

CHAPTER 280

AN ACT concerning certain personal products and supplementing Title 56 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.56:3-50 Definitions.

1. As used in this act:

"Covered entity" means (1) the manufacturer of a covered product that is sold or offered for sale in this State; and (2) a wholesaler, supplier, or retailer that is responsible for the labeling or packaging of a covered product.

"Covered product" means a consumer product sold or offered for sale in this State that is (1) a premoistened nonwoven disposable wipe marketed as a baby wipe or diapering wipe; or (2) a premoistened nonwoven disposable wipe that contains petrochemical-derived fibers that is likely to be used in a bathroom, including baby wipes, bathroom cleaning wipes, toilet cleaning wipes, hard surface 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.

"Do Not Flush labeling" means product packaging that includes a "Do Not Flush" symbol and label notice in accordance with subsection b. of section 2 of P.L.2023, c.280 (C.56:3-51).

"High contrast" means a light symbol on a solid dark background or a dark symbol on a solid light background and having at least 70 percent contrast between the symbol artwork and background using the formula $[(B1 - B2) / B1] * 100$, where B1 is the light reflectance value of the light background, and B2 is the light reflectance value of the dark background or symbol.

"Label" means to represent by statement, word, picture, design, or emblem on a covered product package.

"Label notice" means the phrase "Do Not Flush" in a size equal to at least two percent of the surface area of the principal display panel, except as otherwise specified in subsection b. of section 2 of P.L.2023, c.280 (C.56:3-51); provided, however, for covered products regulated pursuant to the Federal Hazardous Substances Act (15 U.S.C. s.1261 et seq.) by the United States Consumer Product Safety Commission under 16 CFR s.100.121, if the label notice requirements in this paragraph would result in a type size larger than first aid instructions under the Federal Hazardous Substances Act, then the type size for the label notice shall, to the extent permitted by federal law, be equal to or greater than the type size required for first aid instructions; and for a covered product required to be registered by the United States Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. s.136 et seq.) if the label notice requirements in this paragraph would result in a type size on the principal display panel larger than a warning pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, then the type size for the label notice shall, to the extent permitted by federal law, be equal to or greater than the type size required for a child hazard warning required by the Environmental Protection Agency.

"Non-flushable disposable wipe product" means (1) a pre-moistened nonwoven disposable wipe marketed as a baby wipe or diapering wipe; or (2) a pre-moistened nonwoven disposable wipe that is composed partly or entirely of petrochemical-derived fibers which may reasonably be used in a bathroom and shall include, but not be limited to, baby wipes, bathroom cleaning wipes, toilet cleaning wipes, hard surface cleaning wipes, disinfecting wipes, hand sanitizing and other 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.

"Principal display panel" means the side of the product package that is most likely to be displayed, presented, or shown under customary conditions of display for retail sale; provided, however, for a cylindrical or nearly cylindrical package, the surface area of the principal display panel shall constitute 40 percent of the product package as measured by multiplying the height of the container by the circumference; and for 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 shall be measured by multiplying the length and 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.

"Product packaging" means the disposable outer material such as cardboard, film plastic, rigid plastic tub or canister, or paper that contains the unit of product as intended for sale at retail.

"Symbol" means a "Do Not Flush" symbol, or its gender equivalent, as depicted in the INDA/EDANA Code of Practice, Second Edition, as published in "Guidelines for Assessing the Flushability of Disposable Nonwoven Products," Edition 4, May 2018, in a size equal to at least two percent of the surface area of the principal display panel, except as otherwise specified in section 2 of P.L.2023, c.280 (C.56:3-51).

C.56:3-51 Non-flushable disposable wipe product, packaging display, Do Not Flush symbol.

2. a. A covered entity shall not sell, offer for sale, or distribute for sale a non-flushable disposable wipe product unless the product packaging displays the Do Not Flush symbol and label notice required pursuant to the provisions of this section.

b. Any non-flushable disposable wipe product sold, offered for sale, or distributed for sale in this State shall have a "Do Not Flush" symbol and label notice or its equivalent. A covered product manufactured after the effective date of this act shall be clearly and conspicuously labeled with a symbol and label notice. Except as otherwise provided in this section, both the symbol and label notice, respectively, shall be sized equal to at least two percent of the surface area of the principal display panel in accordance with the following requirements:

(1) for cylindrical or nearly cylindrical packaging intended to dispense individual wipes, a covered entity shall:

(a) place the symbol and label notice on the principal display panel in a location that is reasonably viewable each time a wipe is dispensed; or

(b) place the symbol on the principal display panel and either the symbol or label notice, or the symbol and label notice in combination, on the flip lid subject to the following requirements:

(i) if the label notice does not appear on the flip lid, the label notice must be placed on the principal display panel;

(ii) the symbol or label notice, or the symbol and label notice in combination, on the flip lid may be embossed, in which case the symbol or label notice, or the symbol and label notice in combination, do not need to comply with the requirements set forth in paragraph (6) of this subsection; and

(iii) the symbol or label notice, or the symbol and label notice in combination, on the flip lid shall cover a minimum of eight percent of the surface area of the flip lid;

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

(3) for refillable tubs or other rigid packaging intended to dispense individual wipes and be reused by the consumer for that purpose, a covered entity shall place the symbol and label

notice on the principal display panel in a prominent location reasonably visible to the user each time a wipe is dispensed;

(4) for packaging not intended to dispense individual wipes, a covered entity shall place the symbol and label notice on the principal display panel in a prominent and reasonably visible location;

(5) a covered entity shall ensure that the packaging seams, folds, or other package design elements do not obscure the symbol and the label notice;

(6) a covered entity shall ensure that the symbol and the label notice have sufficiently high contrast with the immediate background of the packaging to render the symbol and label notice reasonably likely to be seen and read by the ordinary individual under customary conditions of purchase and use;

(7) for covered products sold in bulk at retail, both the outer package visible at retail and the individual packages contained within shall comply with the labeling requirements set forth in this subsection that apply to the particular packaging types, except the following:

(a) individual packages contained within the outer package that are not intended to dispense individual wipes and contain no retail labeling; and

(b) outer packages that do not obscure the symbol and label notice on individual packages contained within;

(8) if a covered product is provided within the same packaging as another consumer product for use in combination with the other consumer product, the outside retail packaging of the other consumer product does not need to comply with the labeling requirements of this subsection;

(9) if a covered product is provided within the same package as another consumer product for use in combination with the other product and is in a package smaller than three inches by three inches, the covered entity of the covered product may comply with the requirements of this subsection by placing the symbol and label notice in a prominent location reasonably likely to be seen and read by the ordinary individual under customary conditions;

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

(11) if a covered product is required to be registered by the United States Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. s.136 et seq.) and the New Jersey Department of Agriculture under State law, then the covered entity shall submit a label compliant with the labeling requirements of this subsection no later than January 1, 2024, to the United States Environmental Protection Agency. If the United States Environmental Protection Agency or the New Jersey Department of Agriculture does not approve a product label that otherwise complies with the labeling requirements of this subsection, the covered entity shall use a label that complies with as many of the requirements of this subsection as the relevant agency has approved; and

(12) a covered entity may include on a covered product words or phrases in addition to those required for the label notice if the words or phrases are consistent with the purposes of this act.

c. The Division of Consumer Affairs in the Department of Law and Public Safety shall enforce the provisions of this section.

d. Nothing in this section shall apply to non-flushable disposable wipe products that are sold, offered for sale, or distributed by a retailer or wholesaler that does not package or label the non-flushable disposable wipe products.

C.56:3-52 Violations, penalties.

3. A covered entity who violates this act shall be subject to a civil penalty of up to \$5,000 for each offense, to be collected in a civil action by summary proceeding pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a continuing nature, each day during which a non-flushable disposable wipe product is sold, offered for sale, or distributed in violation of P.L.2023, c.280 (C.56:3-50 et seq.) shall constitute a separate offense. The Superior Court and the municipal court, as appropriate, shall have jurisdiction to enforce the provisions of the “Penalty Enforcement Law of 1999.”

4. The Division of Consumer Affairs in the Department of Law and Public Safety may adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement this act.

5. This act shall take effect two years after the date of enactment, but the Division of Consumer Affairs in the Department of Law and Public Safety may take any anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 16, 2024.