

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1239

(Delegates Frush and Gutierrez)

Economic Matters

Environment - Nonwoven Disposable Products - Advertising and Labeling

This bill prohibits, beginning January 1, 2018, a manufacturer of a nonwoven disposable product from advertising or labeling the product as (1) safe to flush; (2) safe for disposal in sewerage systems; or (3) safe for disposal in on-site sewage disposal (septic) systems unless the nonwoven disposable product meets the bill's definition of "flushable." Also beginning January 1, 2018, a manufacturer of a nonwoven disposable product that is *not flushable* must clearly and conspicuously label such a product in a manner that alerts the purchaser that the product should not be flushed.

Fiscal Summary

State Effect: The Maryland Department of the Environment (MDE) can handle enforcement with existing budgeted resources. To the extent that the bill's prohibition and labeling requirements result in less damage to State-owned/operated sewerage or septic systems, expenditures for maintenance and repairs may decrease. The magnitude of any such decrease is unknown. The application of existing penalties is not anticipated to materially affect State operations or finances.

Local Effect: Local governments are not directly affected. However, to the extent that the bill's prohibition and labeling requirements result in less damage to locally owned/operated sewerage or septic systems, expenditures for maintenance and repairs may decrease. The magnitude of any such decrease is unknown. The application of existing penalties is not anticipated to materially affect local operations or finances.

Small Business Effect: Minimal, as discussed below.

Analysis

Bill Summary: A “nonwoven disposal product” is a product made from long fibers bonded together by chemical, mechanical, heat, or solvent treatment that is designed, marketed, or commonly used for personal hygiene purposes and includes moist toilet tissue and moist toilet cloths.

“Flushable” means a nonwoven disposable product that (1) disperses in the low-force conditions of a sewerage system a short period of time after flushing; (2) is not buoyant; and (3) does not contain plastic or any other material that does not readily degrade in a range of natural environments. However, if an international definition for “flushable” is adopted and MDE adopts that definition, then the international definition replaces the definition established by the bill.

A violator is subject to existing enforcement provisions, including civil penalties of up to \$10,000 per violation not exceeding \$100,000 total; each day a violation occurs is a separate violation. Various criminal penalties also apply.

Current Law/Background: Current law is silent with regard to what items are allowed to be flushed into sewerage systems and septic systems. Similarly, there is no universal definition of “flushable” for moist toilet tissue and moist toilet cloths. However, there is growing concern related to flushing these products into public sewer systems and septic systems. In January 2015, the National Conference of State Legislators (NCSL) reported that Canadian wastewater treatment plants spend about \$250 million annually to address issues stemming from flushing such wipes. In London, England, a 15-ton, 66-foot-long mass of wipes caused major sewage backups in Whitehall in April 2015.

According to NCSL, in 2014, the District of Columbia spent \$1 million on heavy-duty grinders to destroy wipes in the sewer system. In response, the District of Columbia Water and Sewer Authority, in collaboration with the Metropolitan Washington Council of Governments, developed an educational program entitled “[Protect your Pipes](#),” which informs the public about the dangers of disposing certain products, including moist wipes, into the sewer system. In addition, the District of Columbia passed a law similar to this bill in 2016; that legislation takes effect March 17, 2017.

At the federal level, the Federal Trade Commission (FTC) has been working to prohibit wipe manufactures from advertising their products as flushable unless they are proven to be flushable. In October 2015, FTC approved a final consent order with Nice-Pak Products, Inc., a manufacturer of wet wipes, prohibiting Nice-Pak Products from advertising moist toilet tissue and cloths as flushable or safe for sewer or septic systems unless it can substantiate those claims.

MDE advises that some publicly operated wastewater treatment plants in Maryland have observed that disposable products such as wet wipes have caused an impact on their operations. MDE also notes that these products have an impact on septic systems, including septic systems with advanced nitrogen removal technology.

Small Business Effect: Although the exact number of affected manufacturers in the State is unknown, census data indicates that in calendar 2012, there were three nonwoven fabric mills in the State that may be considered small businesses. Thus, it is likely that the bill only affects a small number of manufacturers. Further, the bill's ban and labeling/advertising requirements do not take effect until January 1, 2018, giving affected manufacturers sufficient time to use existing inventory and implement the required changes. Thus, the bill is not anticipated to have a significant impact on affected manufacturers.

To the extent that the bill's prohibition and labeling requirements result in less damage to sewerage or septic systems that are owned or operated by small businesses, expenditures for maintenance and repairs may decrease. The magnitude of any such decrease is unknown.

Additional Information

Prior Introductions: None.

Cross File: SB 280 (Senators Guzzone and Middleton) - Education, Health, and Environmental Affairs.

Information Source(s): District of Columbia Water and Sewer Authority; Maryland Department of the Environment; Maryland Environmental Service; Maryland Municipal League; National Conference of State Legislatures; U.S. Census Bureau; U.S. Federal Trade Commission; Department of Legislative Services

Fiscal Note History: First Reader - February 13, 2017
md/lgc

Analysis by: Kathleen P. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510