US State Regulations

Susan DeRagon
UL / PPAI Product Safety Consultant
This information is being furnished by PPAI for educational and informational purposes only. The Association makes no warranties or representations about specific dates, coverage or application. Consult with appropriate legal counsel about the specific application of the law to your business and products.
Preemption (CPSIA, Section 231)

- If covered by a Federal regulation (CPSA, FHSA, FFA, PPPA), the State or Local law is essentially preempted
- Preemption does not apply for California Proposition 65
- Preemption does not apply to restrictions not covered by Federal regulation
- State may apply for exemption from preemption
State Legislation

- Northeast Recycling Council (NERC)
- Lead
- Cadmium
- Mercury
- Bisphenol A (BPA)
- California Proposition 65
- Other State Legislations
NERC Toxins in Packaging

• Developed in 1989 to reduce the amount of four heavy metals in packaging components distributed in the United States

• As of July 2004, legislation had been adopted by nineteen states

• The sum of the concentrated levels of incidentally added Lead, Mercury, Cadmium and Hexavalent Chromium present in any packaging component cannot exceed 100 ppm
NERC Toxins in Packaging

What are packaging materials?

• Master shipping cartons
• Individual product packaging (gift box, plastic bag, header card, blister pack etc.)
• Components used on shipping cartons (glue, tape, inks, staples, stickers etc.)
NERC Toxins in Packaging

Who is responsible?

- Manufacturers of packaging and packaging components
- Suppliers of packaging and packaging components
- Product manufacturers or distributors who use packaging
Illinois Lead Poisoning Prevention Act

Effective January 1, 2010

Warning labels are required for certain products:

• Toys, child care articles (up to 6 years) and children’s jewelry (up to 12 years) if lead in surface coating is >40 ppm
• Child care articles and children’s jewelry if lead in substrate is >40 ppm
• Adult items if lead in surface coating or substrate is >600 ppm
Illinois Lead Poisoning Prevention Act

• The warning statement must appear on the product itself or the product’s immediate container and must include the following wording:

“WARNING: CONTAINS LEAD. MAY BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE DUST CONTAINING LEAD”
California Lead Containing Jewelry Law

- Applies to both adult and children’s jewelry
- Includes watches, detachable shoe and clothing ornaments, and hair accessories
- Metal key rings, zipper pulls, and similar metal adornments have also been recalled for lead
California Lead Containing Jewelry Law

- Materials are Class 1, 2 or 3
- Class 1 materials have no lead limit
- Class 2 materials include:
  - Electroplated metal must not exceed 6% Lead
  - Unplated metal must no exceed 1.5% Lead
  - Plastic or rubber must not exceed 200 ppm Lead
  - Dye or surface coating must not exceed 600 ppm Lead
- Class 3 materials cannot exceed 600 ppm Lead
- Legislation has been adopted by Minnesota
State Legislation - Lead

Maine: An Act to Ensure that Children’s Toys & Products are Free of Lead
- Effective July 1, 2009
- <90 ppm lead in substrate

Washington Children’s Safe Products Act
- Effective July 1, 2009
- <90 ppm lead in substrate

Massachusetts Lead Prevention & Control
- ASTM C738 (Total Immersion Test)
- Applies to externally decorated glass, ceramic and porcelain drinking vessels
- Lead limit is <2.0 ppm
Vermont: An Act Relating to the Prevention of Lead Poisoning by Exposure to Lead in Consumer Products

- Effective January 1, 2009
- Jewelry or similar items that are small parts and that contain more than the federal limit of lead must be:
  - Prominently advertised as adult jewelry
  - Accompanied by a prescribed point of sale disclosure about lead
  - Not commonly understood to be for use by a child under 12
State Legislation - Cadmium

Minnesota (75 ppm Soluble Cadmium)
• Applies to surface coatings or accessible substrate material of metal or plastic children’s jewelry

Connecticut (75 ppm Total Cadmium)
• Applies to children’s jewelry for 12 years and under

Illinois (75 ppm Total Cadmium)
• Applies to any paint, surface coating or accessible substrate for 12 years and under

Maryland (75 ppm)
• Effective July 1, 2012
• Applies to jewelry for children 13 years and under
State Legislation - Cadmium

California Cadmium in Children’s Jewelry
• Applies to all components of children’s jewelry for 6 years and under
• Limit of < or = 300 ppm

Washington Children’s Safe Products Act
• Applies to surface coatings and substrates of children’s products
• Limit of < 40 ppm
Mercury in Batteries and Novelties

Federal Law: Mercury Containing Battery Management Act

• 25mg per cell

Current State Legislation for Mercury in Batteries and Novelties

• < 5 mg per cell

• Products intended for personal or household enjoyment, including but not limited to toys, figurines, adornments, games, cards, ornaments, yard statues and figurines, candles, jewelry, holiday decorations, and footwear and other items of apparel

• States with current restrictions include California, Connecticut, Illinois, Maine, Michigan, New Hampshire, New York, Ohio, Oregon and Texas
Mercury in Cosmetics

Federal Law

• < or = 1 ppm
• < or = 65 ppm for cosmetics intended for use only in the area of the eye

Illinois Mercury in Cosmetics

• No person shall knowingly sell or distributes mercury-containing cosmetics, toiletries, or fragrances

Minnesota Mercury in Cosmetics

• Cannot contain mercury
Bisphenol A (BPA)

- Primarily used in polycarbonate plastic as well as epoxy resins and polysulfone materials
- Used in baby bottles and water bottles for decades
- Also used in coatings on the inside of almost all food and beverage cans
- FDA ban on use of PC in infant bottles/spill proof cups
BPA – Bans in Effect

Minnesota – children’s beverage containers (< 3 years)
New York – children’s beverage containers (< 3 years)
Connecticut – any reusable food or beverage container
Illinois – containers that do not contain liquid, food or beverage
Delaware – children’s products
Maine – any reusable food or beverage containers
Wisconsin – requires “BPA-Free” label
BPA – Bans in Effect

Maryland – child care articles
Massachusetts – children’s reusable food or beverage containers
Vermont – any reusable food or beverage container
Oregon – reusable beverage containers
Washington – children’s reusable food or beverage containers (< 3 years of age)
California – any reusable drink or food container
California Proposition 65

- Requires the State to publish a list of chemicals known to cause cancer or birth defects or other reproductive harm
- Requires businesses to provide “clear and reasonable” warning before knowingly and intentionally exposing anyone to a listed chemical
- Intended to help Californian’s make informed decisions about protecting themselves from exposure to certain chemicals
California Proposition 65

- The list of chemical known to cause cancer, birth defects or other reproductive harm can be found at [www.oehha.ca.gov](http://www.oehha.ca.gov)

Best Practices:
- Confirm with manufacturer/supplier that none of the chemicals have been intentionally added.
- Test and comply with settlements.
  - Any glass or ceramic tableware – lead and cadmium
  - PVC materials – lead and phthalates
  - Children’s products – phthalates
  - Backpacks, handbags, totes – lead
  - Lead settlements have also included bibs, clothing made of PVC or neoprene, cosmetics, diaper bags, exercise mats, faux leather furniture, poker chips etc.
Other State Legislations

Ban on Polystyrene Items in Certain California Counties
- Foam and solid polystyrene food containers
- Items must be reusable, recyclable, compostable or biodegradable
- Counties with ban include Berkley, Oakland, San Bruno, Millbrae, San Francisco and Pacifica
Other State Legislations

Washington, Connecticut, Florida, Oregon
  • Targeting Chemicals of High Concern to Children (CHCC’s)
North Carolina
  • Prohibits BPA, TRIS, phthalates in children’s products
Maryland
  • Limits TCEP in child care products
New York
  • Child care products cannot contain TRIS
Formaldehyde

Minnesota

- Effective August 1, 2014 (manufacturers), August 1, 2015 (retailers)
- Cannot sell or offer for sale children’s products intentionally containing:
  1. Formaldehyde, including formaldehyde contained in a solution
  2. Ingredients that chemically degrade under normal conditions of temperature and pressure to release formaldehyde
Lunchboxes

Connecticut Statute
• <100 ppm lead, cadmium, mercury, hexavalent chromium
• The Attorney General of the State of Connecticut has established that lunchboxes are to be included within Connecticut’s definition of “packaging” and therefore the limits apply

Michigan
• <600 ppm lead in substrates or surface coatings
• “Lunch box” is defined as a fabricated container marketed or intended to be used to carry packaged or unpackaged food or drink for human consumption
• Collectible lunch boxes are exempt
Plastic Bag Suffocation Warning

Labeling and warning requirements for certain plastic bags
California, Massachusetts, New York, Rhode Island and Virginia

"WARNING: To avoid danger of suffocation,
keep this plastic bag away from babies and children.
Do not use this bag in cribs, beds, carriages or play pens.
This bag is not a toy."
Stuffed Toy Labeling

- Massachusetts, Ohio, Pennsylvania

- Stuffed toys and dolls for the states of PA, MA and OH must conform with the stuffed toy licensing and labeling laws

- Manufacturers must register and pay fees must be paid to each state
Stuffed Toy Labeling

- Manufacturers must submit detailed information about the filler content of the toy
- Specimens of each toy selected at random
- Uniform sewn in label to comply with all three states must contain:
  - PA license number of manufacturer or vendor
  - Name and principal place of business of the manufacturer or vendor
  - Statement that “all new materials” (with type of material)
Ban on Yo-Yo Water Balls

- Illinois, New Jersey, New York
- Sale or distribution of yo-yo water balls is prohibited
Jewelry

Rhode Island

- First state to adopt ASTM F2923-11 as mandatory
- Children’s jewelry manufactured after December 18, 2012 must conform to the requirements of ASTM standard F2923-11, Specification for Consumer Product Safety for Children’s Jewelry
Restriction of Hazardous Substances

- California, Minnesota and New Jersey have adopted RoHS requirements for Electronic Devices

- EN 1122 and EN 62321 method
Drawstrings

- CPSC Final Rule on Drawstrings and Ties took effect on August 18, 2011
- Final Rule is codified in 16 CFR 1120 but does not pre-empt state requirements for drawstrings
- Additional requirements in New York and Wisconsin
## State Requirements – Hood and Neck Drawstring and Ties

<table>
<thead>
<tr>
<th>Type of Apparel</th>
<th>New York Law</th>
<th>Wisconsin Law</th>
<th>16 CFR 1120</th>
</tr>
</thead>
<tbody>
<tr>
<td>All children’s clothing</td>
<td>All children’s clothing</td>
<td>Upper outerwear</td>
<td></td>
</tr>
<tr>
<td>Sizes</td>
<td>2T-12</td>
<td>0-16</td>
<td>2T-12</td>
</tr>
<tr>
<td>Requirements</td>
<td>No hood or neck drawstrings allowed</td>
<td>No hood or neck drawstrings allowed</td>
<td>Drawstrings and ties cannot be used in the head or neck area</td>
</tr>
</tbody>
</table>
# State Requirements – Waist of Upper and Lower Clothing Drawstring

<table>
<thead>
<tr>
<th>Type of Apparel</th>
<th>New York Law</th>
<th>Wisconsin Law</th>
<th>16 CFR 1120</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of Apparel</td>
<td>Children’s upper and lower clothing</td>
<td>Children’s upper outerwear</td>
<td>Children’s upper outerwear</td>
</tr>
<tr>
<td>Sizes</td>
<td>2T-16</td>
<td>0-16</td>
<td>2T-16</td>
</tr>
</tbody>
</table>
| Requirements   | - No toggles, knots or other attachments  
                  - The drawstring must be attached to the garment’s midpoint  
                  - 3 inch rule | - No toggles, knots or other attachments  
                  - The drawstring must be sewn at the midpoint of the channel, so it cannot be pulled out of the channel  
                  - 3 inch rule | - No toggles, knots or other attachments  
                  - The drawstring must be sewn at the midpoint of the channel, so it cannot be pulled out of the channel  
                  - 3 inch rule |
Product Safety Resources

- **PPAI**: www.ppai.org
- **American National Standards Institute**: www.ansi.org or www.astm.org
- **FDA**: www.fda.gov
- **UL-STR**: www.ul.com/consumerproducts
- **Questions?** AnneL@ppai.org
Thank you!

Questions?