

**ASSEMBLY BILL**

**No. 818**

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**Introduced by Assembly Member Bloom**

February 16, 2021

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An act to add Part 9 (commencing with Section 49650) to Division 30 of, and to repeal Section 49652 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 818, as introduced, Bloom. Solid waste: premoistened nonwoven disposable wipes.

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste.

This bill would require, except as provided, certain premoistened nonwoven disposable wipes manufactured on or after July 1, 2022, to be labeled clearly and conspicuously with the phrase “Do Not Flush” and a related symbol, as specified. The bill would prohibit a covered entity, as defined, from making a representation about the flushable attributes, benefits, performance, or efficacy of those premoistened nonwoven disposable wipes, as provided. The bill would establish enforcement provisions, including authorizing a civil penalty not to exceed \$2,500 per day, up to a maximum of \$100,000 per violation, to be imposed on a covered entity who violates those provisions.

The bill would establish, until January 1, 2027, the California Consumer Education and Outreach Program, under which covered entities would be required, among other things, to participate in a collection study conducted in collaboration with wastewater agencies

for the purpose of gaining understanding of consumer behavior regarding the flushing of premoistened nonwoven disposable wipes and to conduct a comprehensive multimedia education and outreach program in the state. The bill would require covered entities to annually report to specified legislative committees and the State Water Resources Control Board on their activities under the program and would require the state board to post the reports on its internet website.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. It is the intent of the Legislature in enacting this  
2 act to create labeling requirements for premoistened nonwoven  
3 disposable wipes that will enable consumers to easily identify  
4 which premoistened nonwoven disposable wipes are composed of  
5 petrochemical-derived fibers and therefore are not safe to dispose  
6 of using sanitary sewer systems, in order to protect public health,  
7 the environment, water quality, and public infrastructure used for  
8 the collection, transport, and treatment of wastewater.

9 SEC. 2. Part 9 (commencing with Section 49650) is added to  
10 Division 30 of the Public Resources Code, to read:

11  
12 PART 9. PREMOISTENED NONWOVEN DISPOSABLE  
13 WIPES

14  
15 49650. For purposes of this part, the following definitions  
16 apply:

17 (a) "Covered entity" means the manufacturer of a covered  
18 product that is sold in the state or offered for sale in the state.  
19 "Covered entity" includes a wholesaler, supplier, or retailer that  
20 is responsible for the labeling or packaging of a covered product.

21 (b) "Covered product" means a consumer product sold in the  
22 state or offered for sale in the state that is either of the following:

23 (1) A premoistened nonwoven disposable wipe marketed as a  
24 baby wipe or diapering wipe.

25 (2) A premoistened nonwoven disposable wipe that is both of  
26 the following:

27 (A) Composed entirely of or in part of petrochemical-derived  
28 fibers.

1 (B) Likely to be used in a bathroom and has significant potential  
2 to be flushed, including baby wipes, bathroom cleaning wipes,  
3 toilet cleaning wipes, hard surface cleaning wipes, disinfecting  
4 wipes, hand sanitizing wipes, antibacterial wipes, facial and  
5 makeup removal wipes, general purpose cleaning wipes, personal  
6 care wipes for use on the body, feminine hygiene wipes, adult  
7 incontinence wipes, adult hygiene wipes, and body cleansing wipes.

8 (c) “High contrast” means satisfying both of the following  
9 conditions:

10 (1) Is provided by either a light symbol on a solid dark  
11 background or a dark symbol on a solid light background.

12 (2) Has at least 70 percent contrast between the symbol artwork  
13 and background using the following formula:

14 (A)  $(B1 - B2) / B1 * 100 = \text{contrast percentage.}$

15 (B) B1 = the light reflectance value of the lighter area and B2  
16 = the light reflectance value of the darker area.

17 (d) (1) “Label notice” means the phrase “Do Not Flush” and  
18 the size of the label notice shall be equal to at least 2 percent of  
19 the surface area of the principal display panel in size.

20 (2) For covered products regulated pursuant to the Federal  
21 Hazardous Substances Act (15 U.S.C. Sec. 1261 et seq.) by the  
22 United States Consumer Product Safety Commission under Section  
23 1500.121 of Title 16 of the Code of Federal Regulations, if the  
24 label notice requirements in paragraph (1) would result in a type  
25 size larger than first aid instructions pursuant to the Federal  
26 Hazardous Substances Act, then the type size for the label notice  
27 shall, to the extent permitted by federal law, be equal to or greater  
28 than the type size required for the first aid instructions.

29 (3) For covered products required to be registered by the United  
30 States Environmental Protection Agency under the Federal  
31 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et  
32 seq.), if the label notice requirements in paragraph (1) would result  
33 in a type size on the principal display panel larger than a warning  
34 pursuant to the Federal Insecticide, Fungicide, and Rodenticide  
35 Act, then the type size for the label notice shall, to the extent  
36 permitted by federal law, be equal to or greater than the type size  
37 required for the “keep out of reach of children” statement under  
38 the Federal Insecticide, Fungicide, and Rodenticide Act.

1 (e) (1) “Principal display panel” means the side of the product  
2 package that is most likely to be displayed, presented, or shown  
3 under customary conditions of display for retail sale.

4 (2) In the case of a cylindrical or nearly cylindrical package,  
5 the surface area of the principal display panel constitutes 40 percent  
6 of the product package as measured by multiplying the height of  
7 the container by the circumference.

8 (3) In the case of a flexible film package in which a rectangular  
9 prism or nearly rectangular prism stack of wipes is housed within  
10 the film, the surface area of the principal display panel is measured  
11 by multiplying the length by the width of the side of the package  
12 when the flexible packaging film is pressed flat against the stack  
13 of wipes on all sides of the stack.

14 (f) “Symbol” means the “Do Not Flush” symbol, or a gender  
15 equivalent thereof, as depicted in the INDA/EDANA Code of  
16 Practice Second Edition and published within “Guidelines for  
17 Assessing the Flushability of Disposable Nonwoven Products,”  
18 Edition 4, May 2018. The symbol shall be sized equal to at least  
19 2 percent of the surface area of the principal display panel, except  
20 as specified in clause (iii) of subparagraph (B) of paragraph (1) of  
21 subdivision (a) of Section 49651.

22 49651. (a) Except as provided in subdivisions (b), (c), (d), and  
23 (f), a covered product manufactured on or after July 1, 2022, shall  
24 be labeled clearly and conspicuously in adherence with the  
25 following labeling requirements:

26 (1) In the case of cylindrical or near cylindrical packaging  
27 intended to dispense individual wipes, a covered entity shall  
28 comply with one of the following options:

29 (A) Place the symbol and label notice on the principal display  
30 panel in a location reasonably viewable each time a wipe is  
31 dispensed.

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

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

37 (ii) The symbol or label notice, or the symbol and label notice  
38 in combination, on the flip lid may be embossed, and in that case  
39 are not required to comply with paragraph (6).

1 (iii) The symbol or label notice, or the symbol and label notice  
2 in combination, on the flip lid shall cover a minimum of 8 percent  
3 of the surface area of the flip lid.

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

11 (3) In the case of refillable tubs or other rigid packaging intended  
12 to dispense individual wipes and be reused by the consumer for  
13 that purpose, a covered entity shall place the symbol and label  
14 notice on the principal display panel in a prominent location  
15 reasonably visible to the user each time a wipe is dispensed.

16 (4) In the case of packaging not intended to dispense individual  
17 wipes, a covered entity shall place the symbol and label notice on  
18 the principal display panel in a prominent and reasonably visible  
19 location.

20 (5) A covered entity shall ensure the packaging seams, folds,  
21 or other package design elements do not obscure the symbol or  
22 the label notice.

23 (6) A covered entity shall ensure the symbol and label notice  
24 have sufficiently high contrast with the immediate background of  
25 the packaging to render it likely to be seen and read by the ordinary  
26 individual under customary conditions of purchase and use.

27 (b) For covered products sold in bulk at retail, both the outer  
28 package visible at retail and the individual packages contained  
29 within shall comply with the labeling requirements in subdivision  
30 (a) applicable to the particular packaging types, except the  
31 following:

32 (1) Individual packages contained within the outer package that  
33 are not intended to dispense individual wipes and contain no retail  
34 labeling.

35 (2) Outer packages that do not obscure the symbol and label  
36 notice on individual packages contained within.

37 (c) If a covered product is provided within the same packaging  
38 as another consumer product for use in combination with the other  
39 product, the outside retail packaging of the other consumer product

1 does not need to comply with the labeling requirements of  
2 subdivision (a).

3 (d) If a covered product is provided within the same package  
4 as another consumer product for use in combination with the other  
5 product and is in a package smaller than three inches by three  
6 inches, the covered entity may comply with the requirements of  
7 subdivision (a) by placing the symbol and label notice in a  
8 prominent location reasonably visible to the user of the covered  
9 product.

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

19 (f) (1) If a covered product is required to be registered by the  
20 United States Environmental Protection Agency under the Federal  
21 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et  
22 seq.) and the Department of Pesticide Regulation under Division  
23 6 (commencing with Section 11401) of the Food and Agricultural  
24 Code, then the covered entity shall submit a label compliant with  
25 the labeling requirements of subdivision (a) no later than January  
26 1, 2023, to the United States Environmental Protection Agency,  
27 and upon its approval, to the Department of Pesticide Regulation.

28 (2) If the United States Environmental Protection Agency or  
29 the Department of Pesticide Regulation does not approve a product  
30 label that otherwise complies with the labeling requirements of  
31 subdivision (a), the covered entity shall use a label with as many  
32 of the requirements of this section as the relevant agency has  
33 approved.

34 (g) A covered entity may include on a covered product words  
35 or phrases in addition to those required for the label notice if the  
36 words or phrases are consistent with the purposes of this part.

37 49652. (a) The California Consumer Education and Outreach  
38 Program is hereby established. As part of the program, covered  
39 entities, in collaboration with other covered entities, shall do all  
40 of the following:

1 (1) Participate in a collection study conducted in collaboration  
2 with wastewater agencies for the purpose of gaining understanding  
3 of consumer behavior regarding the flushing of covered products  
4 as a key input into the design of a consumer education and outreach  
5 program. The collection study shall be jointly coordinated by the  
6 California Association of Sanitation Agencies and a group of  
7 covered entities.

8 (2) Conduct a consumer opinion survey to identify baseline  
9 consumer behavior and awareness regarding the flushing or other  
10 disposal of covered products.

11 (3) Measure effectiveness of the consumer education program  
12 on consumer awareness of the symbol and label notice and  
13 consumer attitudes about disposal of covered products by  
14 conducting a subsequent consumer awareness survey comparing  
15 the baseline data provided by the 2022 survey with survey data  
16 from subsequent years. The surveys to determine the effectiveness  
17 and ongoing success of the consumer education program shall take  
18 place annually until December 31, 2026.

19 (b) Covered entities, either independently or in collaboration  
20 with other covered entities or other organizations, shall conduct a  
21 comprehensive multimedia education and outreach program in the  
22 state. At a minimum, the education and outreach program shall do  
23 both of the following:

24 (1) Promote consumer awareness and understanding of and  
25 compliance with the symbol and label notice requirements. Covered  
26 entities shall provide wastewater agencies with the consumer  
27 education messaging for the symbol and the label notice. The  
28 wastewater agencies may include the messaging as part of their  
29 routine communications with customers within their service area.

30 (2) Provide education and outreach in Spanish and English.

31 (c) Covered entities shall take reasonable steps to ensure that  
32 they do not promote products outside of the scope of this part as  
33 part of the education and outreach program.

34 (d) Covered entities shall take reasonable steps to ensure that  
35 their education and outreach program does not conflict with the  
36 programs of other covered entities or groups of covered entities.

37 (e) Covered entities, either independently or in collaboration  
38 with other covered entities, shall report to the Senate Committee  
39 on Environmental Quality, the Assembly Committee on  
40 Environmental Safety and Toxic Materials, and the State Water

1 Resources Control Board on their activities under this section on  
2 an annual basis. The State Water Resources Control Board shall  
3 post the reports on its internet website.

4 (f) The California Consumer Education and Outreach Program  
5 shall conclude on December 31, 2026.

6 (g) This section shall remain in effect only until January 1, 2027,  
7 and as of that date is repealed.

8 49653. (a) A person who violates Section 49651 may be  
9 enjoined in any court of competent jurisdiction.

10 (b) (1) A covered entity who violates Section 49651 may be  
11 liable for a civil penalty not to exceed two thousand five hundred  
12 dollars (\$2,500) per day, up to a maximum of one hundred  
13 thousand dollars (\$100,000) for each violation. That civil penalty  
14 may be assessed and recovered in a civil action brought in any  
15 court of competent jurisdiction.

16 (2) In assessing the amount of a civil penalty for a violation of  
17 Section 49651, the court shall consider all of the following:

18 (A) The nature, circumstances, extent, and gravity of the  
19 violation.

20 (B) The violator's past and present efforts to prevent, abate, or  
21 clean up conditions posing a threat to the public health or safety  
22 or the environment.

23 (C) The violator's ability to pay the proposed penalty.

24 (D) The effect that the proposed penalty would have on the  
25 violator and the community as a whole.

26 (E) Whether the violator took good faith measures to comply  
27 with this part and when these measures were taken.

28 (F) The deterrent effect that the imposition of the penalty would  
29 have on both the violator and the regulated community as a whole.

30 (G) Any other factor that justice may require.

31 (c) Actions may be brought pursuant to this section by the  
32 Attorney General in the name of the people of the state, by a district  
33 attorney, by a city attorney, by a county counsel, or by a city  
34 prosecutor in a city or city and county having a full-time city  
35 prosecutor.

36 (d) (1) Civil penalties collected pursuant to this section shall  
37 be paid to the office of the city attorney, county counsel, city  
38 prosecutor, district attorney, or Attorney General, whichever office  
39 brought the action.



1 (2) Moneys collected by the Attorney General pursuant to this  
2 subdivision shall be deposited into the Unfair Competition Law  
3 Fund established pursuant to Section 17206 of the Business and  
4 Professions Code.

5 49654. (a) The provisions of this part are severable. If any  
6 provision of this part or its application is held invalid, that  
7 invalidity shall not affect other provisions or applications that can  
8 be given effect without the invalid provision or application.

9 (b) The Legislature finds and declares that this part addresses  
10 a matter of statewide concern rather than a municipal affair as that  
11 term is used in Section 5 of Article XI of the California  
12 Constitution. Therefore, this part applies to all cities, including  
13 charter cities. This part supersedes and preempts all rules,  
14 regulations, codes, ordinances, and other laws adopted by a city,  
15 county, city and county, municipality, or local agency regarding  
16 the labeling of covered products.

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