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## Death by Fashion: Consumers Face Health Risks By Purchasing From Unregulated Fast Fashion Brands

Elizabeth Durosko

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# DEATH BY FASHION: CONSUMERS FACE HEALTH RISKS BY PURCHASING FROM UNREGULATED FAST FASHION BRANDS

*Elizabeth Durosko*

## ABSTRACT

With the rise of globalization and, as an effect, outsourcing, fast fashion has grown in popularity and accessibility. While this trend provides consumers with greater accessibility to affordable fashion trends, it also comes with significant costs.

In the past few years, studies have revealed that clothing produced via various fast fashion brands contain elevated levels of toxic chemicals. While legislatures have tried to regulate these issues, the existing laws fall short of protecting consumers from these harmful chemicals.

To address this issue and better regulate the industry, the United States needs a widespread solution. U.S. legislatures must look to other regions who have already started regulating the issue at hand. The European Union has adopted an extensive and effective approach to handle this issue. Additionally, Assembly Bill A7063 from New York provides guidance and precedent of how a state in the United States can prohibit the manufacture, distribution, or sale of apparel containing certain substances. Combined, these regulations will provide a detailed solution to protect American consumers.

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## INTRODUCTION

Consumers can be exposed to hazardous chemicals in textiles through skin contact, or inhalation or unintentional ingestion of dust released from the materials.<sup>1</sup> While the FDA regulates the substances consumed, there is not a sufficient regulatory mechanism to protect consumers from chemicals absorbed through clothing.

While the legislature has overlooked the exposure of chemicals through textiles, fast fashion has continued to progress globally. “Fast fashion” refers to low-cost clothing collections which are based on current, expensive luxury fashion trends and allow young consumers to keep up with quickly changing trends at an affordable price.<sup>2</sup> To keep customers engaged, the retailers routinely source new trends and purchase on a weekly basis to introduce new items.<sup>3</sup> Fast-fashion brands outsource the transformation process of raw materials into completed garments to emerging nations to keep prices low and volume high.<sup>4</sup>

While these clothes offer unique opportunities for accessibility, several studies, including a Greenpeace International Report and a study at the University of Toronto commissioned by Marketplace, revealed alarming levels of toxic chemicals and heavy metals in these clothes.<sup>5</sup> Among the toxic substances detected were cadmium, lead,

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<sup>1</sup> Francesco Iadaresta, et. al., *Chemicals from textiles to skin: an in vitro permeation study of benzothiazole*, ENV'T SCI. AND POLLUTION RSCH. (Sept. 25, 2018) (suggesting that a study involving benzothiazole transfer through skin contact can likely be applied to other chemicals used in textiles).

<sup>2</sup> Annamma Joy, et. al., *Fast Fashion, Sustainability, and the Ethical Appeal of Luxury Brands*, 16 FASHION THEORY 273 (Jan. 2012).

<sup>3</sup> *Id.*

<sup>4</sup> Piera Centobelli et. al., *Slowing the fast fashion industry: An all-round perspective*, 38 GREEN AND SUSTAINABLE CHEMISTRY (Dec. 2022).

<sup>5</sup> CBC, *Toxic Clothing*, CBC RADIO-CANADA, (Sept. 29, 2021), <https://www.cbc.ca/player/play/1957433411789>; Charlotte Elton, *SHEIN: Fast fashion giant's clothes breach EU chemical regulations, Greenpeace claim*, EURONEWS

PFAs, and phthalates.<sup>6</sup> All of these toxic chemicals pose significant long term health consequences to consumers, including organ damage, cancer, and reproductive issues.<sup>7</sup>

Due to insufficient regulation of the fast fashion industry paired with the growing use of toxic chemicals in textiles, consumers face increasingly dangerous health threats. To protect consumers, the legislature must take action to establish a thorough regulatory body on clothing in the United States.

## I. FAST FASHION'S EFFECT ON CONSUMERS

Without regulation of the fast fashion industry, companies use toxic chemicals which pose significant health risks to consumers. In two recent studies, clothing from brands including Ali Express, Shein, and Zaful were found to contain heavy metals, Per- and Polyfluorinated Substances (PFAs), and phthalates.<sup>8</sup>

A 2021 study commissioned by Marketplace and conducted by Miriam Diamond at the University of Toronto revealed alarming results.<sup>9</sup> The investigation revealed that one in five of the investigated items contained elevated levels of chemicals.<sup>10</sup> Clothing from Ali Express, Shein, and Zaful contained heavy metals, including cadmium and lead, PFAs, and phthalates.<sup>11</sup>

In another investigation, Greenpeace Germany analyzed forty-seven Shein products and found that fifteen percent contained hazardous chemicals at levels that breach the European Union's regulatory limits.<sup>12</sup> Here, the researchers found high levels of phthalates and formaldehyde.<sup>13</sup>

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(Nov. 25, 2022), <https://www.euronews.com/green/2022/11/25/shein-fast-fashion-giants-clothes-breach-eu-chemical-regulations-greenpeace-claim>.

<sup>6</sup> CBC, *supra* note 5.

<sup>7</sup> CBC, *supra* note 5.

<sup>8</sup> CBC, *supra* note 5.

<sup>9</sup> Jenny Cowley, et. al., *Experts warn of high levels of chemicals in clothes by some fast-fashion retailers*, CBC RADIO-CANADA, (Oct. 1, 2021), <https://www.cbc.ca/news/business/marketplace-fast-fashion-chemicals-1.6193385>.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Greenpeace International, *Taking the shine off SHEIN: Hazardous chemicals in SHEIN products break EU regulations, new report finds*, GREENPEACE (Nov. 23, 2022), <https://www.greenpeace.org/international/press-release/56979/taking-the-shine-off-shein-hazardous-chemicals-in-shein-products-break-eu-regulations-new-report-finds/>.

<sup>13</sup> *Id.*

The findings from Marketplace, Greenpeace Germany, and similar studies reveal alarming consequences to consumers. Among the chemicals found in both studies include heavy metals, PFAs, phthalates, and formaldehyde. Formaldehyde is classified as a probable human carcinogen in high doses.<sup>14</sup> Heavy metals, like lead and cadmium, can bioaccumulate in the body over time and are highly toxic.<sup>15</sup> These heavy metals can cause irreversible effects including damage to the nervous system or the kidneys as well as cancer.<sup>16</sup> Other chemicals, like PFAs and phthalates, are known as “forever chemicals” because they are persistent and bio accumulative.<sup>17</sup> PFAs and phthalates can also affect the liver or act as endocrine disruptors, which alter levels of growth and reproductive hormones.<sup>18</sup>

Because skin contact with textiles can cause consumer exposure to these chemicals, the presence of these hazardous chemicals in clothing poses a lethal risk to consumers.

## II. ATTEMPTED REGULATION IN THE US

To combat the threats of these dangerous chemicals in consumers’ clothing, the United States has taken some regulatory action.

### A. *Toxic Substances Control Act and its Amendment*

Originally enacted in 1976, the Toxic Substances Control Act (TSCA) was recently amended by the Frank R. Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act. The legislative intent of these Acts is to provide “adequate authority to regulate chemical substances and mixtures which present an unreasonable risk of injury to health... and to take action with respect to chemical substances and mixtures which are imminent hazards.”<sup>19</sup>

The TSCA gives the EPA the authority to require companies to report and keep records of the hazardous substances they use.<sup>20</sup> Furthermore, the Act provides the EPA with authority to require reporting,

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<sup>14</sup> Madeleine Cobbing, et. al, *Taking the Shine off SHEIN: A business model based on hazardous chemicals and environmental destruction*, GREENPEACE (Nov. 2022), [https://www.greenpeace.de/publikationen/S04261\\_Konsumwende\\_StudieEN\\_Mehr%20Schein\\_v9.pdf](https://www.greenpeace.de/publikationen/S04261_Konsumwende_StudieEN_Mehr%20Schein_v9.pdf).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Cobbing, et. al., *supra* note 14; Cowley, et. al., *supra* note 9.

<sup>18</sup> Cobbing, et. al., *supra* note 14; Cowley, et. al., *supra* note 9.

<sup>19</sup> 15 U.S.C. § 2601

<sup>20</sup> 15 U.S.C § 2607

record-keeping and testing requirements, and restrictions relating to chemical substances and mixtures.<sup>21</sup> The Act also addresses the production, importation, use, and disposal of specific chemicals including polychlorinated biphenyls, asbestos, radon, and lead based paint.<sup>22</sup>

Although the TSCA regulates the manufacture and use of certain chemicals in the United States, it falls short in regulating the fast fashion industry. First, while the TSCA attempts to regulate the use of chemicals in the United States, the language of the TSCA is too ambiguous and broad to encompass the manufacture of clothing. Instead of focusing on chemicals' use in consumer goods, the TSCA focuses on the explicit manufacture of chemicals.

Additionally, the TSCA only addresses imports to the extent that the chemicals themselves are imported, thus failing to regulate the use of these chemicals in the production of goods. This leaves a significant gap in the regulation of fast fashion because less than 3% of the clothing purchased by American consumers is produced in the United States.<sup>23</sup> Therefore, over 97% of the clothing purchased by American consumers is not regulated by the TSCA. Accordingly, the Toxic Substances Control Act, while useful in the regulation of chemical substances and mixtures domestically, is not sufficient to regulate the use of toxic chemicals in fast fashion.

### *B. Consumer Product Safety Act*

Another piece of legislation which attempts to regulate toxic chemicals in the United States is the Consumer Product Safety Act (CPSA). The CPSA attempts to “protect the public against unreasonable risks of injury associated with consumer products.”<sup>24</sup> To accomplish this goal, the CPSA established the Consumer Product Safety Commission (the Commission).<sup>25</sup> Under the CPSA, the Commission has the authority to conduct research on the safety of consumer products as well as improving the safety of these products.<sup>26</sup> The

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<sup>21</sup> 15 U.S.C § 2603; 15 U.S.C § 2607

<sup>22</sup> 15 U.S.C § 2603; 15 U.S.C. § 2612

<sup>23</sup> Jim Vinoski, *Less Than 3% of the Apparel Americans Wear Is Made In The U.S., But This Company Is Changing That*, FORBES (Oct. 31, 2019, 07:19 AM), <https://www.forbes.com/sites/jimvinoski/2019/10/31/less-than-3-of-the-apparel-americans-wear-is-made-in-the-us-but-this-company-is-changing-that/?sh=343a6cd066cd>.

<sup>24</sup> 15 U.S.C § 2051

<sup>25</sup> 15 U.S.C § 2053

<sup>26</sup> 15 U.S.C § 2054

Commission also has the authority to set safety standards, including performance, labeling, and warning requirements.<sup>27</sup>

Furthermore, CPSA restricts the presence of phthalates in toys and certain childcare articles in excess of 0.1 percent.<sup>28</sup> While this does not address clothing or fast fashion, the presence of this regulation presents further evidence of the dangers of phthalates and the need to address the chemical not only in children's items, but in every consumer product.

Despite the existence of the Commission's authority, they have failed to address the issue of toxic chemicals in clothing explicitly. Instead, the Commission focuses its legislation on the regulation of children's products.<sup>29</sup> The CPSA, however, does regulate imports in a stricter manner than the TSCA. Here, United States Customs can refuse an import under this Act if it fails to comply with a consumer product safety rule, is not accompanied by a certificate memorializing the product's compliance, has been determined imminently hazardous, has a defect which is a substantial hazard, or is manufactured by a person that the Commission notified the Secretary of Treasury is in violation of the inspection and recordkeeping requirement.<sup>30</sup>

While these requirements could protect consumers from the toxic chemicals in clothing, the CPSA fails to address that category of consumer goods. Accordingly, while the framework of the CPSA could regulate this issue, as the regulations currently stand, it does not sufficiently address or regulate toxic chemicals in clothing.

### *C. Federal Hazardous Substances Act*

The Federal Hazardous Substances Act (FHSA) is the final relevant piece of federal legislation concerning toxic chemicals. The FHSA regulates substances that are toxic, corrosive, irritants, strong sensitizers, flammable, combustible, or that generate pressure through various means.<sup>31</sup> The FHSA defines toxic as any substance "which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface."<sup>32</sup> Because consumers can be exposed to hazardous chemicals in textiles through skin contact, or inhalation or unintentional ingestion of dust

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<sup>27</sup> 15 U.S.C. § 2056

<sup>28</sup> 15 U.S.C. § 2057

<sup>29</sup> 15 U.S.C. §§ 2056-2057

<sup>30</sup> 15 U.S.C. § 2066

<sup>31</sup> 15 U.S.C. § 1261

<sup>32</sup> 15 U.S.C. § 1261

released from the materials, FHSA should apply to toxic chemicals in clothing.<sup>33</sup>

The FHSA utilizes the Commission that was established with the CPSA to enact the regulations outlined in the Code. Specifically, the FHSA mandates that the Commission publishes a proposed rule and preliminary regulatory analysis in the Federal Register before classifying any substance as a banned hazardous substance or proposing any regulation.<sup>34</sup> If a substance is deemed a “banned substance” and a company subsequently introduces the substance into interstate commerce or falsely guarantees that they are not using the substance or manufacture of this substance this substance a substance is classified as banned, the company can face various penalties.<sup>35</sup> The penalties range from civil to criminal penalties up to and including a misdemeanor.<sup>36</sup>

The procedure concerning banning substances is insufficient to protect consumers from toxic chemicals in clothing. Not only are there significant barriers to banning hazardous chemicals, but even if a chemical is banned, the penalties for using the chemicals are also insufficient. The FHSA requires that the violator commits a “knowing” violation and further limits the civil penalties at \$15 million for any related series of violations.<sup>37</sup> For companies like Shein, which earned \$22.7 billion in 2022, a \$15 million maximum penalty is insufficient to institute real change.<sup>38</sup>

Furthermore, if a substance is not banned and is merely deemed hazardous, the FHSA imposes labeling requirements to warn consumers about the contents and risks of a product.<sup>39</sup> While this may deter some consumers from purchasing a product, it is insufficient to adequately protect consumers from the dangerous risks of toxic chemicals. When such toxic chemicals are involved, it is inappropriate to place the burden of consumer protection on the uninformed consumer.

Additionally, the FHSA applies to imports by allowing the United States to refuse the admission of certain items if it appears that

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<sup>33</sup> Iadaresta, et. al., *supra* note 1.

<sup>34</sup> 15 U.S.C. § 1262

<sup>35</sup> 15 U.S.C. § 1263

<sup>36</sup> 15 U.S.C. § 1264

<sup>37</sup> *Id.*

<sup>38</sup> Chloe Mills, *Shein projects doubling of revenues by 2025*, RETAIL WEEK, (Feb. 20, 2023) [https://www.retail-week.com/fashion/shein-projects-doubling-of-revenues-by-2025/7043216.article?auth=1#:~:text=Shein%20reported%20annual%20revenue%20of,%C2%A348.6bn\)%20in%202025.](https://www.retail-week.com/fashion/shein-projects-doubling-of-revenues-by-2025/7043216.article?auth=1#:~:text=Shein%20reported%20annual%20revenue%20of,%C2%A348.6bn)%20in%202025.)

<sup>39</sup> 15 U.S.C. § 1261



a hazardous substance is misbranded or banned.<sup>40</sup> While this regulation encourages foreign manufactures to adequately label their products, again, the burden should not be on consumers protect themselves in this situation. Additionally, because the list of banned hazardous chemicals is incomplete, largely due to the barriers in banning a chemical, preventing banned chemicals does not adequately solve this issue.

Despite the United States' efforts, the current regulatory framework is insufficient to combat the omnipresent hazardous chemicals in clothing as evidenced by recent studies. While all of these Acts could potentially work together to regulate the industry, they are disconnected and decentralized. Because the presence of toxic chemicals in clothing is a large issue, the United States needs a centralized, specific, and condensed regulatory model for this area to protect consumers.

### III. EUROPEAN ANALYSIS: REACH

#### A. Background

Outside of the United States, the European Union regulation REACH details a framework to prevent the chemical exposure revealed in the Marketplace and Greenpeace studies. REACH stands for the Registration, Evaluation, Authorization, and Restriction of Chemicals and has been in place since June 1, 2007.<sup>41</sup>

REACH is a regulation of the European Union which was adopted to protect human health and the environment from risks posed by chemicals.<sup>42</sup> To achieve this goal, REACH established a central entity, the European Chemicals Agency ("ECHA"), to implement this legislation.<sup>43</sup> This regulation applies to all chemical substances, including those used in daily life, like cleaning products, paint, and articles of clothing.

#### B. REACH in Detail

In general, REACH establishes procedures for collecting and assessing information on the properties and hazards of substances. Each component of REACH, including Registration, Evaluation, Authorization, and Restriction, establishes a separate step to protect consumers from hazardous chemicals.

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<sup>40</sup> 15 U.S.C. § 1273

<sup>41</sup> Commission Regulation 1907/2006, 2006 O.J. (L 396) 1.

<sup>42</sup> *Id.* at 2.

<sup>43</sup> *Id.* at 7.

Under “Registration,” REACH places the burden on companies to collect information on the properties and uses of the substances they manufacture or import above one ton per year.<sup>44</sup> The companies must also assess the hazards and potential risks presented by each substance.<sup>45</sup> This information is communicated to ECHA through a registration dossier which must contain the hazard information and, where relevant, an assessment of the risks that the use of the substance may pose and how these risks should be controlled.<sup>46</sup>

The “Evaluation” component of REACH consists of three phases. The first phase includes dossier evaluation to ensure compliance and an examination of testing proposals as well as substance evaluation.<sup>47</sup> Phase two includes ECHA making a decision on whether to request further information from the registrant.<sup>48</sup> The last phase includes a follow up to ECHA’s decision, which includes another dossier and substance evaluation.<sup>49</sup>

The evaluation phases focus on the examination of testing proposals submitted by registrants, compliance check of the dossiers submitted by registrants, and substance evaluation.<sup>50</sup> The reasoning behind this focus is to ensure that the information contained in the registration dossiers is correct at the time of registration and that any changes to this information are reported in a timely fashion.<sup>51</sup>

Under “Authorization,” ECHA aims to ensure that substances of very high concern (SVHCs), are replaced by less dangerous substances where technically and economically feasible alternatives are available.<sup>52</sup> The authorization process begins when a member state or ECHA proposes a substance to be identified as an SVHC. If a substance is identified as an SVHC, a manufacturer, importer or downstream user cannot place a substance on the market for use or use it themselves unless a number of exceptions have been met.<sup>53</sup>

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<sup>44</sup> *Id.* at 11.

<sup>45</sup> *Id.* at 8.

<sup>46</sup> *Id.* at 8.

<sup>47</sup> *Id.* at 121.

<sup>48</sup> *Id.* at 122.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 121, 123, 127.

<sup>51</sup> *Id.* at 16.

<sup>52</sup> *Id.* at 9.

<sup>53</sup> *Id.* at 139 (exceptions include separate authorizations to use the substance in given situations, the effective date has not been reached, a decision on an application for authorization has not been taken, or if authorization has been granted to the immediate downstream user).

The restriction provisions allow the manufacturing, sale, and use of substances presenting risks that need to be addressed to be made subject to total or partial bans or other restrictions based on assessment of those risks.<sup>54</sup> Restrictions are typically used to limit or ban the manufacture, placing on the market (including imports), or use of a substance.<sup>55</sup> A restriction can apply to any substance on its own, in a mixture, or in an article, including those that do not require registration.<sup>56</sup>

### C. Downstream Users

While the restrictions are narrower for chemical manufacturers, REACH also applies to downstream users. Downstream users include any “natural or legal person” established within the European Union “other than the manufacturer or importer, who uses a substance, either on its own or in a preparation, the course of his industrial or professional activities.”<sup>57</sup> The registration requirements also apply to downstream users, like fast fashion brands, that use a total quantity of one ton of a substance.<sup>58</sup>

### D. Compliance

REACH places the burden of proof on companies. To comply with the regulation, companies must identify and manage the risks linked to the substances they manufacture and market in the European Union.<sup>59</sup> The natural or legal persons handling chemicals must take the necessary risk management measures in accordance with REACH and pass on relevant recommendations along the supply chain.<sup>60</sup> In order to conduct accurate and effective chemical safety assessments, manufacturers and importers of substances should obtain information on these substances by performing new tests, if necessary.<sup>61</sup> Later, for enforcement, evaluation, and transparency purposes, the information on these substances should be regularly submitted to authorities.<sup>62</sup>

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<sup>54</sup> *Id.* at 9.

<sup>55</sup> *Id.* at 28, 29 ((however, the restrictions can also be used to impose any relevant condition, such as requiring technical measures or specific labels).

<sup>56</sup> *Id.* at 29.

<sup>57</sup> *Id.* at 55.

<sup>58</sup> *Id.* at 21.

<sup>59</sup> *Id.* at 10.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

### E. Geographic Constraints

Although REACH includes detailed regulations, REACH only applies to companies established inside of the EU.<sup>63</sup> Companies established outside of the EU are not bound by the obligations of REACH, even if the companies export their products into the customs territory of the EU.<sup>64</sup> The responsibility for fulfilling the requirements of REACH, such as registration lies with the importers established in the EU, or with the only representative of a non-EU manufacturer established in the EU.<sup>65</sup>

### F. A Critique

While this regulation provides a detailed framework which constantly assesses new chemicals, it could be more specific to the textile industry and downstream users. Additionally, because the burden here is placed on companies, this may decrease the incentive to innovate or decrease the likelihood of compliance. Despite the shortcomings of REACH, the framework is an innovative and widely applicable method of regulating toxic substances in Europe. Although REACH could contain more textile and downstream user specific provisions, it is a step toward advanced consumer protection in the toxic chemical industry.

## IV. NEW YORK'S APPROACH

Domestically, Assembly Bill A7063 from New York provides an example of how a state in the United States can prohibit the manufacture, distribution, or sale of apparel containing certain substances. This bill prohibits the use of perfluoroalkyl and polyfluoroalkyl substances (PFAs) in apparel as an intentionally added chemical.<sup>66</sup> It also prohibits the sale of any apparel containing PFAs.<sup>67</sup> While this law will not take effect until December 31, 2023, it is a substantial restriction on one toxic chemical which will protect millions of consumers.

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<sup>63</sup> European Chemicals Agency, REACH, CLP and biocides for non-EU companies, EUROPEAN UNION, <https://echa.europa.eu/support/getting-started/enquiry-on-reach-and-clp#:~:text=REACH%20and%20CLP%20only%20applycover%20these%20three%20countries%20too> (last visited March 7, 2023).

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> Assemb. B. 7063-A, 2021-2022, Legis. Sess., (N.Y. 2021).

<sup>67</sup> *Id.*

Despite its substantial restriction on PFAs, there are several other substances that should be regulated by this type of bill.

## V. PROPOSED REGULATORY FRAMEWORK

Because current regulations in the United States are insufficient to protect consumers from the threat of toxic chemicals in clothing, a new regulatory framework must be enacted. Both the REACH framework and the New York Assembly Bill A7063, as well as existing legislation in the United States, provide guidance in developing a detailed regulatory framework restricting toxic chemicals in fast fashion.

Legislatures should adopt most aspects of REACH, while amending the legislation to apply in the United States. Specifically, legislatures should develop a detailed framework including several stages to register, evaluate, authorize, and restrict chemicals. While REACH utilizes ECHA to enforce its framework, the United States should use the Commission which was established by the CPSA.

Additionally, under REACH, most provisions include a “one ton” requirement for applicability. However, legislatures should enact a zero tolerance provision for chemicals deemed toxic. Consumers should not be exposed to these chemicals, regardless of the quantity.

Further, REACH only applies to companies established inside of the European Union. Legislatures, however, should require that the regulatory framework apply to imports and be strictly enforced, due to American purchasing patterns. Because less than 3% of the clothing purchased by American consumers is produced in the United States, it is critical that the legislation applies to all imported clothing.<sup>68</sup>

Additionally, REACH places the burden of proof on manufacturers and companies. The legislature in the United States should take the burden of proof away from companies and place the Commission in charge of ensuring compliance through testing. This will ensure that the requirements are strictly followed and allow companies to focus on compliance and innovation to keep consumers safe. Alternatively, if the burden of proof remains with companies, the legislature should incorporate a randomized auditing program to ensure that all companies are in compliance with the law. Subsequently, the Commission finds that a company violates the regulations, the company should face fines to offset the costs of the increased monitoring.

Furthermore, it is critical that the legislation’s language is very explicit. For example, the New York Assembly Bill details that certain

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<sup>68</sup> Vinoski, *supra* note 23.

substances cannot be included “as an intentionally added chemical.”<sup>69</sup> While this is useful language, it is insufficient. The legislature should explain that certain substances cannot come into a specified distance of a clothing product or on the premises of the clothing production and processing facilities. This will ensure that the clothing does not intentionally or unintentionally include any toxic substances.

Together, these provisions should protect consumers from the toxic chemicals present in clothing in the changing world of fast fashion.

## VI. EFFECTS OF THIS FRAMEWORK AND THE FUTURE OF FAST FASHION

As a result of this necessary regulatory framework, there will be several implications. First, due to the burden of monitoring chemicals companies may need to hire more labor to ensure compliance. These increased costs of production might increase the cost of goods to consumers to maintain profit margins.

Additionally, increased regulation and monitoring will likely increase government spending, and in effect raise taxes. Although there is a possibility that this regulatory framework would increase taxes, taxes are meant to provide revenue for governments to fund essential services that benefit all citizens.<sup>70</sup> Protecting citizens from the effects of toxic chemicals in clothing is an essential service that would benefit all citizens, thus justifying the increased tax.

## CONCLUSION

While fast fashion provides consumers with easy access to rapidly changing fashion trends, the presence of toxic chemicals in the clothing produced by fast fashion companies poses an unnecessary and dangerous risk to consumers. Consumers must be protected from PFAs, lead, and other toxic substances to prevent serious health effects. In order to achieve this goal, the United States must turn to the European model, REACH, and New York’s Assembly Bill to guide the regulation of fast fashion.

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<sup>69</sup> Assemb. B. 7063-A, *supra* note 66.

<sup>70</sup> *How Are Federal Taxes Spent?*, INTUIT TURBOTAX (Dec. 1, 2022), <https://turbotax.intuit.com/tax-tips/general/how-are-federal-taxes-spent/L6kinGuUt>.