ASSEMBLY BILL NO. 169–ASSEMBLYWOMEN GORELOW, BILBRAY-AXELROD, THOMAS, GONZÁLEZ; ANDERSON, BROWN-MAY, DURAN, PETERS AND SUMMERS-ARMSTRONG

FEBRUARY 15, 2023

JOINT SPONSORS: SENATORS CANNIZZARO, DONDERO LOOP AND KRASNER

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the labeling of feminine hygiene products. (BDR 51-617)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets **[**~~omitted material~~**]** is material to be omitted.

AN ACT relating to feminine hygiene products; defining certain terms relating to the labeling of feminine hygiene products; requiring, with certain exceptions, each package or box containing a feminine hygiene product that is manufactured on or after January 1, 2025, for sale or distribution in this State to bear a label containing a plain and conspicuous list of all ingredients in the feminine hygiene product; providing certain requirements for the revision of a list of ingredients in a feminine hygiene product; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes certain provisions relating to the labeling of certain foods, drugs, devices and cosmetics. (Chapter 585 of NRS) **Section 3** of this bill: (1) requires, with certain exceptions, each package or box containing a feminine hygiene product that is manufactured on or after January 1, 2025, for sale or distribution in this State to bear a label containing a plain and conspicuous list of all ingredients in the feminine hygiene product; (2) requires the ingredients identified on such label to be listed in order of predominance by weight and identified by

using standardized nomenclature, unless the ingredient is confidential business information; (3) if the ingredient is confidential business information, authorizes the ingredient to be identified by its common name; and (4) requires, if a manufacturer has an Internet website, the manufacturer to post the list of ingredients on the Internet website of the manufacturer. **Section 3.5** of this bill requires, with certain exceptions, a manufacturer to revise the list of ingredients on the label of a feminine hygiene product not later than: (1) for a label on a package or box containing a feminine hygiene product, 18 months after the change to an ingredient, the addition of an ingredient or the revision of a designated list; and (2) for a list of ingredients posted on the Internet website of the manufacturer, 6 months after the change to an ingredient, the addition of an ingredient or the revision of a designated list. **Sections 1.3-2.9** of this bill define certain terms related to the labeling of feminine hygiene products.

Existing law provides that a violation of any provision of chapter 585 of NRS relating to the labeling of certain foods, drugs, devices and cosmetics is a gross misdemeanor, except for certain violations of the chapter that are punishable as a category D felony. (NRS 585.550) A violation of **section 3 or 3.5** is also a gross misdemeanor.

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

Section 1. Chapter 585 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to 3.5, inclusive, of this act.

Sec. 1.1. ***As used in sections 1.1 to 3.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.3 to 2.9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 1.3. ***1. "Confidential business information" means an intentionally added ingredient or combination of ingredients for which:***

(a) A claim has been approved by the Administrator of the United States Environmental Protection Agency for inclusion on the Toxic Substances Control Act confidential Chemical Substance Inventory pursuant to 15 U.S.C. § 2607(b); or

(b) The manufacturer or supplier claims is a trade secret, as that term is defined in NRS 600A.030.

2. The term does not include:

(a) An intentionally added ingredient or combination of ingredients that is on a designated list; or

(b) A fragrance allergen included on Annex III of the European Union Cosmetics Regulation No. 1223/2009, as that regulation existed on January 20, 2023, if the fragrance allergen is present in the product at a concentration at or above 0.001 percent or 10 parts per million.

Sec. 1.5. *"Designated list" means any of the following, in the form most recently published:*

1. Chemicals for which a reference does or reference concentration has been developed based on neurotoxicity in the Integrated Risk Information System maintained by the United States Environmental Protection Agency.

2. Chemicals identified as carcinogenic to humans, likely to be carcinogenic to humans, or as Group A, B1 or B2 carcinogens in the Integrated Risk Information System maintained by the United States Environmental Protection Agency.

3. Neurotoxicants that are identified in the Toxic Substances Portal of the Agency for Toxic Substances and Disease Registry of the United States Department of Health and Human Services.

4. Persistent bioaccumulative and toxic priority chemicals that are identified in the United States Environmental Protection Agency's National Waste Minimization Program.

5. Reproductive or developmental toxicants identified in monographs on the Potential Human Reproductive and Developmental Effects published by the National Toxicology Program.

6. Chemicals identified on the Toxics Release Inventory maintained by the United States Environmental Protection Agency as persistent, bioaccumulative and toxic that are subject to the reporting requirements pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.

7. Chemicals that are identified as known to be, or reasonably anticipated to be, human carcinogens by the 15th Report on Carcinogens published by the National Toxicology Program.

8. Chemicals that are identified as priority pollutants in the Nevada water quality control plans pursuant to 33 U.S.C. § 1341 or identified as pollutants by this State or the United States Environmental Protection Agency for one or more bodies of water in this State pursuant to 33 U.S.C. § 1341 and 40 C.F.R. § 130.7.

9. Chemicals that are identified with noncancer endpoints and listed with an inhalation or oral reference exposure level by the California Office of Environmental Health Hazard Assessment pursuant to Cal. Health & Safety Code § 44360(b)(2).

Sec. 2. *"Feminine hygiene product" means any product used for the purpose of catching menstruation and vaginal discharge, including, without limitation, tampons, pads and menstrual cups, whether disposable or reusable.*

Sec. 2.3. *"Ingredient" means an ingredient for a fragrance or other intentionally added substance or combination of substances in a feminine hygiene product, unless the intentionally*

added substance or combination of substances is confidential business information.

Sec. 2.6. *"Intentionally added" means a substance that serves a technical or functional purpose in the finished feminine hygiene product.*

Sec. 2.9. *"Manufacturer" means a person or entity:*

1. That manufacturers feminine hygiene products and whose name appears on the product label; or

2. For whom the product is manufactured or distributed, as identified on the product label pursuant to the Fair Packaging and Labeling Act, 15 U.S.C. §§ 1451 et seq.

Sec. 3. *1. Except as otherwise provided in this subsection, each package or box containing a feminine hygiene product that is manufactured on or after January 1, 2025, for sale or distribution in this State must bear a label containing a plain and conspicuous list of all ingredients in the feminine hygiene product. Reasonable variations shall be permitted, and exemptions as to a small package shall be established by regulations prescribed by the Commissioner.*

2. On the list of ingredients required pursuant to subsection 1, the ingredients must be:

(a) Listed in order of predominance by weight unless the weight of the ingredient is 1 percent or less. If the weight of an ingredient is less than 1 percent, the ingredient may be listed in any order following the other ingredients.

(b) Except as otherwise provided in this paragraph, identified using standardized nomenclature, including, without limitation, the International Nomenclature of Cosmetic Ingredients, the Consumer Product Ingredients Dictionary published by the Household and Commercial Products Association or the common name of the chemical. If the ingredient is confidential business information, the ingredient may be identified by its common name.

3. If a manufacturer has an Internet website, the list of ingredients that is required pursuant to subsection 1 must be posted on the Internet website of the manufacturer.

Sec. 3.5. *A manufacturer must revise the list of ingredients on the label of a feminine hygiene product pursuant to section 3 of this act not later than:*

1. For the label on a package or box containing a feminine hygiene product, 18 months after the change to an ingredient, the addition of an ingredient or the revision of a designated list, unless the designated list becomes effective at a later date.

2. For a list of ingredients posted on the Internet website of the manufacturer, 6 months after the change to an ingredient, the

addition of an ingredient or the revision of a designated list, unless the designated list becomes effective at a later date.

Sec. 4. (Deleted by amendment.)

Sec. 5. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 4, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2024, for all other purposes.

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