

Retailers Get a Forbearance Period for Previously-Exempt Fur

March 16, 2011

Pursuant to an enforcement policy the FTC announced earlier today, retailers of fur products that were previously subject to the \$150 exemption under the Fur Products Labeling Act ("Fur Act") will not have to pull those products from shelves by Friday. Under previous Fur Act authority, the FTC had exempted products containing fur or fur trim with a component value of \$150 or less from fur-content labeling (de minimis exemption). The recently-passed Truth in Fur Labeling Act eliminates that authority and mandates that, starting March 18, 2011, products previously covered by the de minimis exemption will be subject to the Fur Act's disclosure requirements.

Although coat selling season is winding down, many retail floors and websites still include fur products that, when purchased by the retailer and initially offered for sale, were subject to the exemption. The fur industry expressed concern that compliance with the March 18 deadline for these products would cause significant economic loss, including destruction of some of those products. In response to those concerns, the new enforcement policy includes a forbearance period with the Commission noting that, "While compliance with the letter of the law is important, the Commission also recognizes that new obligations may sometimes create significant burdens on parties that have relied in good faith on previous requirements." Thus, the Commission will not enforce Fur Act labeling requirements against any retailer offering previously-exempt products as long as (1) the products were delivered to the retailer on or before March 18, 2011 and sold by March 18, 2012 and (2) the products are not mislabeled under the old requirements. The Commission encourages retailers to communicate fur content information in other ways during the forbearance period.

The Commission also requests comments on its Fur Labeling and Advertising Rules, which require fur products to bear certain labeling. The comment request is pursuant to the FTC's periodic regulatory review and the requirement in the Truth in Fur Labeling Act to review the Fur Products Name Guide. Please contact us if you're interested in preparing comments, which are due by May 16, 2011.