



Chemicals in Consumer Products: An Overview of State Regulations for Retailers

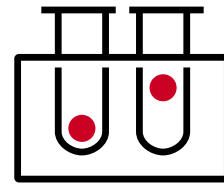
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Overview

In the U.S., the regulation of chemicals in consumer products at the state level is not harmonized, creating a complex landscape of compliance obligations. This resource guide provides a summary of the approaches that different states have taken to regulation, such as banning or restricting certain chemicals or enacting mandatory reporting/notification requirements, labeling and disclosure of certain chemicals under specific conditions.

Background

State regulation of chemicals is not new. The speed at which states take action to address consumer demand for safer or sustainable product allows them to address areas federal regulation may not. The adoption of Proposition 65 by California voters in 1986 is an example of this dynamic, with proponents of the initiative arguing that federal programs provided inadequate protections against carcinogens and reproductive/developmental toxicants. In addition to federal efforts regulating chemicals, a growing number of states (e.g., Maine, Minnesota, and Washington) identified chemicals of concern and established their own disclosure and reporting programs. The compliance complexities created by different state-level regulatory frameworks has renewed the business community's interest in a harmonized national approach.

A broad coalition of stakeholders worked to reform the Toxic Substances Control Act (TSCA), which is the primary federal statute governing assessment and control of toxic substances. The Frank R. Lautenberg Chemical Safety for the 21st Century Act (LCSA) was passed in 2016, ushering in TSCA reform. Changes brought by this revision are expected to support improved public health and a cleaner environment.

Under the reform, states are generally preempted from regulating chemicals more strictly than the federal government, with several exemptions. Because federal implementation of the TSCA reforms has progressed slower than expected, states have continued to adopt regulations to fill the recognized gaps in chemicals regulation, addressing specific sectors of consumer products in general.

So how does this impact retailers? Depending on the jurisdiction, retailers may have to ensure their private-label brands comply with state obligations that call for specific labeling or mandatory reporting or even prohibit use of certain chemicals for certain purposes. Even if a law does not specifically ban or restrict the use of such chemicals/chemical groups in consumer products, retailers are often under pressure from consumers to avoid stigmatized chemicals. As a result, many retailers are adopting product curation programs that encourage suppliers to formulate away from chemicals of concern to improve products' marketability and to eliminate the regulatory burden of tracking and reporting associated with those substances. Common trends on this front include "clean beauty," plant-based or biodegradable products. Brands may also implement Restricted Substance Lists (RSLs).

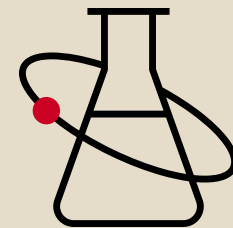




State approaches

States have approached the regulation of chemicals in consumer products in a myriad of ways, including mandatory disclosure or reporting and chemical bans or restrictions. In some cases, the regulation covers specifically named chemicals, a chemical group such as mercury compounds, a chemical class such as PFAS (per- and polyfluoroalkyl substances) or a functional class such as flame retardants. In other cases, the regulation may cover specific types of consumer products such as toys. Other regulations are broader and regulate industry segments, such as consumer products, including all potential points of exposure that a chemical has.

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"Several ways regulations may address chemicals include groups, chemical classes, toxicological endpoints, and technical function, among others."

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The table below provides examples of the various methods that states have employed to regulate chemicals of concern.

Jurisdiction	Product sector	What is regulated	Summary of requirements
California	Cleaning products	Specifically named chemicals, chemical groups	<p><u>Cleaning Product Right to Know Act of 2017</u></p> <p>Administered by California's Department of Toxic Substances Control (DTSC)</p> <p>Requires a manufacturer (entity whose name appears on the label) to disclose on the product label and their website any of the listed chemicals or chemical groups identified in the Act if used in a cleaning product.</p>
California	Cookware; Food packaging	Specifically named chemicals, chemical groups	<p><u>Safer Food Packaging and Cookware Act (AB1200)</u></p> <p>Prohibits per- and polyfluoroalkyl substances (PFAS) in plant-based food and beverage packaging</p> <p>Requires chemical disclosures for cookware containing designated chemicals (including PFAS) by California DTSC. Currently this disclosure must be on the internet website. As of January 1, 2024, it must also be on the physical product.</p>
California	Cosmetic products	Specifically named chemicals	<p><u>Toxic Free Cosmetic Act</u></p> <p>Administered by California's Department of Toxic Substances Control (DTSC)</p> <p>Effective January 1, 2025, the manufacture, sale, delivery, holding or offering for sale in commerce of any cosmetic product that contains any of the 24 specifically listed intentionally added ingredients is banned.</p>
California	Cosmetic products	Specifically named chemicals, chemical groups	<p><u>Cosmetic Fragrance and Flavor Ingredient Right to Know Act of 2020</u></p> <p>Administered by California's Department of Public Health (CDPH)</p> <p>Requires manufacturers of cosmetic products that contain certain flavor and fragrance ingredients to disclose certain information about their products to California's Division of Environmental and Occupational Disease Control within the State Department of Public Health.</p>
California	Menstrual products	Specifically named chemicals, chemical groups	<p><u>Menstrual Products Right to Know Act of 2020</u></p> <p>Administered by California's Department of Public Health (CDPH)</p> <p>Requires the package label for menstrual products manufactured on or after January 1, 2023, to disclose all ingredients in the product.</p>

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California	All products, drinking water	Specifically named chemicals, chemical groups	<p><u>Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65)</u></p> <p>Administered by California's Office of Environmental Health Hazard Assessment (OEHHA)</p> <p>Proposition 65 prohibits knowing discharge of listed chemicals into drinking water and requires that a "person in the course of doing business" provide warnings on products which contain listed chemicals above a de minimis level.</p>
California	Consumer products	Priority products, i.e., children's foam-padded sleeping products with tris (1,3-dichloro-2-propyl) phosphate (TDCPP) or tris (2-chloroethyl) phosphate (TCEP), spray polyurethane foam with unreacted methylene diisocyanate (MDI), paint stripper with Methylene chloride	<p><u>Safer Consumer Product Regulations</u></p> <p>Administered by California's Department of Toxic Substances Control (DTSC)</p> <p>DTSC periodically identifies priority products containing chemicals of concern. When identified, responsible entities (including retailers) have the obligation to identify and evaluate alternatives to decrease adverse effects of the product.</p>
Delaware	Children's products, upholstered furniture, mattresses	Function, organohalogens	<p><u>Chemical Flame Retardant Restrictions</u></p> <p>Prohibits specific flame retardants (or mixtures containing them) in children's product and upholstered furniture above 0.1%.</p> <p>Prohibits constituent components containing organohalogens in mattresses above 0.1%.</p> <p>Effective January 1, 2023.</p>
Hawaii	Sunscreens	Sunscreens containing oxybenzone or octinoxate	<p><u>Sale and Distribution of Sunscreen Containing Oxybenzone or Octinoxate or Both</u></p> <p>Administered by Hawaii's Department of Health (DOH)</p> <p>Bans the sale of sunscreen containing listed substances without a prescription.</p>
Maine	Children's products	Specifically named chemicals, chemical groups, function	<p><u>Toxic Chemicals in Children's Products Law</u></p> <p>Administered by Maine's Department of Environmental Protection (DEP)</p> <p>A manufacturer or distributor of a children's product that contains a priority chemical above the de minimis level shall notify the DEP. An Alternatives Assessment (AA) may be required. The definition of manufacturer includes anyone "whose brand name is affixed to the consumer product."</p>

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Maryland	Cosmetics, personal care	Specifically named chemicals, chemical groups	<p>House Bill 643 Chapter</p> <p>Effective January 1, 2025, the manufacture, sale, delivery, holding or offering for sale in commerce of any cosmetic product that contains any of the 24 specifically listed intentionally added ingredients is banned.</p>
Minnesota	Children's products	Specifically named chemicals	<p>Children's Safe Products Act</p> <p>Administered by Minnesota's Department of Health (MOH)</p> <p>Prohibits the sale of children's products containing specifically listed chemicals.</p>
Minnesota	Consumer products	PFAS	<p>HF 2310A Conference Committee Report</p> <p>Beginning January 1, 2025, prohibits PFAS in the following products: carpets/rugs, cleaning products, cookware, cosmetics, dental floss, fabric treatments, juvenile products, menstrual products, textiles, ski wax and upholstered furniture.</p> <p>Beginning January 1, 2032, prohibits the sale of any product containing intentionally added PFAS outside of specific allowances.</p> <p>Starting January 1, 2026, manufacturers of product containing intentionally added PFAS must submit reporting information to the commissioner of the Minnesota Pollution Control Agency.</p>
New Jersey	Pesticides	Neonicotinoid pesticides	<p>Bill S 1016 Restricting the Use of Neonicotinoid Pesticides</p> <p>Effective October 31, 2023.</p> <p>Prohibits sale or use of pesticides containing neonicotinoids, except in cases where the pesticide is applied by a licensed applicator.</p> <p>Also prohibits nonagricultural usage of neonicotinoid pesticides, ergo residential usage from consumer point of sale.</p>
New York	Consumer products	Mercury	<p>Mercury-Added Consumer Products Law</p> <p>Administered by New York's Department of Environmental Conservation (DEC)</p> <p>Bans sale of mercury-containing consumer products without the specified labeling.</p>

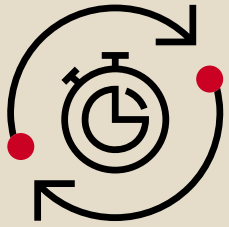
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New York	Cosmetics, cleaning products, personal care	1,4-dioxane	<p><u>1,4-Dioxane Limits for Household Cleansing, Personal Care and Cosmetic Products</u></p> <p>Establishes limits for 1,4-dioxane content in cleaning products, cosmetics and personal care.</p>
New York	Cosmetics and personal care	Mercury and mercury compounds	<p><u>Mercury in Cosmetics and Personal Care Products</u></p> <p>Prohibits the sale of cosmetics and personal care products containing mercury and mercury compounds.</p>
New York	Children's products	Specifically named chemicals, chemical groups	<p><u>Toxic Chemicals in Children's Products Act</u></p> <p>Administered by New York's Department of Environmental Conservation (DEC)</p> <p>Prohibits sale of children's products containing specifically identified chemicals. Regulated entities have reporting obligations and notification obligations in addition to prohibition of sale of products containing listed chemical. A retailer is exempt from the requirements unless that retailer knowingly sells a children's product containing a dangerous chemical after the effective date of its prohibition for which that retailer has received notification.</p>
New York	Carpets and rugs	PFAS	<p><u>Establishing a carpet collection program</u></p> <p>As of December 31, 2024, carpets sold in the state shall not contain or be treated with PFAS.</p> <p>No later than December 31, 2023, producers of covered product shall submit a plan to establish a carpet extended producer responsibility (EPR) collection plan.</p>
Oregon	Children's products	Specifically named chemicals	<p><u>Toxic Free Kids Act</u></p> <p>Administered by the Oregon Health Authority</p> <p>Every two years, manufacturers (including domestic distributors) must provide notice of children's products sold in Oregon that contain intentionally added high priority chemicals of concern for children's health (HPPCCH) at or above the practical quantification limits.</p>
Vermont	Children's products	Specifically named chemicals, chemical groups	<p><u>Chemicals of High Concern in Children's Products Rule</u></p> <p>Administered by Vermont's Department of Health (DOH)</p> <p>A manufacturer whose children's product contains any of the listed chemicals intentionally added above the practical quantification limit (PQL) or present as a contaminant at greater than 100 ppm must provide notice to DOH. The definition of manufacturer includes anyone "whose name is affixed to a children's product."</p>

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Washington	Children's products	Specifically named chemicals	<p><u>Children's Safe Products Act</u></p> <p>Administered by Washington's Department of Ecology</p> <p>Enacts limits for specifically named chemicals as well as manufacturer reporting obligations. "For the purposes of this rule, a retailer of a children's product is not a manufacturer unless it is also the producer, manufacturer, importer or domestic distributor of the product."</p>
Washington	Consumer products	Specifically named chemicals	<p><u>Safer Products for Washington</u></p> <p>Administered by Washington's Department of Ecology</p> <p>Establishes a rotating 5-year cycle in which priority chemicals and products are established, with regulatory action developed. Requirements may include both reporting and prohibitions. The first group of chemicals and product categories was finalized and effective July 1, 2023, with reporting and prohibitions for some categories as early as January 2025.</p>
Washington	Cosmetics	Specifically named chemicals, chemical groups	<p><u>Toxic Free Cosmetics Law</u></p> <p>Administered by Washington's Departments of Ecology and Health</p> <p>Effective January 1, 2025, prohibits sale, manufacture and distribution of cosmetics containing intentionally added chemicals or chemical classes on the list.</p>





What does the future hold?

The desire for safer and more sustainable consumer products is here to stay. A growing segment of consumers are demanding that suppliers move beyond compliance with existing requirements to ensure that products are free of chemicals of concern. It should be no surprise that many retailers are responding to consumer preferences with product curation programs aimed at reducing the prevalence of chemicals of concern.

While activity regulating chemicals at the federal level is ongoing, state legislators continue to respond to citizen preferences for stricter controls over toxic substances. The proliferation of state programs with differing lists of chemicals of concern and differing regulatory requirements continues to complicate the compliance programs of both suppliers and retailers. Those trends are likely to continue, although there are some signs that the challenges created by the proliferation of inconsistent state statutes are being mitigated. We are seeing examples of harmonization within a state (e.g., California's cleaning product and cosmetics right-to-know statutes both use a common list of chemicals of concern). And there's harmonization across states that are using common reporting systems for reportable chemicals of concern in consumer products. Most recently, states in the northeastern U.S. have come together to draft model PFAS legislation in hopes of standardizing requirements and approaches to regulation. However, the overall diverse landscape is likely to remain for some time while consumer demand for safer, more transparent, or 'greener' products continues.





How can UL Solutions help?

UL Solutions connects the supply chain with software, expertise and data. Manufacturers can enter product data into our secure WERCSmart® compliance software so products are assessed against the latest state, regional or global chemical regulations. Retailers can then use the data generated from WERCSmart to mitigate risks and remain in compliance across jurisdictions, whether local or global.

In addition to empowering a strong chemical management program, data from WERCSmart enables retailers to improve product storage, transport and disposal. The detailed product information also equips retailers to curate safer and more sustainable products.

Interested in learning more about navigating differing and challenging state regulations? Contact us at UL.SupplyChain@ul.com or visit [UL.com/WERCSmart](https://ul.com/WERCSmart).



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