
SENATE BILL 5904

State of Washington

67th Legislature

2022 Regular Session

By Senators Das, Nobles, Lovelett, Nguyen, Rolfes, and Saldaña

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1 AN ACT Relating to requiring fashion retail sellers and
2 manufacturers to disclose environmental and social due diligence
3 policies; adding a new chapter to Title 70A RCW; and prescribing
4 penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that the fashion
7 industry has many negative environmental and social impacts,
8 including high levels of water use, run-off pollution from the use of
9 agrochemicals and dyes, carbon emissions, industry waste, low wages,
10 hazardous work environments, and other unethical labor practices.

11 (2) The United Nations estimates that a single pair of jeans
12 requires a kilogram of cotton, and because cotton tends to be grown
13 in dry environments, producing this kilogram requires about 7,500 to
14 10,000 liters of water, which is approximately 10 years' worth of
15 drinking water for one person. The industry accounts for nearly 20
16 percent of global wastewater, with fabric dyes polluting water bodies
17 and impacting aquatic life and drinking water. Cotton production also
18 uses a high amount of fertilizers and pesticides, discharging toxic
19 substances to waterways. In terms of greenhouse gases, the fashion
20 industry accounts for about eight to 10 percent of global carbon

1 emissions, using more energy than both aviation and shipping
2 combined.

3 (3) The synthetic polymer polyester is the most common fabric
4 used in clothing, and globally, 65 percent of the clothing that we
5 wear is polymer-based. Around 70,000,000 barrels of oil a year are
6 used to make polyester fibers in our clothes, from waterproof jackets
7 to scarves. Polyester takes hundreds of years to decompose and can
8 lead to microfibers escaping into the environment. The United States
9 environmental protection agency estimates that in 2018, 11,300,000
10 tons of textiles ended up in landfills, while another 3,200,000 tons
11 were incinerated. According to the Ellen MacArthur foundation, the
12 average number of times a piece of clothing is worn decreased by 36
13 percent between 2000 and 2015, and according to the world bank, 40
14 percent of clothing purchased in some countries is never used.

15 (4) Garment workers face oppressive working conditions, cope with
16 irregular hours, and receive low wages. The COVID-19 pandemic
17 worsened these conditions when canceled orders and factory closures
18 put millions of workers out of a job, leaving them unable to pay for
19 basic needs such as food and rent. Female garment workers, who make
20 up around 80 percent of the workforce, risk violence and sexual
21 harassment. The international labor organization estimates that
22 160,000,000 children are engaged in child labor, with many working
23 within the fashion supply chain, making textiles and garments.
24 Farmworkers who work to produce cotton are exposed to high levels of
25 pesticides.

26 (5) The legislature recognizes that some companies have committed
27 to mitigation measures, such as the use of the science-based targets
28 initiative, a tool for reducing carbon emissions. Additionally,
29 legislation regarding due diligence is being considered in New York
30 and the European Union, and Germany, France, Britain, and Australia
31 have laws requiring due diligence when it comes to human rights and
32 slavery. Therefore, the legislature also intends to address the
33 negative environmental and social impacts of the fashion industry, by
34 requiring companies to map a minimum of 50 percent of their supply
35 chain, disclose where in that chain they have the greatest social and
36 environmental impact when it comes to low wages, energy, greenhouse
37 gas emissions, water, and chemical management, and make plans to
38 reduce those numbers. By doing so, the legislature intends for
39 Washington to serve as a leader in mitigating the environmental and
40 social impact of the fashion industry.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires
3 otherwise.

4 (1) "Article of wearing apparel" means any costume or article of
5 clothing worn or intended to be worn by individuals.

6 (2) "Doing business in the state" means actively engaging in any
7 transaction for the purpose of financial or pecuniary gain or profit.

8 (3) "Due diligence" means the process companies should carry out
9 to identify, prevent, mitigate, and account for how they address
10 actual and potential adverse impacts in their own operations, their
11 supply chain, and other business relationships, as recommended in the
12 organization for economic cooperation and development guidelines for
13 multinational enterprises, the organization for economic cooperation
14 and development due diligence guidance for responsible business
15 conduct, and United Nations guiding principles of business and human
16 rights.

17 (4) "Fashion manufacturer" means a business entity that lists
18 manufacturing as its principal business activity in the state of
19 Washington, as reported on the entity's state business and occupation
20 tax return, and primarily manufactures articles of wearing apparel or
21 footwear.

22 (5) "Fashion retail seller" means a business entity that lists
23 retail trade as its principal business activity in the state of
24 Washington, as reported on the entity's state business and occupation
25 tax return, and primarily sells articles of wearing apparel or
26 footwear.

27 (6) "Footwear" means any covering worn or intended to be worn on
28 the foot.

29 (7) "Gross receipts" means the gross amounts realized, otherwise
30 known as the sum of money and the fair market value of other property
31 or services received, on the sale or exchange of property, the
32 performance of services, or the use of property or capital, including
33 rents, royalties, interest, and dividends, in a transaction that
34 produces business income, in which the income, gain, or loss is
35 recognized, or would be recognized if the transaction were in the
36 United States, under the United States Internal Revenue Code, as
37 applicable for purposes of this section. Amounts realized on the sale
38 or exchange of property must not be reduced by the cost of goods sold
39 or the basis of property sold. Gross receipts, even if business
40 income, must not include the following items:

1 (a) Repayment, maturity, or redemption of the principal of a
2 loan, bond, mutual fund, certificate of deposit, or similar
3 marketable instrument;

4 (b) The principal amount received under a repurchase agreement or
5 other transaction properly characterized as a loan;

6 (c) Proceeds from the issuance of the taxpayer's own stock or
7 from sale of treasury stock;

8 (d) Damages and other amounts received as the result of
9 litigation;

10 (e) Property acquired by an agent on behalf of another;

11 (f) Tax refunds and other tax benefit recoveries;

12 (g) Pension reversions;

13 (h) Contributions to capital, except for sales of securities by
14 securities dealers;

15 (i) Income from discharge of indebtedness;

16 (j) Amounts realized from exchanges of inventory that are not
17 recognized under the United States Internal Revenue Code;

18 (k) Amounts received from transactions in intangible assets held
19 in connection with a treasury function of the taxpayer's unitary
20 business and the gross receipts and overall net gains from the
21 maturity, redemption, sale, exchange, or other disposition of those
22 intangible assets; and

23 (l)(i) Amounts received from hedging transactions involving
24 intangible assets.

25 (ii) For the purposes of this subsection, a "hedging transaction"
26 means a transaction related to the taxpayer's trading function
27 involving futures and options transactions for the purpose of hedging
28 price risk of the products or commodities consumed, produced, or sold
29 by the taxpayer.

30 NEW SECTION. **Sec. 3.** (1) Every fashion retail seller and
31 fashion manufacturer doing business in the state and having annual
32 worldwide gross receipts that exceed \$100,000,000 must disclose, as
33 set forth in subsection (3) of this section, its environmental and
34 social due diligence policies, processes, and outcomes, including
35 significant real or potential adverse environmental and social
36 impacts and disclose targets for prevention and improvement.

37 (2) The disclosure described in subsection (1) of this section
38 must be published on the fashion retail seller's or fashion
39 manufacturer's website with a clear and easily understood link to the

1 required information placed on the fashion retail seller's or fashion
2 manufacturer's homepage within 12 months of the enactment of the
3 policies, processes, and outcomes, except as otherwise provided in
4 this chapter. In the event the fashion retail seller or fashion
5 manufacturer does not have an internet website, consumers must be
6 provided a written disclosure within 30 days of receiving a written
7 request for the disclosure from a consumer.

8 (3) The disclosure required pursuant to subsection (1) of this
9 section must include, at a minimum:

10 (a) Supply chain mapping and disclosure, including:

11 (i) Taking a risk-based approach, using good faith efforts to map
12 suppliers across all tiers of production, from raw material to final
13 production. A minimum of 50 percent of suppliers by volume across all
14 tiers of production must be mapped; and

15 (ii) Using good faith efforts to map the suppliers and associated
16 supply chains relevant to the prioritized risk, and obtain and
17 disclose the names of prioritized suppliers;

18 (b) Impact and due diligence disclosure, including a social and
19 environmental sustainability report, to include externally relevant
20 information on due diligence policies, processes, and activities
21 conducted to identify, prevent, mitigate, and account for potential
22 adverse impacts, including the findings and outcomes of those
23 activities. Such a report must include, in line with the United
24 Nations guiding principles on business and human rights, the
25 international labor organization declaration on fundamental
26 principles and rights at work, the organization for economic
27 cooperation and development guidelines for multinational enterprises,
28 and the organization for economic cooperation and development due
29 diligence guidance for responsible business conduct. The impact and
30 due diligence disclosure must also include:

31 (i) A link on the fashion retail seller's or fashion
32 manufacturer's website to relevant policies on responsible business
33 conduct;

34 (ii) Information on measures taken to embed responsible business
35 conduct into policies and management systems;

36 (iii) The fashion retail seller's or fashion manufacturer's
37 identified areas of significant risks in the contexts of its own
38 activities and business relationships, such as supply chains;

1 (iv) The significant adverse impacts on risks identified,
2 prioritized, and assessed in the context of its own activities and
3 business relationships, such as supply chain;

4 (v) The prioritization criteria;

5 (vi) The actions taken to prevent or mitigate those risks, such
6 as corrective action plans, to be cited where available, including
7 estimated timelines, targets, and benchmarks for improvement and
8 their outcomes;

9 (vii) Measures to track implementation and results; and

10 (viii) The fashion retail seller's or fashion manufacturer's
11 provision of or cooperation in any remediation;

12 (c) Impact disclosure on prioritized adverse environmental and
13 social impacts within 18 months after enactment of the policies,
14 processes, and outcomes, including:

15 (i) A quantitative baseline and reduction targets on energy and
16 greenhouse gas emissions, water, and chemical management. Greenhouse
17 gas reporting must be independently verified, include absolute
18 figures, and conform with the greenhouse gas protocol corporate
19 account and reporting standard and the greenhouse gas protocol
20 corporate value chain scope three standard promulgated by the world
21 resources institute;

22 (ii) Annual volume of material produced, including breakdown by
23 material type, which must be independently verified;

24 (iii) How much production has been displaced with recycled
25 materials as compared to growth targets, which must be independently
26 verified;

27 (iv) The median wages of workers of prioritized suppliers and how
28 this compares with local minimum wage and living wages; and

29 (v) The company's approach for incentivizing supplier performance
30 on workers' rights, stating any key performance indicators or
31 performance incentives used, and describing the incentives used to
32 reward suppliers and encourage good performance. Examples may include
33 contract renewals, price premiums, and the offer of longer-term
34 contracts; and

35 (d) What targets fashion retail sellers and fashion manufacturers
36 have for impact reductions, and for tracking due diligence
37 implementation and results including, where possible, estimated
38 timelines and benchmarks for improvement. Climate change targets must
39 be absolute targets, align with the apparel and footwear sector
40 science-based targets guidance promulgated by the world resources

1 institute and include all scopes of production. Fashion retail
2 sellers and fashion manufacturers must meet targets and report their
3 compliance on an annual basis.

4 NEW SECTION. **Sec. 4.** (1)(a) The requirements imposed on fashion
5 retail sellers and fashion manufacturers by this chapter may be
6 enforced by the attorney general or an administrator designated by
7 the attorney general bringing civil proceedings for an injunction,
8 monetary damages, or civil performance of a statutory duty.

9 (b) The attorney general, or the attorney general's designated
10 administrator as applicable, must annually publish and make publicly
11 available a report regarding compliance with this chapter, listing
12 the fashion retail sellers and fashion manufacturers who are known to
13 be out of compliance with this chapter and including an up-to-date
14 report on the attorney general's monitoring of compliance.

15 (c) Fashion retail sellers and fashion manufacturers found to be
16 out of compliance with this chapter after the attorney general, or
17 the attorney general's designated administrator as applicable, has
18 provided notice of noncompliance, and after a three-month period to
19 meet obligations under this chapter has lapsed, may be fined up to
20 two percent of annual revenues of up to \$450,000,000 or more. The
21 fines must be deposited in the community benefit account created in
22 section 5 of this act.

23 (2)(a) Any citizen may commence a civil action against any person
24 who is alleged to have violated or to be in violation of this chapter
25 or an order by the attorney general, or the attorney general's
26 designated administrator as applicable, with respect to the standards
27 and requirements set forth in this chapter, including:

28 (i) Washington state;

29 (ii) A governmental instrumentality or agency to the extent
30 permitted by the Eleventh Amendment to the United States
31 Constitution; and

32 (iii) Any business.

33 (b) Any citizen may commence a civil action to compel the
34 attorney general, or the attorney general's designated administrator
35 as applicable, to investigate an entity's compliance with this
36 chapter, to enforce compliance with this chapter, or to apply the
37 prohibitions set forth in this chapter to any business operating
38 within this state.

1 (c) Any citizen may commence a civil action against the attorney
2 general, or the attorney general's designated administrator as
3 applicable, where there is an alleged failure of the attorney general
4 or the attorney general's designated administrator to perform any act
5 or duty under this chapter that is not discretionary with the
6 attorney general, or the attorney general's designated administrator
7 as applicable.

8 NEW SECTION. **Sec. 5.** (1) The community benefit account is
9 created in the custody of the state treasurer. All receipts from
10 fines imposed under section 4 of this act must be deposited into the
11 account. Expenditures from the account may be used only for the
12 purpose of implementing one or more environmental benefit projects
13 that directly and verifiably benefit overburdened communities and
14 vulnerable populations as defined in RCW 70A.02.010. Only the
15 director of the department of ecology or the director's designee may
16 authorize expenditures from the account. The account is subject to
17 allotment procedures under chapter 43.88 RCW, but an appropriation is
18 not required for expenditures.

19 (2) The department of ecology must consult with the environmental
20 justice council established in RCW 70A.02.110 in making expenditures
21 under this section.

22 (3) For the purposes of this section, "environmental benefit" has
23 the same meaning as "environmental benefits" defined in RCW
24 70A.02.010.

25 NEW SECTION. **Sec. 6.** This chapter may be known and cited as the
26 Washington fashion sustainability and social accountability act.

27 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act
28 constitute a new chapter in Title 70A RCW.

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