
Environment & Energy Committee

HB 2068

Brief Description: Concerning the environmental impacts of fashion.

Sponsors: Representatives Mena, Doglio, Berry, Reed, Ramel, Macri, Berg, Duerr, Slatter and Street.

Brief Summary of Bill

- Requires fashion manufacturers and retail sellers with an annual worldwide gross income exceeding \$100 million (covered fashion businesses) to disclose their environmental due diligence policies, processes, and outcomes, including environmental impacts.
- Requires covered fashion businesses to establish, track, and disclose progress towards performance targets, beginning January 1, 2027.
- Authorizes the Department of Ecology (Ecology) to enforce disclosure requirements on fashion manufacturers and retail sellers, and to issue penalties for noncompliance.
- Authorizes persons to commence civil actions for violations against persons out of compliance, or to compel Ecology to investigate an entity's compliance.
- Creates a Community Benefit Account to receive penalties issued to fashion retail sellers and manufacturers, for implementing environmental benefit projects that benefit overburdened communities and vulnerable populations.

Hearing Date: 1/11/24

Staff: Jacob Lipson (786-7196).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Environmental disclosure laws generally require a manufacturer or business to report on environmental impacts of a process or product, such as greenhouse gas emissions or use of a specific chemical, and can be measured at a specific source point or over the life cycle of a process or product. State environmental laws require a variety of types of disclosure to be made by producers of products, such as information related to:

- the inclusion of Chemicals of High Concern for Children in certain consumer products under the Children's Safe Products Act;
- the recycled content of certain plastic products that must meet minimum postconsumer recycled content requirements; and
- the reporting of greenhouse gas emissions by facilities and fuel suppliers.

The World Resources Institute's Apparel and Footwear Sector Science-Based Targets Guidance provides recommendations for companies in the sector to set science-based targets, and provides case studies on best practices in target setting and strategies for achieving reductions.

In 2021 the Legislature enacted Senate Bill 5141 which established several requirements applicable to how state agencies consider environmental justice in their decision-making. The departments of Agriculture, Commerce, Ecology, Health, Natural Resources, and Transportation and the Puget Sound Partnership must apply and comply with specified environmental justice requirements. These agencies must integrate environmental justice, including consideration of environmental harms and benefits, into agency decision-making and activities. One obligation of these agencies is to create and adopt a community engagement plan that describes planned engagement with overburdened communities and vulnerable populations, and that identifies and prioritizes overburdened communities for purposes of implementing the agency's environmental justice responsibilities.

The Pollution Control Hearings Board (PCHB) is an appeals board with jurisdiction to hear appeals of certain decisions, orders, and penalties issued by the Department of Ecology and several other state agencies. Parties aggrieved by a PCHB decision may obtain subsequent judicial review.

Summary of Bill:

Fashion retail sellers and fashion manufacturers that do business in Washington and that have an annual worldwide gross business income exceeding \$100 million (covered fashion businesses) must disclose environmental due diligence policies, processes and outcomes, including environmental impacts, and targets for prevention and improvement. Disclosures must be posted on the webpage of covered fashion businesses by July 1, 2025, or disclosed upon written request for any covered fashion businesses that do not maintain a website.

Covered fashion businesses must carry out due diligence that must be included in their required disclosures. Due diligence must include:

- supply chain mapping that includes taking a risk-based approach, and that maps at least 50

- percent of suppliers by volume across all types of production; and
- impact due diligence, including an environmental sustainability report that is in line with certain specified international guidance, including guidelines developed by the Organization for Economic Cooperation and Development. Impact due diligence disclosures must include information on measures to embed responsible business conduct into policies and management systems, the covered fashion business's areas of significant risks and significant adverse impacts, and actions taken to prevent or mitigate risks.

Beginning January 1, 2027, covered fashion businesses must establish, track, and disclose progress towards performance targets, including tracking and disclosure of:

- energy and greenhouse gas emissions, water, and chemical management baselines and reduction targets;
 - annual material production volumes;
 - information related to the displacement of production with recycled materials; and
 - targets for environmental impact reductions, and progress towards those targets.
- Greenhouse gas emission reduction targets must include absolute targets that align with the World Resources Institute's apparel and footwear sector science-based targets guidance.

Beginning April 1, 2028, each covered fashion business must submit an annual report to the Department of Ecology (Ecology). Ecology may adopt rules and must annually publish and make available a report regarding compliance with environmental impact due diligence, targets, and disclosure requirements of covered fashion businesses.

Ecology may issue civil penalties of \$5,000 for a first offense and \$10,000 for repeat offenses. Penalties are appealable to the Pollution Control Hearings Board. Penalties must be deposited in a Community Benefit Account, which must be used for environmental benefit projects that benefit overburdened communities and vulnerable populations, as those benefits, communities, and populations are defined and identified by Ecology under the 2021 environmental justice law.

Any person may commence a civil action:

- against a covered fashion business alleged to have violated due diligence, disclosure, and target requirements; or
- to compel Ecology to investigate a covered fashion business's compliance, or related to Ecology's failure to perform a nondiscretionary duty.

A person filing a civil action must provide 60 days' notice prior to filing the action, and the person may not commence an action if Ecology has commenced an enforcement action. Ecology may also intervene in a filed action. Civil actions may be brought in any judicial district in which the covered fashion business does business. A court issuing a final order may award litigation costs to a prevailing party, where a court determines it is appropriate.

Appropriation: None.

Fiscal Note: Requested on January 3, 2024.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.