



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0294

Introduced 2/19/2021, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

New Act

Creates the Wipes Labeling Act. Presents the findings of the General Assembly. Provides that a covered entity must clearly and conspicuously label a covered product as "do not flush" in accordance with specified requirements. Provides that, upon a request by a municipality or county, a covered entity must submit to the requesting entity, within 90 days after the request, nonconfidential business information and documentation demonstrating compliance with the Act in a format that is easy to understand. Provides that municipalities and counties have concurrent and exclusive authority to enforce the Act and to collect civil penalties for violations of the Act and may impose a civil penalty in the amount of up to \$2,000 for the first violation of the Act, up to \$5,000 for the second violation, and up to \$10,000 for the third and any subsequent violation. Provides that a municipality or county must send a written notice of an alleged violation and a copy of the requirements of the Act to a noncompliant covered entity, which will have 90 days to become compliant. Provides that covered products required to be registered by the United States Environmental Protection Agency under the federal Insecticide, Fungicide, and Rodenticide Act must only comply with the Act on and after July 1, 2023. Limits home rule powers to regulate the labeling of covered products. Contains a severability provision. Effective July 1, 2022.

LRB102 05152 CPF 15173 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

1 AN ACT concerning safety.

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

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

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

12 Section 10. Definitions. In this Act:

13 "Covered entity" means a manufacturer of a covered product
14 and a wholesaler, supplier, or retailer that has contractually
15 undertaken responsibility to the manufacturer for the "do not
16 flush" labeling of a covered product.

17 "Covered product" means a nonflushable nonwoven disposable
18 wipe that is a premoistened wipe constructed from nonwoven
19 sheets and designed and marketed for diapering, personal
20 hygiene, or household hard surface cleaning purposes. "Covered
21 product" does not include a wipe product designed or marketed
22 for cleaning or medicating the anorectal or vaginal areas on

1 the human body and labeled "flushable", "sewer safe", "septic
2 safe", or otherwise indicating that the product is appropriate
3 for disposal in a toilet, including, but not limited to,
4 premoistened toilet tissue.

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

7 "Principal display panel" means the side of a product
8 package that is most likely to be displayed, presented, or
9 shown under customary conditions of display for retail sale.

10 Section 15. Labeling requirements.

11 (a) A covered entity must clearly and conspicuously label
12 a covered product as "do not flush" as follows:

13 (1) Use the "do not flush" symbol, or a gender
14 equivalent thereof, described in the INDA/EDANA Code of
15 Practice 2 (COP2, as published in "Guidelines for
16 Assessing the Flushability of Disposable Nonwoven
17 Products," Edition 4, May 2018, by INDA/EDANA).

18 (2) Place the symbol on the principal display panel in
19 a prominent and reasonably visible location on the package
20 that, in the case of packaging intended to dispense
21 individual wipes, is permanently affixed in a location
22 that is visible to a person each time a wipe is dispensed
23 from the package.

24 (3) Size the symbol to cover at least 2% of the surface
25 area of the principal display panel on which the symbol is

1 presented.

2 (4) Ensure the symbol is not obscured by packaging
3 seams, folds, or other package design elements.

4 (5) Ensure the symbol has sufficiently high contrast
5 with the immediate background of the packaging to render
6 it likely to be read by the ordinary individual under
7 customary conditions of purchase and use. In the case of a
8 printed symbol, "high contrast" is defined as follows:

9 (A) provided with either a light symbol on a dark
10 background or a dark symbol on a light background; and

11 (B) a minimum level or percentage of contrast
12 between the symbol artwork and the background of at
13 least 70%. Contrast in percent is determined by:

14 (i) $\text{contrast} = (B1 - B2) \times 100 / B1$; and

15 (ii) where B1 = light reflectance value of the
16 lighter area and B2 = light reflectance value of
17 the darker area.

18 (b) In the case of a cylindrical or nearly cylindrical
19 package, the surface area of the principal display panel
20 constitutes 40% of the product package, as measured by
21 multiplying the height of the container times the
22 circumference.

23 In the case of a flexible film package, in which a
24 rectangular prism or nearly rectangular prism stack of wipes
25 is housed within the film, the surface area of the principal
26 display panel constitutes the length times the width of the

1 side of the package when the flexible packaging film is
2 pressed flat against the stack of wipes on all sides of the
3 stack.

4 (c) Beginning January 1, 2023, no package or box
5 containing a covered product manufactured on or before the
6 effective date of this Act may be offered for distribution or
7 sale in the State.

8 Section 20. Nonconfidential business information. Upon a
9 request by a municipality or county, a covered entity must
10 submit to the requesting entity, within 90 days after the
11 request, nonconfidential business information and
12 documentation demonstrating compliance with this Act in a
13 format that is easy to understand.

14 Section 25. Units of local government; authority to
15 enforce; civil penalties.

16 (a) Municipalities and counties have authority to enforce
17 this Act and to collect civil penalties for violations of this
18 Act, subject to the conditions in this Section. A municipality
19 or county may impose a civil penalty in the amount of up to
20 \$2,000 for the first violation of this Act, up to \$5,000 for
21 the second violation, and up to \$10,000 for the third and any
22 subsequent violation. If a covered entity has paid a prior
23 penalty for the same violation to a different municipality or
24 county with enforcement authority under this Section, the

1 penalty imposed by a municipality or county shall be reduced
2 by the amount of the payment.

3 (b) Any civil penalties collected pursuant to this Section
4 must be paid to the enforcing municipality or county that
5 brought the action.

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

10 (d) In addition to penalties recovered under this Section,
11 the enforcing municipality or county may recover reasonable
12 enforcement costs and attorneys' fees from the liable covered
13 entity.

14 Section 30. Noncompliant covered entities. Covered
15 entities that violate the requirements of this Act are subject
16 to the civil penalties described in Section 25. A specific
17 violation is deemed to have occurred upon the sale of a
18 noncompliant product package. The repeated sale of the same
19 noncompliant product package is considered part of the same,
20 single violation. A municipality or county must send a written
21 notice of an alleged violation and a copy of the requirements
22 of this Act to a noncompliant covered entity, which will have
23 90 days to become compliant. A municipality or county may
24 assess a first penalty if the covered entity has not met the
25 requirements of this Act 90 days after the date the

1 notification was sent. A municipality or county may impose a
2 second, third, and subsequent penalty on a covered entity that
3 remains noncompliant with the requirements of this Act for
4 every month of noncompliance.

5 Section 35. Covered products registered with the United
6 States Environmental Protection Agency. A covered product
7 required to be registered by the United States Environmental
8 Protection Agency under the federal Insecticide, Fungicide,
9 and Rodenticide Act (7 U.S.C. 24 Sec. 136 et seq. (1996)) must
10 only comply with this Act on and after July 1, 2023.

11 Section 40. Home rule. A home rule unit may not regulate
12 the labeling of covered products in a manner inconsistent with
13 the regulation by the State of the labeling of covered
14 products under this Act. This Section is a limitation under
15 subsection (i) of Section 6 of Article VII of the Illinois
16 Constitution on the concurrent exercise by home rule units of
17 powers and functions exercised by the State.

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

20 Section 99. Effective date. This Act takes effect July 1,
21 2022.