

New York Proposes Significant Regulation for Fashion Industry: The 'Fashion Sustainability and Social Accountability Act'

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On January 7, New York State Senator Alessandra Biaggi and Assemblywoman Anna R. Kelles introduced the Fashion Sustainability and Social Accountability Act (the Fashion Act).[i] If the Fashion Act ultimately passes the State Senate and State Assembly, and is signed by the Governor of New York, it will make New York the first state to hold fashion retailers and manufacturers accountable for their sustainability practices.

The Fashion Act will apply to global apparel and footwear companies with more than $100 million in annual worldwide revenues that do business in the State of New York. Among other things, the Fashion Act will require such companies to:

(i) map at least 50 percent of their supply chain, end-to-end;

(ii) publish an impact and due diligence disclosure, "including a social and environmental sustainability report, to include externally relevant information on due diligence policies, processes and activities conducted to identify, prevent, mitigate and account for potential adverse impacts," which shall include information on measures the company has taken to embed responsible business conduct into its policies and management systems, along with a link on the company's website to such policies;[ii]

(iii) release an impact disclosure on prioritized environmental and social impacts, including (a) reduction targets on energy and greenhouse gas emissions, water, and chemical management, (b) annual volume of material produced, including a breakdown by material type (e.g., cotton, wool, polyester, leather, etc.), (c) how much production has been displaced with recycled materials, (d) fair

wage and labor standards, and (e) the company's approach for incentivizing supplier performance on workers' rights and other priorities (e.g., contract renewals, price premiums, etc.); and

(iv) disclose the targets such company has for its impact reduction, including strategies for tracking its own due diligence, implementation efforts and results.

Companies subject to the Fashion Act will have 12 months to comply with the mapping requirement and 18 months to comply with the impact disclosure requirements. Failure to comply with the requirements of the Fashion Act may result in a fine of up to 2 percent of annual revenues of $450 million or more, which will be deposited into a community benefit fund administered for environmental justice projects. In addition, the New York Attorney General will publish an annual list of non-compliant companies and the status of the Attorney General's monitoring of such compliance.

Large multinational retailers and manufacturers should begin to evaluate their own practices and policies in anticipation of passage of the Fashion Act, which has strong support from numerous constituencies, including environmental and labor activists, as well as industry participants.

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i https://legislation.nysenate.gov/pdf/bills/2021/a8352

ii Id. at Section 4(b).

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