

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



SENATE BILL 23-150

BY SENATOR(S) Roberts and Will, Kolker, Cutter, Exum, Hansen, Jaquez Lewis, Marchman, Moreno, Mullica, Priola, Rodriguez, Zenzinger, Fenberg;
also REPRESENTATIVE(S) Froelich and Frizell, Lukens, Amabile, Bacon, Bird, Brown, Dickson, English, Jodeh, Kipp, Lindsay, Lynch, Mabrey, Mauro, McLachlan, Michaelson Jenet, Ricks, Sirota, Snyder, Story, Titone, Valdez, Vigil, Willford, Woodrow.

CONCERNING A REQUIREMENT THAT CERTAIN PERSONS LABEL DISPOSABLE WIPES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 18.9 to title 25 as follows:

ARTICLE 18.9
Disposable Wipes

25-18.9-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(a) OVER THE PAST SEVERAL YEARS, CONSUMER DEMAND FOR PREMOISTENED, DISPOSABLE WIPE PRODUCTS, INCLUDING BABY WIPES, SURFACE CLEANING WIPES, HAND SANITIZING WIPES, AND MAKEUP REMOVAL WIPES, HAS SIGNIFICANTLY INCREASED;

(b) THESE WIPE PRODUCTS ARE COMPOSED, ENTIRELY OR IN PART, OF PETROCHEMICAL-DERIVED FIBERS THAT WERE NEVER DESIGNED TO BE FLUSHED DOWN TOILETS;

(c) CONSUMER CONFUSION HAS RESULTED IN MILLIONS OF THESE NONFLUSHABLE WIPES BEING IMPROPERLY DISPOSED OF BY BEING FLUSHED DOWN TOILETS;

(d) WIPES THAT WERE NOT DESIGNED TO BE FLUSHED DO NOT BREAK DOWN LIKE TOILET PAPER, SO WHEN IMPROPERLY DISPOSED OF IN TOILETS, THE WIPES OFTEN CAUSE SEWER BLOCKAGE AND OVERFLOW, CLOG PIPES AND MECHANICAL EQUIPMENT, RELEASE PLASTIC MATERIALS AND WASTEWATER INTO WATERWAYS, AND BLOCK PRIVATE DRAIN LINES, WHICH CAN RESULT IN FLOODED HOMES AND BUSINESSES;

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

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

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

(1) "COVERED ENTITY" MEANS:

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

(b) A WHOLESALER, SUPPLIER, OR RETAILER THAT IS RESPONSIBLE

FOR THE LABELING OR PACKAGING OF A COVERED PRODUCT.

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

(a) A PREMOISTENED, NONWOVEN DISPOSABLE WIPE MARKETED AS A BABY WIPE OR DIAPERING WIPE; OR

(b) A PREMOISTENED, NONWOVEN DISPOSABLE WIPE THAT IS:

(I) COMPOSED ENTIRELY OF OR IN PART OF PETROCHEMICAL-DERIVED FIBERS; AND

(II) LIKELY TO BE USED IN A BATHROOM WITH 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 CLEANSING WIPES, 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.

(3) "HIGH CONTRAST" MEANS:

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

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

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

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

(4) "LABEL" MEANS A REPRESENTATION MADE BY STATEMENT, WORD, PICTURE, DESIGN, OR EMBLEM ON A COVERED PRODUCT PACKAGE,

WHETHER AFFIXED TO OR WRITTEN DIRECTLY ON THE PACKAGE.

(5) "LABEL NOTICE" MEANS:

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

(b) FOR COVERED PRODUCTS REGULATED PURSUANT TO THE "FEDERAL HAZARDOUS SUBSTANCES ACT", 15 U.S.C. SEC. 1261 ET SEQ., AS AMENDED, BY THE FEDERAL CONSUMER PRODUCT SAFETY COMMISSION UNDER 16 CFR 1500.121, THAT IF AT LEAST TWO PERCENT OF THE SURFACE AREA OF THE PRINCIPAL DISPLAY PANEL WOULD RESULT IN A TYPE SIZE LARGER THAN FIRST AID INSTRUCTIONS PURSUANT TO THE "FEDERAL HAZARDOUS SUBSTANCES ACT", THEN, TO THE EXTENT PERMITTED BY FEDERAL LAW, THE PHRASE "DO NOT FLUSH" IN TYPE SIZE EQUAL TO OR GREATER THAN THE TYPE SIZE REQUIRED FOR THE FIRST AID INSTRUCTIONS; AND

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

(6) "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.

(7) "SYMBOL" MEANS THE "DO NOT FLUSH" SYMBOL, OR A SYMBOL THAT IS EQUIVALENT, 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, WHICH IS IN A SIZE EQUAL TO AT LEAST TWO PERCENT OF THE SURFACE AREA OF THE PRINCIPAL DISPLAY PANEL, EXCEPT AS

SPECIFIED IN SECTION 25-18.9-104 (1)(a)(II)(C).

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

(2) FOR 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.

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

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

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

(II) 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:

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

(B) 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 SUBSECTION (1)(f) OF THIS SECTION; AND

(C) THE SYMBOL OR LABEL NOTICE, OR THE SYMBOL AND LABEL

NOTICE IN COMBINATION, ON THE FLIP LID MUST COVER A MINIMUM OF EIGHT PERCENT OF THE SURFACE AREA OF THE FLIP LID.

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

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

(B) 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.

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

(c) FOR 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.

(d) FOR 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.

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

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

(2) FOR COVERED PRODUCTS SOLD IN BULK AT RETAIL, BOTH THE OUTER PACKAGE VISIBLE AT RETAIL AND THE INDIVIDUAL PACKAGES CONTAINED WITHIN MUST COMPLY WITH THE LABELING REQUIREMENTS IN

THIS SECTION APPLICABLE TO THE PARTICULAR PACKAGING TYPES, EXCEPT FOR:

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

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

(3) 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 (1) OF THIS SECTION.

(4) 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 THREE INCHES BY THREE INCHES, THE COVERED ENTITY RESPONSIBLE FOR THE LABELING OR PACKAGING OF THE COVERED PRODUCT MAY COMPLY WITH THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION BY PLACING THE SYMBOL AND LABEL NOTICE IN A PROMINENT LOCATION REASONABLY VISIBLE TO THE USER OF THE COVERED PRODUCT.

(5) A COVERED ENTITY, DIRECTLY OR THROUGH A CORPORATION, PARTNERSHIP, SUBSIDIARY, DIVISION, TRADE NAME, OR ASSOCIATION IN CONNECTION WITH 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.

(6) (a) IF A COVERED PRODUCT IS REQUIRED TO BE REGISTERED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY UNDER THE "FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT", 7 U.S.C. SEC. 136 ET SEQ., AS AMENDED, AND, TO THE EXTENT NOT PREEMPTED BY 7 U.S.C. SEC.

136v (b), BY THE COLORADO DEPARTMENT OF AGRICULTURE UNDER THE "PESTICIDE ACT", ARTICLE 9 OF TITLE 35, THEN THE COVERED ENTITY, TO THE EXTENT PERMITTED UNDER FEDERAL LAW, SHALL SUBMIT A LABEL COMPLIANT WITH THE LABELING REQUIREMENTS OF THIS SECTION NO LATER THAN DECEMBER 31, 2023, TO THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY AND, UPON ITS APPROVAL, TO THE DEPARTMENT OF AGRICULTURE, WHICH SHALL REVIEW THE LABEL OF THE COVERED PRODUCT IN THE MANNER AUTHORIZED UNDER THE "PESTICIDE ACT", ARTICLE 9 OF TITLE 35, AND ADMINISTRATIVE RULES ADOPTED UNDER THE "PESTICIDE ACT", ARTICLE 9 OF TITLE 35.

(b) IF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY OR THE COLORADO DEPARTMENT OF AGRICULTURE DOES NOT APPROVE A PRODUCT LABEL THAT OTHERWISE COMPLIES WITH THE LABELING REQUIREMENTS OF THIS SECTION, THE COVERED ENTITY SHALL USE A LABEL THAT COMPLIES WITH AS MANY OF THE REQUIREMENTS OF THIS SECTION AS THE RELEVANT AGENCY HAS APPROVED.

(7) 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.

25-18.9-105. Enforcement. A PERSON THAT, IN THE COURSE OF THE PERSON'S BUSINESS, VOCATION, OR OCCUPATION, VIOLATES SECTION 25-18.9-104 COMMITS A DECEPTIVE TRADE PRACTICE UNDER THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6.

SECTION 2. In Colorado Revised Statutes, 6-1-105, **add** (1)(www) as follows:

6-1-105. Unfair or deceptive trade practices. (1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person:

(www) VIOLATES SECTION 25-18.9-104.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except

that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Steve Fenberg
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO