

SENATE BILL REPORT

SB 5965

As of January 11, 2024

Title: An act relating to the environmental impacts of fashion.

Brief Description: Concerning the environmental impacts of fashion.

Sponsors: Senators Nguyen, Kuderer, Nobles, Saldaña and Wilson, C..

Brief History:

Committee Activity: Environment, Energy & Technology: 1/12/24.

Brief Summary of Bill

- Requires certain fashion retail sellers and fashion manufacturers to disclose specified environmental due diligence policies, processes, performance targets, and outcomes.
- Authorizes the Department of Ecology (Ecology) to enforce the disclosure requirements and to issue penalties for noncompliance, which must be deposited into a newly-created Community Benefit Account, to be used for certain environmental projects.
- Allows a person to commence a civil action for certain alleged violations relating to the disclosure requirements or Ecology's duties, subject to specified limitations.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Staff: Matt Shepard-Koningsor (786-7627)

Background: Environmental Disclosures. Environmental disclosure laws generally require a manufacturer or other business to report on environmental impacts of a process or product, such as greenhouse gas (GHG) emissions or use of a specific chemical, and can be measured at a specific point source or over the life cycle of a process or product. For

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example, Washington State requires certain facilities and fuel suppliers to annually report GHG emissions.

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

Pollution Control Hearings Board. The Pollution Control Hearings Board (PCHB) hears and decides appeals on a wide variety of environmental permits and enforcement actions of many agencies, including the Department of Ecology (Ecology). Parties aggrieved by a PCHB decision may obtain subsequent judicial review.

Summary of Bill: Environmental Disclosures. Fashion manufacturer means a business entity that lists manufacturing as its principal business activity in Washington, as reported on its state business and occupation tax return, and manufactures articles of wearing apparel or footwear. Fashion retail seller means a business entity that lists retail trade as its principal business activity in Washington, as reported on its state business and occupation tax return, and sells articles of wearing apparel or footwear. Other terms including "article of wearing apparel," "due diligence," "footwear," and "gross income of the business" are defined.

Every fashion retail seller or fashion manufacturer doing business in the state that has an annual worldwide gross income of the business exceeding \$100 million must disclose its environmental due diligence policies, processes, and outcomes, including significant real or potential adverse environmental impacts and disclose targets for prevention and improvement.

By July 1, 2025, the disclosures must be posted on the fashion retail seller's or fashion manufacturer's website. If the business does not have a website, it must provide a written disclosure within 30 days of receiving a written request for the disclosure from any person.

The disclosures must include, at a minimum:

- supply chain mapping, which includes using good faith efforts to map suppliers across all tiers of production and associated supply chains relevant to prioritized risk;
 1. a minimum of 50 percent of suppliers by volume across all tiers of production must be mapped; and
 2. the names of prioritized suppliers must be disclosed; and
- impact due diligence, which includes:
 1. an environmental sustainability report with certain externally relevant information on due diligence policies, consistent with specified national and international guidance;
 2. a link on the fashion retail seller's or fashion manufacturer's website to relevant policies on responsible business conduct or written disclosures of such policies

- for the entities;
3. information on measures taken to include responsible business conduct into policies and management systems;
 4. the fashion retail seller's or fashion manufacturer's identified areas of significant risks regarding its activities and business relationships;
 5. actions taken to prevent or mitigate those risks;
 6. prioritization criteria;
 7. measures to track implementation and results; and
 8. the fashion retail seller's or fashion manufacturer's provision of, or cooperation in, any remediation.

Beginning January 1, 2027, fashion retail sellers and fashion manufacturers must establish, track, and disclose progress toward performance targets. The disclosures must be completed in a manner consistent with other disclosures and independently verified. The fashion retail seller or fashion manufacturer must establish, track, and disclose:

- a quantitative baseline and reduction targets on energy and GHG emissions, water, and chemical management;
- annual volume of material produced, by material type;
- how much production has been replaced with recycled materials; and
- what targets fashion retail sellers and fashion manufacturers have for impact reductions, and for tracking due diligence implementation and results.

Targets must include absolute targets for GHG reductions aligning with the apparel and footwear sector science-based targets guidance promulgated by the World Resources Institute, as it existed on January 1, 2024, and include all scopes of production.

Beginning April 1, 2028, and every April 1st, each fashion retail seller or fashion manufacturer must submit an annual report to Ecology allowing it to determine whether the organization achieved its performance targets.

Penalties. A fashion retail seller or fashion manufacturer violating a disclosure, performance target achievement, or reporting requirement under the act is subject to a civil penalty of up to \$5,000 for each violation in the case of a first offense, which is increased to \$10,000 for repeat violators. Penalties and orders may be appealed to the PCHB. Penalties must be deposited into a newly-created Community Benefit Account, which may only be used for implementing one or more environmental benefit projects directly and verifiably benefitting overburdened communities and vulnerable populations.

A person may commence a civil action against:

- a fashion retail seller or fashion manufacturer alleged to be in violation of the act or a relevant Ecology order;
- Ecology, to compel it to investigate an entity's compliance, enforce compliance, or to apply the prohibitions in the act to a fashion retail seller or fashion manufacturer operating in the state; or

- Ecology, alleging it failed to perform a mandatory duty under the act.

No action may be commenced prior to 60 days after the plaintiff gave notice of the alleged violation to Ecology and to the alleged violator, if Ecology has commenced a relevant enforcement action, or if any other statute or common law provides authority for the plaintiff to commence a civil action and obtain the same relief for enforcement of such a law. An action may be commenced in any judicial district where a fashion retail seller or fashion manufacturer engages in commerce. Ecology may intervene in a civil action as a matter of right. A court may award costs of litigation, including reasonable attorneys' and expert witness fees to any prevailing party.

Other. Ecology may adopt rules to implement, administer, and enforce the act. Ecology must publish an annual report regarding compliance with the act.

Appropriation: None.

Fiscal Note: Requested on January 5, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.