

HOUSE BILL REPORT

HB 1420

As Reported by House Committee On:
Environment & Energy

Title: An act relating to establishing producer responsibility for textiles.

Brief Description: Establishing producer responsibility for textiles.

Sponsors: Representatives Reeves, Berry, Mena, Peterson, Ramel, Doglio, Pollet, Ormsby and Hill.

Brief History:

Committee Activity:

Environment & Energy: 1/30/25, 2/13/25 [DPS].

Brief Summary of Substitute Bill

- Requires producers of apparel and textile products to establish and fund a producer responsibility organization to implement a program for the postconsumer management of apparel and textile products.
- Requires producers of apparel to annually report certain information regarding their products to the Department of Ecology.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Doglio, Chair; Hunt, Vice Chair; Berry, Duerr, Fey, Kloba, Mena, Ramel, Stearns, Street and Wylie.

Minority Report: Do not pass. Signed by 9 members: Representatives Dye, Ranking Minority Member; Klicker, Assistant Ranking Member; Abbarno, Abell, Barnard, Ley, Mendoza, Stuebe and Ybarra.

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:

Under the state's solid waste management laws, local governments are the primary government entity responsible for implementing state solid waste management requirements. The Department of Ecology (Ecology) also has certain roles in overseeing the administration of solid waste management laws. Ecology is responsible for working cooperatively with local governments as they develop their local solid waste management plans. County and city solid waste management plans are required to contain certain elements, including a waste reduction and recycling element.

Under state laws addressing the local planning and management of solid waste, a waste management hierarchy is established for the collection, handling, and management of solid waste. This hierarchy prioritizes in descending order: (1) waste reduction; (2) recycling, with source separation of recyclable materials as the preferred method; (3) energy recovery, incineration, or landfill of separated waste; and (4) energy recovery, incineration, or landfill of mixed municipal solid wastes.

The Legislature has enacted laws that require the establishment of extended producer responsibility or product stewardship (EPR) programs for the management of six types of products: (1) electronic products; (2) light bulbs that contain mercury; (3) photovoltaic solar panels; (4) pharmaceuticals; (5) paint; and (6) batteries. In general, the state's EPR programs require producers to participate in a stewardship organization or program that is responsible for the collection, transport, and end-of-life management of products covered by each program. Ecology is responsible for the oversight of the state's EPR programs, with the exception of the Pharmaceutical Stewardship Program, which is overseen by the Department of Health (DOH).

The Children's Safe Products Act (CSPA) directs Ecology, working with the DOH, to use fetal and childhood exposure potential to identify high-priority chemicals of concern to children (CHCC). The CSPA requires manufacturers of children's products containing these identified CHCCs to annually report information about the use of the chemicals to Ecology. The annual notice filed with Ecology must include:

- the chemical number of the CHCC used;
- a description of the product or component containing the substance;
- a description of the chemical's function in the product; and
- the amount of the chemical used in each unit of the product.

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

Summary of Substitute Bill:

By January 1, 2027, producers of textiles and fashion apparel (covered textile products) must join a producer responsibility organization (PRO) that registers on behalf of the producers with Ecology, or must register independently with Ecology. If applications for more than one PRO are submitted to Ecology, Ecology must determine and register the proposed PRO that can most effectively implement the requirements of a PRO. Ecology may approve the registration of multiple PROs after January 1, 2036. Key parameters regarding the scope of covered textile products and the producers responsible for them are as follows:

- Apparel includes undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school uniforms, leisurewear, athletic wear, sports uniforms, swimwear, formal wear, onesies, bibs, footwear, handbags, backpacks, knitted and woven accessories, jackets, coats, snow pants, ski pants, and everyday uniforms for workwear, but does not include personal protective equipment or reusable products designed to collect and absorb urine and feces or designed to collect and absorb menstruation or vaginal discharge.
- Textiles include blankets, curtains, fabric window coverings, knitted and woven accessories, towels, tapestries, bedding, tablecloths, napkins, linens, and pillows, but do not include single-use products.
- For each covered textile product, a single specified person—either the product's manufacturer, brand licensee, brand owner, importer of record, distributor of the material in Washington, or another person assigned contractual responsibility as a producer—is defined as the producer responsible for participation in a PRO.
Producers do not include sellers of only secondhand products or sellers with less than \$1 million, in annual aggregate global turnover, as adjusted for inflation and measured following a specified process.

By March 1, 2027, Ecology must approve a PRO that meets enumerated requirements, including having a governing board of specified composition and financial responsibility and financial controls.

Beginning July 1, 2031, or upon the approval by Ecology of a PRO plan for covered textile products, a producer is subject to penalties if the producer is not a member of a PRO plan that accounts for all of the producer's covered textile products.

Duties assigned to the PRO for the management of covered textile products include:

- preparing and covering the costs of a needs assessment addressing 13 specified categories of topics, which must be initially submitted to Ecology for approval by March 1, 2028, and updated at least every five years;
- preparing a plan, which must be submitted to Ecology for approval by January 1, 2029, and updated every five years, informed by the needs assessment, that contains specified information regarding how the PRO will manage covered textile products;
- developing a contingency plan demonstrating how the covered textile product activities under the plan will be carried out in the event that the PRO can no longer carry out plan implementation for specified reasons;

- beginning to implement an approved plan by April 1, 2031, and fully implementing the plan by January 1, 2032;
- paying all administrative and operational costs associated with establishing the program;
- managing collection sites for covered textile products, including a system of free and convenient drop-off or collection systems that allows the participation of all sites meeting standards that offer to participate and that meet minimum convenience standards for statewide distribution based on population density;
- providing for the transport of covered textile products from collection sites to sorters, repair businesses, nonprofit organization, or recycling facilities;
- handling and managing covered textile products in a manner consistent with the state's waste management hierarchy, including the establishment of incentives for reuse over recycling and management practices to minimize disposal;
- establishing and achieving annual and five-year performance standards and metrics, which may include performance standards established by Ecology after March 1, 2033;
- implementing a statewide education and outreach program that meets minimum specified standards;
- actions and investments to avoid contamination from toxic chemicals in recycling processes and end markets for textile materials; and
- reporting noncompliant producers to Ecology.

A PRO must establish a method of fully funding its activities that distributes costs among participating producers in a manner that reflects sales volumes. The method of funding must include an eco-modulated fee that considers the cost of managing covered textile products to incentivize design choices that facilitate reuse, repair, and recycling and disincentivize practices and materials that do not support the PRO's obligations. Plans must include a proposed five-year budget for the PRO with budgeted cost categories for different PRO obligations and activities. A PRO must retain an independent public accountant to annually audit the PRO's accounting, to be reviewed by Ecology for compliance. A PRO must also submit an annual report to Ecology regarding 23 specified aspects of its activities during the preceding calendar year.

Ecology must implement, administer, and enforce program requirements, including the imposition of civil penalties, following specified procedures. Penalties may be imposed on producers, PROs, and persons that sell or distribute covered textile products of noncompliant producers. Penalties are appealable to the PCHB, and collected penalties are deposited in the Model Toxics Control Operating Account. Each PRO must pay fees to Ecology to cover its costs to implement and enforce requirements.

Retailers, importers, distributors, and online marketplaces that sell covered textile products must monitor a webpage created by Ecology that lists covered producers and brands, and may not sell covered textile products whose producer is not listed as being in compliance. Additional requirements apply to online marketplaces, including notifying Ecology of all

third-party sellers with over \$1 million in gross sales on the online marketplace.

Producers of covered textile products and PROs are granted immunity from state antitrust and unfair trade laws for specified actions related to the PRO's plan implementation. A PRO may not use funds collected for plan implementation to pay administrative penalties, appeal enforcement actions, fund litigation, or pay for lobbying or advertising.

Beginning January 1, 2027, each producer of apparel must annually disclose to Ecology:

- a notice consistent with the CSPA identifying each apparel product that contains a CHCC under the CSPA or a priority chemical identified under the Safer Products for Washington program;
- a description of terms used in marketing, labels, or public communications regarding the environmental impact or sustainability of the apparel products;
- a description of how each producer sells, gifts, or disposes of unwanted apparel; and
- a description of the producer's current activities, initiatives, or targets for reducing its environmental impacts.

Producers of apparel whose annual worldwide gross income exceeds \$100 million must additionally disclose to Ecology the producer's:

- due diligence policies, processes, and outcomes, including environmental impacts, recycled content measurements, and greenhouse gas emissions associated with apparel; and
- working conditions and the working conditions of their direct suppliers of products or inputs.

Substitute Bill Compared to Original Bill:

As compared to the original, the substitute bill adds a requirement for producers of apparel to disclose to Ecology specified information regarding their products, beginning in 2027.

The information that producers must disclose includes:

- the presence of certain chemicals, reported in a manner consistent with reporting of chemicals under the CSPA;
- a description of marketing terms used by the producer;
- how the producer addresses excess product; and
- current activities related to the producer's environmental impact.

Larger producers of apparel must disclose their due diligence policies and associated environmental outcomes to Ecology.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Clothing items are increasingly treated as disposable commodities, rather than being repaired or recycled. It is frequently uneconomical to repair clothing rather than buying new clothing. There is a thriving nonprofit market for used clothes, but only a small portion of used clothes are currently absorbed for reuse and resale by that system. Clothing and textile donations are often turned away by retail establishments due to capacity limits. Textiles should not go to the landfill. Hundreds of thousands of tons of textiles go to the landfill in Washington each year. An even larger volume of textiles have been exported to other countries for disposal. Clothing supply chains and disposal methods raise challenging ethical issues associated with working conditions, environmental impacts, and equity. Curbside recycling is not currently available for clothing in any county in Washington. In addition to reuse and repurposing of textiles, it is possible to recycle textile fibers for new uses. Producers of apparel should take responsibility for their products. California recently passed extended producer responsibility legislation for textiles, which serves as the starting point for this bill.

(Opposed) Textile retailers will be held responsible for products manufactured overseas, over which they have little control. Small retailers will disproportionately face a cost burden. The costs of this program will be passed on to customers. This proposal requires additional time and stakeholder input. Textile supply chain improvements are a complicated goal to achieve. Textiles and apparel sometimes face different complications. The textile industry, businesses in Washington, and retailers look forward to participating in additional conversations on this topic.

(Other) Textile waste represented 4 percent of the solid waste stream, in recent analysis by Ecology. Textile waste increasingly goes overseas. Reuse and repair can lead to reductions in the volume of textiles sent to a landfill. The deadlines and timelines in the bill could use some refinement.

Persons Testifying: (In support) Representative Kristine Reeves, prime sponsor; Heather Trim, Zero Waste Washington; Joanne Brasch, California Product Stewardship Council; Travis Dutton, Washington State Association of Counties; Zakiya Cita, The Chayah Movement; Ruth True, Ravel; Amanda Miller, South King Tool Library; and McKenna Morrigan, Seattle Public Utilities.

(Opposed) Crystal Leatherman, Washington Retail Association; Peter Godlewski, AWB; Brandon Houskeeper, Northwest Grocery Retail Association; and Andrew Pappas, The American Apparel and Footwear Association.

(Other) Peter Lyon, WA State Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.