

STATE OF NEW YORK

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Introduced by M. of A. KELLES, EPSTEIN, SIMON, HEVESI, GONZALEZ-ROJAS, FORREST, BURGOS, WEPRIN, REYES, FAHY, STECK, SEAWRIGHT, MITAYNES, GALLAGHER, RAGA, SIMONE, SHRESTHA, CUNNINGHAM, BORES, OTIS, LEVENBERG, CARROLL, THIELE, STERN, L. ROSENTHAL, RAJKUMAR, KIM, GUNTHER, ANDERSON, GLICK, LUNSFORD, BARRETT, SHIMSKY, MAMDANI, DINOWITZ, SANTABARBARA, JACOBSON, TAYLOR, CLARK, PAULIN, BICHOTTE HERMELYN, LAVINE, SLATER, EACHUS, DE LOS SANTOS, ARDILA, SILLITTI, SOLAGES, CONRAD, CRUZ, BENEDETTO, JACKSON, PRETLOW, TAPIA, STIRPE, MEEKS, LUPARDO, McMAHON, LEE, BURDICK, COLTON, ALVAREZ -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- 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.

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

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1 (b) "Gross receipts" shall mean the gross amounts realized, otherwise
2 known as the sum of money and the fair market value of other property or
3 services received, on the sale or exchange of property, the performance
4 of services, or the use of property or capital, including rents, royal-
5 ties, interest, and dividends, in a transaction that produces business
6 income, in which the income, gain, or loss is recognized, or would be
7 recognized if the transaction were in the United States, under the
8 Internal Revenue Code, as applicable for purposes of this section.
9 Amounts realized on the sale or exchange of property shall not be
10 reduced by the cost of goods sold or the basis of property sold. Gross
11 receipts, even if business income, shall not include the following
12 items:

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

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

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

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

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

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

23 (vii) pension reversions;

24 (viii) contributions to capital, except for sales of securities by
25 securities dealers;

26 (ix) income from discharge of indebtedness;

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

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

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

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

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

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

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

53 (g) "Due diligence" shall mean the comprehensive process companies
54 shall carry out to identify, cease, prevent, mitigate, account for, and
55 remediate actual and potential adverse impacts to the environment in
56 their own operations and in their supply chain, in compliance with, at a

1 minimum, the standards outlined in the most recent Organisation for
2 Economic Co-operation and Development Guidelines for Multinational
3 Enterprises, and the most recent Organisation for Economic Co-operation
4 and Development Due Diligence Guidance for Responsible Supply Chains in
5 the Garment and Footwear Sector.

6 (h) "Due diligence report" shall mean the document prepared by the
7 company to communicate all relevant information concerning the exist-
8 ence, implementation and outcomes of due diligence in order to comply
9 with the requirements of this section, and to comply with any rules or
10 regulations established pursuant to this section.

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

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

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

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

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

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

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

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

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

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

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

6 (i) supply chain mapping:

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

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

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

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

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

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

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

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

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

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

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

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

1 house gas emissions. Significant suppliers shall mean suppliers repres-
2 enting seventy-five percent of fabric by volume in tier two and fifty
3 percent of fabric by volume in tier three. Greenhouse gas emission
4 reduction targets must be near-term and long-term, covering scopes one,
5 two and three emissions, and align with, at a minimum, Science Based
6 Target initiative's most recent target validation criteria as promulgat-
7 ed by World Resources Institute, CDP, United Nations Global Compact and
8 the World Wildlife Fund. For fashion sellers with global revenue over
9 one billion dollars, the absolute contraction approach must be used to
10 calculate scope three emissions. Fashion sellers shall meet targets and
11 report their compliance on an annual basis in their due diligence
12 report, as required pursuant to subdivision three of this section. If
13 found to be out of compliance, fashion sellers shall have eighteen
14 months to remedy their emissions and return to the necessary reduction
15 pathway to deliver on their targets. In non-target years, non-compliance
16 shall mean an increase in absolute emissions in three consecutive years,
17 for companies over a billion dollars in revenue. In target years, non-
18 compliance shall mean not reaching the target;

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

33 (C) utilizing responsible exit or disengagement strategies;

34 (D) consulting and engaging with impacted and potentially impacted
35 stakeholders and rights holders and their representatives;

36 (5) track implementation and results;

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

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

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

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

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

4 (a) Such report, excluding the information required in clause three of
5 subparagraph (i) of paragraph (a) of subdivision two of this section,
6 shall also be made publicly available on the fashion seller's website in
7 a machine readable and reusable format, published in line with open data
8 principles through a clear and easily discoverable link to the required
9 information. In the event the fashion seller does not have an internet
10 website, the company shall provide a written disclosure to any person
11 who has requested information within thirty days of receiving a request.
12 Such report shall also include the fashion seller's annual volume of
13 material produced, including breakdown by material type.

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

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

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

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

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

30 (b) The department of state, in consultation with the department of
31 environmental conservation, shall also develop and disseminate educa-
32 tional materials to fashion sellers, including providing alerts on time
33 sensitive issues, emerging issues, and high-risk country situations, and
34 assisting fashion sellers in improving the quality of their due dili-
35 gence processes.

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

41 (d) The department of state shall develop regulations on reporting
42 requirements that minimize duplication of effort and allows a fashion
43 seller to submit a due diligence report to the department of state that
44 is prepared to meet other national and international reporting require-
45 ments, including any reports required by the federal government, as long
46 as such reports satisfy all of the requirements of subdivision two of
47 this section.

48 5. Verification. (a) The department of state shall, in consultation
49 with the department of environmental conservation, develop a process for
50 accrediting verification bodies authorized to provide verification
51 services for the purposes of this section, including which requirements
52 the entity is authorized to verify.

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

54 (i) the demonstrated qualifications of verification staff, including
55 their education, experience, and professional licenses. Verification

1 bodies must employ and retain at least five total full-time staff with
2 expertise in the requirements they seek to verify under this section;

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

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

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

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

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

17 (c) Verification bodies shall not be authorized to provide services to
18 a company where a conflict of interest exists. A conflict of interest
19 shall include:

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

24 (ii) any employee of the verification body, or any employee of a
25 related entity, or a subcontractor who is a member of the verification
26 team has provided the reporting entity with services related to the
27 areas of verification, or any services designated by the department of
28 state, within the previous five years;

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

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

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

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

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

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

54 (d) The department of state shall compile and maintain a list of non-
55 compliant fashion sellers on the department's website. The department of
56 state shall refer to the attorney general for investigation any fashion

1 seller who fails to file a due diligence report or fails to conduct
2 effective due diligence, once any grace period lapses and the fashion
3 seller remains in non-compliance.

4 (e) Fashion sellers found to be out of compliance with this section
5 after the attorney general, or the attorney general's designated admin-
6 istrator as applicable, has provided notice of non-compliance, and after
7 a three-month period to meet obligations under this section has lapsed,
8 may be fined up to two percent of annual revenues. Such fines shall be
9 deposited in the community benefit fund established by section ninety-
10 seven-ccc of the state finance law.

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

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

16 § 399-mmm. Fashion environmental accountability act compact. 1. Rules
17 of construction. (a) This compact shall not be construed to displace
18 federal rules or regulations relating to the regulation of garments or
19 other such products covered by the fashion environmental accountability
20 act.

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

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

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

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

6 4. Administration and management. (a) The commission shall elect annu-
7 ally from among the representatives of the participating states a chair-
8 person, a vice-chairperson, a secretary, and a treasurer. The commission
9 shall appoint an executive director and fix their duties in carrying out
10 the intent of the compact as well as compensation. The executive direc-
11 tor shall serve at the pleasure of the commission, and, together with
12 the treasurer, shall be bonded in an amount determined by the commis-
13 sion.

14 (b) The commission shall adopt by-laws for the conduct of its business
15 by a two-thirds vote, and shall have the power by the same vote to amend
16 or rescind sections of such by-laws. The commission shall publish its
17 by-laws in a convenient form which shall be accessible to the public
18 with the appropriate agency or officer in each of the participating
19 states. The by-laws shall provide for appropriate notice, to the state
20 representatives, of all commission meetings and hearings and of the
21 business to be transacted at such meetings or hearings. Notice also
22 shall be given to other agencies or officers of participating states as
23 provided by the laws of those states.

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

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

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

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

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

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

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

54 (a) conduct monitoring and evaluation of the relevant laws and rules
55 and regulations of the participating states, including the quality and
56 extent of their implementation and their impact related to regulated

1 entities to ensure compliance with the intent of the fashion environ-
2 mental accountability act;

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

6 (c) study and recommend to the participating states joint or coordi-
7 nated programs for the administration of the fashion environmental
8 accountability act and to prepare estimates of cost savings and benefits
9 of such programs;

10 (d) encourage collaborative relationships between the regulated enti-
11 ties of the fashion environmental accountability act and participating
12 states for the proper compliance of fashion sellers pursuant to the
13 fashion environmental accountability act and participating states' mutu-
14 al challenges to enforcement, including through meetings, symposiums or
15 conferences designed to improve industry relations, coordination between
16 participating states, or a better understanding of challenges with
17 regards to the achieving intent of the fashion environmental account-
18 ability act;

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

22 (f) review the interpretation and implementation of due diligence
23 procedures and compliance with the fashion environmental accountability
24 act between participating states and make recommended changes as neces-
25 sary to ensure uniformity and continuity of compliance between such
26 participating states in keeping with the intent of the fashion environ-
27 mental accountability act; and

28 (g) facilitate the sharing between participating states of data
29 regarding regulated entities and the implementation of the intent of the
30 act.

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

43 8. Records, reports, access to premises. (a) The commission may by
44 rule and regulation prescribe recordkeeping and reporting requirements
45 for all participating states for the purposes of coordinating implemen-
46 tation. For purposes of the administration and implementation of this
47 compact, the commission is authorized to examine the books and records
48 of any participating state relating to the enforcement of the fashion
49 environmental accountability act. The commission's properly designated
50 employees or agents shall have full access during normal business hours
51 to the premises and relevant records of all relevant departments of
52 participating states.

53 (b) Information furnished to or acquired by the commission officers,
54 employees, or its agents pursuant to this section shall be available to
55 all participating states but confidential with respects to any law,
56 rule, or regulation regarding proprietary information and not subject to

1 public disclosure except to the extent that the commission deems disclo-
2 sure to be necessary in any administrative or judicial proceeding
3 involving the administration or implementation of this compact or other
4 regulations of the commission. The commission may promulgate regulations
5 further defining the confidentiality of information pursuant to this
6 subdivision. Nothing in this subdivision shall be deemed to prohibit the
7 publication by direction of the commission of the name of any partic-
8 ipating state violating any regulation of the commission, together with
9 a statement of the particular provisions violated by such state. The
10 commission is authorized to require compliance of a participating state
11 violating any regulation of the commission by majority vote of the
12 commission. Failure to adhere to such compliance shall deem such partic-
13 ipating state not-in-good standing with the compact and be void of all
14 participation or requirements pursuant to the by-laws established by the
15 commission.

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

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

24 9. Finance of startup and regular costs. In order to finance the costs
25 of administration and implementation of this compact the commission is
26 hereby empowered to collect an assessment from each participating state,
27 pursuant to rules and regulations enacted by the commission. Such rules
28 and regulations shall provide for establishment of a reserve for the
29 commission's ongoing operating expenses. Participating states may fund
30 the initial expenses associated with the establishment of the by-laws,
31 rules and regulations of the compact and commission staff.

32 10. Audit and accounts. (a) The commission shall keep accurate
33 accounts of all receipts and disbursements, which shall be subject to
34 the audit and accounting procedures established under its rules and
35 regulations. In addition, all receipts and disbursements of funds
36 handled by the commission shall be audited yearly by a qualified public
37 accountant and the report of the audit shall be included in and become
38 part of the annual report and the annual budget of the commission.

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

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

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

49 12. Voluntary withdrawal from compact. Any participating state may
50 withdraw from this compact by enacting a statute repealing the same, but
51 no such withdrawal shall take effect until one year after notice in
52 writing of the withdrawal is given to the commission and the governors
53 of all other participating states. No withdrawal shall affect any
54 liability already incurred by or chargeable to a participating state
55 prior to the time of such withdrawal.

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

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

5 § 97-ccc. Fashion remediation fund. 1. There is hereby established in
6 the joint custody of the comptroller, the commissioner of taxation and
7 finance, the commissioner of environmental conservation, and the commis-
8 sioner of labor a special fund to be known as the fashion remediation
9 fund.

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

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

18 4. On or before the first day of February each year, the comptroller
19 shall certify to the temporary president of the senate, and the speaker
20 of the assembly, the amount of money deposited by source in the fund
21 during the preceding calendar year, as well as all disbursements from
22 the fund during the preceding calendar year.

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

26 § 4. The attorney general shall certify to the governor that the
27 office of the attorney general is prepared to execute the duties
28 assigned in subdivision 6 of section 399-mm of the general business law
29 within one year following the effective date of this act. If, after the
30 expiration of one year, the attorney general requires more time to
31 certify that the office of the attorney general is prepared to execute
32 such duties, the attorney general may, for good cause shown, apply to
33 the governor for an extension of time. The governor may grant or deny an
34 extension of up to one year according to their discretion.

35 § 5. Severability. If any word, phrase, clause, sentence, paragraph,
36 section, or part of this act shall be adjudged by any court of competent
37 jurisdiction to be invalid, such judgment shall not affect, impair, or
38 invalidate the remainder thereof, but shall be confined in its operation
39 to the word, phrase, clause, sentence, paragraph, section, or part ther-
40 eof directly involved in the controversy in which such judgment shall
41 have been rendered.

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