



**CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE**

November 5, 2012

S. 3523

Innovative Design Protection Act of 2012

As ordered reported by the Senate Committee on the Judiciary on September 20, 2012

CBO estimates that implementing S. 3523 would have no significant cost to the federal government. Enacting the bill would not affect direct spending but could affect revenues; therefore, pay-as-you-go procedures apply. However, CBO estimates that any effects would be insignificant for each year.

S. 3523 would provide protection similar to a copyright, lasting for three years, for original fashion designs. Those protections would allow the owner of a protected design to make (or import) and sell any useful article embodying the design. The bill would require the owner to provide written notice to a person thought to be violating those protections and to wait 21 days after providing such notice before instituting an action for infringement. S. 3523 also would increase the amount of penalties that could be levied for falsely representing information when registering a design or obtaining recovery on a claim of infringement.

Based on information from the Library of Congress, CBO does not expect that implementing S. 3523 would significantly change the workload or expenditures of the Copyright Office because the bill does not require fashion designs to be registered in order for the protections to take effect. Because S. 3523 would raise the amount of penalties that could be collected for making false representations in certain instances, the federal government might collect additional civil fines if the bill is enacted. Such fines are recorded as revenues; CBO expects that any additional collections would not be significant because of the relatively small number of cases likely to be affected.

S. 3523 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

S. 3523 would impose a private-sector mandate as defined in UMRA. By providing protection for original fashion designs, the bill would prohibit any person from manufacturing, selling, or distributing an article of apparel that copies a protected fashion design. To use a protected fashion design, a person must obtain the consent of the owner of

the protected design. The cost of complying with the mandate would be the cost of obtaining consent or the cost of changing designs and any revenue forgone from removing designs from the market. The cost of the mandate is uncertain, however, because it would depend in part on future court actions. Therefore, CBO cannot determine whether the aggregate cost of the mandate would exceed the annual threshold for private-sector mandates (\$146 million in 2012, adjusted annually for inflation).

The CBO staff contacts for this estimate are Susan Willie (for federal costs) and Paige Piper/Bach (for the private-sector impact). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.