Sustainable fashion: the shift from morality to legality

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Sustainability has quickly infiltrated fashion discourse due to stronger consumer demand for responsible sourcing, but what started as performative reductions is now setting new legal precedents.

From local fur bans to national overstock legislation, governing bodies around the world are tightening the rules on the fashion industry. With the ever-growing threat of climate change and fashion’s impact on the environment, new legislation aims to redirect the industry on a more responsible path.

"New York is currently attempting to pass first-of-its-kind legislation to curb waste in the fashion industry,” said Rania Sedhom, founder and managing partner of Sedhom Law Group, New York. "Under the law, fashion brands would be obligated to chart their supply chains by volume, disclose their material production volumes to consumers and disclose environmental and social impact.

"If the law passes, New York will become a leader in sustainability and reduction of greenhouse emissions."

What's been achieved
Over the past few years, a number of globally recognized luxury fashion houses and retailers removed animal fur from their product categories a moral start to a new wave of couture.

In 2020, Nordstrom became the first U.S. retailer to ban the sale of exotic animal skins and real fur (see story). Saks Fifth Avenue followed in early 2021 with a total fur ban to be completed by the end of 2022 (see story).
Individual fashion houses like Valentino and Oscar de la Renta also hopped aboard the no fur train, leading to larger industry conglomerates and media groups, such as Kering and Elle, taking the pledge more recently.

As proactive consumers and brands continue pushing sustainable agendas forward, new legislation is also on the horizon.

On Jan. 7, New York State Senate Assembly Bill A352, or the Fashion Sustainability and Social Accountability Act, was released.

If passed, the law would require fashion retail sellers and manufacturers to disclose environmental and social due diligence policies, and establish a community benefit fund for the purpose of implementing one or more environmental benefit projects that directly and verifiably benefit environmental justice communities.

From a legal standpoint, California became the first state in the U.S. to prohibit the use of animal fur in all new clothing, handbags, shoes and accessories. The law goes into effect in 2023.

Beyond fur, though, the fashion industry is responsible for 5 to 8 percent of climate emissions each year from the use of harmful fossil fuels to power manufacturing and supply chains (see story).

These numbers have drastically shifted the fashion consumer's mindset toward circularity, focusing on issues of consumption.

Luxury fashion, in particular, has infamously discarded unused or unsold items to preserve exclusivity, however, this strategy does not sit well with government officials and environmental groups.

In September 2019, the French Senate approved legislation to ban the destruction of unsold non-food items, including luxury goods and cosmetics.

Under the law, which is now in effect, companies that produce, import or distribute these goods in France must sell or reuse unsold items that do not pose health or security risks. Previously, nearly 1 billion euros worth of unsold non-food items were discarded or destroyed in France each year (see story).

What's to come
An earlier attempt to ban animal fur in New York made little progress (see story). The fate of the so-called Fashion
Act remains to be seen, however, but it could have large implications on New York's fashion industry.

The new requirements would apply to all apparel and footwear companies, with more than $100 million in revenue, that conduct business in the state of New York.

Upon approval by the governor, companies would have one year to adhere to the supply chain clause, which requires a minimum 50 percent map of their supply chain.

If companies do not map at least 50 percent of their supply chains by this time, they will be fined up to 2 percent of their annual revenue, which would go towards the Department of Environmental Conservation’s new Community Fund.

The bill, which is sponsored by New York Assemblywoman Anna Kelles and backed by designer Stella McCartney and the Natural Resources Defense Council, is currently being reviewed by an assembly committee.

"It is difficult to surmise whether the law will pass, as there are several competing lobbyists that may be able to dissuade the passage of the bill," Ms. Sedhom said. "Some luxury brands may want to carve out certain reporting requirements such as production volumes, may find reporting supplier wages to be challenging."

"Most supply contracts have provisions that attest to fair treatment and working conditions and appropriate wages, but rarely is there a reporting of specific wages and their relation to local minimum and living wages."