

New York Proposes to Require Sustainability Reporting for the Fashion Industry

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New York is poised to be the first state in the country to implement a fashion sustainability law. On January 7, 2022, Senator Alessandra Biaggi and Assembly Member Anna Kelles announced the [Fashion Sustainability and Social Accountability Act](#), which would require fashion retailers and manufacturers to disclose environmental and social due diligence policies, with penalties for noncompliance going towards a fund to benefit environmental justice communities.

The proposed Act is backed by a large coalition of nonprofits focused on fashion and sustainability, including the New Standard Institute, the Natural Resources Defense Council, and the New York City Environmental Justice Alliance, and would apply broadly to global apparel and footwear companies with more than \$100 million in revenues, doing business in New York. It would require such companies to map a minimum of 50% of their supply chain from beginning to end, to develop and disclose performance metrics related to social and environmental impact (particularly regarding greenhouse gas emissions), and implement concrete plans towards improvement. The proposed Act also includes enforcement provisions that authorize both the NY Attorney General's office to pursue violations and, significantly, the public (including the nonprofits which support the Act) via citizen suit provisions. Violations can result in a fine of up to 2% of annual revenues of \$450 million or more. Fines are to be deposited into a community benefit fund and will be used for projects that benefit environmental justice communities. Additionally, the Attorney General must publish and make publicly available annually a report listing companies who are out of compliance.

Supply Chain Mapping Requirements

The supply chain mapping requirements adopt a risk-based approach and require good faith efforts to map and report on a minimum of 50% of suppliers across all tiers of production, from raw material to final production, within 12 months. Companies must prepare the mapping report in line with the United Nations Guiding Principles on Business and Human Rights, the International Labor Organization Declaration on Fundamental Principles and Rights at Work, the Organisation for Economic Co-operation and Development (OECD) guidelines for multinational enterprises, and the

OECD due diligence guidance for responsible business conduct. The report must include:

- A link to the company's website on relevant policies on responsible business conduct;
- Information on measures taken to embed responsible business conduct into policies and management systems;
- The areas the company has identified as significant risks in the context of its own activities and business relationships (such as supply chains);
- The significant adverse impacts from the risks identified above;
- The prioritization criteria the company employed in its reporting; and finally,
- The actions taken to prevent or mitigate the risks identified, such as corrective action plans, including estimated timelines, targets and benchmarks for improvement and their outcomes.

The report must also identify measures to track implementation and results, and the company's commitment to cooperation in any remediation.

Environmental and Social Impact Performance Metrics

The proposed Act would provide companies with 18 months to comply with environmental and social impact disclosures, which must include quantitative baseline and reduction targets on energy and greenhouse gas emissions, water usage, and chemical management. Greenhouse gas reporting must be independently verified, include absolute figures, and conform to World Resources Institute (WRI) standards. Companies would also be required to disclose, and have independently verified, the annual volume of material they produce, including a breakdown by material type, and how much production has been displaced with recycled materials.

Regarding labor, companies would be required to report the median wages of workers of prioritized suppliers and how this compares with local minimum wage and living wages, and the company's approach for incentivizing supplier performance on workers' rights.

The impact disclosures must include targets for impact reductions. Climate change targets must be absolute targets, align with WRI science-based targets guidance, and include all scopes of production. Companies would be required to meet targets and report their compliance on an annual basis.

The proposed Act, which is backed by a large coalition and expected to succeed, will next make its way through Senate and Assembly committees, with the sponsors aiming to bring it to a vote in late spring after state budget negotiations are complete.

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