



**The Fashion Jewelry
& Accessories
Trade Association**

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FJATA NEWSLETTER

October 2022 Edition



California Governor Newsom signs 2 bills into law to ban PFAS in textiles and cosmetics but vetoes a publicly accessible tracking program.

GOVERNOR NEWSOM APPROVES 2 PFAS BILLS, VETOES ANOTHER

On September 29, 2022, California Governor Gavin Newsom signed two bills into law that ban the use of PFAS chemicals in the sale and manufacture of textiles and cosmetics: [AB 1817](#) and [AB 2771](#). These two bills are only the latest in California's long-winded battle against PFAS chemicals. While many states have joined the fight to eradicate PFAS from consumer products, California's targeting of the textiles industry are some of the strictest regulations in the country. These regulations are expected to

substantially increase the oversight responsibilities of companies at every level of the supply chain in the fifth largest economy in the world, which will certainly have spillover effects across the nation.

AB 1817 places an outright ban on the manufacture, distribution, or sale of any new textiles that contain regulated PFAS within the state of California, effective January 1, 2025. The specific criteria of these “regulated PFAS” include products with intentionally added PFAS for functional purposes containing levels at or above 100 parts per million in total organic fluorine. The maximum level of PFAS that will be allowed will decrease to 50 parts per million in total organic fluorine by January 1, 2027. The bill also requires that manufacturers who are removing PFAS from their products in accordance with the bill must substitute those PFAS with the least toxic alternative that is available to them. Manufacturers will also be required to present documentation to sellers and distributors proving that their products are following PFAS regulations. These regulations are to be applied to all commonly used textile goods in households and businesses but will not extend to outdoor apparel and personal protective equipment until January 1, 2028. Similarly, AB 2771 bans the manufacture, distribution, or sale of any cosmetic product containing intentionally added PFAS, effective January 1, 2025. Despite his evident support of PFAS regulations, Governor Newsom vetoed [AB 2247](#) the same day he approved the ban on PFAS in textiles and cosmetics. The bill would have implemented a public database that would disclose information about products containing intentionally added PFAS. Newsom cited duplicity of legislation and a necessity to cut back government spending amid current inflationary pressures in the economy as his reasoning behind the veto.

PFAS LEGISLATION IN CA AND NY

Last month, FJATA supported and signed two letters sent from the American Apparel & Footwear Association (AAFA) regarding legislation on PFAS. Sent September 1st, the first letter was directed toward Governor Kathy Hochul of New York. The letter requests that Senate Bill S6291A, which would prohibit clothing containing PFAS starting at the end of 2023, be reworked to consider the needs of businesses. Governor Hochul has yet to give her stance but has until January to act on this legislation. The letter requests the following amendments be made:

- The date of enforcement to be move to the end of 2026.
- Allowance for companies to exhaust inventories of products produced before 2026. This will prevent companies from having to throw out already made products.
- Established guidelines showing what constitutes intentionally added PFAS through a total organic fluorine (TOF) limit of 100 parts per million.
- Provide a more detailed description of “outerwear intended for extreme conditions”. If this definition is the same as the one provided in the California bill, this would include clothing specialized for flexible, breathable, durable,

and protective for activities like sailing, mountaineering, and search and rescue.

The second letter was sent September 13th and requests California Governor Gavin Newsom veto Assembly Bill 1817 which would restrict PFAS in various fabrics beginning in 2025. If Governor refrains from vetoing this legislation for the entirety of October, it will become law. The letter outlines the following issues:

- The 2025 enforcement date does not give enough time for manufacturers, retailers, and others in production to properly react and adjust their operations. Shifting to non-PFAS products would include research and development of new materials, new product designs, market evaluation performances, and establishing consumer and environmental safety. The letter requests the beginning date be move to 2027.
- The legislation requires a maximum threshold for unintentional PFAS of 50 parts per million (ppm), though testing to measure this accurately has not been developed. Additionally, even with strict chemical management, unintentional PFAS contamination is very common up to levels of 100ppm.
- Though permanent architectural fabrics such as shade structures are exempt, the bill does not exclude textile goods used in building construction and operation, such as awnings.

AB 2406 PASSED IN CA TO RELIEVE DEMURRAGE FEES



Cargo ships sitting idle in 2021, awaiting dock availability at California ports

On September 30th, California Governor Gavin Newsom signed Assembly Bill 2406 into law. This law will restrict intermodal marine terminal operators or container providers from placing detention or demurrage fees on motor carriers, beneficial cargo owners, or other intermediaries relative to transactions involving cargo shipped by intermodal transport. These restrictions do not apply, and therefore the fees will be imposed, under two circumstances: when an empty container is not returned to the marine terminal by the agreed time or when a packed container arrives at the port and is not picked up by the drayage carrier after several hours of free time.

This law comes after pandemic related port slowdowns that have compiled into major supply chain issues. Many of the port issues were unable to be prevented, yet carriers were still charged with late fees. This bill is an attempt to prevent these businesses from facing charges due to measure out of their control. In his announcement of the bill, Governor Newsom adds he does not intent to harm or limit 24/7 operations at California ports and stresses how important a steady movement of goods currently is.

CPSC RELEASED NEW MAGNET SAFETY STANDARD

The Consumer Product Safety Commission (CPSC) has finalized its new regulations for the [16 CFR 1262](#) safety standard for magnets, which will go into effect for all products on October 21, 2022. These regulations, which are separate from those targeting children's toy products under the [ASTM F963-17](#) standard, address a range of "adult magnets" such as loose or separable magnets that are used in products for entertainment, stress relief, or jewelry. These standards do not apply to products that are sold and distributed for educational, research, professional, commercial, or industrial purposes.

The full detailed bill that includes specific safety classifications and requirements can be found [here](#). Sellers and manufacturers of non-toy items must ensure that their operations are in full compliance with the new standards to ensure they are not hit with violation fees in the future.

AFT LETTER REQUESTS USTR TO EXTEND TARIFF EXCLUSIONS

This month FJATA supported and signed a letter sent by Americans for Free Trade (AFT) to the USTR Katherine Tai, urging for the extension of both the Section 301 tariff exclusions and the COVID exclusions. These exclusions are set to expire December 31 and November, respectfully.

The letter asks the USTR to make their decision for or against these extensions public as soon as possible to give businesses clarity of what their supply chain will look like going forward. Importing companies plan their sourcing months in advance and these large tariffs play an influential role on how products are priced. If the USTR decides not to extent the Section 301 tariffs, companies may have to pass on the 25% tariff costs to consumers. During a time where inflation is already a growing problem, any additional price increases would only escalate the situation. The letter concludes with mentioning of similar requests to renew exclusions made by 141 bipartisan House members and 41 bipartisan Senators.

View the AFT letter [here](#).

FMC HIRES JUDGE CROVELLA

The Federal Maritime Commission (FMC) has hired Linda Harris Crovella to serve as an Administrative Law Judge of the FMC. She comes to the FMC after six years serving as an Administrative Law Judge at the Social Security Administration, which followed her work as a Field Attorney for the National Labor Relations Board. Crovella will serve alongside Chief Administrative Law Judge Erin Wirth who has been at the FMC for 12 years.

Crovella's hiring is mainly due to the large increase of caseloads over the past two years. Shipping disputes are now commonly being settled through a formal complaint process, creating a need for additional personnel. FMC Chairman Daniel Maffei shares his support in welcoming Judge Crovella and believes this move will strengthen the Commission's enforcement work.

INCREASED ASSESSMENTS ON IMPORTED COTTON

The Agricultural Marketing Service (AMS) has issued a direct final rule which will increase the import fees for cotton. The current assessments paid by cotton imports are currently at \$0.011136 per kg, but will take a 18.7% jump to \$0.013215 per kg under this rule. This adjustment is made to ensure assessments on imported cotton are the same as assessments on domestically produced cotton.

If not significantly disputed and opposed in comments due before October 28th, the rule will go into effect on November 28th.

BETTER COTTON STARTS INITIATIVE FOR SUSTAINABLE COTTON FARMING

Better Cotton, a cotton farming nonprofit organization, announced an initiative on October 6th that will create a standard to measure indicators of sustainability in environmental, social, and economic settings. This initiative, titled the Delta Framework, involves collective efforts from Better Cotton as well as their cross-sector partners.

The main goal of the Delta Framework is to create more coordination when accounting for progress made in the farms apart of sustainable commodity certification schemes or other agricultural initiatives based on sustainability. Through improving the measurement and reporting of this information, the private sector, governments, and farmers will be able to analyze what procedures seems to be most effective. This will allow better financing, government policy, and other support services to be created with more intent and specific support.

In line with Better Cotton, many other cotton standards and codes signed a Memorandum of Understanding agreeing to abide by these practices of measurement and reporting, as well as establishing a timeline to integrate them internally. These organizations include Cotton Connect, Cotton Made in Africa, Fairtrade, the Organic Cotton Accelerator, Textile Exchanges, and various others.

CPA URGES CBP TO REVIEW SHEIN CLOTHING SOURCING



A protest against fast-fashion outside a May Shein pop-up shop in France

The Coalition for a Prosperous America (CPA) requested the CBP investigate Shein, a widely popular e-commerce Chinese distribution company. This request comes after word the company has been illegally importing goods made with forced labor into America.

Shein's business plan involves selling goods at the lowest possible prices and updating the inventory as fast as possible to keep up with increasingly short trend cycles. To maintain this model at a profit, cheap and adaptable labor is necessary. In a letter to CBP sent September 23, the CPA specifically mentions concerns that the cotton used in Shein products are from the Xinjiang region of China. The letter concludes with urging the CBP to look into the supply chains of this company and those alike.

CBP GIVES CLARITY ON TITLE HOLDER OF JEWELRY ON CONSIGNMENT

In a ruling released on October 3, the CBP announced that jewelry held on consignment by retailers but never sold to consumers would qualify for substitution under the unused merchandise drawback policy. The drawback policy extends to products that are either exported or destroyed within three years of being imported, without ever being used in the US. The recent ruling by the CBP clarified the distinction of an unused product as one that has not had any operations or alteration performed on it and is never used for its intended purpose. The organization stated that in the event imported jewelry is held by a retailer but not sold, the retailer has not used the jewelry for its intended purpose and therefore still belongs to the importer. This is despite the fact that the retailers use the products on display and allow customers to try on the pieces.

The usual process of jewelry consignment includes an anonymous importer shipping the products to multiple retail locations. While the retailers never hold legal title

of the products, they can advertise and sell them. Only when a product is sold, does a retailer pay the importer for the product.

If a product is found to be unused for drawback purposes, the importer retains the title. The CBP has faced many cases debating the scope of used and unused, often asked if only advertising the product counts. The CBP has commonly ruled that simply advertising the product in a commercial or billboard type campaign does not meet the definition of used. However, in another case of a celebrity wearing a product once during a public event, the CBP ruled that this piece was used for its intended purposes and therefore does not belong to the importer any longer. The October 3 ruling also clarified that the product looking to be substituted under the unused merchandise drawback policy must be in the possession of the claimant prior to its destruction or exportation. In other words, any unsold merchandise from the shelves of retailers must be returned to the original importing company prior to being considered for the drawback policy. It must be the importers who have legal right to the product that ultimately decide whether the product is exported or destroyed, not the retailers who are merely temporarily holding the products.

BIDEN TIGHTENS BUY AMERICAN REQUIREMENTS



President Biden signs executive order to prioritize American manufacturing. Photo: Getty Images/TNS.

The Biden administration has amended the Buy American Act to implement stricter requirements for products purchased by the federal government with taxpayer money. The Buy American Act states that all products that are purchased using tax dollars must be manufactured in the US and must have at least 55 percent of its components be US-made. Biden's modification, effective October 25, 2022, increased the required amount of US-made components from 55 percent to 60 percent immediately. The threshold will be further increased to 65 percent in 2024 and, eventually, 75 percent

in 2029. It should be noted that the current exemptions for commercial “off-the-shelf” items and information technology items will remain in place. Furthermore, Biden’s rule will implement enhanced price preferences in an effort to decrease US dependence on foreign sources for products deemed to be necessities. A final list of which items are deemed critical, along with their respective price preferences, will be released at a later date.

LETTER TO CARB URGING DENIAL OF THE ADVANCED CLEAN FLEETS REGULATION

This month FJATA supported a [letter](#) to the California’s Air Resources Board (CARB) urging them to rewrite or possibly deny the Advanced Clean Fleets Regulation. The letter was written by the California Manufacturers and Technology Association and signed by many associations representing manufacturing, commercial, industrial, agricultural, transportation, construction, energy, and public agency sectors within California.

The regulation discussed would exclude new internal combustion engine trucks from serving the ports and railyards of California starting in 2024. This motion is in line with California’s move toward a more sustainable and environmentally conscious future, specifically with business operations in mind. Despite these intentions, the reality of this regulation, as expressed in the letter, would severely limit the ability to add new truck capacity. There are also implementation concerns such as:

- Vehicle availability in both a physical and financial sense due to supply chain delays and fees
- Infrastructure readiness
- Possible exemptions to include workable emergency response
- The regulatory timeline and processes
- A lack of flexible low-carbon fuel alternatives

The letter concludes with mention to the already struggling California economy due to inflation, supply chain issues, and the pandemic. Imposing this regulation now possibly may be adding fuel to the fire. The California Manufacturers and Technology Association believes that many trucking organizations agree with this take, and will also be submitting comments on the rule.

DOL PROPOSES FEDERAL RULE ON INDEPENDENT CONTRACTOR CLASSIFICATION

October 13th, the Department of Labor (DOL) released a proposed rule that would set a federal standard on the classification between independent workers and employees. This will have a direct impact on supply chain because many truckers may have their status changed.

The Biden Administration has proposed a rule that would retract Trump's 2021 order that made it more difficult for gig workers to be classified as company employees. Biden is looking to classify gig workers from a variety of industries, such as healthcare, restaurants, construction, and transportation, as company employees that are protected under US labor laws. Rideshare companies such as Uber and Lyft have stringently opposed similar efforts of unionizing gig workers in the past. Extending labor laws to formally independent contractors places a heavy burden on companies who would be required to provide minimum wage, medical leave, and overtime pay to these new employees. On the other hand, gig workers often oppose these employment requirements due to their preference for the benefits they receive as independent contractors, such as the freedom to set their own hours and be their own supervisors. Adamant defense of the autonomous rights of independent contractors was seen earlier this year as the Trucking industry protested the Supreme Court's backing of California AB 5, which required independent truck drivers to become employees of companies they drive for.

The Biden Administration argues that companies are exploiting their gig workers and deliberately depriving them of federal labor protections. Biden wants to establish stricter requirements for the classification of gig workers in order to ensure the bulk of the benefits from an independent contractor status are allotted to the workers, and not the companies they are contracting for. Companies are often able to exploit some of our nation's most vulnerable workers on the basis that the specific circumstances of their company are not covered under the current evaluation process. In Biden's new standard, the determination between employees and non-employees is made by a multi-step factor test that gives more importance to the control workers have over their job duties and their profit or loss opportunities. Biden plans to implement a multi-step factor test that utilizes a "totality-of-circumstances" analysis, meaning each factor is concerned to be equally important. The Labor Department will be accepting public comment on this ruling for 45 days and it is expected to be finalized by next year.

INFORM CONSUMERS ACT ADOPTED INTO NDAA

The INFORM Consumers Act, long reported on at FJATA, has been adopted into the Senate's 2023 National Defense Authorization Act (NDAA). This act aims to protect consumers through cracking down on counterfeiting and other organized crime. To

achieve this, the act establishes processes to increase transparency and accountability and updates to consumer protection laws to address new technology and trends.

TRADE AMENDMENTS TO THE NDAA

The Senate's annual National Defense Authorization Act (NDAA) is expected to be brought to the Congressional floor following the November elections. This year's bill includes a proposal of over a dozen amendments regarding trade and greater impact on foreign affairs. With few of these proposals relating to military defense issues, it is unlikely that most of them will be approved. However, if passed, it is important that companies be advised of potentially substantial impacts on domestic markets and supply chains.

Some of the more notable amendments in the upcoming bill include:

1. **Section 301 exclusions.** This motion aims to establish and clarify an exemption process for goods subject to Section 301 tariffs within 90 days of their arrival. This amendment is similar to the Section 301 directive of the China package that was ultimately rejected on the congressional floor. Unlike the rejected amendment to the China package, this proposal does not clarify what criteria falls under the exemption process. This amendment is expected to require further specificity in order to be considered for approval.
2. **Section 232 authority.** This amendment looks to transfer authorization and oversight responsibilities of investigations under Section 232 from the Commerce Department to the Pentagon. Republican Senator Rob Portman justifies this transfer of power with the claim that Section 232 tariffs are matters of national security and, therefore, investigations of such should be administered by the Department of Defense. However, the proposal fails to articulate the requirements needed to deem an import as a threat to national security.
3. **Expansion of Seafood Import Monitoring Program (SIMP).** This amendment calls on the Commerce Department to improve their oversight of seafood imports by extending SIMP monitoring to all fish and shellfish and enhancing the ACE system for more effective seafood reporting. The bill also includes an amendment that requires further research to be done in determining whether certain species need to be included in SIMP. Some criteria for this determination will include its impact on the domestic fishing industry, the extinction status of that species, repeated mislabeling violations, and any potential ties to human trafficking and/or forced labor.
4. **Establishing the Office of Manufacturing Security and Resilience.** This amendment is looking to establish a government agency responsible for decreasing domestic manufacturing's reliance on commodities from countries that may pose a threat to national security. This macroeconomic approach to foreign affairs will have a substantial impact on domestic markets and global supply chains.

5. Supply chain efficiency. This proposal requires the US Trade Representative to establish an initiative between the US, Canada, and Mexico to improve the operations of the North American supply chain.
6. Free Trade Agreements with Taiwan. The bill includes a few proposals regarding current foreign affairs with Taiwan. One amendment includes fully opening our borders to Taiwan with a free trade agreement. Another amendment looks to clarify the US response to a potential foreign invasion in Taiwan by establishing a plan to swiftly protect our ally.
7. Eliminate tariffs for weak, coerced countries. This amendment aims to eliminate the trade barriers currently in place between the US and developing nations that have been manipulated by foreign adversaries. This proposal includes a variety of conditions, such as, the good at hand is eligible for the GSP, the exporting country is responsible for 35% of the export's value, and prohibits any elimination of tariffs relating to antidumping or countervailing.

The consensus of this year's rendition of the National Defense Authorization Act is the need to address global trade issues as a result of their increasingly prevalent impact on current international affairs. Weaker, more vulnerable nations have been economically coerced by foreign adversaries and are undergoing operations that oppose US interests. Legislators are looking to decrease US economic dependency on hostile actors, such as China, while also protecting vulnerable nations from the economic and political influence of these adversaries.

2023 ACCESSORY MARKET WEEK DATES ANNOUNCED

The dates of the 2023 Dallas Apparel and Accessories Markets have been announced. These markets are hosted at the Dallas Market Center and occur five times a year. Each event welcomes thousands of new and veteran wholesalers covering a wide range of industries including apparel, accessory, footwear, and beauty and wellness. Something to note, in 2023 they will be applying a \$50 Guest Fee.

January Market Week:	January 9-12
February Market Week:	February 6-9
May Market Week:	May 1-4
August Market Week:	July 31-August 3
November Market Week:	November 6-10

FJATA SIGNS LETTER TO WHITE HOUSE TO ENSURE PREVENTION OF RAILROAD STRIKES

Despite government efforts to mediate the conflicts and facilitate effective negotiations between railroad companies and labor unions over the past several months, the nation is gearing up for yet another set of railway strikes that are expected to detrimentally impact supply chain operations. The National Carriers' Conference Committee (NCCC), which represents the nation's railroad industry in these negotiations, has just advised the labor union's Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters (BMWED) that their latest proposal to the negotiating committee would not be accepted. With an ongoing inability to reach a conclusion, rail unions are expected to go on strike as soon as possible, which as of now is November 19 unless Congress invokes the Railway Labor Act to extend negotiations. The Association of American Railroads has pledged to do everything in its power to ensure supply chain operations are minimally disrupted amid the labor strikes.

In response to escalated circumstances, a number of trade associations have collaborated on a letter urging the Biden Administration to take action that would deter labor strikes from shutting down the railroad operations. The coalition is deeply aware of the damaging consequences that, yet another railroad labor strike would have on the domestic supply chain. Disruptions to the supply chain would put substantial inflationary pressure on the US economy amidst an already burdensome global recession. The letter urges the President to ratify the contracts drafted by his Presidential Emergency Board that would ultimately reinstate stability in the supply chain.

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.

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