To amend the Fair Packaging and Labeling Act to establish a Federal standard relating to ingredient disclosure in cleaning products, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. BUCSHON introduced the following bill; which was referred to the Committee on ____________

A BILL

To amend the Fair Packaging and Labeling Act to establish a Federal standard relating to ingredient disclosure in cleaning products, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the [“__________ Act of 2023”].]
SEC. 2. CLEANING PRODUCT LABELING INFORMATION

STANDARD.

The Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.) is amended—

1. in section 12 (15 U.S.C. 1461)—

   (A) by striking “now or hereafter provide”
   and inserting the following: “now or hereafter—
   “(1) provide”;
   (B) in paragraph (1), as so designated, by
   striking the period at the end and inserting “; or”; and
   (C) by adding at the end the following:
   “(2) impose mandatory ingredient disclosure re-
   quirements with respect to cleaning products if those
   cleaning products are subject to the requirements of
   section 14 of this Act or regulations promulgated
   pursuant thereto.”; and

2. by adding at the end the following:

   “SEC. 14. FEDERAL STANDARD FOR MANDATORY INGRE-
   DIENT DISCLOSURE IN CLEANING PROD-
   UCTS.

   “(a) DEFINITIONS.—In this section:
   “(1) AIR CARE PRODUCT.—The term ‘air care
   product’ means a chemically formulated product that
   is labeled to indicate that the purpose of the product
is to enhance or condition the indoor environment by
eliminating unpleasant odors or freshening the air.

“(2) AUTOMOTIVE PRODUCT.—The term ‘automotive product’—

“(A) means a chemically formulated product that is labeled to indicate that the purpose of the product is to maintain the appearance of a motor vehicle, including a product that is used to wash, wax, polish, clean, or treat the exterior or interior surfaces of a motor vehicle; and

“(B) does not include—

“(i) automotive paint; or

“(ii) a paint repair product.

“(3) CLEANING PRODUCT.—

“(A) IN GENERAL.—The term ‘cleaning product’ means a chemically formulated product that is an air care product, an automotive product, a general cleaning product, or a polish used primarily for janitorial, domestic, or institutional cleaning purposes without further processing; and

“(B) does not include—
“(i) a food, drug, or cosmetic, including any personal care item, such as toothpaste, shampoo, or hand soap;

“(ii) an industrial product specifically manufactured for, and exclusively used in—

“(I) oil and gas production;

“(II) steel production;

“(III) heavy industry manufacturing;

“(IV) industrial water treatment;

“(V) industrial textile maintenance and processing (other than industrial laundering);

“(VI) food and beverage processing and packaging; or

“(VII) any other industrial manufacturing processes;

“(iii) a trial sample of a product described in subparagraph (A) that—

“(I) is not packaged for sale, resale, or retail; and

“(II) includes a statement on the package of the product indicating that
the product is not for sale or resale;

or

“(iv) a tool that is used as part of the cleaning process, such as a sponge, toilet brush, or microfiber cloth.

“(C) RULE OF CONSTRUCTION.—For the purposes of subparagraph (A), the dilution of a product described in that subparagraph by a user of the product may not be construed to be further processing with respect to the product.

“(5) COLORANT.—The term ‘colorant’ means an ingredient that is added to a cleaning product for the specific purpose of imparting color to, or altering the color of, the product.

“(6) CONFIDENTIAL BUSINESS INFORMATION.—The term ‘confidential business information’—

“(A) means any intentionally added ingredient, or combination of ingredients, with respect to which—

“(i) a claim for protection against disclosure has been asserted under section 8(b)(4)(B) or 14 of the Toxic Substances Control Act (15 U.S.C. 2607(b)(4)(B); 2613) and in accordance with rules pro-
mulated under either such section, as ap-
icable;

“(ii) a claim for protection against
disclosure has been submitted under sec-
tion 10(a) of the Federal Insecticide, Fun-
gicide, and Rodenticide Act (7 U.S.C.
136h(a)) and the product that contains the
ingredient, or combination of ingredients,
for which that claim is submitted is reg-
istered under section 3 of that Act (7
U.S.C. 136a);

“(iii) a manufacturer, or a supplier of
a manufacturer, has obtained relief under
paragraph (3) of section 1836(b) of title
18, United States Code, in a civil action
brought under that section; or

“(iv) a civil action brought under sec-
tion 1836(b) of title 18, United States
Code, is pending in a district court of the
United States; and

“(B) does not include any intentionally
added ingredient which—

“(i) is a fragrance allergen if the fra-
grance allergen is present in a product at
a concentration that is greater than or
equal to 0.01 percent;

“(ii) is a substance or combination of
substances included on a designated list;

“(iii) is a substance which the Com-
mission has identified by regulation issued
pursuant to section 14(k) to require disclo-
ure.

“(7) DESIGNATED LIST.—The term ‘designated
list’ means a list of substances to be compiled by the
Commission following a rulemaking undertaken in
accordance with paragraph (k) of section 14 and
which will be commenced following consultation with
the Administrator of the Environmental Protection
Agency. The Administrator shall be requested to col-
late and review and to supply recommendations con-
cerning existing lists of substances known to be haz-
ardous to consumers when present in consumer-use
products. The lists to be considered and reviewed by
the Administrator should be those already compiled
or maintained by the EPA, the Consumer Product
Safety Commission, the Food and Drug Administra-
tion and other Federal agencies deemed by the Ad-
ministrator to have relevant expertise.
“(8) **Electronically readable format.**—

The term ‘electronically readable format’ means, with respect to a format for providing required information on a readily accessible company website, that the format—

“(A) is machine-readable by automated systems, including—

“(i) web browsers;

“(ii) accessibility software to aid the disabled;

“(iii) automated scripts; and

“(iv) other software programs or applications;

“(B) is not restricted from access by—

“(i) a search engine; or

“(ii) a requirement for—

“(I) registration;

“(II) the provision of personally identifiable information; or

“(III) the use of CAPTCHA or similar challenge response test technologies, without regard to whether the challenge is—

“(aa) visual;

“(bb) auditory; or
“(cc) otherwise; and

“(C) conforms to the most current version of the Web Content Accessibility Guidelines adopted by the Accessibility Guidelines Working Group of the World Wide Web Consortium, including any amendments to those Guidelines that are made after the date of enactment of this section.

“(9) FRAGRANCE.—The term ‘fragrance’ means any intentionally added substance, or any complex mixture of aroma chemicals, natural essential oils, and any other functional ingredient, the sole purpose of which is—

“(A) to impart an odor or scent; or

“(B) to counteract an odor.

“(10) FRAGRANCE ALLERGEN.—The term ‘fragrance allergen’ means a fragrance allergen included on Annex III of the EU Cosmetics Regulation No. 1223/2009 as required to be labeled by the EU Detergents Regulation No. 648/2004 on January 1, 2018 or subsequent updates to those regulations.

“(11) GENERAL CLEANING PRODUCT.—The term ‘general cleaning product’ means a soap, detergent, or other chemically formulated product that is
labeled to indicate that the purpose of the product
is to clean, disinfect, or otherwise care for—

“(A) fabric, dishes, or other wares; and
“(B) surfaces including—

“(i) floors, furniture, countertops,
showers, and baths; and
“(ii) other hard surfaces, such as
stovetops, microwaves, and other appli-
ances.

“(12) **INTENTIONALLY ADDED INGREDIENT.—**
The term ‘intentionally added ingredient’—

“(A) means a chemical that—

“(i) a manufacturer has intentionally
added to a cleaning product; and
“(ii) has a functional or technical ef-
fect in the product; and
“(B) includes—

“(i) the components of an ingredient
that is a fragrance or a colorant; and
“(ii) an intentional breakdown prod-
uct of an added chemical that also has a
functional or technical effect in the prod-
uct.

“(13) **INVENTORY.—** The term ‘Inventory’ has
the meaning given the term in section 720.3 of title

“(14) MANUFACTURER.—The term ‘manufacturer’ means a person or entity—

“(A)(i) that manufactures a cleaning product; and

“(ii) the name of which appears on the product label with respect to the cleaning product; or

“(B) for which a cleaning product is manufactured, or by which a cleaning product is distributed, as identified on the product label with respect to the cleaning product under the requirements of this Act.

“(15) PESTICIDE.—The term ‘pesticide’ has the meaning given the term in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136(u)).

“(16) POLISH.—The term ‘polish’ means a chemically formulated product, such as polish, wax, or a restorer, that is labeled to indicate that the purpose of the product is to polish, protect, buff, condition, temporarily seal, or maintain furniture, floors, metal, leather, or other surfaces.
“(17) PRODUCT LABEL.—The term ‘product label’ is any written, printed, or graphic matter affixed to a product that is subject to this section 14 or its immediate container or wrapper.

“(18) SAFETY DATA SHEET.—The term ‘safety data sheet’ has the meaning given the term in section 1910.1200 of title 29, Code of Federal Regulations, or any successor regulation.

“(b) MANDATED INGREDIENT DISCLOSURE.—

“(1) IN GENERAL.—

“(A) REQUIREMENT.—Except as provided in subparagraph (B), a manufacturer of a cleaning product shall disclose on the product label of the cleaning product—

“(i) a list of each intentionally added ingredient that is present in the cleaning product, unless the ingredient is confidential business information, in which case the manufacturer shall provide the information required under subsection (c);

“(ii) the manufacturer’s toll-free telephone number and Internet website address;

“(iii) if the cleaning product contains any fragrance allergen—
“(I) a list of each fragrance allergen that is present in the cleaning product at a concentration that is equal to or greater than 0.01 percent; or

“(II) when a fragrance allergen is present at or greater than 0.01 percent, a statement that reads ‘Contains fragrance allergen(s)’;

“(iv) if the manufacturer omits an intentionally added ingredient under clause (i), or includes a statement described in clause (iii)(II), a statement that reads ‘For more ingredient information visit’ followed by the information required under clause (v); and

“(v) the toll-free telephone number and the publicly available website address through which an individual can obtain the information required under subsection(e).

“(B) EXCEPTION.—

“(i) Notwithstanding subparagraph (A), fragrance ingredients or colorants may be listed on the product label as ‘fragrances’ or ‘colorants’, respectively.
“(ii) The requirement under subparagraph (A) shall not apply with respect to a product that is a pesticide.

“(2) DISCLOSURE SEQUENCE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), for the purposes of the requirements under paragraph (1)(A) and subsection (c) with respect to a cleaning product, the manufacturer of the cleaning product shall list any intentionally added ingredient that is present in the cleaning product in descending order of predominance by weight in the product.

“(B) EXCEPTION.—With respect to any ingredient that is present in a cleaning product at a concentration that is less than 1 percent, for the purposes of the requirements under paragraph (1)(A) and subsection (c) with respect to the cleaning product, the manufacturer with respect to the product may list that ingredient—

“(i) after listing all of the ingredients that are present in the cleaning product at a concentration that is greater than or equal to 1 percent; and
“(ii) among the ingredients that are present in the cleaning product at a concentration that is less than 1 percent, without regard to the order of predominance by weight.

“(3) FRAGRANCE CONCENTRATION DETERMINATION.—For purposes of the requirements under paragraph (1)(A) and subsection (c) with respect to a cleaning product, the manufacturer of the cleaning product shall determine the total concentration of each fragrance allergen that is present in the cleaning product by adding the contributions of the fragrance allergen in each ingredient in the product, including the presence of the fragrance allergen in any fragrance or essential oil that is present in the product.

“(4) NOMENCLATURE SYSTEMS.—

“(A) IN GENERAL.—An intentionally added ingredient or fragrance ingredient that a manufacturer is required to list under this subsection and post under subsection (c), except for an ingredient for which the use of a generic name is permitted under subsection (d), shall, subject to subparagraph (B), be listed or posted using the following nomenclature systems:

“(ii) International Nomenclature of Cosmetic Ingredients.


“(iv) Chemical Abstracts Index name.

“(v) Common Chemical name.

“(B) CLARIFICATION.—For the purposes of subparagraph (A), a manufacturer shall—

“(i) if a name is available in a system described in clause (i) or clause (ii) of that subparagraph, use the name from either such system; and

“(ii) if a name is not available in either system described in clause (i) or (ii) of that subparagraph, select a name from the first available system listed in clause (iii), (iv), or (v) of that subparagraph.

“(c) POSTING ON MANUFACTURER WEBSITE.—

“(1) IN GENERAL.—

“(A) REQUIRED INFORMATION.—The manufacturer of a cleaning product shall post on a publicly available website of the manufacturer,
in an electronically readable format and with respect to the cleaning product—

“(i) the information required under clauses (i), (ii), and (iii) of subsection (b)(1)(A) with respect to the cleaning product;

“(ii) a list of all fragrance ingredients present at a concentration at or above 0.01, unless it is confidential business information;

“(iii) the functional purpose served by each intentionally added ingredient that is listed under subsection (b)(1)(A)(i); and

“(iv) a link to the safety data sheet for the product.

“(B) LANGUAGES.—The information posted under subparagraph (A)—

“(i) shall be posted in English; and

“(ii) may be posted in any of the other 10 most commonly spoken languages in the United States.

“(2) WEBSITE EASE OF ACCESS.—With respect to any information that the manufacturer of a cleaning product is required to post with respect to the
cleaning product under paragraph (1), the manufacturer shall post the information not more than—

“(A) 5 clicks away from the website address that is printed on the product label under subsection (b)(1)(A)(v); and

“(B) 4 clicks away from a website that is specific to—

“(i) the product; or

“(ii) the class of products to which the product belongs.

“(3) FRAGRANCE INGREDIENTS AND COLORANTS.—With respect to the requirement under paragraph (b)(1)(A) and (c)(1)(A)(ii), for an intentionally added ingredient that is a fragrance ingredient or a colorant, a manufacturer may list the functional purpose of that intentionally added ingredient as ‘fragrance ingredient’ or ‘colorant’, as applicable.

“(4) CAS NUMBER.—

“(A) IN GENERAL.—With respect to each intentionally added ingredient described in subsection (b)(1)(A)(i) that a manufacturer is required to post under paragraph (1)(A)(i), the manufacturer shall, subject to subparagraph
(B), include the Chemical Abstracts Service number with respect to that ingredient.

“(B) UNAVAILABILITY.—For the purposes of subparagraph (A), if a Chemical Abstracts Service number with respect to an intentionally added ingredient is not available, or if the intentionally added ingredient is confidential business information, a manufacturer shall, when posting the information required under paragraph (1)(A)(i), use the phrase ‘not available’ or ‘withheld’, respectively, with respect to the ingredient.

“(5) SAFETY DATA SHEETS.—A manufacturer that is required under this subsection to disclose information with respect to a cleaning product may make that disclosure in a safety data sheet with respect to that product if—

“(A) the manufacturer posts the safety data sheet on a publicly available website of the manufacturer; and

“(B) the safety data sheet meets the requirements of this subsection, including that the safety data sheet is in an electronically readable format.
“(d) Protection of Confidential Business Information.—

“(1) IN GENERAL.—Subject to the requirements of this subsection, a manufacturer of a cleaning product may choose not to disclose under subsection (b)(1)(A)(i) any intentionally added ingredient, including any colorant or fragrance ingredient, or combination of intentionally added ingredients, that is confidential business information.

“(2) INFORMATION REQUIRED.—

“(A) IN GENERAL.—With respect to a manufacturer that withholds disclosure of an intentionally added ingredient as confidential business information under paragraph (1), the manufacturer shall, for the purposes of subsection (b)(1)(A)(i), and subject to subparagraph (B) and paragraph (3), use the generic chemical name by which the intentionally added ingredient, or combination of intentionally added ingredients, as applicable, is listed in the Inventory.

“(B) NOT LISTED IN CONFIDENTIAL INVENTORY.—For the purposes of subparagraph (A), if a manufacturer has obtained relief under paragraph (3) of section 1836(b) of title 18,
United States Code, in a civil action brought under that section with respect to an intentionally added ingredient, including an ingredient that is a fragrance, or a combination of intentionally added ingredients, the manufacturer shall—

“(i) maintain justification for protecting confidential business information consistent with the requirements of such section 1836(b); and

“(ii) if the ingredient, or combination of ingredients, as applicable, is not included in the confidential portion of the Inventory—

“(I) use a name for the intentionally added ingredient, or combination of intentionally added ingredients, as applicable, that is only as generic as necessary to protect the confidential identity of the intentionally added ingredient or combination of ingredients; and

“(II) in developing a generic name under subclause (I), use the generic name framework provided by—
“(aa) guidance of the Environmental Protection Agency relating to the confidential portion of the Inventory;

“(bb) the European Chemicals Agency guidance for alternative chemical names;

“(cc) the New Jersey Trade Secret Registry Number system; or

“(dd) the Canadian Hazardous Materials Information Review Act Registry Number system.

“(3) REQUIREMENTS OF SUPPLIERS.—With respect to any supplier of a manufacturer that, under paragraph (1), chooses not to disclose an intentionally added ingredient, including a fragrance ingredient, or a combination of intentionally added ingredients, as confidential business information—

“(A) the supplier shall comply with the requirements under paragraph (2); and

“(B) the manufacturer shall use the generic name developed by the supplier under subparagraph (A).
(e) PRE-EXISTING PRODUCTS.—

(1) IN GENERAL.—A cleaning product that is manufactured before the effective date of this section, and that would otherwise be subject to the requirements of this section, shall be considered to be in compliance with the requirements of this section if the product displays—

(A) the day, month, and year in which the product is manufactured; or

(B) a code that contains the day, month, and year in which the product is manufactured if the manufacturer with respect to the product posts a statement on the website of the manufacturer—

(i) that provides a toll-free telephone number through which a consumer may obtain information with respect to the date on which the product was manufactured; or

(ii) regarding how a consumer may determine the date on which the product was manufactured based on that code.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to prohibit a cleaning product from being distributed before the effec-
tive date of this section with labeling that complies
with the requirements of this section.

“(f) ENFORCEMENT.—For the purposes of the en-
forcement of this section under section 7(b), a cleaning
product shall be considered to be in compliance with the
requirements of this section when a cleaning product is
in compliance with the requirements of chapter 13 of part
3 of division 104 of the California Health and Safety Code
(Cal. Health & Safety Code section 108950 et seq.); com-
monly known as ‘the Cleaning Product Right to Know Act
of 2017’).

“(g) RELATIONSHIP TO OTHER LAWS.—Nothing in
this section may be construed to repeal, invalidate, amend,
or supersede—

“(1) the Federal Trade Commission Act (15
U.S.C. 41 et seq.) or any regulations promulgated
under that Act;

“(2) the Federal Food, Drug, and Cosmetic Act
(21 U.S.C. 301 et seq.) or any regulations promul-
gated under that Act;

“(3) the Federal Hazardous Substances Act (15
U.S.C. 1261 et seq.) or any regulations promulgated
under that Act;

“(4) the Federal Insecticide, Fungicide, and
Rodenticide Act (7 U.S.C. 136 et seq.);
“(5) the Defend Trade Secrets Act of 2016 (Public Law 114–153; 130 Stat. 376), the amendments made by that Act, or any regulations promulgated under—

“(A) that Act; or

“(B) the amendments made by that Act;

“(6) the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) or any regulations promulgated under that Act; or

“(7) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) or any regulations promulgated under that Act.

“(h) FEDERAL PREEMPTION.—Notwithstanding section 12(2), nothing in this section, or any regulation, rule, or requirement promulgated under this section, may be construed to preempt or otherwise affect any remedy established under State or Federal common law with respect to the mandatory disclosure of cleaning product ingredients.

“(i) COMPLIANCE WITH FEDERAL HAZARD COMMUNICATIONS STANDARD.—An employer that is required to maintain safety data sheets, and to ensure that those safety data sheets are readily accessible, under section 1910.1200 of title 29, Code of Federal Regulations, or any successor regulation, shall, in the same manner and to the
same persons as required under that section, make readily
available the information required under subsection (e).

“(j) RULES OF CONSTRUCTION.—Nothing in this sec-
tion may be construed to—

“(1) require a manufacturer with respect to a
cleaning product to—

“(A) disclose—

“(i) the weight or amount of an inten-
tionally added ingredient, including any
colorant or fragrance ingredient, in the
cleaning product; or

“(ii) how the product is manufac-
tured; or

“(B) list in any particular order an inten-
tionally added ingredient if the ingredient is
present in the product at a concentration that
is less than 1 percent; or

“(2) preclude the manufacturer with respect to
a cleaning product from including or delivering sup-
plemental or clarifying information on a product
label or website with respect to the product, its in-
gredients, and the functional purpose of any ingre-
dient, including through the use of technologies,
such as electronic or digital links, if that information
is—
“(A) consistent with, and does not contradict, information that is required under this Act; and


“(k) AUTHORITY TO ISSUE REGULATIONS.—The Commission may, for purposes of carrying out section 2 of this Act, promulgate regulations.

“(1) Such regulations may include—

“(A) a rule to define the term ‘designated list’ for purposes of subparagraph (a)(7) of section 14; and

“(B) rulemakings to identify additional ingredients that must be disclosed in accordance with paragraphs (b) and (c) of section 14 when such substance may be unintentionally present as an impurity or manufacturing byproduct in a cleaning product.

“(2) Prior to developing regulations for purposes of paragraph (k) above, or when considering amending such regulation, the Commission will request recommendations from the Administrator of the Environmental Protection Agency concerning which ingredients, or lists of substances, if intentionally added, or unintentionally, present in a clean-
ing product would be likely to be present a risk to human health on the basis of multiple publicly-available peer-reviewed studies which demonstrate the substance causes adverse effects in tests that are commonly used in laboratory studies.

“(A) Such consultations will become part of the rulemaking record;

“(B) There will be an opportunity for public comment on EPA’s recommendations.

“(l) EFFECTIVE DATE.—This section shall take effect on January 1, [______].”