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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To require certain products to be labeled with ''Do Not Flush'' labeling, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. MCCLAIN introduced the following bill; which was referred to the Committee on _____

A BILL

To require certain products to be labeled with ''Do Not Flush'' labeling, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Wastewater Infrastructure Pollution Prevention and Environmental Safety Act'' or the ''WIPPES Act''.

SEC. 2. "DO NOT FLUSH" LABELING.

(a) IN GENERAL.—A covered entity shall label a covered product clearly and conspicuously with the label no-

tice and symbol, in accordance with subsections (b) and (c).

(b) REQUIREMENTS.—

(1) CYLINDRICAL PACKAGING.—In the case of a covered product sold in cylindrical or near-cylindrical packaging, and intended to dispense individual wipes—

(A) the symbol and label notice shall be displayed on the principal display panel in a clear and conspicuous location reasonably visible to the user each time a wipe is dispensed; or

(B) the symbol shall be displayed on the principal display panel and the label notice, or a combination of the label notice and symbol, shall be displayed on a flip lid in a manner that covers at least 8 percent of the surface area of the flip lid.

(2) FLEXIBLE FILM PACKAGING.—In the case of a covered product sold in flexible film packaging, and intended to dispense individual wipes—

(A) the symbol shall be displayed on the principal display panel and, if the principal display panel is not on the dispensing side of the packaging, on the dispensing side panel; and

(B) the label notice shall be displayed on either the principal display panel or the dispensing side panel, in a clear and conspicuous location reasonably visible to the user each time a wipe is dispensed.

(3) RIGID PACKAGING.—In the case of a covered product sold in a refillable tub or other rigid packaging that may be reused by a customer, and that is intended to dispense individual wipes, the symbol and label notice shall be displayed on the principal display panel in a clear and conspicuous location reasonably visible to the user each time a wipe is dispensed.

(4) PACKAGING NOT INTENDED TO DISPENSE INDIVIDUAL WIPES.—In the case of a covered product sold in packaging that is not intended to dispense individual wipes, the symbol and label notice shall be displayed on the principal display panel in a clear and conspicuous location reasonably visible to the user of the covered product.

(5) BULK PACKAGING.—

(A) IN GENERAL.—In the case of a covered product sold in bulk at retail, the symbol and label notice shall be displayed on both the outer packaging visible at retail and the individual

packaging contained within the outer packaging.

(B) EXEMPTION.—The following shall be exempt from the requirements of subparagraph (A):

(i) Individually packaged covered products that are contained within outer packaging, are not intended to dispense individual wipes, and have no retail labeling.

(ii) Outer packaging that does not obscure the symbol and label notice on individually packaged covered products contained within.

(6) PACKAGING OF COMBINED PRODUCTS.—

(A) OUTER PACKAGING.—The outer packaging of combined products shall be exempt from the symbol and label notice requirements of subsection (a).

(B) PACKAGES LESS THAN 3 BY 3 INCHES.—In the case of a covered product in packaging smaller than 3 inches by 3 inches (such as an individually packaged wipe in tear-top packaging) and sold as part of a combined product, if a symbol and label notice are placed in a prominent location reasonably visible to the

user of the covered product, such covered product shall be considered to be labeled clearly and conspicuously.

(c) REASONABLE VISIBILITY OF SYMBOL AND LABEL NOTICE.—

(1) IN GENERAL.—A covered entity shall ensure that—

(A) packaging seams or folds or other packaging design elements do not obscure the symbol or label notice;

(B) the symbol and label notice are each equal in size to at least 2 percent of the surface area of the principal display panel; and

(C) the symbol and label notice have high contrast with the immediate background of the packaging so that such symbol and label notice may be seen and read by an ordinary individual under customary conditions of purchase and use.

(2) PROXIMITY OF SYMBOL AND LABEL NOTICE.—A covered entity may display a symbol and label notice either adjacent to or on separate areas of the principal display panel.

(3) EXCEPTION.—Paragraph (1)(C) does not apply to an embossed symbol or label notice on the

flip lid of a covered product sold in cylindrical or near-cylindrical packaging.

(d) REPRESENTATIONS OF FLUSHABILITY.—With respect to a covered product, a covered entity may not make any express or implied representation that such covered product can or should be flushed.

(e) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of this section or any regulation promulgated under this section shall be treated as a violation of a regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts or practices.

(2) POWERS OF COMMISSION.—The Commission shall enforce this section and any regulations promulgated under this section by the same means, and with the same jurisdiction, powers, and duties, as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section, and any person who violates this section or any regulation promulgated under this section shall be subject to the penalties and entitled to the privi-

leges and immunities provided in the Federal Trade Commission Act.

(3) REGULATIONS.—The Commission may promulgate regulations under section 553 of title 5, United States Code, to implement this section. In developing the regulations, the Commission may consult with the Administrator of the Environmental Protection Agency, the Commissioner of Food and Drugs, the Consumer Product Safety Commission, or any other agency as appropriate.

(4) AUTHORITY PRESERVED.—Nothing in this section may be construed to limit the authority of the Commission under any other provision of law.

(f) PREEMPTION OF STATE LAWS.—No State or political subdivision of a State may directly or indirectly establish or continue in effect, under any authority, requirements with respect to the ''Do Not Flush'' labeling of covered products that are not identical to the requirements of this section and the regulations promulgated under this section.

(g) DEFINITIONS.—In this section:

(1) COMBINED PRODUCT.—The term ''combined product'' means two or more products sold in shared retail packaging, of which—

(A) at least one of the products is a covered product; and

(B) at least one of the products is another consumer product intended to be used in combination with such covered product.

(2) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(3) COVERED ENTITY.—The term ''covered entity'' means a manufacturer, wholesaler, supplier, individual or group of individuals, or retailer that is responsible for the labeling or retail packaging of a covered product that is sold or offered for retail sale in the United States.

(4) COVERED PRODUCT.—

(A) IN GENERAL.—The term ''covered product'' means a premoistened, nonwoven disposable wipe sold or offered for retail sale—

(i) that is marketed as a baby wipe or diapering wipe; or

(ii) that is a household or personal care wipe (including a wipe described in subparagraph (B)) that—

(I) is composed entirely, or in part, of petrochemical-derived fibers; and

(II) has significant potential to be flushed.

(B) INCLUSIONS.—The wipes described in this subparagraph are—

(i) antibacterial wipes and disinfecting wipes;

(ii) wipes intended for general purpose cleaning or bathroom cleaning, including toilet cleaning and hard surface cleaning; and

(iii) wipes intended for personal care use on the body, including hand sanitizing, makeup removal, feminine hygiene, adult hygiene (including incontinence hygiene), and body cleansing.

(5) HIGH CONTRAST.—The term ''high contrast'' means, with respect to the symbol or label notice, that such symbol or label notice—

(A) is either light on a solid dark background or dark on a solid light background; and

(B) has a contrast percentage of at least 70 percent between such symbol or label notice and the background, using the formula (B1 - B2) / B1 * 100 = contrast percentage, where B1 is the light reflectance value of the lighter

area and B2 is the light reflectance value of the darker area.

(6) LABEL NOTICE.—The term ''label notice'' means the written phrase ''Do Not Flush''.

(7) PRINCIPAL DISPLAY PANEL.—The term ''principal display panel'' means the side of a product package that is most likely to be displayed, presented, or shown under customary conditions of display for retail sale, and—

(A) in the case of a cylindrical or near-cylindrical package, the surface area of which constitutes at least 40 percent of the product package, as measured by multiplying the height by the circumference of the package; or

(B) in the case of a flexible film package in which a rectangular prism or near-rectangular prism stack of wipes is housed within the film, the surface area of which 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.

(8) STATE.—The term ''State'' means each State of the United States, the District of Columbia,

and each commonwealth, territory, or possession of the United States.

(9) SYMBOL.—The term ''symbol'' means the ''Do Not Flush'' symbol, as depicted in the most recent edition of the Guidelines for Assessing the Flushability of Disposable Nonwoven Products published by the Association of the Nonwoven Fabrics Industry (INDA) and the European Disposables And Nonwovens Association (EDANA), or an otherwise equivalent symbol adopted by the Commission through rulemaking under this section.

(h) EFFECTIVE DATE.—This section shall apply to a covered entity beginning on the date that is 1 year after the date of the enactment of this Act.