

Product Responsibility Best Practices	SUBJECT State Regulations		LAST UPDATE July 2018
	APPLIES TO • Suppliers • Distributors	FOCUS ON State regulations of significance to the promotional products industry	
	QUICK LINKS • PPAI Corporate Responsibility: www.ppai.org/corporate-responsibility/ • UL: industries.ul.com/premiums-promotional-and-licensed-goods • Consumer Product Safety Commission: www.cpsc.gov		Intended for beginner compliance programs

Italic grey text indicates a hyperlink listed in the Online Resources section of this document.

U.S. State Regulations

Please note that this best practice is not all-inclusive and does not cover all state regulations. Rather, it is intended to focus on the state regulations that are most significant to the promotional products industry.

California Proposition 65

Also known as the *Safe Drinking Water and Toxic Enforcement Act of 1986*, the purpose of *California Proposition 65 (Prop 65)* is to protect California citizens from chemicals known to cause cancer, birth defects, or other reproductive harm and to inform citizens about exposures to such chemicals.

The *Office of Environmental Health Hazard Assessment (OEHHA)* administers the Prop 65 program. OEHHA is part of the *California Environmental Protection Agency* and evaluates all currently available scientific information on substances considered for placement on the Prop 65 list. In August 2016 OEHHA amended regulations for the provisions of “clear and reasonable” proposition 65 warnings. These new regulations will be effective on August 20, 2018, although businesses can begin using the new warnings at any time.

Components and Enforcement

In August 2013, California approved the *Safer Consumer Product Regulation* with the intent to protect public health and the environment by establishing a process to identify consumer products and chemicals of concern.

1. Infant and child sleep mats containing chlorinated tris (TDCPP)
2. Spray polyurethane foam containing diisocyanates
3. Paint stripper formulated with methylene chloride

California is studying 1,200 chemicals and will announce additional product/chemical combinations in the months and years to come. This will result in warnings, notices, restrictions or possible bans on those products, making the need to know which chemicals are in the products you manufacture or distribute vital.

Illinois Lead Poisoning Prevention Act

This act became effective in 2010 and is, essentially, a labeling law. It applies the following limits:

- 40 ppm lead in the surface coatings and/or painted decoration used on toys, children’s jewelry and child-care articles.
- 40 ppm lead in the substrate materials of children’s jewelry and child-care articles.
- 600 ppm lead in the surface coating or substrate material of adult items

If any of the limits are exceeded, the following warning label is required:

“WARNING: CONTAINS LEAD. MAY BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE DUST CONTAINING LEAD”

Washington State Children’s Safe Products Act

In July of 2011, the *Washington State Children’s Safe Products Reporting Rule* was adopted. This rule identified 66 chemicals of high concern to children (CHCC) and defined reporting requirements. Since that time, three chemicals have been removed and 19 chemicals added to the list. While the presence of a CHCC does not necessarily mean that the product is harmful to human health or that there is any violation of existing safety standards or laws, their presence must be reported to the Washington Department of Ecology (DOE) and the beginning of each calendar year.

Maine

Maine’s Toxic Chemicals in Children’s Products identifies 36 chemicals that are reproductive or developmental toxicants, endocrine disrupters, or carcinogens. A children’s product containing a priority chemical (and there are only 8 priority chemicals/chemical groupings identified at this time, BPA, Nonylphenol/Nonylphenol Ethoxylates, Cadmium, Mercury,

Arsenic, Formaldehyde, Phthalates [DEHP, DBP, BBP, DEP]) and flame retardants (decaBDE and hexabromocyclododecane) may not be sold, offered for sale or distributed for sale in Maine, provided there are safer alternatives available at comparable cost. In 2012 Maine banned the sale of reusable food and beverage containers that contain intentionally added BPA. This includes baby bottles, sippy cups, water bottles, and reusable food storage containers.

Oregon

Oregon's Toxic Free Kids Act establishes the same list as the original 66 chemicals of high concern to children (CHCC) of the Washington State Children's Safe Product Act. If any products sold in the state intentionally contain one of these chemicals, or contain a contaminant in excess of 100 ppm, then it must be reported to the Oregon Health Authority. Unlike the Washington State Children's Safe Product Act, this regulation applies to all components, whether accessible or inaccessible. Another difference is that before the third notice (six years) of reporting a chemical of high concern, the manufacturer of mouthable products, children's cosmetics, or products made for or marketed to children under the age of three years must remove or make a substitution for the chemical or request a waiver.

Vermont

Vermont's Act Relating to the Regulation of Toxic Substances establishes the same list as the original 66 chemicals of high concern to children (CHCC) of the Washington State Children's Safe Product Act and applies to all products intended for children under the age of 12. Similar to the other state reporting rules, if any products sold in the state intentionally contain one of these chemicals, or contain a contaminant in excess of 100 ppm, then it must be reported. It is only applicable to accessible components and became effective on December 10, 2016.

Model Toxics In Packaging Legislation

The Model Toxics in Packaging Legislation was developed in 1989 by the Coalition of Northeastern Governors with the intent to reduce the amount of certain heavy metals used in packaging materials that end up in landfills, waste incinerators and recycling streams. This environmental regulation is in effect in 19 states. The regulated heavy metals are lead, cadmium, mercury and hexavalent chromium. The total of these four metals cannot exceed 100 ppm.

The term packaging material includes all types of product containers. It includes master shipping cartons, individual product packaging (gift boxes, plastic bags, header cards and blister packs) as well as components used on shipping cartons (glue, tape, inks, staples and stickers). If it is intended to be thrown away then it is considered to be packaging material.

The law allows for self-certification by packaging suppliers and requires companies to produce a certificate of compliance upon

request. There have been product recalls in certain states due to non-compliant packaging.

BPA

Bisphenol A (BPA) is a chemical that many states are restricting or proposing to restrict. BPA is used primarily in polycarbonate material as well as epoxy resins and polysulfone materials. It has been used in baby bottles and water bottles, as well as coatings on the inside of almost all food and beverage cans.

Many states have banned the use of BPA in baby bottles and sippy cups, including California, Connecticut, Delaware, Maryland, Massachusetts, Minnesota, New York, Oregon, Washington and Vermont. Legislation is pending in other states as well. In addition to banning BPA in baby bottles and sippy cups for children younger than three years of age, the state of Wisconsin requires that children's items be labeled "BPA free."

Plastic Bag Suffocation Warning

Some states, including California, Massachusetts, New York, Rhode Island and Virginia, require labeling and warning requirements for certain plastic bags. If the warning is required, based on the thickness and opening size, this warning should be used:

"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

Stuffed toys and dolls sold in Massachusetts, Pennsylvania and Ohio must conform to licensing and labeling laws. Manufacturers have to register in each state and each state has its own registration fee. Manufacturers must submit detailed information about the filler content of their toys, and specimens of each toy need to be provided to the state for evaluation. It is possible for manufacturers to utilize a uniform stuffed-toy label which is good in all three states that require the licensing of stuffed toy manufacturers and the labeling of stuffed toys. The uniform label must contain certain information such as:

- The Pennsylvania license number of the manufacturer or vendor
- The name and principal place of business (including the city and state) of the manufacturer or vendor
- A statement that "all new materials" were used, including the type of materials, in the manufacture of the stuffed toy

Jewelry

Rhode Island was the first state to adopt the *ASTM F2923-11* Specification for Consumer Product Safety for Children's Jewelry standard. This is currently a voluntary standard for children's jewelry, unless you are distributing in Rhode Island. Children's jewelry manufactured after December 18, 2012 must conform to the requirements of the standard.

California's Lead Containing Jewelry Law restricts lead content in all jewelry for both adults and children. Items affected include detachable shoe and clothing ornaments, hair accessories, metal key rings, zipper pulls and similar metal adornments.

Vermont regulates lead in jewelry by imposing certain requirements for jewelry or similar items that are small parts and that contain more than the federal limit of lead. These jewelry items must be prominently advertised as adult jewelry, accompanied by a prescribed point-of-sale disclosure about lead and not commonly understood to be for use by a child younger than 12.

Minnesota legislation limits soluble cadmium content in surface coatings and substrate materials of metal or plastic children's jewelry to 75 ppm for children 6 years or younger. This limit is also the ASTM F963 limit for toys. Connecticut and Illinois have also passed laws restricting cadmium in children's jewelry intended for children 12 years of age and under. Maryland's law applies to jewelry and includes charms, bracelets, pendants, necklaces, earrings, rings designed or intended to be worn or used by a child younger than 13.

California applies a cadmium limit of less than or equal to 300 ppm total cadmium to all components of children's jewelry for 6 years of age and younger. The Washington Children's Safe Products Act applies a limit of less than 40 ppm to all surface coatings and substrates of children's products.

RoHS

Europe's Restriction of Hazardous Substances (RoHS) applies to electronic devices. California, Minnesota and New Jersey have adopted RoHS requirements as well as the European test methods.

Drawstrings

There have been numerous recalls relating to drawstrings used in children's apparel. In 2011, the CPSC published a final rule stating that children's upper outerwear garments that have neck or hood drawstrings (in sizes 2T to 12) and those that have waist or bottom drawstrings (in size 2T to 16) that do not meet the criteria of the previously voluntary standard, *ASTM F1816*, Standard

Safety Specifications for Drawstrings on Children's Upper Outerwear, present a substantial product hazard. The federal law does not pre-empt the state requirements so companies must still comply with Wisconsin's and New York's requirements.

This table shows the difference between the two state requirements and the CPSC's 16 CFR 1120 requirement for hood and neck drawstrings and ties.

The two state laws apply to all children's clothing, while the federal law only applies to upper outerwear. Also, please note that the Wisconsin law includes a broader scope of sizes. The state requirements are more stringent as no hood or neck drawstrings are allowed. The federal law states that drawstrings and ties cannot be used in the head or neck area.

The New York requirement applies to children's upper and lower clothing while the Wisconsin and federal requirements apply to children's upper outerwear. Again, Wisconsin has a more stringent scope of sizes that are affected. The requirements vary slightly but for the most part are the same in that toggles, knots and other attachments are not allowed, the drawstring must be attached to the garment at midpoint and there's a 3-inch rule where the drawstring may not exceed 3 inches in length outside the drawstring channel when the garment is expanded to its fullest width.

Online Resources:

California Office Of Health Hazard Assessment:

oehha.ca.gov

www.p65warnings.ca.gov

Illinois Lead Poisoning Prevention Act: www.ilga.gov/legislation/

Washington State Children's Safe Products Act:

www.ecy.wa.gov/programs/hwtr/RTT/cspa/index.html

Northeast Recycling Council: www.nerc.org/

Toxics In Packaging Clearinghouse: toxicsinpackaging.org

PPAI Turbo Test:

ppai.org/corporate-responsibility/product-responsibility/solutions

PPAI Best Practices California Proposition 65:

<http://www.ppai.org/media/1814/pr-bp-proposition-65.pdf>

PPAI Best Practices Polybag Warning Labels:

www.ppai.org/media/1811/pr-bp-plastic-bag-warning-labels.pdf

	New York Law	Wisconsin Law	16 CFR 1120
Type of Apparel	All children's clothing	All children's clothing	Upper outerwear
Sizes	2T-12	0-16	2T-12
Requirements	No hood or neck drawstrings allowed	No hood or neck drawstrings allowed	Drawstrings and ties cannot be used in the head or neck area

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