

Union Calendar No. 371

118TH CONGRESS
2D SESSION

H. R. 2964

[Report No. 118-447]

To require the Federal Trade Commission to issue regulations requiring certain products to have “Do Not Flush” labeling, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2023

Mrs. MCCLAIN (for herself and Mrs. PELTOLA) introduced the following bill;
which was referred to the Committee on Energy and Commerce

APRIL 5, 2024

Additional sponsors: Ms. PEREZ and Ms. BROWNLEY

APRIL 5, 2024

Reported with amendments, committed to the Committee of the Whole House
on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on April 27, 2023]

A BILL

To require the Federal Trade Commission to issue regulations requiring certain products to have “Do Not Flush” labeling, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Wastewater Infrastruc-*
5 *ture Pollution Prevention and Environmental Safety Act”*
6 *or the “WIPPEES Act”.*

7 **SEC. 2. “DO NOT FLUSH” LABELING.**

8 *(a) IN GENERAL.—A covered entity shall label a cov-*
9 *ered product clearly and conspicuously with the label notice*
10 *and symbol, in accordance with subsections (b) and (c).*

11 *(b) REQUIREMENTS.—*

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

16 *(A) the symbol and label notice shall be dis-*
17 *played on the principal display panel in a clear*
18 *and conspicuous location reasonably visible to*
19 *the user each time a wipe is dispensed; or*

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

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

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

8 (B) *the label notice shall be displayed on ei-*
9 *ther the principal display panel or the dis-*
10 *persing side panel, in a clear and conspicuous*
11 *location reasonably visible to the user each time*
12 *a wipe is dispensed.*

13 (3) *RIGID PACKAGING.*—*In the case of a covered*
14 *product sold in a refillable tub or other rigid pack-*
15 *aging that may be reused by a customer, and that is*
16 *intended to dispense individual wipes, the symbol and*
17 *label notice shall be displayed on the principal dis-*
18 *play panel in a clear and conspicuous location rea-*
19 *sonably visible to the user each time a wipe is dis-*
20 *persed.*

21 (4) *PACKAGING NOT INTENDED TO DISPENSE IN-*
22 *DIVIDUAL WIPES.*—*In the case of a covered product*
23 *sold in packaging that is not intended to dispense in-*
24 *dividual wipes, the symbol and label notice shall be*
25 *displayed on the principal display panel in a clear*

1 *and conspicuous location reasonably visible to the*
2 *user of the covered product.*

3 (5) *BULK PACKAGING.*—

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

9 (B) *EXEMPTION.*—*The following shall be ex-*
10 *empt from the requirements of subparagraph (A):*

11 (i) *Individually packaged covered*
12 *products that are contained within outer*
13 *packaging, are not intended to dispense in-*
14 *dividual wipes, and have no retail labeling.*

15 (ii) *Outer packaging that does not ob-*
16 *scure the symbol and label notice on indi-*
17 *vidually packaged covered products con-*
18 *tained within.*

19 (6) *PACKAGING OF COMBINED PRODUCTS.*—

20 (A) *OUTER PACKAGING.*—*The outer pack-*
21 *aging of combined products shall be exempt from*
22 *the symbol and label notice requirements of sub-*
23 *section (a).*

24 (B) *PACKAGES LESS THAN 3 BY 3*
25 *INCHES.*—*In the case of a covered product in*

1 *packaging smaller than 3 inches by 3 inches*
2 *(such as an individually packaged wipe in tear-*
3 *top packaging) and sold as part of a combined*
4 *product, if a symbol and label notice are placed*
5 *in a prominent location reasonably visible to the*
6 *user of the covered product, such covered product*
7 *shall be considered to be labeled clearly and con-*
8 *spicuously.*

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

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

13 *(A) packaging seams or folds or other pack-*
14 *aging design elements do not obscure the symbol*
15 *or label notice;*

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

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

24 *(2) PROXIMITY OF SYMBOL AND LABEL NO-*
25 *TICE.—A covered entity may display a symbol and*

1 *label notice either adjacent to or on separate areas of*
2 *the principal display panel.*

3 (3) *EXCEPTION.—Paragraph (1)(C) does not*
4 *apply to an embossed symbol or label notice on the*
5 *flip lid of a covered product sold in cylindrical or*
6 *near-cylindrical packaging.*

7 (d) *REPRESENTATIONS OF FLUSHABILITY.—With re-*
8 *spect to a covered product, a covered entity may not make*
9 *any express or implied representation that such covered*
10 *product can or should be flushed.*

11 (e) *ENFORCEMENT BY FEDERAL TRADE COMMIS-*
12 *SION.—*

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

20 (2) *POWERS OF COMMISSION.—The Commission*
21 *shall enforce this section and any regulations promul-*
22 *gated under this section by the same means, and with*
23 *the same jurisdiction, powers, and duties, as though*
24 *all applicable terms and provisions of the Federal*
25 *Trade Commission Act (15 U.S.C. 41 et seq.) were in-*

1 *corporated into and made a part of this section, and*
2 *any person who violates this section or any regulation*
3 *promulgated under this section shall be subject to the*
4 *penalties and entitled to the privileges and immuni-*
5 *ties provided in the Federal Trade Commission Act.*

6 (3) *REGULATIONS.—The Commission may pro-*
7 *mulgate regulations under section 553 of title 5,*
8 *United States Code, to implement this section. In de-*
9 *veloping the regulations, the Commission may consult*
10 *with the Administrator of the Environmental Protec-*
11 *tion Agency, the Commissioner of Food and Drugs,*
12 *the Consumer Product Safety Commission, or any*
13 *other agency as appropriate.*

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

17 (f) *PREEMPTION OF STATE LAWS.—No State or polit-*
18 *ical subdivision of a State may directly or indirectly estab-*
19 *lish or continue in effect, under any authority, requirements*
20 *with respect to the “Do Not Flush” labeling of covered prod-*
21 *ucts that are not identical to the requirements of this section*
22 *and the regulations promulgated under this section.*

23 (g) *DEFINITIONS.—In this section:*

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

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

6 (B) at least one of the products is another
7 consumer product intended to be used in com-
8 bination with such covered product.

9 (2) *COMMISSION.*—The term “Commission”
10 means the Federal Trade Commission.

11 (3) *COVERED ENTITY.*—The term “covered enti-
12 ty” means a manufacturer, wholesaler, supplier, indi-
13 vidual or group of individuals, or retailer that is re-
14 sponsible for the labeling or retail packaging of a cov-
15 ered product that is sold or offered for retail sale in
16 the United States.

17 (4) *COVERED PRODUCT.*—

18 (A) *IN GENERAL.*—The term “covered prod-
19 uct” means a premoistened, nonwoven disposable
20 wipe sold or offered for retail sale—

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

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

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

4 (II) has significant potential to be
5 flushed.

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

8 (i) antibacterial wipes and disinfecting
9 wipes;

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

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

19 (5) *HIGH CONTRAST*.—The term “high contrast”
20 means, with respect to the symbol or label notice, that
21 such symbol or label notice—

22 (A) is either light on a solid dark back-
23 ground or dark on a solid light background; and

24 (B) has a contrast percentage of at least 70
25 percent between such symbol or label notice and

1 the background, using the formula $(B1 - B2) /$
2 $B1 * 100 =$ contrast percentage, where $B1$ is the
3 light reflectance value of the lighter area and $B2$
4 is the light reflectance value of the darker area.

5 (6) *LABEL NOTICE*.—The term “label notice”
6 means the written phrase “Do Not Flush”.

7 (7) *PRINCIPAL DISPLAY PANEL*.—The term
8 “principal display panel” means the side of a prod-
9 uct package that is most likely to be displayed, pre-
10 sented, or shown under customary conditions of dis-
11 play for retail sale, and—

12 (A) in the case of a cylindrical or near-cy-
13 lindrical package, the surface area of which con-
14 stitutes at least 40 percent of the product pack-
15 age, as measured by multiplying the height by
16 the circumference of the package; or

17 (B) in the case of a flexible film package in
18 which a rectangular prism or near-rectangular
19 prism stack of wipes is housed within the film,
20 the surface area of which is measured by multi-
21 plying the length by the width of the side of the
22 package when the flexible packaging film is
23 pressed flat against the stack of wipes on all
24 sides of the stack.

1 (8) *STATE.*—*The term “State” means each State*
2 *of the United States, the District of Columbia, and*
3 *each commonwealth, territory, or possession of the*
4 *United States.*

5 (9) *SYMBOL.*—*The term “symbol” means the “Do*
6 *Not Flush” symbol, as depicted in the most recent edi-*
7 *tion of the Guidelines for Assessing the Flushability*
8 *of Disposable Nonwoven Products published by the*
9 *Association of the Nonwoven Fabrics Industry*
10 *(INDA) and the European Disposables And*
11 *Nonwovens Association (EDANA), or an otherwise*
12 *equivalent symbol adopted by the Commission*
13 *through rulemaking under this section.*

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

Amend the title so as to read: “A bill to require certain products to be labeled with ‘Do Not Flush’ labeling, and for other purposes.”.

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