
SENATE BILL 5965

State of Washington

68th Legislature

2024 Regular Session

By Senator Nguyen

Prefiled 01/04/24.

1 AN ACT Relating to the environmental impacts of fashion;
2 reenacting and amending RCW 43.21B.110 and 43.21B.300; adding a new
3 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) "Department" means the department of ecology.

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

1 cooperation and development due diligence guidance for responsible
2 business conduct, and United Nations guiding principles of business
3 and human rights, as those guidelines and guidance existed as of
4 January 1, 2024.

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 manufactures articles of wearing apparel or footwear.

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

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

15 (7) "Gross income of the business" means the value proceeding or
16 accruing by reason of the transaction of the business engaged in and
17 includes gross proceeds of sales, compensation for the rendition of
18 services, gains realized from trading in stocks, bonds, or other
19 evidences of indebtedness, interest, discount, rents, royalties,
20 fees, commissions, dividends, and other emoluments however
21 designated, all without any deduction on account of the cost of
22 tangible property sold, the cost of materials used, labor costs,
23 interest, discount, delivery costs, taxes, or any other expense
24 whatsoever paid or accrued and without any deduction on account of
25 losses.

26 NEW SECTION. **Sec. 3.** (1)(a) Every fashion retail seller or
27 fashion manufacturer doing business in the state that has an annual
28 worldwide gross income of the business that exceeds \$100,000,000 must
29 disclose its environmental due diligence policies, processes, and
30 outcomes, including significant real or potential adverse
31 environmental impacts and disclose targets for prevention and
32 improvement.

33 (b)(i) The disclosure described in (a) of this subsection must be
34 published on the fashion retail seller's or fashion manufacturer's
35 website with a clear and easily understood link to the required
36 information placed on the fashion retail seller's or fashion
37 manufacturer's homepage by July 1, 2025.

38 (ii) In the event the fashion retail seller or fashion
39 manufacturer does not have an internet website, the fashion

1 manufacturer or fashion retail seller must provide a written
2 disclosure within 30 days of receiving a written request for the
3 disclosure from any person.

4 (2) The due diligence that must be carried out by the fashion
5 manufacturer or fashion retail seller and disclosed pursuant to
6 subsection (1) of this section must include, at a minimum:

7 (a) Supply chain mapping, including:

8 (i) Taking a risk-based approach, using good faith efforts to map
9 suppliers across all tiers of production, from raw material to final
10 production. A minimum of 50 percent of suppliers by volume across all
11 tiers of production must be mapped; and

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

15 (b) Impact due diligence, including an environmental
16 sustainability report, to include externally relevant information on
17 due diligence policies, processes, and activities conducted to
18 identify, prevent, mitigate, and account for potential adverse
19 impacts, including the findings and outcomes of those activities.
20 Such a report must include, in line with the United Nations guiding
21 principles on business and human rights, the international labor
22 organization declaration on fundamental principles and rights at
23 work, the organization for economic cooperation and development
24 guidelines for multinational enterprises, and the organization for
25 economic cooperation and development due diligence guidance for
26 responsible business conduct.

27 (3) The impact due diligence specified in subsection (2)(b) of
28 this section that is disclosed consistent with this section must also
29 include:

30 (a) A link on the fashion retail seller's or fashion
31 manufacturer's website to relevant policies on responsible business
32 conduct for entities specified in subsection (1)(b)(i) of this
33 section, or the inclusion in written disclosures of relevant policies
34 on responsible business conduct for entities specified in (1)(b)(ii)
35 of this section;

36 (b) Information on measures taken to embed responsible business
37 conduct into policies and management systems;

38 (c) The fashion retail seller's or fashion manufacturer's
39 identified areas of significant risks in the contexts of its own
40 activities and business relationships, such as supply chains;

1 (d) The significant adverse impacts on risks identified,
2 prioritized, and assessed in the context of its own activities and
3 business relationships, such as supply chain;

4 (e) The prioritization criteria;

5 (f) The actions taken to prevent or mitigate those risks, such as
6 corrective action plans, to be cited where available, including
7 estimated timelines, targets, and benchmarks for improvement and
8 their outcomes;

9 (g) Measures to track implementation and results; and

10 (h) The fashion retail seller's or fashion manufacturer's
11 provision of or cooperation in any remediation.

12 NEW SECTION. **Sec. 4.** (1) Beginning January 1, 2027, fashion
13 retail sellers and fashion manufacturers must establish, track, and
14 disclose progress towards performance targets established in this
15 section. Disclosure of progress towards performance targets must be
16 done in a manner consistent with disclosures required in section 3 of
17 this act. The requirements of this section include the establishment,
18 tracking, and disclosure of:

19 (a) A quantitative baseline and reduction targets on energy and
20 greenhouse gas emissions, water, and chemical management. Greenhouse
21 gas emissions reporting must be independently verified, include
22 absolute figures, and conform with the greenhouse gas protocol
23 corporate account and reporting standard and the greenhouse gas
24 protocol corporate value chain scope three standard promulgated by
25 the world resources institute, as it existed as of January 1, 2024;

26 (b) Annual volume of material produced, including breakdown by
27 material type, which must be independently verified;

28 (c) How much production has been displaced with recycled
29 materials as compared to growth targets, which must be independently
30 verified; and

31 (d) What targets fashion retail sellers and fashion manufacturers
32 have for impact reductions, and for tracking due diligence
33 implementation and results including, where possible, estimated
34 timelines and benchmarks for improvement. These targets must include
35 absolute targets for greenhouse gas emissions reductions that align
36 with the apparel and footwear sector science-based targets guidance
37 promulgated by the world resources institute, as it existed as of
38 January 1, 2024, and include all scopes of production.

1 (2) Each fashion retail seller or fashion manufacturer must meet
2 the targets established under subsection (1) of this section.

3 (3) Beginning April 1, 2028, and each April 1st thereafter, each
4 fashion retail seller or fashion manufacturer must submit an annual
5 report to the department in a format prescribed by the department
6 that allows the department to determine whether the fashion retail
7 seller or fashion manufacturer achieved the performance targets
8 established in this section.

9 NEW SECTION. **Sec. 5.** (1)(a) The department may adopt rules as
10 necessary for the purpose of implementing, administering, and
11 enforcing this chapter.

12 (b) The department must annually publish and make publicly
13 available a report regarding compliance with this chapter, listing
14 the fashion retail sellers and fashion manufacturers who are known to
15 be out of compliance with this chapter and including an up-to-date
16 report on enforcement activities under this chapter.

17 (2) A fashion retail seller or fashion manufacturer that violates
18 a disclosure, performance target achievement, or reporting
19 requirement of this chapter is subject to a civil penalty not to
20 exceed \$5,000 for each violation in the case of a first offense.
21 Repeat violators are subject to a civil penalty not to exceed \$10,000
22 for each repeat offense.

23 (3) Any penalty provided for in this section, and any order
24 issued by the department under this chapter, may be appealed to the
25 pollution control hearings board.

26 (4) All penalties collected under this chapter must be deposited
27 in the community benefit account created in section 7 of this act.

28 NEW SECTION. **Sec. 6.** (1) Any person may commence a civil action
29 against any fashion retail seller or fashion manufacturer who is
30 alleged to have violated or to be in violation of this chapter or an
31 order by the department with respect to the standards and
32 requirements set forth in this chapter.

33 (2) Any person may commence a civil action to compel the
34 department to investigate an entity's compliance with this chapter,
35 to enforce compliance with this chapter, or to apply the prohibitions
36 set forth in this chapter to any fashion retail seller or fashion
37 manufacturer operating within this state.

1 (3) Any person may commence a civil action against the department
2 where there is an alleged failure of the department to perform any
3 act or duty under this chapter that is not discretionary with the
4 department.

5 (4) No action may be commenced:

6 (a) Prior to 60 days after the plaintiff has given notice of the
7 alleged violation to the department and to any alleged violator; or

8 (b) If the department has commenced an enforcement action under
9 section 5 of this act to require compliance with the law, rule, or
10 order.

11 (5) (a) Any action respecting a violation of a law, rule, or order
12 under this chapter may be brought in any judicial district in which a
13 fashion retail seller or fashion manufacturer engages in commerce.

14 (b) In such an action under this section, the department, if not
15 a party, may intervene as a matter of right.

16 (6) The court, in issuing any final order in any action brought
17 pursuant to this section, may award costs of litigation, including
18 reasonable attorneys' and expert witness fees, to any prevailing
19 party, wherever the court determines such an award is appropriate.

20 (7) A civil action to enforce compliance with a law, rule, or
21 order may not be brought under this section if any other statute, or
22 the common law, provides authority for the plaintiff to bring a civil
23 action and, in such an action, obtain the same relief, as authorized
24 under this section, for enforcement of such a law, rule, or order.
25 Nothing in this section restricts any right that any person, or class
26 of persons, may have under any statute or common law to seek any
27 relief, including relief against the state or a state agency.

28 NEW SECTION. **Sec. 7.** (1) The community benefit account is
29 created in the custody of the state treasurer. All receipts from
30 penalties imposed under section 5 of this act must be deposited into
31 the account. Expenditures from the account may be used only for the
32 purpose of implementing one or more environmental benefit projects
33 that directly and verifiably benefit overburdened communities and
34 vulnerable populations identified by the department in a manner
35 consistent with chapter 70A.02 RCW. Only the director of the
36 department or the director's designee may authorize expenditures from
37 the account. The account is subject to allotment procedures under
38 chapter 43.88 RCW, but an appropriation is not required for
39 expenditures.

1 (2) The department must consult with the environmental justice
2 council established in RCW 70A.02.110 in making expenditures under
3 this section.

4 (3) For the purposes of this section, "environmental benefit" has
5 the same meaning as "environmental benefits" defined in RCW
6 70A.02.010.

7 **Sec. 8.** RCW 43.21B.110 and 2023 c 455 s 5, 2023 c 434 s 20, 2023
8 c 344 s 5, and 2023 c 135 s 6 are each reenacted and amended to read
9 as follows:

10 (1) The hearings board shall only have jurisdiction to hear and
11 decide appeals from the following decisions of the department, the
12 director, local conservation districts, the air pollution control
13 boards or authorities as established pursuant to chapter 70A.15 RCW,
14 local health departments, the department of natural resources, the
15 department of fish and wildlife, the parks and recreation commission,
16 and authorized public entities described in chapter 79.100 RCW:

17 (a) Civil penalties imposed pursuant to RCW 18.104.155,
18 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
19 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
20 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030,
21 70A.555.110, 70A.560.020, section 5 of this act, 76.09.170,
22 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
23 90.56.310, 90.56.330, and 90.64.102.

24 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
25 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
26 70A.245.020, 70A.65.200, 70A.555.110, 70A.560.020, section 5 of this
27 act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and
28 90.56.330.

29 (c) Except as provided in RCW 90.03.210(2), the issuance,
30 modification, or termination of any permit, certificate, or license
31 by the department or any air authority in the exercise of its
32 jurisdiction, including the issuance or termination of a waste
33 disposal permit, the denial of an application for a waste disposal
34 permit, the modification of the conditions or the terms of a waste
35 disposal permit, or a decision to approve or deny an application for
36 a solid waste permit exemption under RCW 70A.205.260.

37 (d) Decisions of local health departments regarding the grant or
38 denial of solid waste permits pursuant to chapter 70A.205 RCW.

1 (e) Decisions of local health departments regarding the issuance
2 and enforcement of permits to use or dispose of biosolids under RCW
3 70A.226.090.

4 (f) Decisions of the department regarding waste-derived
5 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
6 decisions of the department regarding waste-derived soil amendments
7 under RCW 70A.205.145.

8 (g) Decisions of local conservation districts related to the
9 denial of approval or denial of certification of a dairy nutrient
10 management plan; conditions contained in a plan; application of any
11 dairy nutrient management practices, standards, methods, and
12 technologies to a particular dairy farm; and failure to adhere to the
13 plan review and approval timelines in RCW 90.64.026.

14 (h) Any other decision by the department or an air authority
15 which pursuant to law must be decided as an adjudicative proceeding
16 under chapter 34.05 RCW.

17 (i) Decisions of the department of natural resources, the
18 department of fish and wildlife, and the department that are
19 reviewable under chapter 76.09 RCW, and the department of natural
20 resources' appeals of county, city, or town objections under RCW
21 76.09.050(7).

22 (j) Forest health hazard orders issued by the commissioner of
23 public lands under RCW 76.06.180.

24 (k) Decisions of the department of fish and wildlife to issue,
25 deny, condition, or modify a hydraulic project approval permit under
26 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
27 comply, to issue a civil penalty, or to issue a notice of intent to
28 disapprove applications.

29 (l) Decisions of the department of natural resources that are
30 reviewable under RCW 78.44.270.

31 (m) Decisions of an authorized public entity under RCW 79.100.010
32 to take temporary possession or custody of a vessel or to contest the
33 amount of reimbursement owed that are reviewable by the hearings
34 board under RCW 79.100.120.

35 (n) Decisions of the department of ecology that are appealable
36 under RCW 70A.245.020 to set recycled minimum postconsumer content
37 for covered products or to temporarily exclude types of covered
38 products in plastic containers from minimum postconsumer recycled
39 content requirements.

40 (o) Orders by the department of ecology under RCW 70A.455.080.

1 (2) The following hearings shall not be conducted by the hearings
2 board:

3 (a) Hearings required by law to be conducted by the shorelines
4 hearings board pursuant to chapter 90.58 RCW.

5 (b) Hearings conducted by the department pursuant to RCW
6 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
7 70A.15.3110, and 90.44.180.

8 (c) Appeals of decisions by the department under RCW 90.03.110
9 and 90.44.220.

10 (d) Hearings conducted by the department to adopt, modify, or
11 repeal rules.

12 (3) Review of rules and regulations adopted by the hearings board
13 shall be subject to review in accordance with the provisions of the
14 administrative procedure act, chapter 34.05 RCW.

15 **Sec. 9.** RCW 43.21B.300 and 2023 c 455 s 6, 2023 c 434 s 21, and
16 2023 c 135 s 7 are each reenacted and amended to read as follows:

17 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
18 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
19 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200,
20 70A.455.090, 70A.555.110, 70A.560.020, 88.46.090, 90.03.600,
21 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter
22 70A.355 RCW shall be imposed by a notice in writing, either by
23 certified mail with return receipt requested or by personal service,
24 to the person incurring the penalty from the department or the local
25 air authority, describing the violation with reasonable
26 particularity. For penalties issued by local air authorities, within
27 30 days after the notice is received, the person incurring the
28 penalty may apply in writing to the authority for the remission or
29 mitigation of the penalty. Upon receipt of the application, the
30 authority may remit or mitigate the penalty upon whatever terms the
31 authority in its discretion deems proper. The authority may ascertain
32 the facts regarding all such applications in such reasonable manner
33 and under such rules as it may deem proper and shall remit or
34 mitigate the penalty only upon a demonstration of extraordinary
35 circumstances such as the presence of information or factors not
36 considered in setting the original penalty.

37 (2) Any penalty imposed under this section may be appealed to the
38 pollution control hearings board in accordance with this chapter if
39 the appeal is filed with the hearings board and served on the

1 department or authority 30 days after the date of receipt by the
2 person penalized of the notice imposing the penalty or 30 days after
3 the date of receipt of the notice of disposition by a local air
4 authority of the application for relief from penalty.

5 (3) A penalty shall become due and payable on the later of:

6 (a) 30 days after receipt of the notice imposing the penalty;

7 (b) 30 days after receipt of the notice of disposition by a local
8 air authority on application for relief from penalty, if such an
9 application is made; or

10 (c) 30 days after receipt of the notice of decision of the
11 hearings board if the penalty is appealed.

12 (4) If the amount of any penalty is not paid to the department
13 within 30 days after it becomes due and payable, the attorney
14 general, upon request of the department, shall bring an action in the
15 name of the state of Washington in the superior court of Thurston
16 county, or of any county in which the violator does business, to
17 recover the penalty. If the amount of the penalty is not paid to the
18 authority within 30 days after it becomes due and payable, the
19 authority may bring an action to recover the penalty in the superior
20 court of the county of the authority's main office or of any county
21 in which the violator does business. In these actions, the procedures
22 and rules of evidence shall be the same as in an ordinary civil
23 action.

24 (5) All penalties recovered shall be paid into the state treasury
25 and credited to the general fund except those penalties imposed
26 pursuant to RCW 18.104.155, which shall be credited to the
27 reclamation account as provided in RCW 18.104.155(7), RCW
28 70A.15.3160, the disposition of which shall be governed by that
29 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited
30 to the recycling enhancement account created in RCW 70A.245.100, RCW
31 70A.300.090, 70A.555.110, and 70A.560.020, which shall be credited to
32 the model toxics control operating account created in RCW
33 70A.305.180, RCW 70A.65.200, which shall be credited to the climate
34 investment account created in RCW 70A.65.250, RCW 90.56.330, which
35 shall be credited to the coastal protection fund created by RCW
36 90.48.390, section 5 of this act, which shall be credited to the
37 community benefit account created in section 7 of this act, and RCW
38 70A.355.070, which shall be credited to the underground storage tank
39 account created by RCW 70A.355.090.

1 NEW SECTION. **Sec. 10.** This chapter may be known and cited as
2 the Washington fashion sustainability accountability act.

3 NEW SECTION. **Sec. 11.** Sections 1 through 7 and 10 of this act
4 constitute a new chapter in Title 70A RCW.

--- **END** ---