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In reply, please refer to:  
File:

**Testimony COMMENTING on HB0268  
RELATING TO DISPOSABLE WIPES**

REPRESENTATIVE NICOLE E. LOWEN, CHAIR  
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION  
Hearing Date: 2/16/2023 Room Number: 325

1 **Fiscal Implications:** To ensure adequate staffing to enforce the prohibitions set forth in this bill,  
2 the Department of Health (Department) would require additional resources not requested in the  
3 Governor's budget. The Department would need no less than one additional full time staff  
4 equivalents (1 FTE) to conduct the necessary inspections and enforcement resulting from this  
5 bill.

6 **Department Testimony:** The Department respectfully provides comment on HB0268. While  
7 the Department has no direct evidence or data regarding deleterious impacts of disposable wipes  
8 on wastewater treatment systems, the Department is aware of anecdotal reports from wastewater  
9 treatment plant operators on the negative effects articulated in the proposed bill. Should the  
10 proposed bill become law, the bill prohibits the sale and distribution of disposable wipes  
11 statewide.

12 In order to enforce the prohibitions on the sale and distribution of the disposable wipes,  
13 the Department needs additional resources to conduct the inspections, document violations, and  
14 develop enforcement actions when non-compliance is identified. In general, enforcement of  
15 environmental laws requires additional professional staff trained to conduct inspections and  
16 enforcement, additional administrative staff to support the increased workload and additional  
17 legal staff to support resulting legal proceedings. There is no available staff capacity for  
18 additional wastewater related inspection and enforcement at this time and resources for the  
19 enforcement of the prohibition in this proposed bill was not requested in the Department's  
20 budget.

1           Lastly, the Department has concerns over how narrow the definition for “flushable  
2 wiper” is as written. It is believed that some major brands (e.g., Costco’s Kirkland Brand)  
3 market what we conventionally consider toilet paper but brand it as “bath tissue.” Given  
4 differing marketing or branding approaches, relying on simple (unregulated) marketing jargon  
5 may cause unintended consequences. It may be more appropriate to consider using descriptors  
6 that are open to interpretation by the Department rather than a strict definition-based exclusion or  
7 prohibition.

8           Thank you for the opportunity to testify.

9   **Offered Amendments:** The Department suggests revising the exclusion for flushable wipes to  
10 include descriptors as to what can be considered or excluded from being considered “flushable  
11 wiper.” This may include expanding the definitions using terminology such as, “including, but  
12 not limited to”, and “...which have a comparable impact or design.”



**TESTIMONY OF TINA YAMAKI  
PRESIDENT  
RETAIL MERCHANTS OF HAWAII  
February 16, 2023  
Re: HB 268 RELATING TO DISPOSABLE WIPES**

Good morning, Chair Lowen and members of the House Committee on Energy & Environmental Protection. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901 and is a statewide, not for profit trade organization committed to supporting the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, on-line sellers, local, national, and international retailers, chains, and everyone in between.

We are opposed to SB 268 Relating to Disposable Wipes. This measure makes it unlawful to sell, offer to sell, or distribute for sale in the State any flushable wipe; and defines flushable wipe.

Flushable wipes need to be more durable than toilet paper for what they are intended for - they are designed to remove solid waste from our bottoms. We also want to point out that while toilet paper is cheaper, it can leave skin feeling uncomfortable or irritated. Flushable wipes are also antibacterial, and they're able to get rid of order as well as clean and eliminate a large amount of germs. **Flushable wet wipes are very effective in cleaning and hygiene and can decrease the risk of a urinary tract infection (UTI) and vaginitis in women, and UTIs, itching and general discomfort in men.**

Like anything, if people use handful of flushable wipes or wades of toilet paper in one sitting, there most likely going to be a clog.

There is a difference between flushable wipes and NON-flushable wipes. **Non-flushable wipes are NOT designed to be flushed and do not break down as they travel through the sewer system, resulting in clogs and blockages.** It is our understanding that many people are flushing wipes that are **NOT flushable like those used for household cleaning, removing makeup and cleaning babies.** People also tend to flush other types of objects that also contribute to clogging like feminine hygiene products, paper towels, tissues, cotton swabs, and other various types of trash.

There are hundreds of different types of Flushable wipes on the market and are very popular with customer. Bans are never the answer. We will most likely see people having their friends and family purchase these items at a military facility; and we will see more organized retail crime selling it on the black market where it will be very lucrative. Either way, local businesses would be hurt from the lack of sale and the state would not be able to collect the taxes on these items.

We respectfully ask that you hold this measure. Mahalo again for this opportunity to testify.



To: The Honorable Chair Nicole Lowen, the Honorable Vice Chair Elle Cochran, and Members of the Committee and Energy and Environmental Protection

From: Hawaii Reef and Ocean Coalition (by Ted Bohlen)

Re: **Hearing HB268 RELATING TO DISPOSABLE WIPES.**

Hearing: Thursday February 16, 2023, 9:15 a.m., room 325

Aloha Chair Lowen, Vice Chair Cochran, and Members of the Committee on Energy and Environmental Protection:

The Hawai'i Reef and Ocean Coalition (HIROC) is a group of scientists, educators, filmmakers and environmental advocates who have been working since 2017 to protect Hawaii's coral reefs and ocean.

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**The Hawai'i Reef and Ocean Coalition STRONGLY SUPPORTS HB268!**

Anyone who thinks “flushable wipes” break down in sewer treatment should visit the Sand Island Wastewater Treatment Plant when employees must remove ropey wads of wipes covered with sewage and grease (“fatbergs”) that are clogging the sewage treatment system. These wipes cause costly backups and sewage spills that can harm the reefs and ocean.

HB268 will address this problem by prohibiting at a future date the sale, offer for sale or distribution for sale of any “flushable wipe,” which is defined as “a disposable wipe contained in packaging labeled “flushable”, “sewer safe”, or septic

safe” or otherwise indicating that the product is appropriate for disposal in a toilet.”

Please pass this bill!

Mahalo!

Hawaii Reef and Ocean Coalition (by Ted Bohlen)

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February 15, 2023

Representative Nicole E. Lowen, Chair  
Committee on Energy & Environmental Protection  
House of Representatives  
415 S. Beretania Street  
Honolulu, HI 96813  
Dear Chair Lowen:

**RE: Comments by INDA, the Association of the Nonwoven Fabrics Industry Regarding HB 268**

Dear Chair Lowen and Committee Members:

On behalf of INDA, the Association of the Nonwoven Fabrics Industry, thank you for the opportunity to provide input on HB 268. We urge the committee to consider amending the legislation and instead pass labeling standards for non-flushable wipes, which would align Hawaii with action taken on this important issue in California, Illinois, Oregon, and Washington.

INDA's member companies include almost all wipes fabric makers, wipes manufacturers, and some brand owners operating in North America. Our members are committed to the design and marketing of wipes products to meet the expectations of consumers, while minimizing post-consumer impacts on municipal wastewater infrastructure and the environment.

INDA and its members recognize that municipal wastewater treatment facilities are having difficulties with consumers flushing certain wipes that were not designed nor labeled to be disposed of in the toilet and we are committed to being a part of the solution to that challenge. As such, we support the general objective of addressing wipes that are causing problems in wastewater treatment systems.

However, as detailed below, formal forensic studies of sewer systems in New York City, Jacksonville, Florida, and the United Kingdom have repeatedly shown that 98-99 percent of the materials clogging such sewer systems are hygiene products not labeled as flushable. Specifically, these studies show that consumers are improperly flushing non-flushable products like baby wipes, surface/sanitizing wipes, as well as non-wipes products like paper towels, feminine hygiene products, and fats, oils and grease.

- In a 2016 New York City municipal collection study commissioned by the City's Department of Environmental Protection and Law Department, an independent engineering firm collected and identified categories of wipes and other items from the mechanical screens at one of the City's largest wastewater treatment plants. That study found the leading category of material collected and identified to be baby wipes (38 percent), non-flushable paper (34 percent), non-flushable household wipes (19 percent) and non-flushable feminine hygiene products (7 percent). You may access the report detailing the results of the New York City collection study here: [New York City collection study report](#).
- A 2017 study in the United Kingdom, the largest of its kind to date, conducted by the wastewater association, Water UK, local system operators, and wipes industry representatives showed similar compelling results. In this study, the participants collected and analyzed more than 50 clogs in pumps, sewer blockages, and wastewater treatment inlet samples over a period of more than two months.

Upon completion, researchers found that clogs were related to the inappropriate flushing of products of non-flushable baby wipes, surface/sanitizing wipes, and feminine hygiene products. You may access the report detailing the Water UK collection study here: [Water UK collection study report](#).

- A March 2019 collaboration between the Jacksonville Electric Authority (JEA) wastewater system in Jacksonville, Florida, and INDA member, Kimberly-Clark, demonstrated similar results. In the Jacksonville study, JEA wastewater staff and industry technical staff worked together to collect and analyze materials from three separate sets of bar screen samples over a two-day period (March 12-13, 2019). That investigation found that baby wipes represented some 37 percent of all material collected off of screens in Jacksonville, along with feminine hygiene products (19 percent), household cleaning wipes (15 percent), and non-flushable paper products (28 percent). You may access the report detailing the JEA-Kimberly-Clark collection study here: [JEA-Kimberly-Clark collection study report](#).

Given that the inappropriate consumer disposal of non-flushable wipes is a primary source of sewer system challenges, our industry has made a concerted effort to work cooperatively with wastewater treatment stakeholders throughout the country to jointly develop legislation that focuses on mandating enhanced Do Not Flush labeling of non-flushable wipes to enhance consumer understanding of proper disposal habits.

This industry-wastewater collaboration to date has been productive and we are pleased to report that Washington state adopted such a consensus law in March 2020, while similar measures were signed into law in Oregon ([HB 2344](#)), Illinois ([SB 294](#)) and California ([AB 818](#)) in 2021. These measures have enjoyed such strong support throughout numerous states because they represent the collaboration of and consensus among wastewater and industry stakeholders and are broadly recognized as a common-sense solution to address the problem at hand as documented by these forensic studies.

INDA welcomes the opportunity to facilitate a technical conversation with wastewater operators in Hawaii about this issue. We have also attached draft amendment language that mirrors the consensus model adopted in the other states.

Thank you for the opportunity to provide input on this important legislation. If you or other members of the Committee have any questions about our position, please do not hesitate to call.

Sincerely,



Wes Fisher  
Director of Government Affairs  
INDA, Association of the Nonwoven Fabrics Industry

## **Proposed amended language for HB 268**

Sec. 1. Findings. The legislature finds that creating labeling standards for disposable wipes products will protect public health, the environment, water quality, and public infrastructure used for the collection, transport, and treatment of wastewater. It is not the intent of the General Assembly to address standards for flushability with this Act.

Sec. 2. Definitions. In this Act:

"Covered entity" means:

(1) the manufacturer of a covered product that is

sold or offered for sale in this State; and

(2) a wholesaler, supplier, or retailer that is

responsible for the labeling or packaging of a covered product.

"Covered product" means a consumer product sold or offered for sale in the State that is either of the following:

(1) A premoistened nonwoven disposable wipe marketed

as a baby wipe or diapering wipe.

(2) A premoistened nonwoven disposable wipe that is

both of the following:

(A) Composed entirely of or in part of

petrochemical-derived fibers.

(B) Likely to be used in a bathroom and has

significant potential to be flushed, including baby wipes, bathroom cleaning wipes, toilet cleaning wipes, hard surface cleaning wipes, disinfecting wipes, hand sanitizing wipes, antibacterial wipes, facial and makeup removal wipes, general purpose cleaning wipes, personal care wipes for use on the body, feminine hygiene wipes, adult incontinence wipes, adult hygiene wipes, and body cleansing wipes.

"High contrast" means:

(1) provided by either a light symbol on a solid dark

background or a dark symbol on a solid light background; and

(2) having at least 70% contrast between the symbol

artwork and background using the formula  $[(B1 - B2) / B1] * 100$ , where B1 is the light reflectance value of the relatively lighter area and B2 is the light reflectance value of the relatively darker area.

"Jurisdictional wastewater authority" means a sanitary district, water reclamation district, municipality, county, or other unit of local government in this State responsible for the collection or treatment of wastewater.



"Label" means to represent by statement, word, picture, design, or emblem on a covered product package.

"Label notice" means the phrase "Do Not Flush" in a size equal to at least 2% of the surface area of the principal display panel. For covered products regulated pursuant to the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) by the United States Consumer Product Safety Commission under Section 1500.121 of Title 16 of the Code of Federal Regulations, if the label notice requirements in this paragraph would result in a type size larger than first aid instructions pursuant to the Federal Hazardous Substances Act, then the type size for the label notice shall, to the extent permitted by federal law, be equal to or greater than the type size required for the first aid instructions. For covered products required to be registered by the United States Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), if the label notice requirements in this paragraph would result in a type size on the principal display panel larger than a warning pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, then the type size for the label notice shall, to the extent permitted by federal law, be equal to or greater than the type size required for the "Keep Out of Reach of Children" statement under 40 CFR 156.66.

"Principal display panel" means the side of the product package that is most likely to be displayed, presented, or shown under customary conditions of display for retail sale. In the case of a cylindrical or nearly cylindrical package, the surface area of the principal display panel constitutes 40% of the product package as measured by multiplying the height of the container by the circumference. In the case of a flexible film package in which a rectangular prism or nearly rectangular prism stack of wipes is housed within the film, the surface area of the principal display panel is measured by multiplying the length by the width of the side of the package when the flexible packaging film is pressed flat against the stack of wipes on all sides of the stack.

"Symbol" means the "Do Not Flush" symbol, or a gender equivalent thereof, as depicted in the INDA/EDANA Code of Practice Second Edition and published within "Guidelines for Assessing the Flushability of Disposable Nonwoven Products," Edition 4, May 2018. The symbol shall be sized equal to at least 2% of the surface area of the principal display panel, except as specified in subdivision (iii) of paragraph (B) of subsection (a) of Section 15.

### Sec. 3. Labeling requirements.

(a) Except as provided in subsections (b), (c), (d), and (f), a covered product manufactured on or after July 1, 2023 shall be labeled clearly and conspicuously in adherence to the following labeling requirements:

(1) In the case of cylindrical or near cylindrical

packaging intended to dispense individual wipes, a covered entity shall comply with one of the following options:

(A) Place the symbol and label notice on the

principal display panel in a location reasonably viewable each time a wipe is dispensed.

(B) Place the symbol on the principal display

panel and either the symbol or label notice, or the symbol and label notice in combination, on the flip lid, subject to the following:

(i) If the label notice does not appear on

the flip lid, the label notice shall be placed on the principal display panel.

(ii) The symbol or label notice, or the

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

(iii) The symbol or label notice, or the

symbol and label notice in combination, on the flip lid shall cover a minimum of 8% of the surface area of the flip lid.

(2) In the case of flexible film packaging intended

to dispense individual wipes, a covered entity shall place the symbol on the principal display panel and dispensing side panel and shall place the label notice on either the principal display panel or dispensing side panel in a prominent location reasonably visible to the user each time a wipe is dispensed. If the principal display panel is on the dispensing side of the package, 2 symbols are not required.

(3) In the case of refillable tubs or other rigid

packaging intended to dispense individual wipes and be reused by the consumer for that purpose, a covered entity shall place the symbol and label notice on the principal display panel in a prominent location reasonably visible to the user each time a wipe is dispensed.

(4) In the case of packaging not intended to dispense

individual wipes, a covered entity shall place the symbol and label notice on the principal display panel in a prominent and reasonably visible location.

(5) A covered entity shall ensure that the packaging

seams, folds, or other package design elements do not obscure the symbol or the label notice.

(6) A covered entity shall ensure that the symbol

and label notice have sufficiently high contrast with the immediate background of the packaging to render it likely to be seen and read by the ordinary individual under customary conditions of purchase and use.

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

(1) Individual packages contained within the outer

package that are not intended to dispense individual wipes and contain no retail labeling.

(2) Outer packages that do not obscure the symbol

and label notice on individual packages contained within.

(c) If a covered product is provided within the same packaging as another consumer product for use in combination with the other consumer product, the outside retail packaging of the other consumer product does not need to comply with the labeling requirements of subsection (a).

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

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

(f) If a covered product is required to be registered by the United States Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and the Hawaii Department of Agriculture under Hawaii Pesticides Law, then the covered entity shall submit a label compliant with the labeling requirements of subsection (a) no later than July 1, 2023 to the United States Environmental Protection Agency.

If the United States Environmental Protection Agency or the Hawaii Department of Agriculture does not approve a product label that otherwise complies with the labeling requirements of subsection (a), the covered entity shall use a label with as many of the requirements of this Section as the relevant agency has approved.

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

Sec. 4. Nonconfidential business information. Upon a request by a jurisdictional wastewater authority, a covered entity must submit to the requesting entity, within 90 days after the request, nonconfidential business information and documentation demonstrating compliance with this Act in a format that is easy to understand.

Sec. 5 A local government unit may not regulate the labeling of covered products in a manner inconsistent with this act.

Sec. 6. Jurisdictional wastewater authority; authority to enforce; civil penalties.

(a) Jurisdictional wastewater authorities have the concurrent and exclusive authority to enforce this Act and to collect civil penalties for violations of this Act, subject to the conditions in this Section. A jurisdictional wastewater authority may impose a civil penalty in the amount of up to \$2,000 for the first violation of this Act, up to \$5,000 for the second violation, and up to \$10,000 for the third and any subsequent violation. If a covered entity has paid a prior penalty for the same violation to a different jurisdictional wastewater authority with enforcement authority under this Section, the penalty imposed by a jurisdictional wastewater authority shall be reduced by the amount of the payment.

(b) Any civil penalties collected pursuant to this Section must be paid to the enforcing jurisdictional wastewater authority that brought the action.

(c) The remedies provided by this Section are not exclusive and are in addition to the remedies that may be available under relevant consumer protection laws, if applicable.

(d) In addition to penalties recovered under this Section, the enforcing jurisdictional wastewater authority may recover reasonable enforcement costs and attorneys' fees from the liable covered entity.

Sec. 30. Noncompliant covered entities. Covered entities that violate the requirements of this Act are subject to the civil penalties described in Section 25. A specific violation is deemed to have occurred upon the sale of a noncompliant product package. The sale of multiple units of the same noncompliant product package is considered part of the same, single violation. A jurisdictional wastewater authority must send a written notice of an alleged violation and a copy of the requirements of this Act to a noncompliant covered entity, which will have 90 days to become compliant. A jurisdictional wastewater authority may assess a first penalty if the covered entity has not met the requirements of this Act 90 days after the date the notification was sent. A jurisdictional wastewater authority may impose a second, third, and subsequent penalty on a covered entity that remains noncompliant with the requirements of this Act for every month of noncompliance.

Sec. 7. Effective date. This Act takes effect July 1, 2023.

**HB-268**

Submitted on: 2/9/2023 12:26:51 PM

Testimony for EEP on 2/16/2023 9:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Caroline Azelski	Individual	Support	Written Testimony Only

Comments:

Support. Thank you.

**HB-268**

Submitted on: 2/11/2023 9:42:48 AM

Testimony for EEP on 2/16/2023 9:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Noel Morin	Individual	Support	Written Testimony Only

Comments:

Dear Chair Lowen, Vice-Chair Cochran, and EEP Committee Members,

I support this measure.

Sincerely,

Noel Morin - Hilo

**HB-268**

Submitted on: 2/11/2023 9:54:24 AM

Testimony for EEP on 2/16/2023 9:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Noel Morin	Individual	Support	Written Testimony Only

Comments:

Dear Chair Lowen, Vice-Chair Cochran, and EEP Committee Members,

I support this measure.

Sincerely,

Noel Morin - Hilo

**HB-268**

Submitted on: 2/12/2023 12:53:26 PM

Testimony for EEP on 2/16/2023 9:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Clayton Silva	Individual	Support	Written Testimony Only

Comments:

I support this bill because I can print it out in the Public Assess Room and wipe my butt with it.



**HB-268**

Submitted on: 2/14/2023 9:14:25 PM

Testimony for EEP on 2/16/2023 9:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ruth Love	Individual	Oppose	Written Testimony Only

Comments:

Flushable wipes make life easier for parents, the homeless and caregivers of ill and incapacitated adults. If you ban these you are making life harder on a population that already bears a large burden.

Thank you,

Mrs. Ruth Love

**HB-268**

Submitted on: 2/14/2023 9:48:48 PM

Testimony for EEP on 2/16/2023 9:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cards Pintor	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support this bill.

Mahalo nui,

Cards Pintor