

117TH CONGRESS  
1ST SESSION

# H. R. 4602

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

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## IN THE HOUSE OF REPRESENTATIVES

JULY 21, 2021

Mr. LOWENTHAL (for himself and Mrs. McCLAIN) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## 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”.

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

8       (a) IN GENERAL.—Not later than 2 years after the  
9       date of the enactment of this section, the Federal Trade  
10      Commission, in consultation with the Administrator of the

1 Environmental Protection Agency, shall issue regulations  
2 under section 553 of title 5, United States Code, requiring  
3 covered entities to label covered products clearly and con-  
4 spicuously with “Do Not Flush” label notices and symbols  
5 in accordance with this section.

6 (b) REQUIREMENTS.—

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

12 (A) the symbol and label notice on the  
13 principal display panel in a location reasonably  
14 visible to the user each time a wipe is dis-  
15 pensed; or

16 (B) the symbol on the principal display  
17 panel and the label notice, or a combination of  
18 the label notice and symbol, on a flip lid in a  
19 manner that covers at least 8 percent of the  
20 surface area of the flip lid.

21 (2) FLEXIBLE FILM PACKAGING.—In issuing  
22 regulations under subsection (a), the Commission  
23 shall require a covered product sold in flexible film  
24 packaging, and intended to dispense individual  
25 wipes, to have—

1 (A) the symbol on the principal display  
2 panel and, if the principal display panel is not  
3 on the dispensing side of the packaging, on the  
4 dispensing side panel; and

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

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

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

25 (5) BULK PACKAGING.—

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

8 (B) EXEMPTION.—The Commission shall  
9 exempt from the requirements under subpara-  
10 graph (A) the following:

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

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

19 (6) PACKAGING OF COMBINED PRODUCTS.—

20 (A) OUTER PACKAGING.—In issuing regu-  
21 lations under subsection (a), the Commission  
22 shall exempt the outer packaging of a combined  
23 product from the requirements of such regula-  
24 tions.

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

13 (c) REASONABLE VISIBILITY OF SYMBOL AND LABEL  
14 NOTICE.—

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

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

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

24 (C) the symbol and label notice have high  
25 contrast with the immediate background of the

1 packaging so that such symbol and label notice  
2 may be seen and read by an ordinary individual  
3 under customary conditions of purchase and  
4 use.

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

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

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

21 (e) REPRESENTATIONS OF FLUSHABILITY.—In  
22 issuing regulations under subsection (a), the Commission  
23 shall prohibit, with respect to a covered product, the rep-  
24 resentation or marketing of flushable attributes, perform-  
25 ance, or efficacy benefits.

1 (f) COMPLIANCE WITH OTHER REQUIREMENTS.—

2 (1) FIFRA REQUIREMENTS.—

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

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

16 (ii) A requirement that, not later than  
17 90 days after the date on which regula-  
18 tions are issued under this subparagraph,  
19 a covered entity shall submit for approval  
20 by the Administrator of the Environmental  
21 Protection Agency a product label compli-  
22 ant with such instructions.

23 (B) ENFORCEMENT.—For purposes of sub-  
24 section (h), a violation of a regulation issued  
25 under subparagraph (A) shall be treated as a

1 violation of a regulation issued under subsection  
2 (a).

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

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

22 (B) in the case of a covered product re-  
23 quired to contain first aid instructions pursuant  
24 to the Federal Hazardous Substances Act, re-  
25 quires a type size for the label notice under this



1 paragraph that is equal to or greater than the  
2 type size required for such first aid instruc-  
3 tions.

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

9 (h) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
10 SION.—

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

18 (2) POWERS OF COMMISSION.—Except as pro-  
19 vided in paragraph (3), the Commission shall en-  
20 force the regulations promulgated under subsection  
21 (a) in the same manner, by the same means, and  
22 with the same jurisdiction, powers, and duties as  
23 though all applicable terms and provisions of the  
24 Federal Trade Commission Act (15 U.S.C. 41 et  
25 seq.) were incorporated into and made a part of this

1 section, and any person who violates such a regula-  
2 tion shall be subject to the penalties and entitled to  
3 the privileges and immunities provided in the Fed-  
4 eral Trade Commission Act.

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

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

13 (B) In no event may the total amount of  
14 fines imposed for a single violation exceed  
15 \$100,000.

16 (i) PUBLIC OUTREACH CAMPAIGN.—

17 (1) IN GENERAL.—Not later than the date that  
18 is 6 months after the date on which regulations are  
19 issued under subsection (a), the Commission shall  
20 provide guidance for covered entities to conduct pub-  
21 lic outreach campaigns, individually or as a part of  
22 a group of covered entities, to educate consumers  
23 with respect to the label notice.

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

4           (A) The presence of the label notice on  
5 covered products.

6           (B) Covered products that carry the label  
7 notice.

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

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

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

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

21           (5) TIMELINE; REPORTS.—In carrying out  
22 paragraph (1), the Commission shall include guid-  
23 ance providing for covered entities conducting public  
24 outreach campaigns—

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

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

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

13 (j) DEFINITIONS.—In this section:

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

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

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

22 (2) COMMISSION.—The term “Commission”  
23 means the Federal Trade Commission.

24 (3) COVERED ENTITY.—The term “covered en-  
25 tity” means a manufacturer, wholesaler, supplier, or

1 retailer that is responsible for the labeling or retail  
2 packaging of a covered product that is sold or of-  
3 fered for sale in the United States.

4 (4) COVERED PRODUCT.—

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

8 (i) that is marketed as a baby wipe or  
9 diapering wipe; or

10 (ii) that—

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

14 (II) has significant potential to  
15 be flushed.

16 (B) INCLUSIONS.—The term “covered  
17 product” includes—

18 (i) antibacterial wipes and disinfecting  
19 wipes;

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

24 (iii) wipes intended for personal care  
25 use on the body, including hand sanitizing,

1           makeup removal, feminine hygiene, adult  
2           hygiene (including incontinence hygiene),  
3           and body cleansing.

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

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

9                   (B) has a contrast percentage of at least  
10           70 percent between such symbol or label notice  
11           and the background, using the formula  $(B1 -$   
12            $B2) / B1 * 100 =$  contrast percentage, where  
13           B1 is the light reflectance value of the lighter  
14           area and B2 is the light reflectance value of the  
15           darker area.

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

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

23                   (A) in the case of a cylindrical or near-cy-  
24                   lindrical package, the surface area of which  
25                   constitutes at least 40 percent of the product

1 package, as measured by multiplying the height  
2 by the circumference of the package; or

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

11 (8) PUBLIC OUTREACH CAMPAIGN.—The term  
12 “public outreach campaign” means a public outreach  
13 campaign as described in subsection (i)(1).

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

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