

5307

2015-2016 Regular Sessions

I N S E N A T E

May 13, 2015

Introduced by Sen. DILAN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to prohibiting a manufacturer from labeling or advertising a nonwoven disposable product for sale as a flushable without prior approval

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The general business law is amended by adding a new section
2 391-t to read as follows:
3 S 391-T. NONWOVEN DISPOSABLE PRODUCTS. 1. FOR PURPOSES OF THIS
4 SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:
5 (A) "ADVERTISED" MEANS REPRESENTATION MADE BY STATEMENT, WORD, DESIGN,
6 DEVICE, SOUND OR ANY COMBINATION THEREOF IN PRINT OR BROADCAST MEDIA.
7 (B) "FLUSHABLE", "SEPTIC SAFE", AND "SEWER SAFE" MEANS WITH REGARD TO
8 A NONWOVEN DISPOSABLE PRODUCT, A PRODUCT THAT IS: (I) ABLE TO CLEAR
9 TOILETS AND PROPERLY MAINTAINED DRAINAGE PIPE SYSTEMS UNDER EXPECTED
10 PRODUCT USAGE CONDITIONS; (II) COMPATIBLE WITH WASTEWATER CONVEYANCE,
11 TREATMENT, REUSE, AND DISPOSAL SYSTEMS WITHOUT CAUSING BLOCKAGE, CLOG-
12 GING, OR OTHER OPERATIONAL PROBLEMS; AND (III) UNRECOGNIZABLE IN
13 EFFLUENT LEAVING ON-SITE AND MUNICIPAL WASTEWATER TREATMENT SYSTEMS AND
14 IN DIGESTED SLUDGE FROM WASTEWATER TREATMENT PLANTS THAT ARE APPLIED TO
15 SOIL.
16 (C) "LABEL" MEANS THOSE REPRESENTATIONS MADE THROUGH STATEMENT, WORD,
17 PICTURE, DESIGN OR EMBLEM ON A PACKAGING OF A NONWOVEN DISPOSABLE PROD-
18 UCT.
19 (D) "NONWOVEN DISPOSABLE PRODUCT" MEANS ANY PRODUCT CONSTRUCTED FROM
20 NONWOVEN SHEETS THAT IS DESIGNED FOR, MARKETING FOR, OR COMMONLY USED FOR
21 PERSONAL HYGIENE PURPOSES.
22 2. NO NONWOVEN DISPOSABLE PRODUCT FOR SALE IN ANY MUNICIPALITY,
23 INCLUDING A CITY WITH A POPULATION OF A MILLION OR MORE, SHALL BE ADVER-
24 TISED, PACKAGED OR LABELED AS FLUSHABLE, SEWER SAFE, OR SEPTIC SAFE IF

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 SUCH PRODUCT HAS NOT FIRST BEEN APPROVED AS FLUSHABLE BY A THIRD PARTY
2 ACCORDING TO RULES PROMULGATED BY THE DEPARTMENT OF ENVIRONMENTAL
3 CONSERVATION.

4 3. ANY PERSON WHO VIOLATES THIS SECTION SHALL BE SUBJECT TO A CIVIL
5 PENALTY OF NOT MORE THAN FIVE THOUSAND DOLLARS FOR EACH VIOLATION. SUCH
6 PENALTIES MAY BE RECOVERED IN PROCEEDINGS BEFORE A DEPARTMENT OF ENVI-
7 RONMENTAL CONSERVATION ENFORCEMENT HEARING, THROUGH PROSECUTION BY THE
8 BUREAU OF CONSUMER FRAUDS AND PROTECTION, OR IN ANY ACTION IN ANY COURT
9 OF APPROPRIATE JURISDICTION.

10 4. NOTHING IN THIS SECTION SHALL APPLY TO:

11 (A) A TELEVISION OR RADIO BROADCASTING STATION, OR TO ANY PUBLISHER OF
12 A NEWSPAPER, MAGAZINE OR OTHER FORM OF PRINTED ADVERTISING, THAT BROAD-
13 CASTS, PUBLISHES OR PRINTS AN ADVERTISEMENT THAT FEATURES A NONWOVEN
14 DISPOSABLE PRODUCT PACKAGED OR LABELED AS FLUSHABLE, SEWER SAFE, OR
15 SEPTIC SAFE; OR

16 (B) A WHOLESALE OR RETAILER THAT DISTRIBUTES OR SELLS BUT DOES NOT
17 PACKAGE OR LABEL A NONWOVEN DISPOSABLE PRODUCT THAT IS ADVERTISED, PACK-
18 AGED, OR LABELED AS FLUSHABLE, SEWER SAFE OR SEPTIC SAFE.

19 S 2. This act shall take effect on the ninetieth day after it shall
20 have become a law. Effective immediately, the commissioner of environ-
21 mental conservation shall promulgate rules and regulations necessary or
22 appropriate to carry out the provisions of this act.