

House Bill 4596 (Substitute H-4 as passed by the House)

Sponsor: Representative Denise Mentzer

House Committee: Natural Resources, Environment, Tourism and Outdoor Recreation

Senate Committee: Natural Resources and Agriculture

Date Completed: 2-5-24

## **CONTENT**

**The bill would create a new act to require manufacturers of certain disposable wipes to include an approved label or symbol on product packaging sold or distributed after February 1, 2025, indicating that the product should not be flushed down a toilet. The bill would prescribe civil penalties for not doing so.**

### Definitions

"Covered product" would mean either a premoistened nonwoven disposable wipe marketed as a baby or diapering wipe or a premoistened nonwoven disposable wipe that met both of the following:

- Is composed entirely or in part of petrochemical-derived fibers.
- Is likely to be used in a bathroom and has significant potential to be flushed, including bathroom cleaning wipes, toilet cleaning wipes, hard surfacing cleaning wipes, disinfecting wipes, hand sanitizing wipes, antibacterial wipes, facial and 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.

"Label notice" would mean the phrase "DO NOT FLUSH" in a size equal to at least 2% of the surface area of the principal display panel. "Principal display panel" would mean the side of a product package that is most likely to be displayed, presented, or shown under customary conditions of display for retail sale. The term would include the following:

- In the case of a cylindrical or nearly cylindrical package, the surface area of the principal display panel would constitute 40% of the product package, as measured by multiplying the height of the container by the circumference.
- In the case of 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 would constitute the length times 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.

"Symbol" would mean the "DO NOT FLUSH" symbol as depicted in the INDA/EDANA Code of Practice Second Edition and published in the "Guidelines for Assessing the Flushability of Disposable Nonwoven Products, Edition 4, May 2018".



### Labeling Requirements

Unless otherwise specified, a covered product sold, offered for sale, or distributed for sale in the State would have to include one of the following labels prominently displayed in a

conspicuous location that was reasonably viewable each time a covered product was dispensed:

- If the package were a flexible film package, the symbol would have to be placed on the principal display panel and dispensing side panel and the label notice would have to be placed on the principal display panel or the dispensing side panel, or both.
- If the package were a refillable tub or other rigid packaging intended to be reused, the symbol and label notice would have to be placed on the principal display panel

Additionally, if the package were cylindrical or near cylindrical, the label would have to comply with one of the following options:

- The symbol and label notice would have to be placed on the principal display panel.
- The symbol would have to be placed on the principal display panel and the symbol or label notice, or both, would have to be placed on the flip lid; if placed on the flip lid, the symbol or label notice, or both, would have to cover at least 8% of the surface of the flip lid and could be embossed.

If the packaging were not subject to the requirements described above, the symbol and label notice would have to be placed on the principal display panel.

Labels would have to comply with the following:

- The seams, fold, or other package design elements could not obscure the symbol and label notice.
- The symbol and label notice would have to appear in sharp contrast to the background
- The symbol would have to be sized equal to at least 2% of the surface area of the principal display panel.

Covered products sold, offered for sale, or distributed for sale in the State could not make any representation, including through the use of a product name, endorsement, depiction, illustration, trademark, or trade name, that a covered product was flushable.

The label requirements would apply to covered products that were regulated pursuant to, and to the extent any label requirements did not conflict with, either of the following:

- The Federal Hazardous Substances Act, 15 USC 1261 to 1278.
- The Federal Insecticide, Fungicide, and Rodenticide Act, 7 USC 136 to 136y.

(Generally, the Federal Hazardous Substances Act and the Federal Insecticide, Fungicide, and Rodenticide Act regulate the interstate distribution of hazardous substance packages for household use and the distribution and regulation of pesticides, respectively.)

### Bulk Packaging

If a covered product were sold, offered for sale, or distributed for sale in bulk packaging the label on each individual package of covered products and the outer bulk packaging would have to meet the labeling requirements described above, as applicable. This provision would not apply to either of the following:

- The individual package of covered products contained within the outer bulk packaging that were not intended to dispense individual wipes and contained no retail labeling.
- The outer bulk packaging that did not obscure the symbol and label notice on the individual packages of covered products.

If a covered product were sold, offered for sale, or distributed for sale *in combination with another consumer product*, the outer bulk packaging of the combination product and the outer packaging of the other consumer product would not have to comply with packaging and labeling requirements.

If a bulk combination product were smaller than three inches by three inches, the label on the covered product would be considered compliant with the labeling requirements if the symbol and label notice were placed on the covered product in a conspicuous location that was reasonably viewable.

### Violations and Penalties

A person that violated the bill would be subject to a civil fine as follows:

- For a first violation, a maximum civil fine of \$2,000.
- For a second violation, a maximum civil fine of \$5,000.
- For a third or subsequent violation, a maximum civil fine of \$10,000.

Violations could be prosecuted by the prosecutor of the county in which the violation occurred or by the Attorney General.

### EPA Registration Symbol or Label Approval

By February 1, 2025, if a covered product were required to be registered with the United States Environmental Protection Agency (EPA) or the Michigan Department of Agriculture and Rural Development (MDARD) under the Federal Insecticide, Fungicide, and Rodenticide Act, a manufacturer of a covered product would have to submit a copy of a symbol and label notice that met the labeling requirements to the EPA and MDARD.

If the EPA approved, or partially approved, the symbol and label notice, the manufacturer of the covered product would have to submit a copy of the approved symbol and label notice to MDARD and begin using the approved symbol and label notice or approved portion of the symbol or label. If the EPA or MDARD did not approve the symbol and label notice, the manufacturer of the covered product would have to use the symbol and label notice that was previously approved by the EPA until the EPA approved a new symbol and label notice. A symbol and label notice that was approved or partially approved would have to be in use within six months after the symbol and label notice were approved by the EPA.

Legislative Analyst: Eleni Lionas

### **FISCAL IMPACT**

The bill could have a positive fiscal impact on the State and local units of government. The bill would impose a civil fine of up to \$10,000. Revenue collected from civil fines is used to support local public libraries and county law libraries. Additionally, \$10 of the civil fine would be deposited into the State Justice System Fund. This Fund supports justice-related activities across State government in the Departments of Corrections, Health and Human Services, State Police, and Treasury. The Fund also supports justice-related issues in the Legislative Retirement System and the Judiciary. The amount of revenue to the State or for local libraries is indeterminate and dependent on the actual number of violations.

Fiscal Analyst: Bruce R. Baker  
Joe Carrasco, Jr.

SASIS2324/s4596sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.