

ASSEMBLY THIRD READING

AB 1989 (Cristina Garcia)

As Amended June 10, 2020

Majority vote

SUMMARY:

Requires a packaged menstrual products to conspicuously disclose ingredients in the product.

Major Provisions

- 1) Establishes the Menstrual Products Right to Know Act of 2020 (Act).
- 2) Defines "confidential business information"(CBI) as an intentionally added ingredient or combination of ingredients for which a claim has been approved by the federal Environmental Protection Agency for inclusion on the Toxic Substances Control Act Confidential Inventory or for which the manufacturer or its supplier claim protection under the Uniform Trade Secrets Act. Provides that CBI does not apply to any ingredient that is included on a designated list.
- 3) Defines "designated list" as any of the 22 authoritative lists identified in the Act, including any subsequent revisions to those lists when adopted by the authoritative body.
- 4) Defines "ingredient" as a fragrance ingredient or other intentionally added substance present in the menstrual product, unless the intentionally added substance is CBI. Defines "intentionally added" as a substance that serves a technical or functional purpose in the finished menstrual product.
- 5) Defines "menstrual product" as a product used to collect menstruation and vaginal discharge, including, but not limited to, tampons, pads, sponges, menstruation underwear, disks, and menstrual cups, whether disposable or reusable.
- 6) Requires a package or box containing menstrual products that was manufactured on or after January 1, 2023, for sale or distribution in this state, to have printed on the label a plain and conspicuous list of all ingredients in the product.
- 7) Requires the ingredients to be listed in order of predominance by weight in the menstrual product, except that ingredients present at a weight below one percent may be listed in any order following the other ingredients. Establishes other specified labeling requirements.
- 8) Requires, commencing January 1, 2023, a manufacturer to post on its website the ingredients of a menstrual product that the bill requires the manufacturer to disclose on the menstrual product package.
- 9) Requires, when a manufacturer is required to make a revision to information disclosed online due to a change in a designated list or a change in an ingredient, the manufacturer to make the revision no later than six-months of the change to the ingredient or the list.
- 10) Requires a manufacturer, when it is required to change the label on a menstrual product because of a change in a designated list or a change to an ingredient designated as a fragrance

ingredient, to make the change within 18-months of the designated list or regulation being adopted by the relevant authoritative body.

- 11) Requires a manufacturer that protects an intentionally added ingredient, including a fragrance ingredient, or combination of intentionally added ingredients pursuant to the Uniform Trade Secrets Act to maintain justification for protecting CBI.
- 12) States that the requirements in this bill apply in addition to other labeling requirements established in law.
- 13) Provides that a designated product shall not be sold in the state unless the designated product and the manufacturer of the designated product comply with this chapter.

COMMENTS:

Federal oversight of menstrual products: The Federal Food and Drug Administration (FDA) has broad authority to regulate medical devices for safety and effectiveness. Menstrual products are considered medical devices because they are intended to affect the function of the body. Menstrual products are not FDA approved; rather, they are registered and given clearance for marketing. Federal registration subjects these products to FDA oversight and consumer compliance tracking.

Menstrual products ingredients: Menstrual products can be made from a variety of materials. Exact ingredients are unknown because laws and regulations do not require ingredient labeling, and many manufacturers, due to proprietary information or other reasons, do not elect to print ingredients on the package.

Labeling requirements proposed under this bill: By establishing labeling requirements for menstrual products, this bill would create uniformity amongst ingredient labeling for all covered products.

California has established precedents for consumer product disclosure, and this bill would require the disclosure of menstrual product ingredients based on those existing laws for other consumer products. The Cleaning Products Right to Know Act SB 258 (Lara), Chapter 830, Statutes of 2017 requires a manufacturer of a cleaning product to disclose on the product label and on the product's internet website information related to chemicals contained in the product. The law requires any chemical to be disclosed if it is included on any of the 22 authoritative lists of chemicals that exhibit hazardous traits and/or an environmental or toxicological endpoint, as identified by the United States Environmental Protection Agency, the state of California, the European Union, Canada, the International Agency on Cancer Research, the federal Agency for Toxic Substances and Disease Registry, among others. These are the same authoritative lists included in this bill.

According to the Author:

According to the author, "AB 1989 will protect people's health by requiring the disclosure of all ingredients in menstrual products including tampons, pads, cups, disks, sponges, and menstrual underwear. It is imperative that consumers have a right to know what is in the products they will be using for over 40 years of their life, in order to protect their health. My goal with this legislation is to increase the awareness of the toxic chemicals currently in our menstrual products. It was troubling at best to learn that products people rely on contain Phthalates,

Bisphenols, Parabens, and [per- and polyfluoroalkyl substances], which all have been found to be harmful to human health. Periods are not a luxury and people should have the knowledge to make safer choices."

Arguments in Support:

California Health Coalition Advocacy states, "[Feminine care] products intended for use on or in an incredibly absorbent part of a woman's body are marketed and sold with little to no data assuring the ingredients they contain are safe. Ingredients are determined "safe," operating under the premise that they are used on ordinary skin just like other cosmetic products. That means chemicals of concern, such as carcinogens, reproductive toxins, endocrine disruptors, and allergens are being on, or even in, the extremely permeable mucus membranes of the vaginal area. ... Women have a right to know about these ingredients."

Arguments in Opposition:

CALPIRG, et al, state, "Independent testing of menstrual products has detected harmful chemicals including styrene, toluene, chloromethane, dioxins, furans, parabens, phthalates, and toluene, PFAS, among others. This is especially concerning considering menstrual products may be inserted into the body or placed on or around absorbent vaginal tissue ... Unlike cleaning products, there is so much that we do not know about the manufacture, ingredients and potential health impacts of menstrual products ... The chemical exposure routes from menstrual products are unique as these products are inserted into the body or touch highly absorbent vaginal and vulvar tissue. Allowing some ingredients to be hidden as CBI will hamper the progress of needed research, and will not give menstruators, advocates, or researchers a full picture of the ingredients used in these products."

FISCAL COMMENTS:

According to the Assembly Appropriations Committee, enactment of this bill would not result in any additional costs to CDPH.

VOTES:**ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 6-1-2**

YES: Arambula, Bauer-Kahan, Cristina Garcia, Bloom, Muratsuchi, Holden

NO: Melendez

ABS, ABST OR NV: Mathis, Obernolte

ASM APPROPRIATIONS: 16-0-2

YES: Gonzalez, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Megan Dahle, Diep, Eggman, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas, Voepel

ABS, ABST OR NV: Bigelow, Fong

UPDATED:

VERSION: June 10, 2020

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