

# Employee Relations LAW JOURNAL

## **Dressed to Oppress? Unraveling Forced Labor and Supply Chains in Fashion**

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*In this article, the authors write that as the fashion industry faces growing scrutiny over labor conditions and supply-chain ethics, now is the time for companies to lead with transparency, due diligence and responsible sourcing.*

**I**t is not just Mary Janes and balloon jeans now on the rise – it is the global crackdown on fast fashion and forced labor. Around the world, governments are rolling out mandatory human rights due-diligence laws, forced-labor import bans and supply-chain transparency mandates. At the same time, consumers are demanding accountability in how and where their clothes are made, but still expecting low clothing prices.

Yet, with increased accountability come higher prices and alternative sourcing. As such, there is a unique opportunity for fashion brands to proactively adjust business models to mitigate legal and reputational risk, while also building long-term brand loyalty.

### **FAST-FASHION RISK LANDSCAPE**

Illustrating this heightened focus on enforcement, between 2019 and 2020, the U.S. Department of Labor (DOL) found that two fast-fashion giants were underpaying garment workers in the United States.

Specifically, the DOL found that garment workers for these two companies were producing clothing for as little as \$2.77 an hour, well below the legal minimum wage.

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The investigation also uncovered that these factories making clothing for a fast-fashion company owed \$3.8 million in back wages to hundreds of workers.

Another case from Europe revealed that employees in England were being paid an exploitive rate of £3.50 an hour (about \$4.48/hour), with no protection from the coronavirus. Although the company pledged to reform its supply chain, it failed to meet its promises. As a result, several of its subsidiaries have faced consumer backlash and reputational damage.

However, labor violations were not the only issue. In a first-of-its-kind case, the Federal Trade Commission claimed a certain fast-fashion company suppressed negative online reviews, which resulted in misleading consumers and distorting fair competition.

These examples underscore the urgency for fashion companies to be aware of changing tides and new trade enforcement actions, specifically surrounding forced labor.

## **BEHIND THE SEAMS: LEGAL FRAMEWORK TAKING SHAPE**

Further, in recent years, new laws and international standards have been putting more pressure on fashion brands to take responsibility for how their products are made. These rules typically require companies to look closely at their supply chains, be transparent about their labor practices and take action to prevent harm. The following regulations demonstrate a rapidly evolving compliance landscape that brands must navigate to maintain market access and mitigate their legal risk.

### ***United States***

#### **Uyghur Forced Labor Prevention Act (UFLPA)**

The UFLPA presumes all goods from China's Xinjiang region are made with forced labor, unless proven otherwise. It empowers U.S. Customs and Border Protection to detain shipments suspected of violating the law.

#### **California SB 62**

Known known as the Garment Worker Protection Act, California Senate Bill 62<sup>1</sup> was enacted to address systemic wage theft and labor exploitation in the garment industry. Brands, manufacturers and contractors are now jointly liable for wage theft.

## The FTC Green Guides

In 2022, the Federal Trade Commission (FTC) proposed updates to the Guides for the Use of Environmental Marketing Claims (Green Guides),<sup>2</sup> but final revisions have been delayed due to the change in administration. However, brands making sustainability claims should continue to comply with the current guides and prepare for updates in late 2025 or beyond.

## California Transparency in Supply Chains Act

The Transparency in Supply Chains Act<sup>3</sup> requires companies doing business in California, with annual worldwide gross receipts in excess of \$100 million, to publicly disclose their efforts to eliminate slavery and human trafficking from their direct supply chains, empowering consumers to make informed purchasing decisions.

## *European Union & Other Jurisdictions*

### The EU's Corporate Sustainability Due Diligence Directive (CSDDD)

The CSDDD<sup>4</sup> establishes a “corporate due diligence duty,” ensuring both EU and non-EU companies in scope identify, prevent, mitigate and account for adverse human rights and environmental impacts.

### France's Duty of Vigilance Law

Companies are required by France's Duty of Vigilance Law<sup>5</sup> to develop, publish and implement an annual “vigilance plan” that includes risk mapping, preventive measures, monitoring mechanisms and public disclosure.

### The Netherlands' Child Labor Due Diligence Act

While on hold (pending the CSDDD to avoid overlap), the Netherlands' Child Labor Due Diligence Act<sup>6</sup> requires companies to investigate their supply chains, and identify and avoid use of child labor. Fast fashion comes at a steep cost that many are not willing to swallow. With globalization and the power of social media, the veil over supply chains is growing thinner and consumer demand for transparency around sourcing and labor practices is only increasing.

### **UK's Modern Slavery Act**

The UK's Modern Slavery Act 2015<sup>7</sup> is a landmark piece of legislation aimed at combatting modern slavery by strengthening offenses related to forced labor, including provisions for victim protection, and requiring large businesses operating in the United Kingdom to publish an annual modern slavery statement.

### **Australia's Modern Slavery Act**

Australia's Modern Slavery Act 2018<sup>8</sup> is designed to increase transparency on how big businesses are preventing and addressing modern slavery by requiring entities to report a yearly "modern slavery statement" describing the risks of modern slavery in their operations and what they are doing to eliminate it.

### **Germany's Supply Chain Due Diligence Act**

Germany's Act on Corporate Due Diligence Obligations in Supply Chains<sup>9</sup> is designed to improve human rights and environmental protection in global supply chains, requiring companies to administer due diligence and preventative mechanisms within their own supply chains.

### **Switzerland's Posted Workers Act**

Designed with foreign workers in mind, the Posted Workers Act<sup>10</sup> prevents exploitation in cross-border employment by establishing fair wages and working conditions for foreign workers.

### **Canada's Fighting Against Forced Labor and Child Labor in Supply Chains Act**

Through the Fighting Against Forced Labor and Child Labor in Supply Chains Act,<sup>11</sup> Canada's goal is to increase transparency and accountability among businesses using forced labor and child labor in their supply chains. Organizations are expected to submit a public report that includes steps taken to reduce risk of forced labor and remediation efforts.

### **Proposed EU Forced Labour Regulation (Effective in 2027)**

The new Regulation (EU) 2024/3015<sup>12</sup> prohibits all products, including their components, made with forced labor from being placed or made available on the EU market or for export from the European Union.

## IN SUMMARY

- New laws and international standards have been putting more pressure on fashion brands to take responsibility for how their products are made. These rules typically require companies to look closely at their supply chains, be transparent about their labor practices and take action to prevent harm.
- California's Transparency in Supply Chains Act requires companies doing business in the state, with annual worldwide gross receipts in excess of \$100 million, to publicly disclose their efforts to eliminate slavery and human trafficking from their direct supply chains, empowering consumers to make informed purchasing decisions.
- The European Union's Corporate Sustainability Due Diligence Directive establishes a "corporate due diligence duty," ensuring both EU and non-EU companies in scope identify, prevent, mitigate and account for adverse human rights and environmental impacts.
- Australia's Modern Slavery Act 2018 is designed to increase transparency on how big businesses are preventing and addressing modern slavery by requiring entities to report a yearly "modern slavery statement" describing the risks of modern slavery in their operations and what they are doing to eliminate it.

## CONCLUSION

As the fashion industry faces growing scrutiny over labor conditions and supply-chain ethics, now is the time for companies to lead with transparency, due diligence and responsible sourcing. Embracing these practices is not just about compliance, but also a chance to avoid these trade practice faux pas, strengthen brand reputation and position a fashion company as a leader in ethical fashion.

## NOTES

1. <https://legiscan.com/CA/text/SB62/id/3220285>.
2. <https://www.ftc.gov/legal-library/browse/federal-register-notice/guides-use-environmental-marketing-claims-green-guides>.
3. <https://oag.ca.gov/SB657>.
4. <https://www.corporate-sustainability-due-diligence-directive.com/>.

5. <https://www.business-humanrights.org/en/latest-news/french-duty-of-vigilance-law-english-translation/#:~:text=...,the%20companies%20it%20controls...#:~:text=...,the%20companies%20it%20controls>.
6. <https://www.mvoplatform.nl/en/frequently-asked-questions-about-the-new-dutch-child-labour-due-diligence-law/>.
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