

# New York State Fashion Act Would Put Fashion Industry Under the Spotlight

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The New York State Fashion Sustainability and Social Accountability Act (S7428/ A8352) (Fashion Act) would require fashion retailers and manufacturers doing business in New York State to comply with stringent supply chain mapping requirements and to disclose the environmental and social impacts of their activities.

**View the Sustainability and Social Accountability Act ([S7428](#)/ [A8352](#))**

## Overview

These days, it appears that nearly every fashion brand has launched a “sustainable” apparel or footwear line. Growing numbers of products are advertised as “eco-friendly” and “sustainable,” but the basis for these claims is not always clear. If enacted, the Fashion Act would impose significant new due diligence and reporting obligations on much of the fashion industry and bring greater transparency to the environmental and social impact of apparel and footwear production.

## Key Requirements

The legislation would require fashion retailers and manufacturers that do business in New York and have global revenues exceeding \$100 million to disclose detailed information about their environmental and social due diligence policies. Key requirements are summarized below:

**Supply Chain Mapping:** If enacted, the bill would require fashion brands to use a risk-based approach to trace and map fifty percent of their suppliers by volume across all tiers of the supply chain, from raw materials to final production, and to obtain and disclose the names of suppliers relevant to certain prioritized risk areas. High-risk suppliers may include suppliers that are subject to [US Customs and Border Protection WROs or Findings](#), or suppliers located in a geographic area

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where forced labor is prevalent such as the Xinjiang Autonomous Region (XUAR) of the People's Republic of China (PRC). Arent Fox's Forced Labor Task Force recently published an alert regarding the passage of the Uyghur Forced Labor Prevention Act that may impact many fashion companies.

***Due Diligence Policies:*** Companies would also be required to disclose their due diligence policies and the activities they conduct to identify and mitigate their potential adverse social and environmental impacts. Among other things, companies would be required to complete a social and environmental sustainability report that details the measures they have taken to prioritize responsible business conduct; identify areas of significant social or environmental risk in their supply chains; identify priority risk areas and; actions taken to prevent or mitigate those risks. Disclosing information tied to these policies is also required under the California Transparency in Supply Chains Act. Retailers that have robust policies and disclosures in place under that Act may already be on their way to compliance with this one.

***Prioritized Adverse Impacts Disclosure:*** Companies would have eighteen months to disclose the annual volume of materials they produce and how much of that production has been displaced with recycled materials. In addition, companies would need to establish verifiable baseline and reduction targets on energy and greenhouse gas emissions, water, and chemical management. The bill would also require companies to disclose the median wages of workers for suppliers with significant risk and how the salary compares with the local minimum wage.

***Impact Reduction Targets:*** Finally, the bill would require companies to disclose the targets they have adopted for impact reductions and for tracking due diligence implementation. The bill establishes specific criteria for climate change targets, namely, that they must be absolute targets, align with the apparel and footwear sector science-based targets guidance promulgated by the World Resources Institute, and include all scopes of production. Companies would be required to meet targets and report compliance on an annual basis.

## **Enforcement**

The New York Attorney General would be charged with enforcing the law and is empowered to seek monetary penalties, injunctions, or other equitable relief. The Attorney General would also be required to publish an annual list of companies that are not compliant with the law. Companies notified of non-compliance would have 3 months to become compliant before facing fines of up to two percent of their annual revenues. The bill also provides a private right of action for consumers.

## **What this Means for Fashion Companies**

The Fashion Act is part of a broader trend toward increased oversight of the fashion industry, including combating perceived environmental, labor, and ethical concerns and improving supply chain transparency and accountability. This proposed legislation, as well as the Uyghur Forced Labor Prevention Act and similar initiatives, impose a duty on major apparel and footwear brands to proactively monitor their supply chains, including mapping the supply chain, reviewing worker conditions (including the identification of forced labor), assessing the environmental impact of operations, and taking action to remediate any identified risk areas.

The Fashion Act was introduced in the New York legislature in January and a vote is expected in late spring 2022.

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