

HOUSE No. 420

The Commonwealth of Massachusetts

PRESENTED BY:

David M. Rogers and Tram T. Nguyen

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to establish fashion sustainability and social accountability in the commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>1/20/2023</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>1/20/2023</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>1/25/2023</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>1/27/2023</i>

HOUSE No. 420

By Representatives Rogers of Cambridge and Nguyen of Andover, a petition (accompanied by bill, House, No. 420) of David M. Rogers, Tram T. Nguyen and others for legislation to establish fashion sustainability and social accountability. Economic Development and Emerging Technologies.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to establish fashion sustainability and social accountability in the commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 93 of the General Laws is hereby amended by adding the following
2 section:-

3 Section 115. (a) For the purposes of this section the following words shall, unless the
4 context clearly requires otherwise, have the following meanings:

5 “Gross receipts”, the gross amounts realized, otherwise known as the sum of money and
6 the fair market value of other property or services received, on the sale or exchange of property,
7 the performance of services or the use of property or capital including, rents, royalties, interest
8 and dividends, in a transaction that produces business income, in which the income, gain or loss
9 is recognized or would be recognized if the transaction were in the United States, under the
10 Internal Revenue Code, as applicable for purposes of this section. Amounts realized on the sale

11 or exchange of property shall not be reduced by the cost of goods sold or the basis of property
12 sold.

13 “Fashion manufacturer ”, a business entity which lists manufacturing as its principal
14 business activity in the commonwealth, as reported on the entity's state tax return and primarily
15 manufactures articles of wearing apparel or footwear.

16 “Fashion seller”, a business entity which sells articles of wearing apparel, footwear or
17 fashion bags that together exceed \$100,000,000 in annual gross receipts but, shall not include
18 the sale of used wearing apparel, footwear or fashion bags, nor shall it include multi-brand
19 retailers, except where the apparel, footwear and fashion bags private labels of those companies
20 together exceed \$100,000,000 in global revenue.

21 “Wearing apparel”, any costume or article of clothing worn or intended to be worn by
22 individuals.

23 “Footwear”, any covering worn or intended to be worn on the foot.

24 “Fashion bag”, any flexible packaging made of textiles, leather or other animal products,
25 woven material or other similar materials intended for repeated use.

26 “Due diligence ”, the process companies should carry out to identify, prevent, mitigate
27 and account for how they address actual and potential adverse impacts in their own operations,
28 their supply chain and other business relationships, as recommended in the Organization for
29 Economic Cooperation and Development Guidelines for Multinational Enterprises, the
30 Organization for Economic Cooperation and Development Due Diligence Guidance for
31 Responsible Supply Chains in the Garment and Footwear Sector, the Organization for Economic

32 Cooperation and Development Due Diligence Guidance for Responsible Business Conduct and
33 the United Nations Guiding Principles on Business and Human Rights.

34 “Due diligence report”, a document prepared by the company to communicate all
35 relevant information concerning the existence, implementation and outcomes of due diligence in
36 order to comply with the requirements of this section and to comply with any rules or regulations
37 established, pursuant to this section.

38 “Risk-based approach”, commensurate to the likelihood and severity of the harm. The
39 fashion seller shall prioritize the order in which it takes action based on the likelihood and
40 severity of harm. Severity of impacts shall be determined according to their scale or gravity,
41 scope and irremediable character.

42 “Supply chain tiers”, a 4 tier system defined as the following:

43

44 (i) tier 1: suppliers who produce finished goods for fashion sellers, including suppliers’
45 subcontractors, who provide the following services including, but not limited to sewing and
46 embroidering;

47 (ii) tier 2: suppliers to tier 1, including subcontractors, who provide the following
48 services or goods including, but not limited to knitting, weaving, washing, dyeing, finishing,
49 printing for finished goods and components and materials for finished goods when they are
50 stand-alone operations and not integrated with tier 1. Components shall mean materials used to
51 build a product including, but not limited to buttons, zippers, rubber soles, down and fusibles;

52 (iii) tier 3: suppliers to tier 2 suppliers, including subcontractors, who process raw
53 materials such as ginning, spinning and suppliers of chemicals; and

54 (iv) tier 4: companies, including subcontractors that provide raw materials to tier 3.

55 “Living wage”, the remuneration received for a standard workweek by a worker in a
56 particular place sufficient to afford a decent standard of living for such worker and their family.
57 Elements of a decent standard of living include food, water, housing, education, health care,
58 transportation, clothing and other essential needs including provision for unexpected events.
59 Living wage shall be determined exclusive of overtime wages and by net wages including in-
60 kind and cash benefits and deducting taxes and deductions.

61 “Open data principles”, data that can be freely used, re-used and redistributed by anyone.
62 Such data shall be findable or easily discoverable on a website or within a database, accessible or
63 available in a machine readable, convenient, modifiable form and published as a whole, complete
64 dataset, interoperable or able to be mixed with different data sets and reusable or provided under
65 an open license that permits re-use and redistribution including, the intermixing with other
66 datasets.

67 (b) Gross receipts, even if business income, shall not include the following items : (i)
68 repayment, maturity or redemption of the principal of a loan, bond, mutual fund, certificate of
69 deposit or similar marketable instrument; (ii) the principal amount received under a repurchase
70 agreement or other transaction properly characterized as a loan; (iii) proceeds from issuance of
71 the taxpayer's own stock or from sale of treasury stock; (iv) damages and other amounts received
72 as the result of litigation; (v) property acquired by an agent on behalf of another; (vi) tax refunds
73 and other tax benefit recoveries; (vii) pension reversions; (viii) contributions to capital, except

74 for sales of securities by securities dealers; (ix) income from discharge of indebtedness; (x)
75 amounts realized from exchanges of inventory that are not recognized under the Internal
76 Revenue Code; (xi) amounts received from transactions in intangible assets held in connection
77 with a treasury function of the taxpayer's unitary business and the gross receipts and overall net
78 gains from the maturity, redemption, sale, exchange or other disposition of those intangible
79 assets; and (xii) amounts received from hedging transactions involving intangible assets. For the
80 purpose of this section, a hedging transaction shall mean a transaction related to the taxpayer's
81 trading function involving futures and options transactions for the purpose of hedging price risk
82 of the products or commodities consumed, produced or sold by the taxpayer.

83 (c) Every fashion seller and fashion manufacturer shall effectively carry out human rights
84 and environmental due diligence for the portions of their business related to wearing apparel or
85 footwear, including wearing apparel or footwear produced as a private label, which shall include:

86 (1) Supply chain mapping and disclosure:

87 (i) companies taking a risk-based approach and implementing good faith efforts to map
88 suppliers across tier 1 through tier 4 of production. Tier 1 suppliers shall be mapped within 12
89 months of the effective date of this section and shall contain a minimum of 75 per cent of
90 suppliers by volume. Tier 2 suppliers shall be mapped within 2 years of the effective date of this
91 section and shall contain a minimum of 75 per cent of suppliers by volume. Tier 3 and tier 4
92 suppliers shall be mapped within 3 years of the effective date of this section and shall contain a
93 minimum of 50 per cent of suppliers by volume or dollar value;

94 (ii) supplier disclosure for all tiers shall include: the name, address, parent company,
95 product type and number of workers at each site by country; and

96 (iii) for tier 1 suppliers, fashion sellers shall report, at a minimum, the following
97 information to the attorney general which shall be independently verified no less than once every
98 2 years: (1) the mean wages of workers and how this compares with local minimum wage and
99 living wages; (2) the percentage of unionized factories; and (3) hours worked weekly by month
100 and the hours and frequency of overtime by firm and country.

101 (2) Due diligence report:

102 (i) Fashion sellers must be in compliance with the Organization for Economic Co-
103 operation and Development Guidelines for Multinational Enterprises; the Organization for
104 Economic Co-operation and Development Due Diligence Guidance for Responsible Supply
105 Chains in the Garment and Footwear Sector; the Organization for Economic Cooperation and
106 Development Due Diligence Guidance for Responsible Business Conduct and the United
107 Nations Guiding Principles on Business and Human Rights: and

108 (ii) Fashion seller shall include in the due diligence report: (1) a link on the
109 fashion seller's or fashion manufacturer's website to relevant policies on responsible business
110 conduct; (2) information on measures taken to embed responsible business conduct into policies
111 and management systems; (3) the fashion seller's or fashion manufacturer's identified areas of
112 significant risks in the contexts of its own activities and business relationships such as supply
113 chains; (4) the significant adverse impacts on risks identified, prioritized and assessed in the
114 context of its own activities and business relationships such as supply chains; (5) the
115 prioritization criteria; (6) the actions taken to prevent or mitigate those risks, such as corrective
116 action plans, to be cited where available, including estimated timelines, targets and benchmarks

117 for improvement and their outcomes; (7) measures to track implementation and results; and (8)
118 the fashion seller's or fashion manufacturer's provision of or co-operation in any remediation .

119 (d) Reporting. Every fashion seller shall develop and submit to the attorney general
120 annually, beginning within 24 months of the effective date of this section, a due diligence report.
121 Such report, excluding the information required in clause (ii) of paragraph (2) of subsection (c),
122 shall also be made publicly available on the fashion seller's website in a machine readable and
123 reusable format, published in line with open data principles through a clear and easily
124 discoverable link to the required information. In the event the fashion seller does not have an
125 internet website, the company shall provide a written disclosure to any person who has requested
126 information within 30 days of receiving a request. Such report shall also include the fashion
127 seller's annual volume of material produced, including breakdown by material type.

128

129 (e) Verification. The attorney general shall develop a process for accrediting verification
130 bodies authorized to provide verification services. The verification process shall include:

131 (1) The process for accrediting verification bodies including: (i) demonstrating
132 qualifications of verification staff, including their education, experience, and professional
133 licenses; (ii) any judicial proceedings, enforcement actions or administrative actions filed against
134 the verification body; and (iii) policies and mechanisms in place to prevent conflicts of interest
135 and to identify and resolve potential conflict of interest situations if they arise.

136 (2) Verification bodies shall not be authorized to provide services to a company where a
137 conflict of interest exists. A conflict of interest shall include: (i) the verification body and
138 reporting entity sharing any management staff or board of directors membership or any of the

139 senior management staff of the reporting entity having been employed by the verification body,
140 or vice versa; (ii) any employee of the verification body or any employee of a related entity or a
141 subcontractor who is a member of the verification team having provided the reporting entity with
142 services related to the areas of verification or any services designated by the attorney general;
143 (iii) any staff member of the verification body providing any type of non-monetary incentive to a
144 reporting entity to secure a verification services contract; and (iv) any additional criteria
145 provided by the attorney general.

146 (3) Verification bodies that have been accredited by the office of the attorney general
147 shall notify the office within 30 days if they no longer meet the verification requirements set
148 forth in this section.

149

150 (f) Enforcement. The requirements imposed on fashion sellers by this section shall be
151 monitored, investigated and enforced by the attorney general or an administrator designated by
152 the attorney general to bring civil proceedings for an injunction, monetary damages or civil
153 performance of a statutory duty. Fashion sellers shall be deemed non-compliant with this section
154 if they fail to conduct effective due diligence or fail to file a due diligence report pursuant to this
155 section.

156 The attorney general or the attorney general's designated administrator as applicable shall
157 annually publish and make publicly available a report regarding compliance with this section
158 including, listing the fashion sellers who are out of compliance with this section.

159 Fashion sellers found to be out of compliance with this section after the attorney general
160 or the attorney general's designated administrator as applicable has provided notice of

161 noncompliance and after a 3 month period to meet obligations under this section has lapsed, may
162 be fined up to 2 per cent of annual revenues. Such fines shall be deposited in the Fashion
163 Sustainability and Social Accountability Fund established in section 2BBBBBB of chapter 29.

164 Any person may report a violation of this section to the attorney general's office.

165 (g) Liability. Any fashion seller shall be held jointly and severally liable for the payment
166 of wages of the employees of its tier 1 suppliers. For the purposes of this section, wages shall be
167 inclusive of all monies owed in accordance with the law of the country of manufacture including,
168 wages, overtime wages, paid leave, incentives, bonuses, severance and any other form of
169 payment or compensation. For the purposes of this section, employee shall include all workers,
170 whether full-time or part-time, permanent or fixed-term, directly contracted or hired indirectly
171 through an agency or other intermediary. Fashion sellers shall be liable for payment of lost
172 wages and an additional equal amount as liquidated damages.

173 (h) Regulations. The attorney general shall promulgate all rules and regulations necessary
174 to implement the provisions of this section. The attorney general shall also develop and
175 disseminate educational materials to fashion sellers including, providing alerts on time sensitive
176 issues, emerging issues and high-risk country situations while assisting fashion sellers in
177 improving the quality of their due diligence processes.

178 SECTION 2. Chapter 29 of the General Laws is hereby amended by inserting after
179 section 2AAAAAA the following section:-

180 Section 2BBBBBB. (a) There shall be established and set up on the books of the
181 commonwealth a separate fund to be known as the Fashion Sustainability and Social
182 Accountability Fund for the purpose of requiring fashion sellers to be accountable to

183 environmental and social standards. The attorney general shall administer the fund to assist in
184 verification and enforcement of human rights and environmental due diligence by fashion sellers
185 pursuant to section 115 of chapter 93. There shall be credited to the fund:

186

187 (i) revenue from appropriations and other money authorized by the general court and
188 specifically designated to be credited to the fund;

189 (ii) funds from public and private sources such as gifts, grants and donations to further
190 fashion sustainability and social accountability;

191 (iii) funds of all moneys deposited pursuant to subsection (g) section 115 of chapter 93;
192 and

193 (iv) interest earned on money in the fund.

194 Amounts credited to the fund shall not be subject to further appropriation and any money
195 remaining in the fund at the end of a fiscal year shall not revert to the General Fund.

196 (b) Amounts credited to the fund may be expended, without further appropriation, by the
197 attorney general for purposes related to the instruction of fashion sellers on human rights and
198 environmental due diligence, including, but not limited to:

199 (i) development of curricular educational materials to fashion sellers pursuant to
200 subsection (e) of section 115 of chapter 93; and

201 (ii) professional development training, including the provision of trainings, seminars,
202 conferences and materials for fashion sellers to use in the teaching proper due diligence pursuant
203 to subsection (e) of section 115 of chapter 93.

204 (c) Amounts received from private sources shall be approved by the attorney general and
205 subject to review before being deposited in the fund to ensure that pledged funds are not
206 accompanied by conditions, explicit or implicit, on the implementation of human rights and
207 environmental due diligence that may be detrimental to the neutral and rigorous teaching of
208 environmental and social standards or unduly influence the direction of environmental and
209 human rights policy. The review shall be made publicly available on the attorney general's
210 website.

211 (e) Annually, not later than October 1, the attorney general shall report to the clerks of the
212 senate and house of representatives, the joint committee on judiciary and the house and senate
213 committees on ways and means on the fund's activities. The report shall include, but not be
214 limited to:

215 (i) the source and amount of funds received;

216 (ii) the expenditures made from the fund and the purposes of such expenditures;

217 (iii) any funds provided to institutions and other stakeholder organizations;

218 (iv) anticipated revenue and expenditure projections for the next fiscal year; and

219 (v) the number of fashion sellers that have used the fund to implement a new program or
220 enhance or maintain current programming. The report shall be publicly available on the attorney
221 general's website.

SECTION 3. This act shall take effect 6 months upon passage.