

Legislative Analysis



PACKAGING OF CERTAIN DISPOSABLE WIPES

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http://www.house.mi.gov/hfa

House Bill 4596 (H-4) as reported from committee

Sponsor: Rep. Denise Mentzer

Committee: Natural Resources

Revised 1-9-24

Analysis available at
http://www.legislature.mi.gov

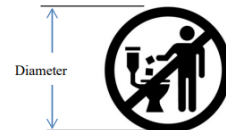
BRIEF SUMMARY:

House Bill 4596 would create a new act to require manufacturers of certain premoistened disposable wipes to include a *symbol* and a *label notice* on new products that indicate that the product should not be flushed down a toilet. These requirements would apply to *covered products* sold, offered for sale, or distributed in Michigan on and after February 1, 2025.

A *covered product* would mean one of the following:

- A premoistened nonwoven disposable wipe marketed as a baby or diapering wipe.
- A premoistened nonwoven disposable wipe that meets both of the following:
 - It is composed entirely or in part of petrochemical-derived fibers.
 - It 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.

Symbol would mean the “DO NOT FLUSH” symbol (pictured at right) 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](#).



'Do Not Flush' symbol

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. Principal display panel would include the following:

- In the case of a cylindrical or nearly cylindrical package, the surface area of the principal display panel constitutes 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 constitutes 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.

Beginning February 1, 2025, covered products sold, offered for sale, or distributed for sale in Michigan would have to include one of the following labels prominently displayed in a conspicuous location that is reasonably viewable each time a covered product is dispensed:

- For a package that is cylindrical or near cylindrical, placement of the symbol and label notice would have to be in one of the following configurations:
 - Both are placed on the principal display panel.
 - The symbol is placed on the principal display panel and the symbol or notice, or both, on the flip lid. A symbol or notice, or both, placed on the flip lid would have to cover at least 8% of the surface of the flip lid and could be embossed.
- If the package is a flexible film package, the symbol would have to be placed on the principal display panel and dispensing side panel. The label notice would have to be placed on the principal display panel or the dispensing side panel, or both.
- If the package is 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.
- If the packaging does not meet one of the above classifications, the symbol and label notice would have to be placed on the principal display panel.

If a covered product is sold, offered for sale, or distributed for sale in bulk packaging, both the label on each individual package of covered products and the outer bulk packaging would have to meet the label placement requirements. However, this would not apply to the individual package of covered products contained within the outer bulk packaging that are not intended to dispense individual wipes and contain no retail labeling, nor would it apply to the outer bulk packaging that does not obscure the symbol and notice on the individual packages of covered products.

The labels described in the above two paragraphs would also have to comply with all the following requirements:

- 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 to be equal to at least 2% of the surface area of the principal display panel.

If a covered product is sold, offered for sale, or distributed for sale in combination with another consumer product, the outer bulk packaging of the covered product and the outer packaging of the other consumer product would not have to comply with the bulk packaging label placement requirements above. However, if a covered product is sold, offered for sale, or distributed for sale in combination with another consumer product and the packaging of the combination product is smaller than three inches by three inches, the label on the covered product would be considered in compliance with the label placement requirements if the symbol and label notice are placed on the covered product in a conspicuous location that is reasonably viewable.

The bill also would prohibit covered products from making any representation that a covered product is flushable, including the use of a product name, endorsement, depiction, illustration, trademark, or trade name.

The product labeling and symbol placement requirements described above would apply to covered products that are regulated pursuant to, and to the extent any label requirements do not

conflict with, either the Federal Hazardous Substances Act or the Federal Insecticide, Fungicide, and Rodenticide Act.

A person violating provisions regarding product labeling and symbol placement would be guilty of a civil fine as follows:

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

A violation could be prosecuted by the prosecutor of the county in which the violation occurred or by the attorney general.

Finally, not later than February 1, 2025, if a covered product is 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,¹ its manufacturer would have to submit to the EPA and to the department a copy of a symbol and label notice that meet the packaging requirements described above (except those for a covered product sold with another consumer product). If the EPA approves or partially approves the symbol and label notice, the manufacturer would have to send a copy of the approved symbol and label notice to MDARD and begin using the symbol and label notice (or portion of it) approved by the EPA. If the EPA or MDARD does not approve the symbol and label notice, the manufacturer would have to use the symbol and label notice that were previously approved by the EPA until the EPA approves new ones. Symbols and label notices that are approved or partially approved as described above would have to be in use within six months after the EPA approval. (Note that these provisions contain requirements that must be met on or before February 1, 2025. It is not clear whether they would apply, for example, to covered products introduced after that date.)

BRIEF DISCUSSION:

Sanitary wipes have become a popular alternative to toilet paper, but their use is causing issues for sewer systems, as the wipes, despite some being advertised as “flushable,” do not break down similarly to toilet paper. These products have overloaded sewer systems and led to expensive repairs to remove clogs in the pipes of municipal sewer systems.² The costs associated with removal of these wipes can run into the tens of millions of dollars, which has led to a push to prohibit manufacturers from advertising sanitary wipes as flushable in the hope that fewer individuals will dispose of them into sewer systems.

Several other states have instituted similar prohibitions on advertising certain types of wipes as “flushable,” requiring icons for use on packaging that are the same as, or similar to, those HB 4596 proposes. While concerns were raised in committee about the cost of implementing the bill’s provisions and those costs being passed on to consumers, an industry representative testified in support of the bill, citing national requirements that are in the works to address this issue and the bill’s being in alignment with those proposed regulations.

¹ <https://uscode.house.gov/view.xhtml?path=/prelim@title7/chapter6&edition=prelim>

² <https://www.freep.com/story/news/local/michigan/macomb/2017/04/16/flushable-wipes-sewer-sinkhole-fraser-candice-miller/100368830/>

FISCAL IMPACT:

House Bill 4596 is unlikely to affect costs or revenues for state or local governments.

POSITIONS:

A representative of INDA (the Association of the Nonwoven Fabrics Industry) testified in support of the bill. (6-8-23)

The following entities indicated support for the bill:

- Department of Environment, Great Lakes, and Energy (6-8-23)
- Macomb County Public Works Office (6-1-23)
- Michigan League of Conservation Voters (6-22-23)
- Michigan Municipal League (6-8-23)
- Sierra Club (6-8-23)
- Michigan Section, American Waterworks Association (6-8-23)
- Michigan Water Environment Association (6-8-23)

The Mackinac Center for Public Policy indicated opposition to the bill. (6-8-23)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.