

AB 2256 – SEPTIC & SEWAGE SPILL PREVENTION

Assemblymember Jared Huffman

IN BRIEF

Prohibits consumer products from being labeled “flushable” if they do not meet certain criteria.

BACKGROUND

Over recent years an increasingly diverse range of disposable products has become available for consumer use. The growth of the market for such products is evidence of their popularity with the public, but their increased use brings with it discussion about their disposal, especially the topic of flushability.

For disposable products which address public health and hygiene considerations, the wastewater system can be a preferred means of disposal. It is important to ensure that such products can be disposed of in this way without causing problems.

There currently is no consistent or widely accepted definition of what constitutes a ‘flushable’ consumer product. As a result, companies have used their own definitions and methods to determine the flushability of their products. For consumers and sewage utilities, this means there has been no single reference from which to assess the flushability of products.

This lack of consistency can lead to confusion in the marketplace and a lack of clarity about when it is appropriate for products to be disposed of via the wastewater system. Where such confusion exists, there is a higher risk that poorly flushable products are flushed down the toilet, which has led to costly problems for homeowners and wastewater treatment operators.

It is in the interests of manufacturers, retailers, consumers, regulators and wastewater treatment authorities and operators for there to be a definition of flushability to avoid products that harm septic systems, clog piping and pumps, and load up screens in municipal wastewater plants from being flushed.

THE ISSUE

Many sanitary districts and agencies around the state are experiencing major problems at their treatment plants with “flushable” products. Many consumer products’ packaging states that products “break up like toilet paper after flushing” and are “sewer and septic safe”. However, they do not disperse or decompose well in the sewer systems and districts have been finding that these products get into the treatment system and clog up various processes at the treatment plant. In some cities, such as Petaluma, costly screening facilities have failed to stop these indispersible products from finding their way through the system.

There currently is no state or federal standard for flushability, and to date there hasn’t been any state or federal action regarding defined flushable standards for products, what is defined as safe for sewer or septic systems, and/or provisions about labeling products as safe for flushing.

In 2008, INDA, the U.S. association of nonwoven fabrics industry, and its European counter part, EDANA, published the Guidance Document for Assessing the Flushability of Nonwoven Consumer Products, which provided industry guidance based on commonly accepted tiered techniques for flushable products.

A 2003 report by the Water Environment Research Foundation (WERF) entitled “Protocols to Assess the Breakdown of Flushable Consumer Product” also established acceptance criteria for flushable products.

However, the Household and Personal Products Industry suggests there is a lack of industry consensus over a singular standard for flushability. Additionally, it is not clear whether the products on the market labeled as flushable meet these industry standards for flushability, or whether these standards are acceptable for sanitation agencies currently grappling with clogged pumps and overflows.

EXISTING LAW

Fish & Game Code §4501 requires marketing labels on cat litter to discourage the litter from being flushed down a toilet.

Business and Professions Code §17580.5 (a) states that it is unlawful for any person to make any untruthful, deceptive, or misleading environmental marketing claim, whether explicit or implied. "Environmental marketing claim" means any claim contained in the "Guides for the Use of Environmental Marketing Claims" published by the Federal Trade Commission." Any violation of this law is a misdemeanor punishable by jail time and/or \$2,500 fine.

Under Federal Code § 260.7, the Federal Trade Commission's Environmental Marketing Claims make it deceptive to misrepresent, directly or by implication, that a product or package is degradable, biodegradable or photodegradable and requires claims to be substantiated by competent and reliable scientific evidence that the entire product or package will completely break down and return to nature.

THIS BILL

This bill prohibits any consumer product sold in California from being labeled as "flushable", or any other like terms, unless it is biodegradable and disperses at the same rate a double-ply toilet paper when flushed down a low consumption toilet system of 1.6 gallons or less, and can easily clear, in one flush, a four inch drain line.

This bill imposes a penalty for any consumer product mislabeled as flushable.

SUPPORT

FOR MORE INFORMATION

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