

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 23-0338.01 Yelana Love x2295

SENATE BILL 23-150

SENATE SPONSORSHIP

Roberts and Will, Kolker, Cutter, Exum, Fenberg, Hansen, Jaquez Lewis, Marchman, Moreno, Mullica, Priola, Rodriguez, Zenzinger

HOUSE SPONSORSHIP

Froelich and Frizell, Lukens

Senate Committees

Business, Labor, & Technology

House Committees

Business Affairs & Labor

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.

HOUSE
2nd Reading Unamended
March 20, 2023

SENATE
3rd Reading Unamended
March 10, 2023

SENATE
Amended 2nd Reading
March 9, 2023

labeling or packaging of a covered product.

The bill specifies that a knowing or reckless violation of the requirements of the bill is a deceptive trade practice under the "Colorado Consumer Protection Act".

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

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

4 **ARTICLE 18.9**

5 **Disposable Wipes**

6 **25-18.9-101. Legislative declaration.** (1) THE GENERAL
7 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

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

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

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

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

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

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

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

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

25 (II) LIKELY TO BE USED IN A BATHROOM WITH SIGNIFICANT
26 POTENTIAL TO BE FLUSHED, INCLUDING BABY WIPES, BATHROOM CLEANING
27 WIPES, TOILET CLEANING WIPES, HARD SURFACE CLEANING WIPES,

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

6 (3) "HIGH CONTRAST" MEANS:

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

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

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

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

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

20 (5) "LABEL NOTICE" MEANS:

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

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

1 TYPE SIZE LARGER THAN FIRST AID INSTRUCTIONS PURSUANT TO THE
2 "FEDERAL HAZARDOUS SUBSTANCES ACT", THEN, TO THE EXTENT
3 PERMITTED BY FEDERAL LAW, THE PHRASE "DO NOT FLUSH" IN TYPE SIZE
4 EQUAL TO OR GREATER THAN THE TYPE SIZE REQUIRED FOR THE FIRST AID
5 INSTRUCTIONS; AND

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

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

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

27 **25-18.9-103. Determination of surface area of a principal**

1 **display panel.** (1) FOR A CYLINDRICAL OR NEARLY CYLINDRICAL
2 PACKAGE, THE SURFACE AREA OF THE PRINCIPAL DISPLAY PANEL
3 CONSTITUTES FORTY PERCENT OF THE PRODUCT PACKAGE AS MEASURED
4 BY MULTIPLYING THE HEIGHT OF THE CONTAINER BY THE CIRCUMFERENCE.

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

11 **25-18.9-104. Labeling requirements - exceptions.** (1) EXCEPT
12 AS PROVIDED IN SUBSECTIONS (2), (3), (4), AND (6) OF THIS SECTION, A
13 COVERED PRODUCT MANUFACTURED ON OR AFTER DECEMBER 31, 2023,
14 SHALL BE LABELED CLEARLY IN ADHERENCE TO THE FOLLOWING
15 REQUIREMENTS:

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

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

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

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

26 (B) THE SYMBOL OR LABEL NOTICE, OR THE SYMBOL AND LABEL
27 NOTICE IN COMBINATION, ON THE FLIP LID MAY BE EMBOSSED, AND IN

1 THAT CASE ARE NOT REQUIRED TO COMPLY WITH SUBSECTION (1)(f) OF
2 THIS SECTION; AND

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

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

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

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

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

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

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

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

27 (f) A COVERED ENTITY SHALL ENSURE THAT THE SYMBOL AND

1 LABEL NOTICE HAVE SUFFICIENTLY HIGH CONTRAST WITH THE IMMEDIATE
2 BACKGROUND OF THE PACKAGING TO RENDER THE SYMBOL AND LABEL
3 NOTICE LIKELY TO BE SEEN AND READ BY AN ORDINARY INDIVIDUAL
4 UNDER CUSTOMARY CONDITIONS OF PURCHASE AND USE.

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

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

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

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

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

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

11 (6) (a) IF A COVERED PRODUCT IS REQUIRED TO BE REGISTERED BY
12 THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY UNDER THE
13 "FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT", 7 U.S.C.
14 SEC. 136 ET SEQ., AS AMENDED, AND, TO THE EXTENT NOT PREEMPTED BY
15 7 U.S.C. SEC. 136v (b), BY THE COLORADO DEPARTMENT OF AGRICULTURE
16 UNDER THE "PESTICIDE ACT", ARTICLE 9 OF TITLE 35, THEN THE COVERED
17 ENTITY, TO THE EXTENT PERMITTED UNDER FEDERAL LAW, SHALL SUBMIT
18 A LABEL COMPLIANT WITH THE LABELING REQUIREMENTS OF THIS SECTION
19 NO LATER THAN DECEMBER 31, 2023, TO THE FEDERAL ENVIRONMENTAL
20 PROTECTION AGENCY AND, UPON ITS APPROVAL, TO THE DEPARTMENT OF
21 AGRICULTURE, WHICH SHALL REVIEW THE LABEL OF THE COVERED
22 PRODUCT IN THE MANNER AUTHORIZED UNDER THE "PESTICIDE ACT",
23 ARTICLE 9 OF TITLE 35, AND ADMINISTRATIVE RULES ADOPTED UNDER THE
24 "PESTICIDE ACT", ARTICLE 9 OF TITLE 35.

25 (b) IF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY OR THE
26 COLORADO DEPARTMENT OF AGRICULTURE DOES NOT APPROVE A
27 PRODUCT LABEL THAT OTHERWISE COMPLIES WITH THE LABELING

1 REQUIREMENTS OF THIS SECTION, THE COVERED ENTITY SHALL USE A
2 LABEL THAT COMPLIES WITH AS MANY OF THE REQUIREMENTS OF THIS
3 SECTION AS THE RELEVANT AGENCY HAS APPROVED.

4 (7) A COVERED ENTITY MAY INCLUDE ON A COVERED PRODUCT
5 WORDS OR PHRASES IN ADDITION TO THOSE REQUIRED FOR THE LABEL
6 NOTICE IF THE WORDS OR PHRASES ARE CONSISTENT WITH THE PURPOSES
7 OF THIS SECTION.

8 **25-18.9-105. Enforcement.** A PERSON THAT, IN THE COURSE OF
9 THE PERSON'S BUSINESS, VOCATION, OR OCCUPATION, VIOLATES SECTION
10 25-18.9-104 COMMITS A DECEPTIVE TRADE PRACTICE UNDER THE
11 "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6.

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

14 **6-1-105. Unfair or deceptive trade practices.** (1) A person
15 engages in a deceptive trade practice when, in the course of the person's
16 business, vocation, or occupation, the person:

17 **(uuu) VIOLATES SECTION 25-18.9-104.**

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