

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0338.01 Yelana Love x2295

SENATE BILL 23-150

SENATE SPONSORSHIP

Roberts and Will, Kolker

HOUSE SPONSORSHIP

Froelich and Frizell, Lukens

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT THAT CERTAIN PERSONS LABEL**
102 **DISPOSABLE WIPES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Starting December 31, 2023, the bill requires each entity described below to label packages of premoistened, nonwoven disposable wipes (covered product) with the phrase "Do Not Flush":

- A manufacturer of a covered product that is sold or offered for sale in this state; and
- A wholesaler, supplier, or retailer that is responsible for the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

1 (e) THE NATIONAL ASSOCIATION OF CLEAN WATER AGENCIES HAS
2 DETERMINED THAT UNITED STATES MUNICIPALITIES AND WASTEWATER
3 TREATMENT PROVIDERS INCUR COSTS IN EXCESS OF ONE BILLION DOLLARS
4 ANNUALLY ON MAINTENANCE TO REMOVE CLOGS CAUSED BY WIPES; AND

5 (f) CLEAR "DO NOT FLUSH" LABELING ON THE PACKAGES FOR
6 WIPES THAT ARE NOT DESIGNED TO BE FLUSHED IS A CRITICAL STEP IN
7 HELPING CONSUMERS PRACTICE RESPONSIBLE FLUSHING HABITS, WHICH IN
8 TURN LEADS TO HEALTHIER HOMES AND COMMUNITIES AND THE
9 PROTECTION OF THE ENVIRONMENT, WATERWAYS, AND PUBLIC
10 INFRASTRUCTURE USED FOR THE COLLECTION, TRANSPORT, AND
11 TREATMENT OF WASTEWATER.

12 **25-18.9-102. Definitions.** AS USED IN THIS ARTICLE 18.9:

13 (1) "COVERED ENTITY" MEANS:

14 (a) THE MANUFACTURER OF A COVERED PRODUCT THAT IS SOLD OR
15 OFFERED FOR SALE IN THIS STATE; AND

16 (b) A WHOLESALER, SUPPLIER, OR RETAILER THAT IS RESPONSIBLE
17 FOR THE LABELING OR PACKAGING OF A COVERED PRODUCT.

18 (2) (a) "COVERED PRODUCT" MEANS A CONSUMER PRODUCT SOLD
19 OR OFFERED FOR SALE IN THIS STATE THAT IS:

20 (I) A PREMOISTENED, NONWOVEN DISPOSABLE WIPE MARKETED AS
21 A BABY WIPE OR DIAPERING WIPE; OR

22 (II) A PREMOISTENED, NONWOVEN DISPOSABLE WIPE THAT IS:

23 (A) COMPOSED ENTIRELY OF OR IN PART OF
24 PETROCHEMICAL-DERIVED FIBERS; AND

25 (B) LIKELY TO BE USED IN A BATHROOM WITH SIGNIFICANT
26 POTENTIAL TO BE FLUSHED.

27 (b) "COVERED PRODUCT" INCLUDES BABY WIPES, BATHROOM

1 CLEANING WIPES, TOILET CLEANING WIPES, HARD SURFACE CLEANING
2 WIPES, DISINFECTING WIPES, HAND SANITIZING WIPES, ANTIBACTERIAL
3 WIPES, FACIAL CLEANSING WIPES, MAKEUP REMOVAL WIPES, GENERAL
4 PURPOSE CLEANING WIPES, PERSONAL CARE WIPES FOR USE ON THE BODY,
5 FEMININE HYGIENE WIPES, ADULT INCONTINENCE WIPES, ADULT HYGIENE
6 WIPES, AND BODY CLEANSING WIPES.

7 (3) "HIGH CONTRAST" MEANS:

8 (a) TONAL CONTRAST THAT IS SHOWN BY EITHER A LIGHT SYMBOL
9 ON A SOLID DARK BACKGROUND OR A DARK SYMBOL ON A SOLID LIGHT
10 BACKGROUND; AND

11 (b) HAVING AT LEAST SEVENTY PERCENT CONTRAST BETWEEN THE
12 SYMBOL ARTWORK AND BACKGROUND USING THE FORMULA $[(B1 - B2) \div$
13 $B1] \times 100$, WHERE:

14 (I) B1 IS THE LIGHT REFLECTANCE VALUE OF THE RELATIVELY
15 LIGHTER AREA; AND

16 (II) B2 IS THE LIGHT REFLECTANCE VALUE OF THE RELATIVELY
17 DARKER AREA.

18 (4) "LABEL" MEANS A REPRESENTATION MADE BY STATEMENT,
19 WORD, PICTURE, DESIGN, OR EMBLEM ON A COVERED PRODUCT PACKAGE,
20 WHETHER AFFIXED TO OR WRITTEN DIRECTLY ON THE PACKAGE.

21 (5) "LABEL NOTICE" MEANS:

22 (a) THE PHRASE "DO NOT FLUSH" IN A SIZE EQUAL TO AT LEAST
23 TWO PERCENT OF THE SURFACE AREA OF THE PRINCIPAL DISPLAY PANEL;

24 (b) FOR COVERED PRODUCTS REGULATED PURSUANT TO THE
25 "FEDERAL HAZARDOUS SUBSTANCES ACT", 15 U.S.C. SEC. 1261 ET SEQ.,
26 AS AMENDED, BY THE FEDERAL CONSUMER PRODUCT SAFETY COMMISSION
27 UNDER 16 CFR 1500.121, THAT IF AT LEAST TWO PERCENT OF THE

1 SURFACE AREA OF THE PRINCIPAL DISPLAY PANEL WOULD RESULT IN A
2 TYPE SIZE LARGER THAN FIRST AID INSTRUCTIONS PURSUANT TO THE
3 "FEDERAL HAZARDOUS SUBSTANCES ACT", THEN, TO THE EXTENT
4 PERMITTED BY FEDERAL LAW, THE PHRASE "DO NOT FLUSH" IN TYPE SIZE
5 EQUAL TO OR GREATER THAN THE TYPE SIZE REQUIRED FOR THE FIRST AID
6 INSTRUCTIONS; AND

7 (c) FOR COVERED PRODUCTS REQUIRED TO BE REGISTERED BY THE
8 FEDERAL ENVIRONMENTAL PROTECTION AGENCY UNDER THE "FEDERAL
9 INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT", 7 U.S.C. SEC. 136 ET
10 SEQ., AS AMENDED, THAT IF AT LEAST TWO PERCENT OF THE SURFACE AREA
11 OF THE PRINCIPAL DISPLAY PANEL WOULD RESULT IN A TYPE SIZE ON THE
12 PRINCIPAL DISPLAY PANEL LARGER THAN A WARNING PURSUANT TO THE
13 "FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT", THEN, TO
14 THE EXTENT PERMITTED BY FEDERAL LAW, THE PHRASE "DO NOT FLUSH"
15 IN A TYPE SIZE EQUAL TO OR GREATER THAN THE TYPE SIZE REQUIRED FOR
16 THE "KEEP OUT OF REACH OF CHILDREN" STATEMENT REQUIRED UNDER
17 40 CFR 156.66.

18 (6) "PRINCIPAL DISPLAY PANEL" MEANS THE SIDE OF A PRODUCT
19 PACKAGE THAT IS MOST LIKELY TO BE DISPLAYED, PRESENTED, OR SHOWN
20 UNDER CUSTOMARY CONDITIONS OF DISPLAY FOR RETAIL SALE.

21 (7) "SYMBOL" MEANS THE "DO NOT FLUSH" SYMBOL, OR A
22 SYMBOL THAT IS EQUIVALENT, AS DEPICTED IN THE INDA/EDANA CODE
23 OF PRACTICE SECOND EDITION AND PUBLISHED WITHIN "GUIDELINES FOR
24 ASSESSING THE FLUSHABILITY OF DISPOSABLE NONWOVEN PRODUCTS",
25 EDITION 4, MAY 2018, WHICH IS IN A SIZE EQUAL TO AT LEAST TWO
26 PERCENT OF THE SURFACE AREA OF THE PRINCIPAL DISPLAY PANEL, EXCEPT
27 AS SPECIFIED IN SECTION 25-18.9-104 (1)(a)(II)(C).

1 **25-18.9-103. Determination of surface area of a principal**
2 **display panel.** (1) FOR A CYLINDRICAL OR NEARLY CYLINDRICAL
3 PACKAGE, THE SURFACE AREA OF THE PRINCIPAL DISPLAY PANEL
4 CONSTITUTES FORTY PERCENT OF THE PRODUCT PACKAGE AS MEASURED
5 BY MULTIPLYING THE HEIGHT OF THE CONTAINER BY THE CIRCUMFERENCE.

6 (2) FOR A FLEXIBLE FILM PACKAGE IN WHICH A RECTANGULAR
7 PRISM OR NEARLY RECTANGULAR PRISM STACK OF WIPES IS HOUSED
8 WITHIN THE FILM, THE SURFACE AREA OF THE PRINCIPAL DISPLAY PANEL
9 IS MEASURED BY MULTIPLYING THE LENGTH BY THE WIDTH OF THE SIDE OF
10 THE PACKAGE WHEN THE FLEXIBLE PACKAGING FILM IS PRESSED FLAT
11 AGAINST THE STACK OF WIPES ON ALL SIDES OF THE STACK.

12 **25-18.9-104. Labeling requirements - exceptions.** (1) EXCEPT
13 AS PROVIDED IN SUBSECTIONS (2), (3), (4), AND (6) OF THIS SECTION, A
14 COVERED PRODUCT MANUFACTURED ON OR AFTER DECEMBER 31, 2023,
15 SHALL BE LABELED CLEARLY IN ADHERENCE TO THE FOLLOWING
16 REQUIREMENTS:

17 (a) FOR CYLINDRICAL OR NEAR CYLINDRICAL PACKAGING
18 INTENDED TO DISPENSE INDIVIDUAL WIPES, A COVERED ENTITY SHALL:

19 (I) PLACE THE SYMBOL AND LABEL NOTICE ON THE PRINCIPAL
20 DISPLAY PANEL IN A LOCATION REASONABLY VIEWABLE EACH TIME A WIPE
21 IS DISPENSED; OR

22 (II) PLACE THE SYMBOL ON THE PRINCIPAL DISPLAY PANEL AND
23 EITHER THE SYMBOL OR LABEL NOTICE, OR THE SYMBOL AND LABEL
24 NOTICE IN COMBINATION, ON THE FLIP LID, SUBJECT TO THE FOLLOWING:

25 (A) IF THE LABEL NOTICE DOES NOT APPEAR ON THE FLIP LID, THE
26 LABEL NOTICE SHALL BE PLACED ON THE PRINCIPAL DISPLAY PANEL;

27 (B) THE SYMBOL OR LABEL NOTICE, OR THE SYMBOL AND LABEL

1 NOTICE IN COMBINATION, ON THE FLIP LID MAY BE EMBOSSED, AND IN
2 THAT CASE ARE NOT REQUIRED TO COMPLY WITH SUBSECTION (1)(f) OF
3 THIS SECTION; AND

4 (C) THE SYMBOL OR LABEL NOTICE, OR THE SYMBOL AND LABEL
5 NOTICE IN COMBINATION, ON THE FLIP LID MUST COVER A MINIMUM OF
6 EIGHT PERCENT OF THE SURFACE AREA OF THE FLIP LID.

7 (b) (I) FOR FLEXIBLE FILM PACKAGING INTENDED TO DISPENSE
8 INDIVIDUAL WIPES, A COVERED ENTITY SHALL:

9 (A) PLACE THE SYMBOL ON BOTH THE PRINCIPAL DISPLAY PANEL
10 AND THE DISPENSING SIDE PANEL; AND

11 (B) PLACE THE LABEL NOTICE ON EITHER THE PRINCIPAL DISPLAY
12 PANEL OR DISPENSING SIDE PANEL IN A PROMINENT LOCATION
13 REASONABLY VISIBLE TO THE USER EACH TIME A WIPE IS DISPENSED.

14 (II) IF THE PRINCIPAL DISPLAY PANEL IS ON THE DISPENSING SIDE
15 OF THE PACKAGE, TWO SYMBOLS ARE NOT REQUIRED.

16 (c) FOR REFILLABLE TUBS OR OTHER RIGID PACKAGING INTENDED
17 TO DISPENSE INDIVIDUAL WIPES AND BE REUSED BY THE CONSUMER FOR
18 THAT PURPOSE, A COVERED ENTITY SHALL PLACE THE SYMBOL AND LABEL
19 NOTICE ON THE PRINCIPAL DISPLAY PANEL IN A PROMINENT LOCATION
20 REASONABLY VISIBLE TO THE USER EACH TIME A WIPE IS DISPENSED.

21 (d) FOR PACKAGING NOT INTENDED TO DISPENSE INDIVIDUAL
22 WIPES, A COVERED ENTITY SHALL PLACE THE SYMBOL AND LABEL NOTICE
23 ON THE PRINCIPAL DISPLAY PANEL IN A PROMINENT AND REASONABLY
24 VISIBLE LOCATION.

25 (e) A COVERED ENTITY SHALL ENSURE THAT THE PACKAGING
26 SEAMS, FOLDS, OR OTHER PACKAGE DESIGN ELEMENTS DO NOT OBSCURE
27 THE SYMBOL OR THE LABEL NOTICE.

1 (f) A COVERED ENTITY SHALL ENSURE THAT THE SYMBOL AND
2 LABEL NOTICE HAVE SUFFICIENTLY HIGH CONTRAST WITH THE IMMEDIATE
3 BACKGROUND OF THE PACKAGING TO RENDER THE SYMBOL AND LABEL
4 NOTICE LIKELY TO BE SEEN AND READ BY AN ORDINARY INDIVIDUAL
5 UNDER CUSTOMARY CONDITIONS OF PURCHASE AND USE.

6 (2) FOR COVERED PRODUCTS SOLD IN BULK AT RETAIL, BOTH THE
7 OUTER PACKAGE VISIBLE AT RETAIL AND THE INDIVIDUAL PACKAGES
8 CONTAINED WITHIN MUST COMPLY WITH THE LABELING REQUIREMENTS IN
9 THIS SECTION APPLICABLE TO THE PARTICULAR PACKAGING TYPES, EXCEPT
10 FOR:

11 (a) INDIVIDUAL PACKAGES CONTAINED WITHIN THE OUTER
12 PACKAGE THAT ARE NOT INTENDED TO DISPENSE INDIVIDUAL WIPES AND
13 CONTAIN NO RETAIL LABELING; AND

14 (b) OUTER PACKAGES THAT DO NOT OBSCURE THE SYMBOL AND
15 LABEL NOTICE ON INDIVIDUAL PACKAGES CONTAINED WITHIN.

16 (3) IF A COVERED PRODUCT IS PROVIDED WITHIN THE SAME
17 PACKAGING AS ANOTHER CONSUMER PRODUCT FOR USE IN COMBINATION
18 WITH THE OTHER CONSUMER PRODUCT, THE OUTSIDE RETAIL PACKAGING
19 OF THE OTHER CONSUMER PRODUCT DOES NOT NEED TO COMPLY WITH THE
20 LABELING REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION.

21 (4) IF A COVERED PRODUCT IS PROVIDED WITHIN THE SAME
22 PACKAGE AS ANOTHER CONSUMER PRODUCT FOR USE IN COMBINATION
23 WITH THE OTHER PRODUCT AND IS IN A PACKAGE SMALLER THAN THREE
24 INCHES BY THREE INCHES, THE COVERED ENTITY RESPONSIBLE FOR THE
25 LABELING OR PACKAGING OF THE COVERED PRODUCT MAY COMPLY WITH
26 THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION BY PLACING THE
27 SYMBOL AND LABEL NOTICE IN A PROMINENT LOCATION REASONABLY

1 VISIBLE TO THE USER OF THE COVERED PRODUCT.

2 (5) A COVERED ENTITY, DIRECTLY OR THROUGH A CORPORATION,
3 PARTNERSHIP, SUBSIDIARY, DIVISION, TRADE NAME, OR ASSOCIATION IN
4 CONNECTION WITH THE MANUFACTURING, LABELING, PACKAGING,
5 ADVERTISING, PROMOTION, OFFERING FOR SALE, SALE, OR DISTRIBUTION
6 OF A COVERED PRODUCT, SHALL NOT MAKE ANY REPRESENTATION, IN ANY
7 MANNER, EXPRESSLY OR BY IMPLICATION, INCLUDING THROUGH THE USE
8 OF A PRODUCT NAME, ENDORSEMENT, DEPICTION, ILLUSTRATION,
9 TRADEMARK, OR TRADE NAME, ABOUT THE FLUSHABLE ATTRIBUTES,
10 FLUSHABLE BENEFITS, FLUSHABLE PERFORMANCE, OR FLUSHABLE
11 EFFICACY OF A COVERED PRODUCT.

12 (6) (a) IF A COVERED PRODUCT IS REQUIRED TO BE REGISTERED BY
13 THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY UNDER THE
14 "FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT", 7 U.S.C.
15 SEC. 136 ET SEQ., AS AMENDED, AND THE DEPARTMENT OF AGRICULTURE
16 UNDER THE "PESTICIDE ACT", ARTICLE 9 OF TITLE 35, THEN THE COVERED
17 ENTITY SHALL SUBMIT A LABEL COMPLIANT WITH THE LABELING
18 REQUIREMENTS OF THIS SECTION NO LATER THAN DECEMBER 31, 2023, TO
19 THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY.

20 (b) IF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY DOES
21 NOT APPROVE A PRODUCT LABEL THAT OTHERWISE COMPLIES WITH THE
22 LABELING REQUIREMENTS OF THIS SECTION, THE COVERED ENTITY SHALL
23 USE A LABEL THAT COMPLIES WITH AS MANY OF THE REQUIREMENTS OF
24 THIS SECTION AS THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY HAS
25 APPROVED.

26 (7) A COVERED ENTITY MAY INCLUDE ON A COVERED PRODUCT
27 WORDS OR PHRASES IN ADDITION TO THOSE REQUIRED FOR THE LABEL

1 NOTICE IF THE WORDS OR PHRASES ARE CONSISTENT WITH THE PURPOSES
2 OF THIS SECTION.

3 **25-18.9-105. Enforcement.** A COVERED ENTITY THAT KNOWINGLY
4 OR RECKLESSLY VIOLATES THE LABELING REQUIREMENTS OR ANY OTHER
5 REQUIREMENT OR PROHIBITION SPECIFIED IN SECTION 25-18.9-104
6 ENGAGES IN A DECEPTIVE TRADE PRACTICE PURSUANT TO SECTION 6-1-105
7 (1)(e).

8 **SECTION 2. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly; except
11 that, if a referendum petition is filed pursuant to section 1 (3) of article V
12 of the state constitution against this act or an item, section, or part of this
13 act within such period, then the act, item, section, or part will not take
14 effect unless approved by the people at the general election to be held in
15 November 2024 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.