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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO HEALTH AND SAFETY -- NONWOVEN DISPOSABLE PRODUCTS ACT

Introduced By: Representatives Vella-Wilkinson, Noret, Bennett, McEntee, Donovan,
Solomon, and Knight

Date Introduced: March 02, 2022

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. The general assembly finds and declares all of the following:

2 (1) The intent of the general assembly in enacting this legislation is to protect public health,
3 the environment, water quality, and public infrastructure used for the collection, transport, and
4 treatment of wastewater.

5 (2) Nonwoven disposable products, commonly known as wipes, are increasingly being
6 marketed by manufacturers as flushable and, as a result, are being flushed down the toilet more
7 frequently by consumers. Many non-flushable wipes—including baby wipes, cleaning wipes, and
8 makeup removal wipes—are also not clearly labeled as such, so consumers do not know to dispose
9 of them in the trash can rather than the toilet.

10 (3) Nonwoven disposable products often contain microplastics.

11 (4) Flushing nonwoven disposal products presents a growing problem caused by these
12 products not breaking down after being flushed down the toilet. When nonwoven disposable
13 products fail to properly break down after flushing, they can entangle with tree roots, fats, oils,
14 grease, and other nondispersible products, causing clogs in sewer pipes and pumps, blocking
15 screens, and accumulating in other wastewater treatment equipment. The resulting clogs damage
16 public infrastructure and can lead to costly and environmentally damaging sanitary sewer overflows
17 that are a threat to public health.

18 (5) The increased maintenance needed to clean accumulations of flushed nonwoven
19 disposable products is very costly to the public. Utilities nationwide spend up to one billion dollars

1 (\$1,000,000,000) each year dealing with these problems.

2 (6) Utility workers are placed at risk of physical injury and illness by removing sewage-
3 soaked wipes from wastewater equipment.

4 (7) Nonwoven disposable products that do not rapidly disperse in the sewer can also cause
5 damage to private sewer laterals that result in sewage overflows and the backup of sewage into
6 homes. These products can also cause clogs and damage to septic systems.

7 (8) Wastewater treatment plants are not designed to capture microplastic materials, which
8 can pass through sewage treatment facilities into the natural environment. These microplastic
9 materials have been shown to have negative impacts on marine life.

10 (9) Consequently, nonwoven disposable products that contain synthetic plastic fibers or
11 other microplastic materials, or that do not rapidly disperse in the sewer, should not be marketed
12 as flushable or sewer and septic safe.

13 (10) Existing labeling of nonwoven disposable products used for personal hygiene is
14 ineffective to educate consumers regarding proper disposal.

15 (11) Public education efforts funded and administered by Rhode Island municipal
16 wastewater treatment agencies have not resulted in significant progress in lessening the problem.

17 (12) Existing state regulation of wastewater treatment facilities and commercial and
18 industrial discharges under the National Pretreatment Program to address fats, oil, and grease and
19 healthcare related products, including wipes, have not resulted in progress lessening the problem.

20 (13) In April 2017, a group of international nonwoven fabric industry experts, known as
21 the Association of the Nonwoven Fabrics Industry and the European Disposables and Nonwovens
22 Association (INDA/EDANA), adopted baseline labeling requirements for nonwoven disposable
23 products. In May 2018, INDA/EDANA published the Fourth Edition of the baseline labeling
24 requirements.

25 (14) In June 2018, a group of international wastewater infrastructure experts, known as the
26 International Water Services Flushability Group, adopted reliable criteria for the quality and
27 characteristics of products that can be appropriately disposed of in sanitary sewer systems.

28 (15) To prevent nondispersible nonwoven disposable products from entering sewer
29 systems and potentially causing overflows, clogs, and other costly impacts to the sewer system and
30 to prevent negative impacts from harmful microplastics entering the environment through
31 wastewater treatment processes, it is the intent of the general assembly to create labeling
32 requirements that will enable consumers to easily identify which nonwoven disposable products
33 are safe to dispose of using sanitary sewer systems.

34 (16) It is the intent of the general assembly in enacting this legislation to provide clear

1 direction to manufacturers by setting performance requirements for nonwoven disposable products
2 that are marketed for disposal to the sanitary sewer system.

3 SECTION 2. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
4 amended by adding thereto the following chapter:

5 CHAPTER 97

6 NONWOVEN DISPOSABLE PRODUCTS ACT

7 **23-97-1. Definitions.**

8 For the purposes of this chapter the term:

9 (1) "Covered entity" means the manufacturer of a covered product that is sold in this state
10 or brought into the state for sale. "Covered entity" does not include a wholesaler, supplier, or retailer
11 that is not responsible for the labeling or packaging of a covered product.

12 (2) "Covered product " means a nonwoven disposable product manufactured after January
13 1, 2023, and sold in this state or brought into the state for sale, and that is constructed from
14 nonwoven sheets, including moist toilet tissue or cloth, that is designed, marketed to, or commonly
15 used by the general public for personal hygiene or cleaning purposes, including, but not limited to,
16 diaper wipes, toilet wipes, household cleaning wipes, personal care wipes, and facial wipes.
17 Covered products include both flushable and nonflushable wipes.

18 (3) "Flushable wipe" means a nonwoven disposable product that meets the definition of
19 performance standards as set forth in this section.

20 (4) "Label notice" means the phrase "Do Not Flush " and the size of the label notice shall
21 be one of the following:

22 (i) Equal to at least two percent (2%) of the surface area of the principal display panel;

23 (ii) For covered products, regulated pursuant to the Federal Hazardous Substances Act
24 (FHSA) under the jurisdiction of the United States Consumer Product Safety Commission (16 CFR
25 Sec. 1500.121), if the label notice requirements in subsection (4)(i) of this section would result in
26 a type size larger than first aid instructions pursuant to the FHSA, then the type size for the label
27 notice shall be equal to or greater than the type size required for the first aid instructions; or

28 (iii) For covered products required to be registered by the United States Environmental
29 Protection Agency, under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec.
30 136 et seq. (1996) (FIFRA), if the label notice requirements would result in a type size on the
31 principal display panel larger than a warning pursuant to FIFRA, then the type size for the label
32 notice shall be equal to or greater than the type size required for the "Keep Out Of Reach Of
33 Children" statement.

34 (5) "Labeling requirements" means the labeling provisions defined in this section.

1 (6) "Manufacturer" means any person or entity responsible for the manufacture, packaging,
2 or labeling of a covered product. "Manufacturer" does not include a wholesaler, supplier, or retailer
3 that is not responsible for the manufacture, packaging, or labeling of a covered product.

4 (7) "Nonflushable wipe" means a covered product that does not meet the performance
5 standards as defined in this subsection. Nonflushable wipe also means wipes that are not
6 manufactured or marketed to be flushed, such as premoistened wipes constructed from nonwoven
7 sheets and designed and marketed for diapering, personal hygiene, or household hard surface
8 cleaning purposes.

9 (8) "Performance standards" means the testing methods and criteria for flushability
10 outlined in the most current version of or an official update to the flushability specification outlined
11 in the publicly available specification (PAS) documents published by the International Water
12 Services Flushability Group.

13 (9) "Principal display panel" means the side of the product package that is most likely to
14 be displayed, presented, or shown under customary conditions of display for retail sale. The term
15 is defined further as follows:

16 (i) In the case of a cylindrical or nearly cylindrical package, the surface area of the principal
17 display panel, constitutes forty percent (40%) of the product package, as measured by multiplying
18 the height of the container times its circumference; and

19 (ii) In the case of a flexible film package, in which a rectangular prism or nearly rectangular
20 prism stack of wipes is housed within such film, the surface area of the principal display panel is
21 measured by multiplying the length times the width of the aforementioned side of the package when
22 the flexible packaging film is pressed flat against the stack of wipes on all sides of the stack.

23 (10) "Symbol" means the "Do Not Flush" symbol, or a gender equivalent thereof, as
24 depicted in INDA/EDANA Code of Practice 2 and published within "Guidelines for Assessing the
25 Flushability of Disposable Nonwoven Products," Edition 4, May 2018. The symbol shall be sized
26 equal to at least two percent (2%) of the surface area of the principal display panel, except as it
27 relates to subsection (4)(ii) of this section.

28 **23-97-2. Covered products.**

29 (a) On and after January 1, 2023, a covered entity shall not label a covered product as safe
30 to flush, safe for sewer systems, or safe for septic systems, unless the product is a flushable wipe.

31 (b) On and after January 1, 2023, unless a product is a flushable wipe, a covered entity
32 shall not, in any manner, make any of the following representations regarding a covered product:

33 (1) The product can be flushed;

34 (2) The product is safe for sewer systems;

- 1 (3) The product is safe for septic systems;
2 (4) The product breaks apart shortly after flushing;
3 (5) The product will not clog household plumbing systems;
4 (6) The product will not clog household septic systems;
5 (7) The product is safe for plumbing;
6 (8) The product is safe to flush; and
7 (9) The product will dissolve or disperse in interaction with water.

8 (c) For purposes of this section, representations include, among other things, product
9 names, labels, endorsements, depictions, illustrations, trademarks, and trade names.

10 (d) On and after January 1, 2023, a covered entity shall test its covered products and verify
11 that any covered product that is a flushable wipe meets the performance standards or comply with
12 the labeling requirements. By April 11, 2023, a covered entity must submit, on a form designated
13 by the U.S. Environmental Protection Agency ("EPA"), documentation establishing that all covered
14 products that are flushable wipes meet the performance standards, and must certify that all covered
15 products that do not meet the performance standards, comply with the labeling requirements and
16 that the covered entity is in compliance with the requirements of § 23-97-3.

17 (5) Within ninety (90) days of publication of an update to the performance standards, a
18 covered entity shall test its covered products and verify that any covered product that is a flushable
19 wipe meets the performance standards or comply with the labeling requirements. Within thirty (30)
20 days of completion of this updated testing, a covered entity shall submit, on a form designated by
21 the EPA, documentation establishing that all covered products that are flushable wipes meet the
22 updated performance standards, and must certify that all covered products that do not meet the
23 performance standards, comply with the labeling requirements and that the covered entity is in
24 compliance with the requirements of § 23-97-3.

25 (6) For any covered product introduced for sale in this state after January 1, 2023, a covered
26 entity shall test such covered products and verify that any such covered product that is a flushable
27 wipe, meets the performance standards or comply with the labeling requirements. At least sixty
28 (60) days prior to introduction of any such covered product for sale in this state, a covered entity
29 shall submit, on a form designated by the US EPA, documentation establishing that all covered
30 products that are flushable wipes, meet the updated performance standards, and must certify that
31 all covered products that do not meet the performance standards, comply with the labeling
32 requirements and that the covered entity is in compliance with the requirements of § 23-97-3.

33 **23-97-3. Labeling requirements.**

34 (a) On and after January 1, 2023, a covered product that does not meet the performance

1 standards, or that is otherwise a nonflushable wipe, shall be labeled clearly and conspicuously, in
2 adherence with the labeling requirements as follows:

3 (1) In the case of cylindrical or near cylindrical packaging intended to dispense individual
4 wipes, a covered entity shall comply with one of the following options:

5 (i) Place the symbol and label notice on the principal display panel in a location reasonably
6 viewable each time a wipe is dispensed; or

7 (ii) Place the symbol on the principal display panel and either the symbol, label notice, or
8 the symbol and label notice, in combination on the flip lid. In this case:

9 (A) If the label notice does not appear on the flip lid, the label notice shall be placed on the
10 principal display panel;

11 (B) The symbol, label notice, or the symbol and label notice in combination on the flip lid
12 may be embossed, and in that case, are not required to comply with subsection (a)(6) of this section.

13 (C) The symbol, label notice, or the symbol and label notice in combination on the flip lid
14 shall cover a minimum of eight percent (8%) of the surface area of the flip lid.

15 (2) In the case of flexible film packaging intended to dispense individual wipes, a covered
16 entity shall place the symbol on the principal display panel and dispensing side panel and place the
17 label notice on either the principal display panel or dispensing side panel in a prominent location
18 reasonably visible to the user each time a wipe is dispensed. If the principal display panel is on the
19 dispensing side of the package, two (2) symbols are not required.

20 (3) In the case of refillable tubs or other rigid packaging intended to dispense individual
21 wipes and be reused by the consumer for such purpose, a covered entity shall place the symbol and
22 label notice on the principal display panel in a prominent location reasonably visible to the user
23 each time a wipe is dispensed.

24 (4) In the case of packaging not intended to dispense individual wipes, a covered entity
25 shall place the symbol and label notice on the principal display panel in a prominent and reasonably
26 visible location.

27 (5) A covered entity shall ensure the symbol is not obscured by packaging seams, folds, or
28 other package design elements.

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

32 (i) Provided with either a light symbol on a dark background or a dark symbol on a light
33 background; and

34 (ii) A minimum level or percentage of contrast between the symbol artwork and the

1 background of at least seventy percent (70%). Contrast in percent is determined by:

2 (A) Contrast = (B1 – B2) x 100 / B1; and

3 (B) Where B1 = light reflectance value of the lighter area and B2 = light reflectance value
4 of the darker area; and

5 (b) Beginning January 1, 2023, no package or box containing a covered product that does
6 not meet the performance standards, or that is otherwise a nonflushable wipe, manufactured on or
7 before the effective date of this section, may be offered for distribution or sale in the state, unless
8 the product packaging complies with the labeling requirements in subsection (a) of this section.

9 (c) For covered products that do not meet the performance standards, or that are otherwise
10 nonflushable wipes, sold in bulk at retail, both the package purchased in the store and the individual
11 packages contained within, shall comply with the requirements in subsection (a) of this section,
12 applicable to the particular packaging types.

13 (d) A covered entity, directly or through any corporation, partnership, subsidiary, division,
14 trade name, or association in connection to the manufacturing, labeling, packaging, advertising,
15 promotion, offering for sale, sale, or distribution of a covered product that does not meet the
16 performance standards, or that is otherwise a nonflushable wipe, shall not make any representation
17 in any manner, expressly or by implication, including through the use of a product name,
18 endorsement, depiction, illustration, trademark, or trade name, about the flushable attributes,
19 benefits, performance, or efficacy of a nonflushable wipe.

20 **23-97-4. Enforcement.**

21 (a) The Rhode Island department of environmental management (DEM) has concurrent
22 and exclusive authority to enforce this chapter and to collect civil penalties for a violation of this
23 chapter, subject to the conditions of this section.

24 (b) A person who violates this chapter may be enjoined in any court of competent
25 jurisdiction.

26 (c)(1) A person who violates this chapter may be liable for a civil penalty, not to exceed
27 two thousand five hundred dollars (\$2,500) for each violation. That civil penalty may be assessed
28 and recovered in a civil action brought in any court of competent jurisdiction.

29 (2) A specific violation is deemed to have occurred upon the sale of a noncompliant product
30 package. The repeated sale of the same noncompliant product package is considered part of the
31 same, single violation.

32 (3) In assessing the amount of a civil penalty for a violation of this chapter, the court shall
33 consider all of the following:

34 (i) The nature, circumstances, extent, and gravity of the violation;

- 1 (ii) The violator’s past and present efforts to prevent, abate, or clean up conditions posing
2 a threat to the public health or safety or the environment;
- 3 (iii) The violator’s ability to pay the proposed penalty;
- 4 (iv) The effect that the proposed penalty would have on the violator and the community as
5 a whole;
- 6 (v) Whether the violator took good faith measures to comply with this chapter and when
7 these measures were taken;
- 8 (vi) The deterrent effect that the imposition of the penalty would have on both the violator
9 and the regulated community as a whole; and
- 10 (vii) Any other factor that justice may require.
- 11 (d) DEM may refer violations of this chapter to the attorney general for enforcement, and
12 actions may be brought pursuant to this section by the attorney general in the name of the people
13 of the state in any court of competent jurisdiction.
- 14 (e) Any civil penalties collected pursuant to this section shall be paid to the enforcing
15 governmental entity that brought the action.
- 16 (f) The remedies provided by this section are not exclusive and are in addition to the
17 remedies that may be available, pursuant to state consumer protection laws or other consumer
18 protection laws, if applicable.
- 19 (g) In addition to penalties recovered under this section, the enforcing government entity
20 may recover reasonable enforcement costs and attorneys’ fees from the liable covered entity.

21 **23-97-5. Severability.**

22 If any provision of this chapter or the application thereof to any person or circumstances is
23 held invalid, such invalidity shall not affect other provisions or application of the chapter, which
24 can be given effect without the invalid provision or application and to this end the provisions of
25 this chapter are declared to be severable.

26 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- NONWOVEN DISPOSABLE PRODUCTS ACT

1 This act provides needed relief to waste water utilities and their rate payors by establishing
2 a consistent standard for the flushability of wipes and requiring accurate labeling regarding the
3 flushability of their product. It also contains enforcement penalties which may be sought by the
4 enforcing governmental entity.

5 This act would take effect upon passage.

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