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# THE FASHION ACT

or

"Fashion Sustainability and Social Accountability Act"

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## OVERVIEW

- New York State, as one of the largest economies in the world, and a global fashion capital, is seeking to hold fashion companies accountable for their impacts upon the planet and its people.
- The Act is at the State level and will apply to companies bringing their products to market in New York.
- Taking the lead from California's fuel efficiency, and other environmental legislation, New York aims to bring about change where the US Federal has, so far, been unable to do so.
- The Fashion Act has the following aims:

1. **Mandate that companies know and disclose their supply chains**.
2. **Require companies to be responsible for their impact in those supply chains**, and;
3. **Regulation & enforcement** by New York State's Attorney General or the Attorney General's designated administrator.

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## THE MAIN PROVISIONS OF THE FASHION ACT

- **Due Diligence**: Every fashion seller shall effectively carry out human rights and environmental due diligence for the portions of their business related to wearing apparel, footwear, or fashion bags, including wearing apparel, footwear or fashion bags produced as a private label, which shall include:
  - supply chain mapping
  - compliance with the OECD Guidelines for Multinational Enterprises and the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector.
- **Reporting**: Every fashion seller shall develop and submit to the office of the attorney general annually, beginning within eighteen months of the effective date of this section, a due diligence report.
- **Regulations**: The department of state, in consultation with the department of environmental conservation and department of labour, shall also develop and disseminate educational materials to fashion sellers, including providing alerts on time sensitive issues, emerging issues, and high- risk country situations, and assisting fashion sellers in improving the quality of their due diligence processes.
- **Verification**: The department of state shall accredit verification bodies authorized to provide verification services for the purposes of the Act, including which requirements the entity is authorized to verify.
- **Enforcement**: Fashion sellers shall be deemed non-compliant if they fail to conduct effective due diligence or fail to file a due diligence report under section 399-mm of the general business law.
  The Attorney General will make public a report listing the fashion sellers who are known to be out of compliance.
  Fashion sellers found to be non-compliant with the Act may be fined up to two percent of annual revenues.
  In addition, a fashion seller may be held jointly and severally liable for the payment of wages of the employees of its tier one suppliers.

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Under the terms of the Act, a "**Fashion Seller**" is defined as:

A business entity, (actively engaging in any transaction for the purpose of financial gain or profit) in New York State, which sells articles of apparel, footwear, or fashion bags that together exceed US$ 100 million in annual gross receipts globally.

The Act will only apply to multi-brand retailers where the apparel, footwear, and fashion bags private labels of those companies together exceed 100 million dollars in global revenue.

Note: sales of used apparel, footwear, or fashion bags are not included in the calculation.

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## DUE DILIGENCE IN MORE DETAIL

The obligations the Fashion Act will place upon fashion sellers doing business in New York State are to include:

a. **SUPPLY CHAIN MAPPING**, over time, of Tier One to Tier Four suppliers:
   g. Tier One – within 12 months (of Act becoming effective)
   h. Tier Two – within 2 years and cover 75% of activity by volume
   i. Tier Three & Four – within 3 years to at least 50% of volume or US$ value

   Mapping to include supplier details including ownership, number of employees, location etc.

   For Tier One suppliers fashion sellers are to provide independently verified reporting, no less than once every two years, of;
   - the mean wages of workers, and how this compares with local minimum wage and living wages;
   - the percentage of unionized factories; and

- hours worked weekly by month and the hours and frequency of overtime by firm and country

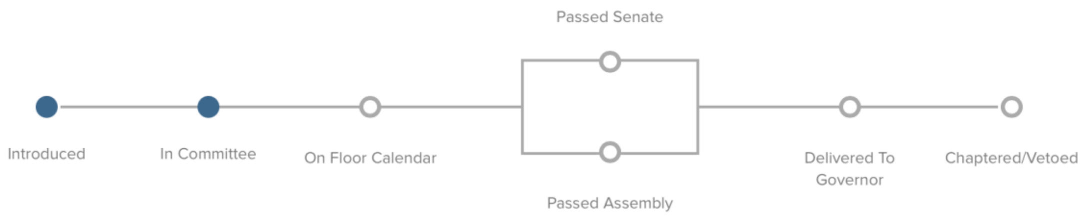
b. **COMPLIANCE** with the OECD Guidelines for Multinational Enterprises and the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, including:
   g. Embedding responsible business conduct into the company's policies and management systems;
   h. Identifying areas of significant risk in its own activities and supply chain relationships.
   i. Identifying, prioritizing, and assessing the significant potential and actual adverse impacts of those risks;
   j. Cease, prevent or mitigate those risks in the areas of:
      - Incentivizing improved supplier performance on workers' rights and environmental impact by embedding responsible purchasing practices in its supply chain relationships and contracts.
      - Wages, benefits, and investments shall, at a minimum, be in line with the requirements set out in local labour laws, including minimum wage laws.
      - Utilizing responsible exit or disengagement strategies.
      - Consulting and engaging with impacted and potentially impacted stakeholders and rights holders and their representatives.
      - Establishing quantitative baseline and reduction targets on greenhouse gas emissions (greenhouse gas emissions inventory shall be reported annually, and independently verified no less than once every two years).
      - Compliance with the Zero Discharge of Hazardous Chemicals Program's wastewater guidelines.
   g. Track implementation and outcomes.
   h. Provide remedies in the event of an adverse impact, such as:
      - Apologies, restitution, or rehabilitation including reinstatement of dismissed workers.
      - Recognition of the trade union for the purpose of collective bargaining, financial or non-financial compensation.
      - Compensation funds for victims, or for future outreach and educational programs.
      - Punitive sanctions including the dismissals of staff responsible for wrongdoing.
      - Taking measures to prevent future adverse impacts.

## TIMETABLE

- The bill was introduced in the 2021-2022 legislative session by New York State Senator Alessandra Biaggi and Assemblymember Dr. Anna Kelles.
- Feedback from stakeholders has been incorporated into an amended bill dated November '22 in the 2022-2023 legislative session.
- In order to get the bill into law the Consumer Protection Committees in the New York Senate and the Assembly must pass the bill. Then, to become law, the New York Governor must also sign the bill.
- Currently the bill is awaiting a calendar date for its reading and debate on each floor the chamber.

**SENATE COMMITTEE STATUS:**

CURRENT BILL STATUS -
In Senate Committee Consumer Protection Committee




**ASSEMBLY COMMITTEE STATUS:**

CURRENT BILL STATUS -
In Assembly Committee