

House Bill 2344

Sponsored by Representatives WILDE, REARDON, Senator DEMBROW (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires persons that have responsibility for or control over packaging and labeling disposable cleaning cloths or similar implements with specified characteristics to comply with certain labeling requirements for product packaging.

Punishes failure to comply with or violation of Act as unlawful trade practice under Unlawful Trade Practices Act.

Becomes operative July 1, 2022.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to labeling requirements for wipes; creating new provisions; amending ORS 646.607; and
3 prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) As used in this section:**

6 (a) **“Covered entity” means:**

7 (A) **The manufacturer of a covered product that is sold or offered for sale in this state;**
8 **and**

9 (B) **A wholesaler, supplier or retailer that is responsible for labeling or packaging a cov-**
10 **ered product.**

11 (b) **“Covered product” means a consumer product that is sold or offered for sale in this**
12 **state and that is:**

13 (A) **A premoistened nonwoven disposable wipe marketed as a baby wipe or diapering wipe;**
14 **or**

15 (B) **A premoistened nonwoven disposable wipe that is:**

16 (i) **Composed partly or entirely of petrochemical-derived fibers; and**

17 (ii) **Likely to be used in or near a bathroom and has significant potential to be flushed,**
18 **including baby wipes, bathroom cleaning wipes, toilet cleaning wipes, hard surface cleaning**
19 **wipes, disinfecting wipes, hand sanitizing wipes, antibacterial wipes, facial and makeup re-**
20 **moval wipes, general purpose cleaning wipes, personal care wipes for use on the body, femi-**
21 **nine hygiene wipes, adult incontinence wipes, adult hygiene wipes and body cleansing wipes.**

22 (c) **“High contrast” means:**

23 (A) **Provided by either a light symbol on a solid dark background or a dark symbol on a**
24 **solid light background; and**

25 (B) **Having at least 70 percent contrast between the symbol artwork and background us-**
26 **ing the formula $[(B1 - B2) / B1] * 100$, where B1 is the light reflectance value of the relatively**
27 **lighter area and B2 is the light reflectance value of the relatively darker area.**

28 (d) **“Label notice” means the phrase “Do Not Flush” displayed at a size that is equal to**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 at least two percent of the surface area of the principal display panel and with a type size
 2 that is equal to or greater than:

3 (A) The type size specified for first aid instructions under the Federal Hazardous Sub-
 4 stances Act, 15 U.S.C. 1261 et seq., and regulations of the United States Consumer Product
 5 Safety Commission in 16 C.F.R. 1500.121 for covered products that are regulated under that
 6 Act and by the commission; and

7 (B) The type size specified for the “Keep out of reach of children” warning under the
 8 Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 et seq., for covered products
 9 that are required to be registered by the United States Environmental Protection Agency
 10 under that Act.

11 (e) “Principal display panel” means the side of the product package that is most likely
 12 to be displayed, presented or shown under customary conditions of display for retail sale and
 13 that:

14 (A) For a cylindrical or nearly cylindrical product package, constitutes 40 percent of the
 15 product package, as measured by multiplying the height of the container by the circumfer-
 16 ence; or

17 (B) For a flexible film package in which a rectangular or nearly rectangular prism stack
 18 of wipes is housed within the film, the surface area of the principal display panel is measured
 19 by multiplying the length by the width of the side of the package when the flexible packaging
 20 film is pressed flat against the stack of wipes on all sides of the stack.

21 (f) “Symbol” means the “Do Not Flush” symbol or its equivalent, as depicted in the
 22 INDA/EDANA Code of Practice, Second Edition, and published within “Guidelines for As-
 23 sessing the Flushability of Disposable Nonwoven Products,” as in effect on the effective date
 24 of this 2021 Act. The symbol must be sized equal to at least two percent of the surface area
 25 of the principal display panel, except as specified in subsection (2)(a)(B)(iii) of this section.

26 (2) Except as otherwise provided in this section, a covered product that is manufactured
 27 after July 1, 2022 must be labeled clearly and conspicuously in accordance with the following
 28 requirements:

29 (a) For cylindrical or nearly cylindrical packaging intended to dispense individual wipes,
 30 a covered entity shall:

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

33 (B) Place the symbol on the principal display panel and either the symbol or label notice,
 34 or the symbol and label notice in combination, on the flip lid subject to the following re-
 35 quirements:

36 (i) If the label notice does not appear on the flip lid, the label notice must be placed on
 37 the principal display panel.

38 (ii) The symbol or label notice or the symbol and label notice in combination on the flip
 39 lid may be embossed, in which case the symbol or label notice or the symbol and label notice
 40 in combination do not need to comply with the requirement set forth in paragraph (f) of this
 41 subsection.

42 (iii) The symbol or label notice, or the symbol and label notice in combination, on the flip
 43 lid must cover a minimum of eight percent of the surface area of the flip lid.

44 (b) For flexible film packaging intended to dispense individual wipes, a covered entity
 45 shall place the symbol on the principal display panel and dispensing side panel and place the

1 label notice on either the principal display panel or dispensing side panel in a prominent lo-
2 cation reasonably visible to the user each time a wipe is dispensed. If the principal display
3 panel is on the dispensing side of the package, two symbols are not required.

4 (c) For refillable tubs or other rigid packaging intended to dispense individual wipes and
5 be reused by the consumer for that purpose, a covered entity shall place the symbol and label
6 notice on the principal display panel in a prominent location reasonably visible to the user
7 each time a wipe is dispensed.

8 (d) For packaging not intended to dispense individual wipes, a covered entity shall place
9 the symbol and label notice on the principal display panel in a prominent and reasonably
10 visible location.

11 (e) A covered entity shall ensure that the packaging seams, folds or other package design
12 elements do not obscure the symbol or the label notice.

13 (f) A covered entity shall ensure that the symbol and the label notice have sufficiently
14 high contrast with the immediate background of the packaging to render them more likely
15 to be seen and read by the ordinary individual under customary conditions of purchase and
16 use.

17 (3) For covered products sold in bulk at retail, both the outer package visible at retail
18 and the individual packages contained within must comply with the labeling requirements set
19 forth in subsection (2) of this section that apply to the particular packaging types, except the
20 following:

21 (a) Individual packages contained within the outer package that are not intended to dis-
22 pense individual wipes and contain no retail labeling; and

23 (b) Outer packages that do not obscure the symbol and label notice on individual pack-
24 ages contained within.

25 (4) If a covered product is provided within the same packaging as another consumer
26 product for use in combination with the other product, the outside retail packaging of the
27 other consumer product does not need to comply with the labeling requirements of sub-
28 section (2) of this section.

29 (5) If a covered product is provided within the same packaging as another consumer
30 product for use in combination with the other product and is in a package smaller than three
31 inches by three inches, the covered entity may comply with the requirements of subsection
32 (2) of this section by placing the symbol and label notice in a prominent location reasonably
33 visible to the user of the covered product.

34 (6) A covered entity, directly or through a corporation, partnership, subsidiary, division,
35 trade name or association in connection to the manufacturing, labeling, packaging, adver-
36 tising, promotion, offering for sale, sale or distribution of a covered product, may not make
37 any representation, in any manner, expressly or by implication, including through the use
38 of a product name, endorsement, depiction, illustration, trademark or trade name, about the
39 flushable attributes, flushable benefits, flushable performance or flushable efficacy of a cov-
40 ered product.

41 (7) If a covered product is required to be registered by the United States Environmental
42 Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C.
43 136 et seq., or the State Department of Agriculture under ORS chapter 634, the covered en-
44 tity shall submit a label compliant with the labeling requirements of subsection (2) of this
45 section no later than January 1, 2022, to the United States Environmental Protection Agency

1 **and, upon its approval, to the State Department of Agriculture.**

2 **(8) If the United States Environmental Protection Agency or the State Department of**
 3 **Agriculture does not approve a product label that otherwise complies with the labeling re-**
 4 **quirements of subsection (2) of this section, the covered entity shall use a label with as many**
 5 **of the requirements of this section as the agency or the department has approved.**

6 **(9) Covered products manufactured six months or more after a particular label has been**
 7 **approved by the State Department of Agriculture shall implement the approved label to**
 8 **comply with subsection (2) of this section.**

9 **(10) A covered entity may include on a covered product words or phrases in addition to**
 10 **those required for the label notice if the words or phrases are consistent with purposes of**
 11 **this section.**

12 **(11) Except as expressly authorized by state law, this section supersedes and preempts**
 13 **any ordinance or other regulation enacted before, on or after the effective date of this 2021**
 14 **Act by the governing body of a city, county or other political subdivision of this state that**
 15 **governs labeling requirements for covered products.**

16 **(12) A covered entity that fails to comply with or violates a provision of this section en-**
 17 **gages in an unlawful trade practice under ORS 646.607.**

18 **SECTION 2.** ORS 646.607 is amended to read:

19 646.607. A person engages in an unlawful trade practice if in the course of the person's business,
 20 vocation or occupation the person:

21 (1) Employs any unconscionable tactic in connection with selling, renting or disposing of real
 22 estate, goods or services, or collecting or enforcing an obligation.

23 (2) Fails to deliver all or any portion of real estate, goods or services as promised, and at a
 24 customer's request, fails to refund money that the customer gave to the person to purchase the
 25 undelivered real estate, goods or services and that the person does not retain pursuant to any right,
 26 claim or defense the person may assert in good faith. This subsection does not create a warranty
 27 obligation and does not apply to a dispute over the quality of real estate, goods or services delivered
 28 to a customer.

29 (3) Violates ORS 401.965 (2).

30 (4) Violates a provision of ORS 646A.725 to 646A.750.

31 (5) Violates ORS 646A.530.

32 (6) Employs a collection practice that is unlawful under ORS 646.639.

33 (7) Is a beneficiary that violates ORS 86.726 (1)(a) or (2), 86.729 (4) or 86.732 (1) or (2).

34 (8) Violates ORS 646A.093.

35 (9) Violates a provision of ORS 646A.600 to 646A.628.

36 (10) Violates ORS 646A.808 (2).

37 (11) Violates ORS 336.184.

38 (12) Publishes on a website related to the person's business, or in a consumer agreement related
 39 to a consumer transaction, a statement or representation of fact in which the person asserts that
 40 the person, in a particular manner or for particular purposes, will use, disclose, collect, maintain,
 41 delete or dispose of information that the person requests, requires or receives from a consumer and
 42 the person uses, discloses, collects, maintains, deletes or disposes of the information in a manner
 43 that is materially inconsistent with the person's statement or representation.

44 (13) Violates ORS 646A.813 (2).

45 **(14) Fails to comply with or violates a provision of section 1 of this 2021 Act.**

1 **SECTION 3.** Section 1 of this 2021 Act and the amendments to ORS 646.607 by section 2
2 of this 2021 Act become operative on July 1, 2022.

3 **SECTION 4.** This 2021 Act takes effect on the 91st day after the date on which the 2021
4 regular session of the Eighty-first Legislative Assembly adjourns sine die.

5
