

# STATE OF NEW YORK

4746--A

2023-2024 Regular Sessions

## IN SENATE

February 14, 2023

Introduced by Sens. HOYLMAN-SIGAL, BRISPORT, CHU, CLEARE, FERNANDEZ, GIANARIS, GONZALEZ, GOUNARDES, HARCKHAM, HINCHEY, JACKSON, KAVANAGH, KRUEGER, LIU, MANNION, MAY, MYRIE, RIVERA, RYAN, SALAZAR, SEPULVEDA, SERRANO, SKOUFIS, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to requiring fashion sellers to be accountable to environmental standards and establishing the interstate fashion environment accountability act compact; and to amend the state finance law, in relation to establishing a fashion remediation fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "Fashion environmental accountability act".

3 § 2. The general business law is amended by adding two new sections  
4 399-mm and 399-mmm to read as follows:

5 § 399-mm. Fashion environmental accountability act. 1. Definitions.  
6 As used in this section, the following terms shall have the following  
7 meanings:

8 (a) "Doing business in this state" shall mean actively engaging in any  
9 transaction for the purpose of financial or pecuniary gain or profit.

10 (b) "Gross receipts" shall mean the gross amounts realized, otherwise  
11 known as the sum of money and the fair market value of other property or  
12 services received, on the sale or exchange of property, the performance  
13 of services, or the use of property or capital, including rents, royalti-  
14 ties, interest, and dividends, in a transaction that produces business  
15 income, in which the income, gain, or loss is recognized, or would be  
16 recognized if the transaction were in the United States, under the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD03469-06-4

1 Internal Revenue Code, as applicable for purposes of this section.  
2 Amounts realized on the sale or exchange of property shall not be  
3 reduced by the cost of goods sold or the basis of property sold. Gross  
4 receipts, even if business income, shall not include the following  
5 items:

6 (i) repayment, maturity, or redemption of the principal of a loan,  
7 bond, mutual fund, certificate of deposit, or similar marketable instru-  
8 ment;

9 (ii) the principal amount received under a repurchase agreement or  
10 other transaction properly characterized as a loan;

11 (iii) proceeds from issuance of the taxpayer's own stock or from sale  
12 of treasury stock;

13 (iv) damages and other amounts received as the result of litigation;

14 (v) property acquired by an agent on behalf of another;

15 (vi) tax refunds and other tax benefit recoveries;

16 (vii) pension reversions;

17 (viii) contributions to capital, except for sales of securities by  
18 securities dealers;

19 (ix) income from discharge of indebtedness;

20 (x) amounts realized from exchanges of inventory that are not recog-  
21 nized under the Internal Revenue Code;

22 (xi) amounts received from transactions in intangible assets held in  
23 connection with a treasury function of the taxpayer's unitary business  
24 and the gross receipts and overall net gains from the maturity, redemp-  
25 tion, sale, exchange, or other disposition of those intangible assets;  
26 and

27 (xii) amounts received from hedging transactions involving intangible  
28 assets. A "hedging transaction" means a transaction related to the  
29 taxpayer's trading function involving futures and options transactions  
30 for the purpose of hedging price risk of the products or commodities  
31 consumed, produced, or sold by the taxpayer.

32 (c) "Fashion seller" shall mean a business entity which sells articles  
33 of wearing apparel, footwear, or fashion bags that together exceed one  
34 hundred million dollars in annual gross receipts, but shall not include  
35 the sale of used wearing apparel, footwear, or fashion bags, nor shall  
36 it include multi-brand retailers, except where the apparel, footwear,  
37 and fashion bag private labels of those companies together exceed one  
38 hundred million dollars in global revenue.

39 (d) "Article of wearing apparel" shall mean any costume or article of  
40 clothing worn or intended to be worn by individuals.

41 (e) "Footwear" shall mean any covering worn or intended to be worn on  
42 the foot.

43 (f) "Fashion bag" shall mean flexible packaging made of textiles,  
44 leather or other animal products, woven material or other similar mate-  
45 rials intended for repeated use.

46 (g) "Due diligence" shall mean the comprehensive process companies  
47 shall carry out to identify, cease, prevent, mitigate, account for, and  
48 remediate actual and potential adverse impacts to the environment in  
49 their own operations and in their supply chain, in compliance with, at a  
50 minimum, the standards outlined in the most recent Organisation for  
51 Economic Co-operation and Development Guidelines for Multinational  
52 Enterprises, and the most recent Organisation for Economic Co-operation  
53 and Development Due Diligence Guidance for Responsible Supply Chains in  
54 the Garment and Footwear Sector.

55 (h) "Due diligence report" shall mean the document prepared by the  
56 company to communicate all relevant information concerning the exist-

1 ence, implementation and outcomes of due diligence in order to comply  
2 with the requirements of this section, and to comply with any rules or  
3 regulations established pursuant to this section.

4 (i) "Risk-based approach" shall mean commensurate to the likelihood  
5 and severity of the harm. The fashion seller shall prioritize the order  
6 in which it takes action based on the likelihood and severity of harm.  
7 Severity of impacts shall be determined according to their scale or  
8 gravity, scope, and irremediable character.

9 (j) "Supply chain tiers" shall mean a four tier system defined as the  
10 following:

11 (i) "Tier one" shall mean suppliers who produce finished goods for  
12 fashion sellers, including suppliers' subcontractors, who provide the  
13 following services, including but not limited to sewing and embroider-  
14 ing;

15 (ii) "Tier two" shall mean suppliers to tier one, including subcon-  
16 tractors, who provide the following services or goods, including but not  
17 limited to knitting, weaving, washing, dyeing, finishing, printing for  
18 finished goods, and components and materials for finished goods when  
19 they are stand-alone operations and not integrated with tier one. Compo-  
20 nents shall mean materials used to build a product, including but not  
21 limited to buttons, zippers, rubber soles, down, and fusibles;

22 (iii) "Tier three" shall mean suppliers to tier two suppliers, includ-  
23 ing subcontractors, who process raw materials, such as ginning, spin-  
24 ning, and suppliers of chemicals; and

25 (iv) "Tier four" shall mean companies, including subcontractors, that  
26 provide raw materials to tier three.

27 (k) "Independently verified" shall mean audited by a verification body  
28 accredited by the department of state as described in subdivision five  
29 of this section.

30 (l) "Living wage" shall mean the remuneration received for a standard  
31 workweek by a worker in a particular place sufficient to afford a decent  
32 standard of living for such worker and their family. Elements of a  
33 decent standard of living include food, water, housing, education,  
34 health care, transportation, clothing, and other essential needs includ-  
35 ing provision for unexpected events. Living wage shall be determined  
36 exclusive of overtime wages and by net wages including in-kind and cash  
37 benefits, and deducting taxes and deductions.

38 (m) "Open data principles" shall mean data that can be freely used,  
39 reused and redistributed by anyone. Such data shall be findable or easi-  
40 ly discoverable on a website or within a database, accessible or avail-  
41 able in a machine readable, convenient, modifiable form and published as  
42 a whole, complete dataset, interoperable or able to be mixed with  
43 different datasets, and reusable or provided under an open license that  
44 permits reuse and redistribution, including the intermixing with other  
45 datasets.

46 (n) "Employee" shall mean all workers, whether full-time or part-time,  
47 permanent or fixed-term, directly contracted or hired indirectly through  
48 an agency or other intermediary.

49 2. Due Diligence. (a) Every fashion seller shall effectively carry out  
50 environmental due diligence for the portions of their business related  
51 to wearing apparel, footwear or fashion bags, including wearing apparel,  
52 footwear or fashion bags produced as a private label, which shall  
53 include:

54 (i) supply chain mapping;

1 (1) companies taking a risk-based approach and implementing good faith  
2 efforts to map suppliers across tier one through tier four of  
3 production.

4 (2) disclosure of suppliers of the production supply chain including:  
5 the name, parent company and product type at each site by country, filed  
6 by the following:

7 (A) Tier one suppliers shall be disclosed within twelve months of the  
8 effective date of this section, and shall contain a minimum of seventy-  
9 five percent of suppliers by volume.

10 (B) Tier two suppliers shall be disclosed within two years of the  
11 effective date of this section, and shall contain a minimum of seventy-  
12 five percent of suppliers by volume.

13 (C) Tier three suppliers shall be disclosed within three years of the  
14 effective date of this section and shall contain a minimum of fifty  
15 percent of suppliers by volume or dollar value.

16 (D) Tier four suppliers shall be disclosed within four years of the  
17 effective date of this section and shall contain a minimum of fifty  
18 percent of suppliers by volume or dollar value.

19 (ii) in carrying out effective due diligence, fashion sellers shall be  
20 in compliance with the Organisation for Economic Co-operation and Devel-  
21 opment Guidelines for Multinational Enterprises and the Organisation for  
22 Economic Co-operation and Development Due Diligence Guidance for Respon-  
23 sible Supply Chains in the Garment and Footwear Sector, requiring fash-  
24 ion sellers to, at a minimum:

25 (1) embed responsible business conduct into the company's policies and  
26 management systems;

27 (2) identify areas of significant risks in the contexts of its own  
28 activities and business and supply chain relationships;

29 (3) identify, prioritize, and assess the significant potential and  
30 actual adverse impacts of those risks;

31 (4) cease, prevent or mitigate those risks. This shall include, but  
32 not be limited to:

33 (A) establishing quantitative baseline and reduction targets on green-  
34 house gas emissions. Greenhouse gas emissions inventory shall be  
35 reported annually, starting in two thousand twenty-six for emissions in  
36 the prior fiscal year; include absolute figures; and conform with the  
37 accounting and reporting requirements of the most recent Greenhouse Gas  
38 Protocol Corporate Accounting and Reporting Standard, Scope Two Guid-  
39 ance, and, starting in two thousand twenty-seven, the most recent Corpo-  
40 rate Value Chain Scope Three accounting and reporting standard promul-  
41 gated by the World Resources Institute and the World Business Council  
42 for Sustainable Development. Greenhouse gas emissions inventory reported  
43 in the due diligence report required pursuant to subdivision three of  
44 this section shall be independently verified no less than once every two  
45 years. Fashion sellers shall not be subject to an administrative penalty  
46 under this section for any misstatements with regard to scope three  
47 emissions disclosures made with a reasonable basis and disclosed in good  
48 faith. Within four years of the effective date of this section, primary  
49 data shall be used to capture the fashion seller's tier two and tier  
50 three inventory of its most significant suppliers contributing to green-  
51 house gas emissions. Significant suppliers shall mean suppliers repres-  
52 enting seventy-five percent of fabric by volume in tier two and fifty  
53 percent of fabric by volume in tier three. Greenhouse gas emission  
54 reduction targets must be near-term and long-term, covering scopes one,  
55 two and three emissions, and align with, at a minimum, Science Based  
56 Target initiative's most recent target validation criteria as promulgat-

1 ed by World Resources Institute, CDP, United Nations Global Compact and  
2 the World Wildlife Fund. For fashion sellers with global revenue over  
3 one billion dollars, the absolute contraction approach must be used to  
4 calculate scope three emissions. Fashion sellers shall meet targets and  
5 report their compliance on an annual basis in their due diligence  
6 report, as required pursuant to subdivision three of this section. If  
7 found to be out of compliance, fashion sellers shall have eighteen  
8 months to remedy their emissions and return to the necessary reduction  
9 pathway to deliver on their targets. In non-target years, non-compliance  
10 shall mean an increase in absolute emissions in three consecutive years,  
11 for companies over a billion dollars in revenue. In target years, non-  
12 compliance shall mean not reaching the target;

13 (B) being in compliance with, at a minimum, the Zero Discharge of  
14 Hazardous Chemicals Program's most recent wastewater guidelines, fashion  
15 sellers shall be required, for all significant tier two dyeing, finish-  
16 ing and garment washing suppliers, to sample and report on wastewater  
17 chemical concentrations and water usage, within two years of the effec-  
18 tive date of this section. Such reports shall be independently verified.  
19 Fashion sellers shall also provide corrective action plans for their  
20 wastewater treatment within thirty months of the effective date of this  
21 section. After three years of the effective date of this section, fash-  
22 ion sellers shall be considered out of compliance if their significant  
23 tier two dyeing, finishing and garment suppliers have not made adequate  
24 progress in remediation of wastewater pollution concentrations. Signif-  
25 icant suppliers shall mean suppliers representing seventy-five percent  
26 of fabric by volume;

27 (C) utilizing responsible exit or disengagement strategies;

28 (D) consulting and engaging with impacted and potentially impacted  
29 stakeholders and rights holders and their representatives;

30 (5) track implementation and results;

31 (6) provide for or co-operate in remediation in the event of an  
32 adverse impact:

33 (A) remedies shall seek to restore the affected person or persons,  
34 where practicable, to the situation they would have been in had the  
35 adverse impact not occurred and shall enable remediation that is propor-  
36 tionate to the significance and scale of the adverse impact; and

37 (B) remedies shall include, depending on the nature and extent of the  
38 adverse impact, remediation, restitution or financial or non-financial  
39 compensation, including establishing compensation funds for victims or  
40 for future outreach and educational programs, punitive sanctions includ-  
41 ing the dismissals of staff responsible for wrongdoing, and establishing  
42 and undertaking measures to prevent future adverse impacts, which may  
43 include, but are not limited to the development of internal protocols,  
44 practices and procedures to prevent future adverse impacts.

45 (b) The due diligence requirements pursuant to this subdivision shall  
46 not be conditional upon the company being effectively involved in the  
47 subsidiary's day-to-day operations or exercising a sufficient degree of  
48 control on companies within its supply chain.

49 3. Reporting. Every fashion seller shall develop and submit to the  
50 department of state annually, beginning within eighteen months of the  
51 effective date of this section, a due diligence report.

52 (a) Such report, excluding the information required in clause three of  
53 subparagraph (i) of paragraph (a) of subdivision two of this section,  
54 shall also be made publicly available on the fashion seller's website in  
55 a machine readable and reusable format, published in line with open data  
56 principles through a clear and easily discoverable link to the required

1 information. In the event the fashion seller does not have an internet  
2 website, the company shall provide a written disclosure to any person  
3 who has requested information within thirty days of receiving a request.  
4 Such report shall also include the fashion seller's annual volume of  
5 material produced, including breakdown by material type.

6 (b) Such report shall contain annual activities and financial spending  
7 to support supply chain due diligence.

8 (c) The department of state shall identify and notify fashion sellers  
9 that have failed to file a due diligence report that they have thirty  
10 days to file such report before being placed on a public non-compliant  
11 list and that they may be referred to the attorney general for investi-  
12 gation.

13 (d) The department of state shall review the due diligence reports for  
14 completeness.

15 (e) Fashion sellers shall have twelve months from the introduction of  
16 any updated guidance documents to integrate such guidance into the next  
17 annual due diligence report.

18 4. Regulations. (a) The department of state shall, in consultation  
19 with the department of environmental conservation, promulgate all rules  
20 and regulations necessary to implement the provisions of this section  
21 within six months from the effective date of this section.

22 (b) The department of state, in consultation with the department of  
23 environmental conservation, shall also develop and disseminate educa-  
24 tional materials to fashion sellers, including providing alerts on time  
25 sensitive issues, emerging issues, and high-risk country situations, and  
26 assisting fashion sellers in improving the quality of their due dili-  
27 gence processes.

28 (c) The department of state shall consult the most recent Greenhouse  
29 Gas Protocol Corporate Accounting and Reporting Standard to develop  
30 methodologies to calculate data capture as laid out in item (A) of  
31 clause four of subparagraph (ii) of paragraph (a) of subdivision two of  
32 this section, prior to that requirement becoming effective.

33 (d) The department of state shall develop regulations on reporting  
34 requirements that minimize duplication of effort and allows a fashion  
35 seller to submit a due diligence report to the department of state that  
36 is prepared to meet other national and international reporting require-  
37 ments, including any reports required by the federal government, as long  
38 as such reports satisfy all of the requirements of subdivision two of  
39 this section.

40 5. Verification. (a) The department of state shall, in consultation  
41 with the department of environmental conservation, develop a process for  
42 accrediting verification bodies authorized to provide verification  
43 services for the purposes of this section, including which requirements  
44 the entity is authorized to verify.

45 (b) Such process shall at a minimum consider:

46 (i) the demonstrated qualifications of verification staff, including  
47 their education, experience, and professional licenses. Verification  
48 bodies must employ and retain at least five total full-time staff with  
49 expertise in the requirements they seek to verify under this section;

50 (ii) any judicial proceedings, enforcement actions, or administrative  
51 actions filed against the body within the previous five years; and

52 (iii) the policies and mechanisms in place to prevent conflicts of  
53 interest and to identify and resolve potential conflict of interest  
54 situations if they arise. The department shall require applicants to  
55 submit the following information, at a minimum:

1 (1) identification of services provided by the verification body, the  
2 industries that the body serves, and the locations where those services  
3 are provided;

4 (2) a detailed organizational chart that includes the verification  
5 body, its management structure, and any related entities; and

6 (3) the verification body's internal conflict of interest policy that  
7 identifies activities and limits to monetary or non-monetary gifts that  
8 apply to all employees and procedures to monitor conflicts of interest.

9 (c) Verification bodies shall not be authorized to provide services to  
10 a company where a conflict of interest exists. A conflict of interest  
11 shall include:

12 (i) where the verification body and reporting entity share any manage-  
13 ment staff or board of directors membership, or any of the senior  
14 management staff of the reporting entity have been employed by the  
15 verification body, or vice versa, within the previous five years;

16 (ii) any employee of the verification body, or any employee of a  
17 related entity, or a subcontractor who is a member of the verification  
18 team has provided the reporting entity with services related to the  
19 areas of verification, or any services designated by the department of  
20 state, within the previous five years;

21 (iii) any staff member of the verification body provides any type of  
22 non-monetary incentive to a reporting entity to secure a verification  
23 services contract; and

24 (iv) any additional criteria provided by the department of state.

25 (d) Verification bodies that have been accredited by the department of  
26 state shall notify the department within thirty days if they no longer  
27 meet the verification requirements set forth by this section.

28 6. Monitoring and enforcement. (a) The requirements imposed on fashion  
29 sellers by this section shall be monitored, investigated, and enforced  
30 by the attorney general or an administrator designated by the attorney  
31 general to bring civil proceedings for an injunction, or fines for mone-  
32 tary damages as described in this section, or civil performance of a  
33 statutory duty. Fashion sellers shall be deemed non-compliant with this  
34 section if they fail to conduct effective due diligence pursuant to  
35 subdivision two of this section or fail to file a due diligence report  
36 pursuant to subdivision three of this section.

37 (b) The department of state shall identify and notify fashion sellers  
38 that have failed to file a complete due diligence report. If such fash-  
39 ion sellers fail to file a complete report, after a period of three  
40 months, the department of state shall refer fashion sellers to the  
41 attorney general for enforcement for failure to file a complete report.

42 (c) The department of environmental conservation shall review and  
43 certify effective due diligence for environmental matters in the due  
44 diligence report and identify fashion sellers for referral to the secre-  
45 tary of state for any failures.

46 (d) The department of state shall compile and maintain a list of non-  
47 compliant fashion sellers on the department's website. The department of  
48 state shall refer to the attorney general for investigation any fashion  
49 seller who fails to file a due diligence report or fails to conduct  
50 effective due diligence, once any grace period lapses and the fashion  
51 seller remains in non-compliance.

52 (e) Fashion sellers found to be out of compliance with this section  
53 after the attorney general, or the attorney general's designated admin-  
54 istrator as applicable, has provided notice of non-compliance, and after  
55 a three-month period to meet obligations under this section has lapsed,  
56 may be fined up to two percent of annual revenues. Such fines shall be

1 deposited in the community benefit fund established by section ninety-  
2 seven-ccc of the state finance law.

3 (f) The attorney general, or the attorney general's designated admin-  
4 istrator shall use a risk-based approach in enforcement and shall  
5 publish enforcement guidelines.

6 (g) Any person may report a violation of this section to the attorney  
7 general's office.

8 § 399-mmm. Fashion environmental accountability act compact. 1. Rules  
9 of construction. (a) This compact shall not be construed to displace  
10 federal rules or regulations relating to the regulation of garments or  
11 other such products covered by the fashion environmental accountability  
12 act.

13 (b) This compact shall be construed in a manner to achieve the  
14 purposes and intent enunciated in the fashion environmental accountabil-  
15 ity act. It is the intent of this compact to establish a basic structure  
16 by which the commission may achieve those purposes through the applica-  
17 tion, adaptation, and development of the regulatory techniques pursuant  
18 to the fashion environmental accountability act and to afford the  
19 commission sufficient flexibility to devise regulatory mechanisms to  
20 achieve the purposes of this compact in line with the intent of the  
21 fashion environmental accountability act. In accordance with this  
22 intent, the commission shall use the terms and purpose defined in this  
23 act, solely for the intent of coordinating rules and regulations exclud-  
24 ing implementation, which shall be the responsibility of the participat-  
25 ing states. The commission may further define the terms used in this  
26 compact, develop additional concepts and define additional terms as it  
27 may find appropriate to achieve its purposes and responsibilities.

28 (c) This compact shall come into force upon entry of two or more  
29 participating states.

30 2. Interstate fashion environmental accountability commission. There  
31 is hereby created an interstate fashion environmental accountability  
32 commission to administer the compact, composed of representatives from  
33 each participating state. A representative shall be appointed by a  
34 participating state at such state's discretion. A state's representative  
35 shall be a resident of such state with relevant expertise or scientific  
36 knowledge in the areas including but not limited to fashion environ-  
37 mental sustainability, environmental protection, international supply  
38 chains, the establishment of by-laws, rules, and regulations for inter-  
39 state compacts, interstate commerce, and subject to such confirmation  
40 process as is provided for in the appointing state. In all other  
41 respects, such representative shall serve in accordance with the laws of  
42 the participating state and for a time as determined by the participat-  
43 ing state. The compensation, if any, shall be determined by the by-laws  
44 of the compact. Each state representative shall be entitled to one vote  
45 in the conduct of the commission's affairs. Any expenses incurred for  
46 the purposes of participation shall be paid by the commission and shall  
47 be shared equitably across participating states.

48 3. Voting requirements. All actions taken by the commission, shall be  
49 by majority vote of the representatives present, except for the adoption  
50 of by-laws, which shall be by a two-thirds vote. A majority of the  
51 representatives from the participating states shall constitute a quorum  
52 for the conduct of the commission's business.

53 4. Administration and management. (a) The commission shall elect annu-  
54 ally from among the representatives of the participating states a chair-  
55 person, a vice-chairperson, a secretary, and a treasurer. The commission  
56 shall appoint an executive director and fix their duties in carrying out

1 the intent of the compact as well as compensation. The executive direc-  
2 tor shall serve at the pleasure of the commission, and, together with  
3 the treasurer, shall be bonded in an amount determined by the commis-  
4 sion.

5 (b) The commission shall adopt by-laws for the conduct of its business  
6 by a two-thirds vote, and shall have the power by the same vote to amend  
7 or rescind sections of such by-laws. The commission shall publish its  
8 by-laws in a convenient form which shall be accessible to the public  
9 with the appropriate agency or officer in each of the participating  
10 states. The by-laws shall provide for appropriate notice, to the state  
11 representatives, of all commission meetings and hearings and of the  
12 business to be transacted at such meetings or hearings. Notice also  
13 shall be given to other agencies or officers of participating states as  
14 provided by the laws of those states.

15 (c) The commission shall file an annual report with respect to its  
16 activities and outcomes for the preceding year with each of the partic-  
17 ipating states by submitting copies to the governor, both houses of the  
18 legislature, and the head of the state's departments deemed necessary by  
19 each respective participating state for the implementation of this act.

20 (d) In addition to the powers and duties elsewhere prescribed in this  
21 compact, the commission shall have the power to:

22 (i) acquire, hold, and dispose of real and personal property by gift,  
23 purchase, lease, license, or other similar manner, for the exclusive  
24 purpose of coordinating implementation of the act between participating  
25 states;

26 (ii) appoint such officers, agents, and employees as it may deem  
27 necessary and prescribe their powers, duties, and qualifications; and

28 (iii) create and abolish such employments and positions as it deems  
29 necessary for the purposes of the compact and provide for the removal,  
30 term, tenure, compensation, fringe benefits, pension, and retirement  
31 rights of its employees and positions. The commission may also retain  
32 personal services on a contract basis for the exclusive purpose of coor-  
33 ordinating implementation of the fashion environmental accountability act  
34 between participating states.

35 5. Rulemaking power. The commission is further empowered to adopt  
36 uniform administrative procedures and rules and regulations for the  
37 implementation of the fashion environmental accountability act and to  
38 make and enforce such additional rules and regulations as it deems  
39 necessary to implement any provisions of this compact. The commission  
40 shall also provide a concise general statement of basis and purpose as  
41 required by section 4(b) of the Federal Administrative Procedure Act, as  
42 amended (5 U.S.C. Sec. 553(c)).

43 6. Powers to promote regulatory uniformity, simplicity, and interstate  
44 cooperation. The commission is hereby empowered to:

45 (a) conduct monitoring and evaluation of the relevant laws and rules  
46 and regulations of the participating states, including the quality and  
47 extent of their implementation and their impact related to regulated  
48 entities to ensure compliance with the intent of the fashion environ-  
49 mental accountability act;

50 (b) prepare and transmit to participating states model rules and regu-  
51 lations to ensure the effective administration of the fashion environ-  
52 mental accountability act and its intent;

53 (c) study and recommend to the participating states joint or coordi-  
54 nated programs for the administration of the fashion environmental  
55 accountability act and to prepare estimates of cost savings and benefits  
56 of such programs;

1 (d) encourage collaborative relationships between the regulated enti-  
2 ties of the fashion environmental accountability act and participating  
3 states for the proper compliance of fashion sellers pursuant to the  
4 fashion environmental accountability act and participating states' mutu-  
5 al challenges to enforcement, including through meetings, symposiums or  
6 conferences designed to improve industry relations, coordination between  
7 participating states, or a better understanding of challenges with  
8 regards to the achieving intent of the fashion environmental account-  
9 ability act;

10 (e) prepare and release periodic reports on activities and results of  
11 the commission's efforts with the participating states which shall be  
12 readily accessible to the public;

13 (f) review the interpretation and implementation of due diligence  
14 procedures and compliance with the fashion environmental accountability  
15 act between participating states and make recommended changes as neces-  
16 sary to ensure uniformity and continuity of compliance between such  
17 participating states in keeping with the intent of the fashion environ-  
18 mental accountability act; and

19 (g) facilitate the sharing between participating states of data  
20 regarding regulated entities and the implementation of the intent of the  
21 act.

22 7. Rulemaking procedure. Upon entry into force of this compact, the  
23 commission shall conduct an informal rulemaking proceeding, including no  
24 less than one public hearing per participating state, to provide inter-  
25 ested persons with an opportunity to present data and views. Such rule-  
26 making proceeding shall be governed by section four of the Federal  
27 Administrative Procedure Act, as amended (5 U.S.C. Sec. 553). In addi-  
28 tion, the commission shall publish notice of rulemaking proceedings in  
29 the official register and websites of the designated departments of each  
30 participating state, at minimum. The commission may commence a rulemak-  
31 ing proceeding on its own initiative or may in its sole discretion act  
32 upon the petition of any person or regulated entity, consumer or public  
33 interest groups, and local, state, or federal officials.

34 8. Records, reports, access to premises. (a) The commission may by  
35 rule and regulation prescribe recordkeeping and reporting requirements  
36 for all participating states for the purposes of coordinating implemen-  
37 tation. For purposes of the administration and implementation of this  
38 compact, the commission is authorized to examine the books and records  
39 of any participating state relating to the enforcement of the fashion  
40 environmental accountability act. The commission's properly designated  
41 employees or agents shall have full access during normal business hours  
42 to the premises and relevant records of all relevant departments of  
43 participating states.

44 (b) Information furnished to or acquired by the commission officers,  
45 employees, or its agents pursuant to this section shall be available to  
46 all participating states but confidential with respects to any law,  
47 rule, or regulation regarding proprietary information and not subject to  
48 public disclosure except to the extent that the commission deems disclo-  
49 sure to be necessary in any administrative or judicial proceeding  
50 involving the administration or implementation of this compact or other  
51 regulations of the commission. The commission may promulgate regulations  
52 further defining the confidentiality of information pursuant to this  
53 subdivision. Nothing in this subdivision shall be deemed to prohibit the  
54 publication by direction of the commission of the name of any partic-  
55 ipating state violating any regulation of the commission, together with  
56 a statement of the particular provisions violated by such state. The

1 commission is authorized to require compliance of a participating state  
2 violating any regulation of the commission by majority vote of the  
3 commission. Failure to adhere to such compliance shall deem such partic-  
4 ipating state not-in-good standing with the compact and be void of all  
5 participation or requirements pursuant to the by-laws established by the  
6 commission.

7 (c) No officer, employee, or agent of the commission shall inten-  
8 tionally disclose information, by inference or otherwise, which is made  
9 confidential pursuant to this section. Any person violating the  
10 provisions of this section, upon conviction, shall be removed from  
11 office.

12 (d) The commission shall refer any allegation of a violation of a  
13 representative pursuant to this subdivision to the respective partic-  
14 ipating state and appropriate state enforcement authority.

15 9. Finance of startup and regular costs. In order to finance the costs  
16 of administration and implementation of this compact the commission is  
17 hereby empowered to collect an assessment from each participating state,  
18 pursuant to rules and regulations enacted by the commission. Such rules  
19 and regulations shall provide for establishment of a reserve for the  
20 commission's ongoing operating expenses. Participating states may fund  
21 the initial expenses associated with the establishment of the by-laws,  
22 rules and regulations of the compact and commission staff.

23 10. Audit and accounts. (a) The commission shall keep accurate  
24 accounts of all receipts and disbursements, which shall be subject to  
25 the audit and accounting procedures established under its rules and  
26 regulations. In addition, all receipts and disbursements of funds  
27 handled by the commission shall be audited yearly by a qualified public  
28 accountant and the report of the audit shall be included in and become  
29 part of the annual report and the annual budget of the commission.

30 (b) The accounts of the commission shall be open at any reasonable  
31 time for inspection by duly constituted representatives of the partic-  
32 ipating states and by any persons authorized by the commission.

33 (c) Nothing contained in this compact shall be construed to prevent  
34 commission compliance with laws relating to audit or inspection of  
35 accounts by or on behalf of any participating state or of the United  
36 States.

37 11. Entry into force; additional members. The compact shall enter into  
38 force for a participating state effective when enacted into law by such  
39 state, district, or territory of the United States of America.

40 12. Voluntary withdrawal from compact. Any participating state may  
41 withdraw from this compact by enacting a statute repealing the same, but  
42 no such withdrawal shall take effect until one year after notice in  
43 writing of the withdrawal is given to the commission and the governors  
44 of all other participating states. No withdrawal shall affect any  
45 liability already incurred by or chargeable to a participating state  
46 prior to the time of such withdrawal.

47 13. Reservation of rights; in general. The right to alter, amend, or  
48 repeal this compact is expressly reserved.

49 § 3. The state finance law is amended by adding a new section 97-ccc  
50 to read as follows:

51 § 97-ccc. Fashion remediation fund. 1. There is hereby established in  
52 the joint custody of the comptroller, the commissioner of taxation and  
53 finance, the commissioner of environmental conservation, and the commis-  
54 sioner of labor a special fund to be known as the fashion remediation  
55 fund.

1 2. Such fund shall consist of all moneys deposited pursuant to para-  
2 graph (c) of subdivision six of section three hundred ninety-nine-mm of  
3 the general business law.

4 3. The moneys in the fund shall be expended by the comptroller for the  
5 purpose of implementing one or more environmental benefit projects or  
6 environmental remediation projects that directly and verifiably benefit  
7 the workers and communities directly impacted, to the extent practica-  
8 ble, at the location the injury has occurred.

9 4. On or before the first day of February each year, the comptroller  
10 shall certify to the temporary president of the senate, and the speaker  
11 of the assembly, the amount of money deposited by source in the fund  
12 during the preceding calendar year, as well as all disbursements from  
13 the fund during the preceding calendar year.

14 5. Moneys shall be payable from the fund on the audit and warrant of  
15 the comptroller on vouchers certified and approved by the commissioner  
16 of environmental conservation as applicable.

17 § 4. The attorney general shall certify to the governor that the  
18 office of the attorney general is prepared to execute the duties  
19 assigned in subdivision 6 of section 399-mm of the general business law  
20 within one year following the effective date of this act. If, after the  
21 expiration of one year, the attorney general requires more time to  
22 certify that the office of the attorney general is prepared to execute  
23 such duties, the attorney general may, for good cause shown, apply to  
24 the governor for an extension of time. The governor may grant or deny an  
25 extension of up to one year according to their discretion.

26 § 5. Severability. If any word, phrase, clause, sentence, paragraph,  
27 section, or part of this act shall be adjudged by any court of competent  
28 jurisdiction to be invalid, such judgment shall not affect, impair, or  
29 invalidate the remainder thereof, but shall be confined in its operation  
30 to the word, phrase, clause, sentence, paragraph, section, or part ther-  
31 eof directly involved in the controversy in which such judgment shall  
32 have been rendered.

33 § 6. This act shall take effect immediately; provided, however, that  
34 subdivision 6 of section 399-mm of the general business law as added by  
35 section two of this act shall take effect one year after the attorney  
36 general certifies that the office of the attorney general is prepared to  
37 execute the duties assigned in such subdivision. The attorney general  
38 shall notify the legislative bill drafting commission upon the occur-  
39 rence of such certification in order that the commission may maintain an  
40 accurate and timely effective data base of the official text of the laws  
41 of the state of New York in furtherance of effectuating the provisions  
42 of section 44 of the legislative law and section 70-b of the public  
43 officers law.