

January 13, 2025

Sent via email to sharlett.mena@leg.wa.gov

CC: House Environment and Energy Committee Members

Representative Mena:

We thank you for sharing the proposed bill on fashion industry supply chain transparency for review. Our member companies support efforts to promote environmental sustainability and have thoroughly reviewed the draft language. Unfortunately, the bill in its current form raises significant concerns for companies providing consumer goods, including wearing apparel and footwear.

While the bill has been described as targeting “fast fashion,” its scope extends to the entire fashion sector, including high-quality, durable, and environmentally conscientious apparel produced by many Washington-based companies. This broad approach unfairly treats all producers as environmentally exploitative, overlooking the significant leadership and progress many businesses have made toward sustainability. The bill also applies to products merely sold in Washington, creating risks for local retailers who may face ill-defined due diligence and disclosure requirements. We are also concerned about the state’s ability to effectively regulate global supply chains, as well as the potential misalignment with federal policies and those already governing apparel and footwear brands and retailers in other states and the European Union. Additionally, the lack of clarity on how the state agency would manage or utilize the collected information raises significant concerns. This approach risks creating excessive administrative burdens while failing to deliver meaningful environmental outcomes.

As a community of retailers and producers of consumer goods, we have consistently offered to engage with policymakers and stakeholders to share insights and industry-led initiatives on supply chain management and sustainability. However, this draft does not reflect industry practices, nor were our perspectives included in developing this state-specific policy approach. We collectively remain available to engage in a collaborative process involving retailers, producers, and other stakeholders to craft a more balanced, workable, and effective framework.

Please find additional information below on some of the major challenges we see with the current draft:

- **State Agency Oversight is Costly and Impractical:** Assigning a state agency to oversee an extensive global supply chain system raises serious logistical, financial, and jurisdictional challenges. Managing the complexities of truly global supply chains requires expertise and resources that far exceed the capacity of a single state agency. In addition, references to labor and working conditions fall outside the bill’s intended environmental scope and detract from its primary objectives. It is also not appropriate for the Washington State Department of Ecology to oversee global labor and workforce conditions, further complicating the bill’s execution.
- **Confusing and Overly Broad Definitions:** The definitions throughout the bill are ambiguous and unclear.
 - **“Fashion Producer”** appears to mimic extended producer responsibility (EPR) legislation but lacks the specificity needed to ensure accountability. Although the responsibility hierarchy is similar to what is seen in [some] EPR legislation, the bill omits critical language allowing companies to delegate obligations through contractual agreements. Additionally, the bill places retailers—often at the end of the supply chain—on the regulatory hook without granting them meaningful leverage over out-of-state suppliers who may evade the State’s jurisdiction. Crucially, some of the biggest “fast fashion” players that ship directly to Washington consumers from overseas are effectively exempt from the requirements, putting actual Washington brands and retailers at a significant disadvantage.

Additionally, the disconnect between the definition of “producer” and the practical realities of supply chain management is a critical flaw. Retailers are typically several steps removed from the actual production process and lack the authority to compel manufacturers or subcontractors to provide accurate data. Manufacturers often operate through subcontractors in fluid and dynamic ways, making it even more difficult for retailers to obtain the required information. While retailers are willing to make good-faith efforts to secure data, they should not be legally compelled to report information that is effectively beyond their control.

- **“Article of Wearing Apparel”** introduces a gray area that could be interpreted to include products beyond clothing and shoes. This definition is not used elsewhere in legislation that applies to textile articles and will create uncertainty in its vagueness. Could you clarify if the intent was to also encompass items such as jewelry, glasses, hats, acrylic or press-on nails, strip lashes, and other accessories? Moreover, the expansive scope of **“apparel and footwear”** may unintentionally include personal care items like absorbent hygiene products and disposable diapers. Clarity would help ensure accurate understanding of the bill’s scope.
 - Additionally, there are significant concerns with other definitions in the bill. Terms such as **“due diligence”** are undefined or overly broad, increasing the risk of misinterpretation, inconsistent compliance, and unintended consequences. Furthermore, the proposed definition of **“covered product”** is overly expansive and could apply to single items sold in minimal quantities. Limiting reporting obligations to products with significant sales volumes would create a more practical and effective framework, as retailers are more likely to have influence over supply chain elements for products they sell in larger quantities.
- **Confidentiality and Reporting Challenges:** The bill’s lack of clear safeguards to protect confidential and proprietary business information creates significant risks. Requiring extensive disclosures without adequate protections could expose sensitive operations to public or competitor scrutiny, discouraging innovation and placing businesses at a competitive disadvantage. Additionally, the absence of minimum reporting thresholds makes it difficult for businesses to determine the scope of their reporting obligations. Small and medium-sized businesses, in particular, may struggle to meet these demands, resulting in a strain on operations or hesitation to expand in Washington.
 - **Tone and Use of Outdated Data Overlooks Industry Progress:** The intent language unfairly portrays the entirety of the fashion industry in a negative light, ignoring significant sustainability progress – including progress fostered by Washington State businesses. There has been adoption of climate-neutral commitments, implementing water-saving technologies, and promoting circular economy practices, such as textile recycling and resale programs. Recognizing these efforts would foster collaboration and further innovation. It is important to note that the bill references data and statistics that appear to be outdated, challenged by other sources, or misleading. One example of this is the following:
 - **Page 1, Line 14:** “The industry accounts for nearly 20 percent of global wastewater”
 - According to a [report](#) from the Ellen MacArthur Foundation, this statistic references *industrial wastewater pollution worldwide*, not total global wastewater. This distinction is crucial, as industrial wastewater represents a subset of overall wastewater, and the bill’s current language risks misrepresentation.

The industry’s progress alongside accurate and updated data would result in a more balanced and constructive framework.

- **Unintended Burdens on Businesses and Consumers:** The bill’s broad requirements would impose unmanageable financial and operational burdens on businesses, particularly retailers who may be held responsible for products

they do not manufacture and for the conduct of parties with whom they do not have contractual or other relationships. These costs are likely to be passed on to consumers, resulting in higher clothing prices and reduced marketplace options. For many families, the potential for higher prices and fewer affordable clothing options could exacerbate financial strain. This unintended consequence runs counter to the broader goals of equitable and sustainable policymaking.

- **Assessment of Policy Options Lacks Mandated Collaboration:** The bill directs the Department of Ecology to assess policy options for fashion producers, including best practices and extended producer responsibility (EPR) requirements. Although they must solicit input from impacted stakeholders, it does not state when that should occur and could be interpreted after the assessment has been completed. Collaboration with retailers or other fashion producers should be required prior to and during the assessment phase to ensure that any recommendations are practical and address the complexities of the fashion supply chain. The industry meaningfully engaged with California during its process to establish a textiles extended producer responsibility program, and has valuable expertise to share. However, without meaningful engagement with key players, the resulting recommendations may be ineffective, unbalanced, or difficult to implement.
- **Duplicative Expectations Already Addressed by Federal Guidelines:** Federal regulations, such as the Federal Trade Commission’s (FTC) Green Guides, already govern the use of sustainability claims and “green” language in the United States. The Green Guides are in the process of being updated and the industry has been actively encouraging the FTC to work with counterparts in the European Union to ensure that updates to the Green Guides are consistent with the EU’s recent Green Claims Directive and Empowering Consumers for the Green Transition Directive, which both govern environmental marketing claims. Harmonization will create confidence for businesses and consumers. Adding state-specific requirements, especially at this time, risks creating unnecessary duplication, inefficiencies, and potential conflicts with existing standards, further complicating compliance for businesses and confusion for consumers.

While we appreciate the opportunity to review this proposal, we believe the bill in its current form is unworkable and should not advance without significant revisions. We have previously offered—and continue to offer—our services as a resource to develop a more balanced solution. We would like the opportunity to discuss these concerns further and to begin collaboration.

Sincerely,

The Washington Retail Association

Cosigned,

American Apparel & Footwear Association
Association of Washington Business
Consumer Healthcare Products Association
National Federation of Independent Business
Northwest Grocery Retail Association

Retail Industry Leaders Association
South Sound Legislative Coalition
Tacoma Chamber of Commerce
Washington Food Industry Association