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**SENATE BILL 5607**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senator Nguyen

1 AN ACT Relating to requiring fashion retail sellers and  
2 manufacturers to disclose environmental due diligence policies;  
3 adding a new chapter to Title 70A RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the fashion  
6 industry has many negative environmental impacts, including high  
7 levels of water use, run-off pollution from the use of agrochemicals  
8 and dyes, carbon emissions, industry waste, and hazardous work  
9 environments.

10 (2) The United Nations estimates that a single pair of jeans  
11 requires a kilogram of cotton, and because cotton tends to be grown  
12 in dry environments, producing this kilogram requires about 7,500 to  
13 10,000 liters of water, which is approximately 10 years' worth of  
14 drinking water for one person. The industry accounts for nearly 20  
15 percent of global wastewater, with fabric dyes polluting water bodies  
16 and impacting aquatic life and drinking water. Cotton production also  
17 uses a high amount of fertilizers and pesticides, discharging toxic  
18 substances to waterways. In terms of greenhouse gases, the fashion  
19 industry accounts for about eight to 10 percent of global carbon  
20 emissions, more than both aviation and shipping combined.

1 (3) The synthetic polymer polyester is the most common fabric  
2 used in clothing, and globally, 65 percent of the clothing that we  
3 wear is polymer-based. Around 70,000,000 barrels of oil a year are  
4 used to make polyester fibers in our clothes, from waterproof jackets  
5 to scarves. Polyester takes hundreds of years to decompose and can  
6 lead to microfibers escaping into the environment. The United States  
7 environmental protection agency estimates that in 2018, 11,300,000  
8 tons of textiles ended up in landfills, while another 3,200,000 tons  
9 were incinerated. According to the Ellen MacArthur foundation, the  
10 average number of times a piece of clothing is worn decreased by 36  
11 percent between 2000 and 2015, and according to the world bank, 40  
12 percent of clothing purchased in some countries is never used.

13 (4) The legislature recognizes that some companies have committed  
14 to mitigation measures, such as the use of the science-based targets  
15 initiative, a tool for reducing carbon emissions. Additionally,  
16 legislation regarding due diligence is being considered in New York  
17 and the European Union, and Germany, France, Britain, and Australia  
18 have laws requiring due diligence when it comes to human rights and  
19 slavery. Therefore, the legislature also intends to address the  
20 negative environmental impacts of the fashion industry, by requiring  
21 companies to map a minimum of 50 percent of their supply chain,  
22 disclose where in that chain they have the greatest environmental  
23 impact when it comes to low wages, energy, greenhouse gas emissions,  
24 water, and chemical management, and make plans to reduce those  
25 numbers. By doing so, the legislature intends for Washington to serve  
26 as a leader in mitigating the environmental impact of the fashion  
27 industry.

28 NEW SECTION. **Sec. 2.** The definitions in this section apply  
29 throughout this chapter unless the context clearly requires  
30 otherwise.

31 (1) "Article of wearing apparel" means any costume or article of  
32 clothing worn or intended to be worn by individuals.

33 (2) "Doing business in the state" means actively engaging in any  
34 transaction for the purpose of financial or pecuniary gain or profit.

35 (3) "Due diligence" means the process companies should carry out  
36 to identify, prevent, mitigate, and account for how they address  
37 actual and potential adverse impacts in their own operations, their  
38 supply chain, and other business relationships, as recommended in the  
39 organization for economic cooperation and development guidelines for

1 multinational enterprises, the organization for economic cooperation  
2 and development due diligence guidance for responsible business  
3 conduct, and United Nations guiding principles of business and human  
4 rights.

5 (4) "Fashion manufacturer" means a business entity that lists  
6 manufacturing as its principal business activity in the state of  
7 Washington, as reported on the entity's state business and occupation  
8 tax return, and primarily manufactures articles of wearing apparel or  
9 footwear.

10 (5) "Fashion retail seller" means a business entity that lists  
11 retail trade as its principal business activity in the state of  
12 Washington, as reported on the entity's state business and occupation  
13 tax return, and primarily sells articles of wearing apparel or  
14 footwear.

15 (6) "Footwear" means any covering worn or intended to be worn on  
16 the foot.

17 (7) "Gross receipts" means the gross amounts realized, otherwise  
18 known as the sum of money and the fair market value of other property  
19 or services received, on the sale or exchange of property, the  
20 performance of services, or the use of property or capital, including  
21 rents, royalties, interest, and dividends, in a transaction that  
22 produces business income, in which the income, gain, or loss is  
23 recognized, or would be recognized if the transaction were in the  
24 United States, under the United States Internal Revenue Code, as  
25 applicable for purposes of this section. Amounts realized on the sale  
26 or exchange of property must not be reduced by the cost of goods sold  
27 or the basis of property sold. Gross receipts, even if business  
28 income, must not include the following items:

29 (a) Repayment, maturity, or redemption of the principal of a  
30 loan, bond, mutual fund, certificate of deposit, or similar  
31 marketable instrument;

32 (b) The principal amount received under a repurchase agreement or  
33 other transaction properly characterized as a loan;

34 (c) Proceeds from the issuance of the taxpayer's own stock or  
35 from sale of treasury stock;

36 (d) Damages and other amounts received as the result of  
37 litigation;

38 (e) Property acquired by an agent on behalf of another;

39 (f) Tax refunds and other tax benefit recoveries;

40 (g) Pension reversions;

1 (h) Contributions to capital, except for sales of securities by  
2 securities dealers;

3 (i) Income from discharge of indebtedness;

4 (j) Amounts realized from exchanges of inventory that are not  
5 recognized under the United States Internal Revenue Code;

6 (k) Amounts received from transactions in intangible assets held  
7 in connection with a treasury function of the taxpayer's unitary  
8 business and the gross receipts and overall net gains from the  
9 maturity, redemption, sale, exchange, or other disposition of those  
10 intangible assets; and

11 (l)(i) Amounts received from hedging transactions involving  
12 intangible assets.

13 (ii) For the purposes of this subsection, a "hedging transaction"  
14 means a transaction related to the taxpayer's trading function  
15 involving futures and options transactions for the purpose of hedging  
16 price risk of the products or commodities consumed, produced, or sold  
17 by the taxpayer.

18 NEW SECTION. **Sec. 3.** (1) Every fashion retail seller and  
19 fashion manufacturer doing business in the state and having annual  
20 worldwide gross receipts that exceed \$100,000,000 must disclose, as  
21 set forth in subsection (3) of this section, its environmental due  
22 diligence policies, processes, and outcomes, including significant  
23 real or potential adverse environmental impacts and disclose targets  
24 for prevention and improvement.

25 (2) The disclosure described in subsection (1) of this section  
26 must be published on the fashion retail seller's or fashion  
27 manufacturer's website with a clear and easily understood link to the  
28 required information placed on the fashion retail seller's or fashion  
29 manufacturer's homepage within 12 months of the enactment of the  
30 policies, processes, and outcomes, except as otherwise provided in  
31 this chapter. In the event the fashion retail seller or fashion  
32 manufacturer does not have an internet website, consumers must be  
33 provided a written disclosure within 30 days of receiving a written  
34 request for the disclosure from a consumer.

35 (3) The disclosure required pursuant to subsection (1) of this  
36 section must include, at a minimum:

37 (a) Supply chain mapping and disclosure, including:

38 (i) Taking a risk-based approach, using good faith efforts to map  
39 suppliers across all tiers of production, from raw material to final

1 production. A minimum of 50 percent of suppliers by volume across all  
2 tiers of production must be mapped; and

3 (ii) Using good faith efforts to map the suppliers and associated  
4 supply chains relevant to the prioritized risk, and obtain and  
5 disclose the names of prioritized suppliers;

6 (b) Impact and due diligence disclosure, including an  
7 environmental sustainability report, to include externally relevant  
8 information on due diligence policies, processes, and activities  
9 conducted to identify, prevent, mitigate, and account for potential  
10 adverse impacts, including the findings and outcomes of those  
11 activities. Such a report must include, in line with the United  
12 Nations guiding principles on business and human rights, the  
13 international labor organization declaration on fundamental  
14 principles and rights at work, the organization for economic  
15 cooperation and development guidelines for multinational enterprises,  
16 and the organization for economic cooperation and development due  
17 diligence guidance for responsible business conduct. The impact and  
18 due diligence disclosure must also include:

19 (i) A link on the fashion retail seller's or fashion  
20 manufacturer's website to relevant policies on responsible business  
21 conduct;

22 (ii) Information on measures taken to embed responsible business  
23 conduct into policies and management systems;

24 (iii) The fashion retail seller's or fashion manufacturer's  
25 identified areas of significant risks in the contexts of its own  
26 activities and business relationships, such as supply chains;

27 (iv) The significant adverse impacts on risks identified,  
28 prioritized, and assessed in the context of its own activities and  
29 business relationships, such as supply chain;

30 (v) The prioritization criteria;

31 (vi) The actions taken to prevent or mitigate those risks, such  
32 as corrective action plans, to be cited where available, including  
33 estimated timelines, targets, and benchmarks for improvement and  
34 their outcomes;

35 (vii) Measures to track implementation and results; and

36 (viii) The fashion retail seller's or fashion manufacturer's  
37 provision of or cooperation in any remediation;

38 (c) Impact disclosure on prioritized adverse environmental  
39 impacts within 18 months after enactment of the policies, processes,  
40 and outcomes, including:

1 (i) A quantitative baseline and reduction targets on energy and  
2 greenhouse gas emissions, water, and chemical management. Greenhouse  
3 gas reporting must be independently verified, include absolute  
4 figures, and conform with the greenhouse gas protocol corporate  
5 account and reporting standard and the greenhouse gas protocol  
6 corporate value chain scope three standard promulgated by the world  
7 resources institute;

8 (ii) Annual volume of material produced, including breakdown by  
9 material type, which must be independently verified; and

10 (iii) How much production has been displaced with recycled  
11 materials as compared to growth targets, which must be independently  
12 verified; and

13 (d) What targets fashion retail sellers and fashion manufacturers  
14 have for impact reductions, and for tracking due diligence  
15 implementation and results including, where possible, estimated  
16 timelines and benchmarks for improvement. Climate change targets must  
17 be absolute targets, align with the apparel and footwear sector  
18 science-based targets guidance promulgated by the world resources  
19 institute and include all scopes of production. Fashion retail  
20 sellers and fashion manufacturers must meet targets and report their  
21 compliance on an annual basis.

22 NEW SECTION. **Sec. 4.** (1)(a) The requirements imposed on fashion  
23 retail sellers and fashion manufacturers by this chapter may be  
24 enforced by the attorney general bringing civil proceedings for an  
25 injunction, monetary damages, or civil performance of a statutory  
26 duty.

27 (b) The attorney general must annually publish and make publicly  
28 available a report regarding compliance with this chapter, listing  
29 the fashion retail sellers and fashion manufacturers who are known to  
30 be out of compliance with this chapter and including an up-to-date  
31 report on the attorney general's monitoring of compliance.

32 (c) Fashion retail sellers and fashion manufacturers found to be  
33 out of compliance with this chapter after the attorney general has  
34 provided notice of noncompliance, and after a three-month period to  
35 meet obligations under this chapter has lapsed, may be fined up to  
36 two percent of annual revenues of up to \$450,000,000 or more. The  
37 fines must be deposited in the community benefit account created in  
38 section 5 of this act.

1 (2) (a) Any citizen may commence a civil action against any person  
2 who is alleged to have violated or to be in violation of this chapter  
3 or an order by the attorney general with respect to the standards and  
4 requirements set forth in this chapter, including:

5 (i) Washington state;

6 (ii) A governmental instrumentality or agency to the extent  
7 permitted by the Eleventh Amendment to the United States  
8 Constitution; and

9 (iii) Any business.

10 (b) Any citizen may commence a civil action to compel the  
11 attorney general to investigate an entity's compliance with this  
12 chapter, to enforce compliance with this chapter, or to apply the  
13 prohibitions set forth in this chapter to any business operating  
14 within this state.

15 (c) Any citizen may commence a civil action against the attorney  
16 general where there is an alleged failure of the attorney general to  
17 perform any act or duty under this chapter that is not discretionary  
18 with the attorney general.

19 NEW SECTION. **Sec. 5.** (1) The community benefit account is  
20 created in the custody of the state treasurer. All receipts from  
21 fines imposed under section 4 of this act must be deposited into the  
22 account. Expenditures from the account may be used only for the  
23 purpose of implementing one or more environmental benefit projects  
24 that directly and verifiably benefit overburdened communities and  
25 vulnerable populations as defined in RCW 70A.02.010. Only the  
26 director of the department of ecology or the director's designee may  
27 authorize expenditures from the account. The account is subject to  
28 allotment procedures under chapter 43.88 RCW, but an appropriation is  
29 not required for expenditures.

30 (2) The department of ecology must consult with the environmental  
31 justice council established in RCW 70A.02.110 in making expenditures  
32 under this section.

33 (3) For the purposes of this section, "environmental benefit" has  
34 the same meaning as "environmental benefits" defined in RCW  
35 70A.02.010.

36 NEW SECTION. **Sec. 6.** This chapter may be known and cited as the  
37 Washington fashion sustainability accountability act.

1        NEW SECTION.     **Sec. 7.**     Sections 1 through 6 of this act  
2     constitute a new chapter in Title 70A RCW.

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