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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO WATERS AND NAVIGATION -- NON-FLUSHABLE WIPES

Introduced By: Representatives Vella-Wilkinson, Morales, and Noret

Date Introduced: March 01, 2023

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative findings.

2 The general assembly finds and declares as follows:

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

5 (2) Nonwoven disposable products, commonly known as wipes, are increasingly being
6 flushed down the toilet by consumers. Many of these products are marketed as flushable or safe to
7 flush, leading to consumer confusion as to appropriate disposal methods for all wipes. Many non-
8 flushable wipes including baby wipes, cleaning wipes, and makeup removal wipes are also not
9 clearly labeled as such; therefore, consumers do not know whether to dispose of them in the
10 trashcan rather than the toilet.

11 (3) Nonwoven disposable products often contain microplastics.

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

19 (5) The increased maintenance needed to clean accumulations of flushed nonwoven

1 disposable products are very costly to the public. Utilities nationwide spend up to a billion dollars
2 each year dealing with these problems.

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

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

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

11 (9) Existing labeling of nonwoven disposable products used for personal hygiene is
12 ineffective to educate consumers regarding proper disposal.

13 (10) Public education efforts funded and administered by wastewater treatment agencies
14 have not resulted in significant progress in lessening the problem.

15 (11) Existing regulation by wastewater utilities of commercial and industrial discharges
16 under the National Pretreatment Program to address fats, oil, and grease and healthcare related
17 products, including wipes, have not resulted in progress lessening the problem.

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

23 (13) To prevent nondispersible nonwoven disposable products from entering sewer
24 systems and potentially causing overflows, clogs, and other costly impacts to the sewer system and
25 to prevent negative impacts from harmful microplastics entering the environment through
26 wastewater treatment processes, it is the intent of the legislature to create labeling requirements
27 that will enable consumers to easily identify proper disposal methods for non-flushable wipes.

28 SECTION 2. Title 46 of the General Laws entitled "WATERS AND NAVIGATION" is
29 hereby amended by adding thereto the following chapter:

30 [CHAPTER 33](#)

31 [NON-FLUSHABLE WIPES](#)

32 **46-33-1. Definitions.**

33 [For the purposes of this chapter, the following definitions shall apply:](#)

34 [\(1\) "Covered entity" means the manufacturer of a covered product that is sold in this state](#)

1 or brought into the state for sale. “Covered entity” does not include a wholesaler, supplier, or
2 retailer that is not responsible for the labeling or packaging of a covered product.

3 (2) “Covered product” means a non-flushable nonwoven disposable product manufactured
4 after January 1, 2024 and sold in this state or brought into the state for sale, and that is constructed
5 from nonwoven sheets, including moist toilet tissue or cloth, that is designed, marketed to, or
6 commonly used by the general public for personal hygiene or cleaning purposes, including, but not
7 limited to, diaper wipes, toilet wipes, household cleaning wipes, personal care wipes, and facial
8 wipes. A non-flushable nonwoven disposable wipe excludes any wipe product designed or
9 marketed for cleaning or medicating the anorectal or vaginal areas on the human body and labeled
10 “flushable,” “sewer safe,” “septic safe,” or otherwise indicating that the product is intended for
11 disposal in a toilet including, but not limited to, premoistened toilet tissue.

12 (3) “Department” means the department of environmental management.

13 (4) “Label notice” means the phrase “Do Not Flush” and the size of the label notice shall
14 be one of the following:

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

16 (ii) For covered products regulated pursuant to the Federal Hazardous Substances Act
17 (FHSA) under the jurisdiction of the United States Consumer Product Safety Commission (16 CFR
18 Sec. 1500.121), if the label notice requirements in §46-33-2(a)(1)(i) would result in a type size
19 larger than first aid instructions pursuant to the FHSA, then the type size for the label notice shall
20 be equal to or greater than the type size required for the first aid instructions; or

21 (iii) For covered products required to be registered by the United States Environmental
22 Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec.
23 136 et seq. (1996) (FIFRA), if the label notice requirements would result in a type size on the
24 principal display panel larger than a warning pursuant to FIFRA, then the type size for the label
25 notice shall be equal to or greater than the type size required for the keep out of reach of children
26 statement.

27 (5) “Labeling requirements” means the labeling provisions contained in §46-33-2.

28 (6) “Manufacturer” means any person or entity responsible for the manufacture, packaging,
29 or labeling of a covered product. “Manufacturer” does not include a wholesaler, supplier, or retailer
30 that is not responsible for the manufacture, packaging, or labeling of a covered product.

31 (7) “Principal display panel” means the side of the product package that is most likely to
32 be displayed, presented, or shown under customary conditions of display for retail sale. The term
33 is defined further as follows:

34 (i) In the case of a cylindrical or nearly cylindrical package, the surface area of the principal

1 display panel constitutes forty percent (40%) of the product package as measured by multiplying
2 the height of the container times the circumference; and

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

7 (8) “Symbol” means the “Do Not Flush” symbol, or a gender equivalent thereof, as
8 depicted in INDA/EDANA Code of Practice 2 and published within “Guidelines for Assessing the
9 Flushability of Disposable Nonwoven Products,” Edition 4, May 2018. The symbol shall be sized
10 equal to at least two percent (2%) of the surface area of the principal display panel, except as it
11 relates to §46-33-2(a)(1)(ii)(C)

12 **46-33-2. Labeling requirements.**

13 (a) On and after January 1, 2024, a covered product shall be labeled clearly and
14 conspicuously in adherence with the labeling requirements as follows:

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

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

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

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

23 (B) The symbol, label notice, or the symbol and label notice in combination on the flip lid
24 may be embossed, and in that case are not required to comply with subsection (a)(1)(H) of this
25 section.

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

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

33 (E) In the case of refillable tubs or other rigid packaging intended to dispense individual
34 wipes and be reused by the consumer for such purpose, a covered entity shall place the symbol and

1 label notice on the principal display panel in a prominent location reasonably visible to the user
2 each time a wipe is dispensed.

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

6 (G) A covered entity shall ensure the symbol is not obscured by packaging seams, folds,
7 or other package design elements.

8 (H) Ensure the symbol has sufficiently high contrast with the immediate background of the
9 packaging to render it likely to be read by the ordinary individual under customary conditions of
10 purchase and use. In the case of printed symbol, “high contrast” is defined as follows:

11 (I) Provided with either a light symbol on a dark background or a dark symbol on a light
12 background; and

13 (II) A minimum level or percentage of contrast between the symbol artwork and the
14 background of at least seventy percent (70%). Contrast in percent is determined by:

15 (aa) Contrast = $(B1 - B2) \times 100 / B1$; and

16 (bb) Where B1 = light reflectance value of the lighter area and B2 = light reflectance value
17 of the darker area.

18 (b) Beginning January 1, 2024, no package or box containing a covered product
19 manufactured on or before the effective date of this section shall be offered for distribution or sale
20 in the state, unless the product packaging complies with the labeling requirements in subsection (a)
21 of this section.

22 (c) For covered products sold in bulk at retail, both the package purchased in the store and
23 the individual packages contained within shall comply with the requirements in subsection (a) of
24 this section applicable to the particular packaging types.

25 (d) A covered entity, directly or through any corporation, partnership, subsidiary, division,
26 trade name, or association in connection to the manufacturing, labeling, packaging, advertising,
27 promotion, offering for sale, sale, or distribution of a covered product shall not make any
28 representation in any manner, expressly or by implication, including through the use of a product
29 name, endorsement, depiction, illustration, trademark, or trade name, about the flushable attributes,
30 benefits, performance, or efficacy of a covered product.

31 **46-33-3. Enforcement and compliance.**

32 (a)(1) A city, county or special district that provides wastewater service has concurrent
33 authority with the department to enforce compliance with the requirements of this chapter. Selling,
34 or displaying for sale, a product package that does not comply with the requirements of this chapter

1 is a violation for which the city, county or special district may bring an action to recover a civil
2 penalty in the amounts set forth in this section. Selling, or displaying for sale, multiple units of the
3 same noncompliant product package is part of the same violation.

4 (2) Except as otherwise provided herein, before bringing an action to recover a civil penalty
5 for a violation, a city, county or special district that provides wastewater services shall send to the
6 alleged violator a written notice of violation, dated with the date of mailing, and shall include a
7 copy of the provisions of this chapter.

8 (b) If a covered entity sells or displays for sale a product package that does not comply
9 with the requirements of this chapter after receiving the notice described in subsection (a) of this
10 section, the city, county or special district may bring an action to recover:

11 (1) A civil penalty of not more than two thousand dollars (\$2,000) for a first violation that
12 occurs between ninety (90) days and one hundred twenty (120) days after the date of the notice;

13 (2) An additional civil penalty of not more than five thousand dollars (\$5,000) for a second
14 violation or for a first violation that continues for more than one hundred twenty (120) days after
15 the date of the notice; and

16 (3) An additional civil penalty of not more than ten thousand dollars (\$10,000) for a third
17 and any subsequent violation or for a first violation that continues during any part of each thirty
18 (30) day period that follows the period described in subsection (b)(2) of this section.

19 (c) For the purposes of the notice requirement set forth in subsection (a) of this section, a
20 product package is the same product package, and the city, county or special district need not send
21 a separate notice of violation, if within ninety (90) days after the date of the notice the covered
22 entity changes the product package in a manner that is unrelated to compliance with the
23 requirements of this chapter.

24 (d) If a covered entity has paid a previous penalty for the same violation to another
25 jurisdiction that has enforcement authority under this section, the penalty imposed on the covered
26 entity shall be reduced by the amount of the covered entity's previous payment.

27 (e) A covered entity shall pay any civil penalty imposed under this section to the city,
28 county or special district that brought the action to recover the civil penalty.

29 (f) In addition to the amount of any civil penalty imposed, a city, county or special district
30 may recover reasonable enforcement costs and attorneys' fees.

31 (g) The department has concurrent authority to enforce this chapter and to collect civil
32 penalties for a violation of this chapter, subject to the conditions in this section.

33 (h) A person who violates this section may be enjoined in any court of competent
34 jurisdiction.

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

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

7 (3) In assessing the amount of a civil penalty for a violation of this section, the court shall
8 consider all of the following:

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

10 (ii) The violator's past and present efforts to prevent, abate, or clean up conditions posing
11 a threat to the public health or safety or the environment;

12 (iii) The violator's ability to pay the proposed penalty;

13 (iv) The effect that the proposed penalty would have on the violator and the community as
14 a whole;

15 (v) Whether the violator took good faith measures to comply with this section and when
16 these measures were taken;

17 (vi) The deterrent effect that the imposition of the penalty would have on both the violator
18 and the regulated community as a whole; and

19 (vii) Any other factor that justice may require.

20 (j) The department may refer violations of this section to the attorney general for
21 enforcement, and actions may be brought pursuant to this section by the attorney general in the
22 name of the people of the state in any court of competent jurisdiction.

23 (k) Any civil penalties collected pursuant to this section shall be paid to the enforcing
24 governmental entity that brought the action.

25 (l) The remedies provided by this section are not exclusive and are in addition to the
26 remedies that may be available pursuant to state consumer protection laws or other consumer
27 protection laws, if applicable.

28 (m) In addition to penalties recovered under this section, the enforcing government entity
29 may recover reasonable enforcement costs and attorneys' fees from the liable covered entity.

30 **46-33-4. Severability.**

31 The provisions of this chapter are severable. If any provision of this chapter or its
32 application is held invalid, that invalidity shall not affect other provisions or applications that can
33 be given effect without the invalid provision or application.

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

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LC002045
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO WATERS AND NAVIGATION -- NON-FLUSHABLE WIPES

1 This act would provide for the establishment of labeling requirements to enable consumers
2 to easily identify proper disposal methods for non-flushable wipes. The act would also provide for
3 civil penalties of violations of the labeling requirements.

4 This act would take effect upon passage.

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