

AN ACT concerning safety.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Wipes Labeling Act.

Section 5. Findings. The General Assembly finds that creating labeling standards for disposable wipes products will protect public health, the environment, water quality, and public infrastructure used for the collection, transport, and treatment of wastewater. It is not the intent of the General Assembly to address standards for flushability with this Act.

Section 10. Definitions. In this Act:

"Covered entity" means:

(1) the manufacturer of a covered product that is sold or offered for sale in this State; and

(2) a wholesaler, supplier, or retailer that is responsible for the labeling or packaging of a covered product.

"Covered product" means a consumer product sold or offered for sale in the State that is either of the following:

(1) A premoistened nonwoven disposable wipe marketed as a baby wipe or diapering wipe.

(2) A premoistened nonwoven disposable wipe that is both of the following:

(A) Composed entirely of or in part of petrochemical-derived fibers.

(B) Likely to be used in a bathroom and has significant potential to be flushed, including baby wipes, bathroom cleaning wipes, toilet cleaning wipes, hard surface cleaning wipes, disinfecting wipes, hand sanitizing wipes, antibacterial wipes, facial and makeup removal wipes, general purpose cleaning wipes, personal care wipes for use on the body, feminine hygiene wipes, adult incontinence wipes, adult hygiene wipes, and body cleansing wipes.

"High contrast" means:

(1) provided by either a light symbol on a solid dark background or a dark symbol on a solid light background; and

(2) having at least 70% contrast between the symbol artwork and background using the formula $[(B1 - B2) / B1] * 100$, where B1 is the light reflectance value of the relatively lighter area and B2 is the light reflectance value of the relatively darker area.

"Jurisdictional wastewater authority" means a sanitary district, water reclamation district, municipality, county, or other unit of local government in this State responsible for the collection or treatment of wastewater.

"Label" means to represent by statement, word, picture, design, or emblem on a covered product package.

"Label notice" means the phrase "Do Not Flush" in a size equal to at least 2% of the surface area of the principal display panel. For covered products regulated pursuant to the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) by the United States Consumer Product Safety Commission under Section 1500.121 of Title 16 of the Code of Federal Regulations, if the label notice requirements in this paragraph would result in a type size larger than first aid instructions pursuant to the Federal Hazardous Substances Act, then the type size for the label notice shall, to the extent permitted by federal law, be equal to or greater than the type size required for the first aid instructions. For covered products required to be registered by the United States Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), if the label notice requirements in this paragraph would result in a type size on the principal display panel larger than a warning pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, then the type size for the label notice shall, to the extent permitted by federal law, be equal to or greater than the type size required for the "Keep Out of Reach of Children" statement under 40 CFR 156.66.

"Principal display panel" means the side of the product package that is most likely to be displayed, presented, or

shown under customary conditions of display for retail sale. In the case of a cylindrical or nearly cylindrical package, the surface area of the principal display panel constitutes 40% of the product package as measured by multiplying the height of the container by the circumference. In the case of a flexible film package in which a rectangular prism or nearly rectangular prism stack of wipes is housed within the film, the surface area of the principal display panel is measured by multiplying the length by the width of the side of the package when the flexible packaging film is pressed flat against the stack of wipes on all sides of the stack.

"Symbol" means the "Do Not Flush" symbol, or a gender equivalent thereof, as depicted in the INDA/EDANA Code of Practice Second Edition and published within "Guidelines for Assessing the Flushability of Disposable Nonwoven Products," Edition 4, May 2018. The symbol shall be sized equal to at least 2% of the surface area of the principal display panel, except as specified in subdivision (iii) of paragraph (B) of subsection (a) of Section 15.

Section 15. Labeling requirements.

(a) Except as provided in subsections (b), (c), (d), and (f), a covered product manufactured on or after July 1, 2022 shall be labeled clearly and conspicuously in adherence to the following labeling requirements:

- (1) In the case of cylindrical or near cylindrical

packaging intended to dispense individual wipes, a covered entity shall comply with one of the following options:

(A) Place the symbol and label notice on the principal display panel in a location reasonably viewable each time a wipe is dispensed.

(B) Place the symbol on the principal display panel and either the symbol or label notice, or the symbol and label notice in combination, on the flip lid, subject to the following:

(i) If the label notice does not appear on the flip lid, the label notice shall be placed on the principal display panel.

(ii) The symbol or label notice, or the symbol and label notice in combination, on the flip lid may be embossed, and in that case are not required to comply with paragraph (6).

(iii) The symbol or label notice, or the symbol and label notice in combination, on the flip lid shall cover a minimum of 8% of the surface area of the flip lid.

(2) In the case of flexible film packaging intended to dispense individual wipes, a covered entity shall place the symbol on the principal display panel and dispensing side panel and shall place the label notice on either the principal display panel or dispensing side panel in a prominent location reasonably visible to the user each

time a wipe is dispensed. If the principal display panel is on the dispensing side of the package, 2 symbols are not required.

(3) In the case of refillable tubs or other rigid packaging intended to dispense individual wipes and be reused by the consumer for that purpose, a covered entity shall place the symbol and label notice on the principal display panel in a prominent location reasonably visible to the user each time a wipe is dispensed.

(4) In the case of packaging not intended to dispense individual wipes, a covered entity shall place the symbol and label notice on the principal display panel in a prominent and reasonably visible location.

(5) A covered entity shall ensure that the packaging seams, folds, or other package design elements do not obscure the symbol or the label notice.

(6) A covered entity shall ensure that the symbol and label notice have sufficiently high contrast with the immediate background of the packaging to render it likely to be seen and read by the ordinary individual under customary conditions of purchase and use.

(b) For covered products sold in bulk at retail, both the outer package visible at retail and the individual packages contained within shall comply with the labeling requirements in subsection (a) applicable to the particular packaging types, except the following:

(1) Individual packages contained within the outer package that are not intended to dispense individual wipes and contain no retail labeling.

(2) Outer packages that do not obscure the symbol and label notice on individual packages contained within.

(c) If a covered product is provided within the same packaging as another consumer product for use in combination with the other consumer product, the outside retail packaging of the other consumer product does not need to comply with the labeling requirements of subsection (a).

(d) If a covered product is provided within the same package as another consumer product for use in combination with the other product and is in a package smaller than 3 inches by 3 inches, the covered entity of the covered product may comply with the requirements of subsection (a) by placing the symbol and label notice in a prominent location reasonably visible to the user of the covered product.

(e) A covered entity, directly or through a corporation, partnership, subsidiary, division, trade name, or association in connection to the manufacturing, labeling, packaging, advertising, promotion, offering for sale, sale, or distribution of a covered product, shall not make any representation, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, illustration, trademark, or trade name, about the flushable attributes, flushable benefits, flushable

performance, or flushable efficacy of a covered product.

(f) If a covered product is required to be registered by the United States Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and the Illinois Department of Agriculture under the Illinois Pesticide Act, then the covered entity shall submit a label compliant with the labeling requirements of subsection (a) no later than July 1, 2023 to the United States Environmental Protection Agency.

If the United States Environmental Protection Agency or the Illinois Department of Agriculture does not approve a product label that otherwise complies with the labeling requirements of subsection (a), the covered entity shall use a label with as many of the requirements of this Section as the relevant agency has approved.

(g) A covered entity may include on a covered product words or phrases in addition to those required for the label notice if the words or phrases are consistent with the purposes of this Section.

Section 20. Nonconfidential business information. Upon a request by a jurisdictional wastewater authority, a covered entity must submit to the requesting entity, within 90 days after the request, nonconfidential business information and documentation demonstrating compliance with this Act in a format that is easy to understand.

Section 25. Jurisdictional wastewater authority; authority to enforce; civil penalties.

(a) Jurisdictional wastewater authorities have the concurrent and exclusive authority to enforce this Act and to collect civil penalties for violations of this Act, subject to the conditions in this Section. A jurisdictional wastewater authority may impose a civil penalty in the amount of up to \$2,000 for the first violation of this Act, up to \$5,000 for the second violation, and up to \$10,000 for the third and any subsequent violation. If a covered entity has paid a prior penalty for the same violation to a different jurisdictional wastewater authority with enforcement authority under this Section, the penalty imposed by a jurisdictional wastewater authority shall be reduced by the amount of the payment.

(b) Any civil penalties collected pursuant to this Section must be paid to the enforcing jurisdictional wastewater authority that brought the action.

(c) The remedies provided by this Section are not exclusive and are in addition to the remedies that may be available under relevant consumer protection laws, if applicable.

(d) In addition to penalties recovered under this Section, the enforcing jurisdictional wastewater authority may recover reasonable enforcement costs and attorneys' fees from the liable covered entity.

Section 30. Noncompliant covered entities. Covered entities that violate the requirements of this Act are subject to the civil penalties described in Section 25. A specific violation is deemed to have occurred upon the sale of a noncompliant product package. The sale of multiple units of the same noncompliant product package is considered part of the same, single violation. A jurisdictional wastewater authority must send a written notice of an alleged violation and a copy of the requirements of this Act to a noncompliant covered entity, which will have 90 days to become compliant. A jurisdictional wastewater authority may assess a first penalty if the covered entity has not met the requirements of this Act 90 days after the date the notification was sent. A jurisdictional wastewater authority may impose a second, third, and subsequent penalty on a covered entity that remains noncompliant with the requirements of this Act for every month of noncompliance.

Section 35. Home rule. A home rule unit may not regulate the labeling of covered products in a manner inconsistent with the regulation by the State of the labeling of covered products under this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

Public Act 102-0286

SB0294 Enrolled

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Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 99. Effective date. This Act takes effect July 1, 2022.