarks and copyrights are being upheld along every U.S. port of entry:

1. Read and Review the CBP regulations regarding intellectual property rights
2. Record your intellectual property ownership with the CBP through the e-Recordation program. The online application can be found here: <https://iprr.cbp.gov/s/>
3. Educate the CBP on your IPR by providing ID guides, personnel training at ports, and online webinars to ensure your rights are being sufficiently protected along the ports.
4. Update and review your guidance to the CBP as often as possible
5. Report any suspected violations you may come across to the CBP

## US BANS IMPORTS OF RUSSIAN GOLD



As tensions on the world stage continue to grow between the United States and Russia amid the war in Ukraine, the US has taken yet another step toward obliterating the Russian economy. On June 28, the Department of the Treasury’s Office of Foreign Assets Control (OFAC) announced that the US is joining three of its major allies – the U.K., Canada, and Japan – in formally prohibiting the importation of Russian gold. The ban does not include gold located outside of Russia prior to June 28, 2022, nor does it affect any gold protected by current laws or otherwise authorized by the OFAC. The OFAC has clarified that under Executive Order 14024, all US persons, including personnel of the Gold Industry, are prohibited from facilitating any transitions of gold with the Russian market.

## BIPARTISAN INNOVATION ACT STATUS

Controversy surrounding the Bipartisan Innovation Act continues to develop as neither party seems willing to compromise on the bill’s terminology. While Senate Majority Leader Schumer has maintained her support for a reconciliation bill, Republican Leader Mitch McConnell has remained steadfast in his party’s opposition to the current competition package. Some have suggested separating the CHIPS funding, which includes the trade package along with the 301-exclusion language, from the broader China competition bill. Establishing CHIPS funding under its own individual bill may be an effective way to garner more bipartisan support and ultimately be enacted in a timelier manner. The Americans for Free Trade coalition continues to work closely with congress members to emphasize the importance of including the 301-exclusion language in a bill as soon as possible. We will continue to keep our members aware of any new information surrounding this legislation.

## BIDEN CONSIDERING TARIFF RELIEF PROGRAM

President Biden has not yet released his decision on whether to establish a relief package in the wake of horrible US inflation. Economists have reported that relieving tariffs on Chinese imports could reduce inflation by up to 1% and help control rising consumer prices across the country, ultimately reinstating confidence in the US economy. With midterm elections in sight, a tariff relief package aimed at reducing the nation's growing inflation problem is a great opportunity for Biden to increase support amongst the American people while benefiting the economy as a whole. Biden is expected to release a modest list of tariff suspensions which would provide relief of approximately \$10 billion out of the current total of over \$360 billion in tariffs imposed on Chinese imports.

The Americans for Free Trade coalition is urging members to report the adverse impacts that these costly tariffs have directly had on their business. Publicizing this information can help demonstrate to the USTR the substantial burden these tariffs are placing on countless US companies in an already struggling economy. Impact stories can be submitted to the AFT at this [link](#).

## INDIA INTERNATIONAL FASHION JEWELRY & ACCESSORIES 2022 SHOWCASE

The India International Fashion Jewelry & Accessories Show is a renowned international sourcing platform that presents and promotes a wide range of clothing, jewelry, and accessories from a variety of cultures and traditions scattered across India. The show offers Indian sellers and international buyers an exceptional way to exchange business and cultures on a prosperous trading platform. The IIFJAS hosts only the finest manufacturers who work tirelessly to remain original and innovative in a constantly evolving fashion industry, promising buyers nothing short of a display of “equivalence of luxury and creativity” at every show.

The IIFJAS is hosting its 16th annual showcase at the Bombay Exhibition Center located in Goregaon East Mumbai on August 14th through August 17th. This year's event is expected to attract over 9,600 trade buyers from 177+ Indian towns and cities along with guests from more than 24 different countries and regions of the world. The product categories that will be showcased at the 2022 show include, fashion jewelry; fashion material & jewelry organizers; fashion accessories & bags; stoles, scarves & shawls; and leather accessories & footwear.

Anyone unable to attend but interested in experiencing all that IIFJAS has to offer can also register for the virtual experience at this [link](#). To have full access to any relevant information and remain up to date on all future events please visit the IIFJAS website [here](#).

## LEGISLATIVE STATUS

Click [here](#) to view a list of bills affecting our industry and any action that has occurred.



**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.

*Thanks for reading.* Have any questions? Email us at [executive\\_director@fjata.org](mailto:executive_director@fjata.org).

### The Executive Committee

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David Gordon  
Stephan Rubin  
Lawanna St. Peter  
Kenneth O'Brien

Coach/Kate Spade  
Carole Inc.  
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