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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To direct the Federal Trade Commission to issue regulations requiring certain products to have “Do Not Flush” labeling, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. LOWENTHAL introduced the following bill; which was referred to the Committee on _____

A BILL

To direct the Federal Trade Commission to issue regulations requiring certain products to have “Do Not Flush” labeling, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wastewater Infrastruc-
5 ture Pollution Prevention and Environmental Safety Act”
6 or the “WIPPES Act”.

1 **SEC. 2. “DO NOT FLUSH” LABELING.**

2 (a) IN GENERAL.—Not later than 2 years after the
3 date of the enactment of this section, the Federal Trade
4 Commission, in consultation with the Administrator of the
5 Environmental Protection Agency, shall issue regulations
6 under section 553 of title 5, United States Code, requiring
7 covered entities to label covered products clearly and con-
8 spicuously with “Do Not Flush” label notices and symbols
9 in accordance with this section.

10 (b) REQUIREMENTS.—

11 (1) CYLINDRICAL PACKAGING.—In issuing reg-
12 ulations under subsection (a), the Commission shall
13 require a covered product sold in cylindrical or near-
14 cylindrical packaging, and intended to dispense indi-
15 vidual wipes, to have—

16 (A) the symbol and label notice on the
17 principal display panel in a location reasonably
18 visible to the user each time a wipe is dis-
19 pensed; or

20 (B) the symbol on the principal display
21 panel and the label notice, or a combination of
22 the label notice and symbol, on a flip lid in a
23 manner that covers at least 8 percent of the
24 surface area of the flip lid.

25 (2) FLEXIBLE FILM PACKAGING.—In issuing
26 regulations under subsection (a), the Commission

1 shall require a covered product sold in flexible film
2 packaging, and intended to dispense individual
3 wipes, to have—

4 (A) the symbol on the principal display
5 panel and, if the principal display panel is not
6 on the dispensing side of the packaging, on the
7 dispensing side panel; and

8 (B) the label notice on either the principal
9 display panel or the dispensing side panel, in a
10 prominent location reasonably visible to the
11 user each time a wipe is dispensed.

12 (3) RIGID PACKAGING.—In issuing regulations
13 under subsection (a), the Commission shall require
14 a covered product sold in a refillable tub or other
15 rigid packaging that may be reused by a customer,
16 and intended to dispense individual wipes, to have
17 the symbol and label notice on the principal display
18 panel in a prominent location reasonably visible to
19 the user each time a wipe is dispensed.

20 (4) PACKAGING NOT INTENDED TO DISPENSE
21 INDIVIDUAL WIPES.—In issuing regulations under
22 subsection (a), the Commission shall require a cov-
23 ered product sold in packaging that is not intended
24 to dispense individual wipes to have the symbol and
25 label notice on the principal display panel in a

1 prominent location reasonably visible to the user of
2 the covered product.

3 (5) BULK PACKAGING.—

4 (A) IN GENERAL.—In issuing regulations
5 under subsection (a), the Commission shall re-
6 quire a covered product sold in bulk at retail to
7 have labeling in compliance with such regula-
8 tions on both the outer packaging visible at re-
9 tail and the individual packaging contained
10 within the outer packaging.

11 (B) EXEMPTION.—The Commission shall
12 exempt from the requirements under subpara-
13 graph (A) the following:

14 (i) Individually packaged covered
15 products that are contained within outer
16 packaging, are not intended to dispense in-
17 dividual wipes, and have no retail labeling.

18 (ii) Outer packaging that does not ob-
19 scure the symbol and label notice on indi-
20 vidually packaged covered products con-
21 tained within.

22 (6) PACKAGING OF COMBINED PRODUCTS.—

23 (A) OUTER PACKAGING.—In issuing regu-
24 lations under subsection (a), the Commission
25 shall exempt the outer packaging of a combined

1 product from the requirements of such regula-
2 tions.

3 (B) PACKAGES LESS THAN 3 BY 3
4 INCHES.—In issuing regulations under sub-
5 section (a), the Commission shall provide that,
6 with respect to a covered product in packaging
7 smaller than 3 inches by 3 inches (such as an
8 individually packaged wipe in tear-top pack-
9 aging) and sold as part of a combined product,
10 if a symbol and label notice are placed in a
11 prominent location reasonably visible to the
12 user of the covered product, such covered prod-
13 uct is considered to be labeled clearly and con-
14 spicuously in accordance with such regulations.

15 (c) REASONABLE VISIBILITY OF SYMBOL AND LABEL
16 NOTICE.—

17 (1) IN GENERAL.—In requiring the symbol and
18 label notice under this section, the Commission shall
19 require that—

20 (A) packaging seams or folds or other
21 packaging design elements do not obscure the
22 symbol or label notice;

23 (B) the symbol and label notice are each
24 equal in size to at least 2 percent of the surface
25 area of the principal display panel; and

1 (C) the symbol and label notice have high
2 contrast with the immediate background of the
3 packaging so that such symbol and label notice
4 may be seen and read by an ordinary individual
5 under customary conditions of purchase and
6 use.

7 (2) PROXIMITY OF SYMBOL AND LABEL NO-
8 TICE.—In requiring the symbol and label notice
9 under this section, the Commission may allow a
10 symbol and label notice on a principal display panel
11 to be placed adjacently or on separate areas of the
12 principal display panel.

13 (3) EXCEPTION.—Paragraph (1)(C) does not
14 apply to an embossed symbol or label notice on the
15 flip lid of a covered product sold in cylindrical or
16 near-cylindrical packaging.

17 (d) ADDITIONAL WORDS OR PHRASES.—In issuing
18 regulations under subsection (a), the Commission shall
19 allow additional words or phrases on a covered product
20 that describe consequences associated with flushing or dis-
21 posing of such covered product, if such words or phrases
22 are consistent with the purposes of this section.

23 (e) REPRESENTATIONS OF FLUSHABILITY.—In
24 issuing regulations under subsection (a), the Commission
25 shall prohibit, with respect to a covered product, the rep-

1 resentation or marketing of flushable attributes, perform-
2 ance, or efficacy benefits.

3 (f) COMPLIANCE WITH OTHER REQUIREMENTS.—

4 (1) FIFRA REQUIREMENTS.—

5 (A) IN GENERAL.—Not later than 2 years
6 after the date of the enactment of this Act, the
7 Commission and the Administrator of the Envi-
8 ronmental Protection Agency, acting jointly,
9 shall issue regulations that, with respect to a
10 covered product that contains a pesticide re-
11 quired to be registered under the Federal Insec-
12 ticide, Fungicide, and Rodenticide Act (7
13 U.S.C. 136 et seq.), include the following:

14 (i) Instructions describing how such a
15 covered product may comply with the re-
16 quirements of such Act and the regulations
17 issued under subsection (a).

18 (ii) A requirement that, not later than
19 90 days after the date on which regula-
20 tions are issued under this subparagraph,
21 a covered entity shall submit for approval
22 by the Administrator of the Environmental
23 Protection Agency a product label compli-
24 ant with such instructions.

1 (B) ENFORCEMENT.—For purposes of sub-
2 section (h), a violation of a regulation issued
3 under subparagraph (A) shall be treated as a
4 violation of a regulation issued under subsection
5 (a).

6 (2) TYPE SIZE EXCEPTION.—If the label notice
7 type size otherwise required by the regulations
8 issued under subsection (a) for a covered product
9 would conflict with a labeling requirement under the
10 Federal Insecticide, Fungicide, and Rodenticide Act
11 (7 U.S.C. 136 et seq.) or the Federal Hazardous
12 Substances Act (15 U.S.C. 1261 et seq.), the Com-
13 mission may, in issuing such regulations, provide for
14 a label notice type size requirement for the covered
15 product under this section that—

16 (A) in the case of a covered product re-
17 quired to display a warning pursuant to the
18 Federal Insecticide, Fungicide, and Rodenticide
19 Act regarding a pesticide in such covered prod-
20 uct, requires a type size for the label notice
21 under this paragraph that is equal to or greater
22 than the type size required for the “keep out of
23 reach of children” statement under such Act;
24 and

1 (B) in the case of a covered product re-
2 quired to contain first aid instructions pursuant
3 to the Federal Hazardous Substances Act, re-
4 quires a type size for the label notice under this
5 paragraph that is equal to or greater than the
6 type size required for such first aid instruc-
7 tions.

8 (g) APPLICABILITY.—The Commission shall provide
9 that the regulations issued under subsection (a) apply with
10 respect to covered products manufactured on or after the
11 date that is 90 days after the date on which such regula-
12 tions are issued.

13 (h) ENFORCEMENT BY FEDERAL TRADE COMMIS-
14 SION.—

15 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
16 TICES.—A violation of a regulation promulgated
17 under subsection (a) shall be treated as a violation
18 of a regulation under section 18(a)(1)(B) of the
19 Federal Trade Commission Act (15 U.S.C.
20 57a(a)(1)(B)) regarding unfair or deceptive acts or
21 practices.

22 (2) POWERS OF COMMISSION.—Except as pro-
23 vided in paragraph (3), the Commission shall en-
24 force the regulations promulgated under subsection
25 (a) in the same manner, by the same means, and

1 with the same jurisdiction, powers, and duties as
2 though all applicable terms and provisions of the
3 Federal Trade Commission Act (15 U.S.C. 41 et
4 seq.) were incorporated into and made a part of this
5 section, and any person who violates such a regula-
6 tion shall be subject to the penalties and entitled to
7 the privileges and immunities provided in the Fed-
8 eral Trade Commission Act.

9 (3) PENALTY AMOUNTS.—Notwithstanding sec-
10 tion 5 of the Federal Trade Commission Act (15
11 U.S.C. 45), any civil penalties imposed under such
12 section with respect to a violation of a regulation
13 promulgated under subsection (a) of this section
14 shall be in accordance with the following:

15 (A) A fine of not more than \$2,500 for
16 each day that a violation occurs.

17 (B) In no event may the total amount of
18 fines imposed for a single violation exceed
19 \$100,000.

20 (i) PUBLIC OUTREACH CAMPAIGN.—

21 (1) IN GENERAL.—Not later than the date that
22 is 6 months after the date on which regulations are
23 issued under subsection (a), the Commission shall
24 provide guidance for covered entities to conduct pub-
25 lic outreach campaigns, individually or as a part of

1 a group of covered entities, to educate consumers
2 with respect to the label notice.

3 (2) CAMPAIGN OBJECTIVES.—A public outreach
4 campaign shall provide consumers with information
5 on the following:

6 (A) The presence of the label notice on
7 covered products.

8 (B) Covered products that carry the label
9 notice.

10 (C) The intended effects of the label notice
11 on consumer behavior with respect to the dis-
12 posal of covered products.

13 (D) The adverse impacts that covered
14 products have on sewer and wastewater infra-
15 structure when improperly disposed of.

16 (3) MATERIALS.—Informational materials and
17 consumer communications associated with a public
18 outreach campaign shall be limited to information
19 relating to covered products.

20 (4) LIMITATION.—A public outreach campaign
21 may not promote, advocate, or depict wipes other
22 than covered products as covered products.

23 (5) TIMELINE; REPORTS.—In carrying out
24 paragraph (1), the Commission shall include guid-

1 ance providing for covered entities conducting public
2 outreach campaigns—

3 (A) to carry out the public outreach cam-
4 paign for a period of at least 5 years beginning
5 on the date on which such guidance is made
6 available; and

7 (B) to submit reports to the Commission
8 biannually detailing the efficacy of the public
9 outreach campaign with respect to consumer
10 behavior.

11 (6) PUBLIC AVAILABILITY OF REPORTS.—The
12 Commission shall make each report submitted under
13 paragraph (5)(B) publicly available on a website of
14 the Commission.

15 (j) DEFINITIONS.—In this section:

16 (1) COMBINED PRODUCT.—The term “com-
17 bined product” means two or more products sold in
18 shared retail packaging, of which—

19 (A) at least one of the products is a cov-
20 ered product; and

21 (B) at least one of the products is another
22 consumer product intended to be used in com-
23 bination with such covered product.

24 (2) COMMISSION.—The term “Commission”
25 means the Federal Trade Commission.

1 (3) COVERED ENTITY.—The term “covered en-
2 tity” means a manufacturer, wholesaler, supplier, or
3 retailer that is responsible for the labeling or retail
4 packaging of a covered product that is sold or of-
5 fered for sale in the United States.

6 (4) COVERED PRODUCT.—

7 (A) IN GENERAL.—The term “covered
8 product” means a premoistened, nonwoven dis-
9 posable wipe sold or offered for sale—

10 (i) that is marketed as a baby wipe or
11 diapering wipe; or

12 (ii) that—

13 (I) is composed entirely, or in
14 part, of petrochemical-derived fibers;
15 and

16 (II) has significant potential to
17 be flushed.

18 (B) INCLUSIONS.—The term “covered
19 product” includes—

20 (i) antibacterial wipes and disinfecting
21 wipes;

22 (ii) wipes intended for general purpose
23 cleaning or bathroom cleaning, including
24 toilet cleaning and hard surface cleaning;
25 and

1 (iii) wipes intended for personal care
2 use on the body, including hand sanitizing,
3 makeup removal, feminine hygiene, adult
4 hygiene (including incontinence hygiene),
5 and body cleansing.

6 (5) HIGH CONTRAST.—The term “high con-
7 trast” means, with respect to the symbol or label no-
8 tice, that such symbol or label notice—

9 (A) is either light on a solid dark back-
10 ground or dark on a solid light background; and

11 (B) has a contrast percentage of at least
12 70 percent between such symbol or label notice
13 and the background, using the formula $(B1 -$
14 $B2) / B1 * 100 =$ contrast percentage, where
15 B1 is the light reflectance value of the lighter
16 area and B2 is the light reflectance value of the
17 darker area.

18 (6) LABEL NOTICE.—The term “label notice”
19 means the written phrase “Do Not Flush”.

20 (7) PRINCIPAL DISPLAY PANEL.—The term
21 “principal display panel” means the side of a prod-
22 uct package that is most likely to be displayed, pre-
23 sented, or shown under customary conditions of dis-
24 play for retail sale, and—

1 (A) in the case of a cylindrical or near-cy-
2 lindrical package, the surface area of which
3 constitutes at least 40 percent of the product
4 package, as measured by multiplying the height
5 by the circumference of the package; or

6 (B) in the case of a flexible film package
7 in which a rectangular prism or near-rectan-
8 gular prism stack of wipes is housed within the
9 film, the surface area of which is measured by
10 multiplying the length by the width of the side
11 of the package when the flexible packaging film
12 is pressed flat against the stack of wipes on all
13 sides of the stack.

14 (8) PUBLIC OUTREACH CAMPAIGN.—The term
15 “public outreach campaign” means a public outreach
16 campaign as described in subsection (i)(1).

17 (9) SYMBOL.—The term “symbol” means the
18 “Do Not Flush” symbol, as depicted in the Guide-
19 lines for Assessing the Flushability of Disposable
20 Nonwoven Products (Edition 4; May 2018) pub-
21 lished by the Association of the Nonwoven Fabrics
22 Industry (INDA) and the European Disposables
23 And Nonwovens Association (EDANA), or an other-
24 wise identical symbol depicting an individual of an-
25 other gender.