
Environment & Energy Committee

HB 2565

Brief Description: Concerning the labeling of disposable wipes products.

Sponsors: Representatives Fitzgibbon, Doglio and Hudgins.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Establishes "Do Not Flush" labeling requirements for nonflushable, nonwoven disposable wipes.

Hearing Date: 1/21/20

Staff: Nikkole Hughes (786-7156).

Background:

Disposable Wipes.

Disposable wipes include wipes made for baby care, hand washing, personal cleansing, makeup removal, and household cleaning. Disposable wipes are typically made of materials such as polyester, polypropylene, cotton, wood pulp, or rayon fibers formed into sheets. They may be packaged individually or in small or bulk packaging. They are typically moistened with water and other ingredients, such as cleansing and moisturizing agents, depending on their intended use. They may also contain other ingredients, such as preservatives to prevent the growth of bacteria or mold.

Many types disposable wipes are regulated at the federal level for their quality and content. Wipes intended for a therapeutic purpose, such as treating acne, are drugs under federal law and must meet certain requirements established by the U.S. Food and Drug Administration. Wipes intended to control germs on inanimate surfaces and wipes containing insect repellents are regulated by the U.S. Environmental Protection Agency. Wipes intended for cleansing household objects are regulated by the Consumer Product Safety Commission.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Industry Flushability Standards.

Some, but not all, types of disposable wipes may be suitable for disposal down a toilet. In 2008, trade associations representing suppliers of nonwoven materials and products suppliers published the first edition of the Guidelines for Assessing the Flushability of Disposable Nonwoven Products (Guidelines), to help manufacturers of disposable wipes determine whether their products should be flushed into the wastewater system. Under the Guidelines, only products labelled as "flushable" have demonstrated compatibility with wastewater infrastructure. The most recent edition of the Guidelines was published in November 2018.

Summary of Bill:

Definitions.

"Covered entity" means a manufacturer of a covered product, as well as a wholesaler, supplier, or retailer that is responsible for the labeling or packaging of a covered product.

"Covered product" means a nonflushable, nonwoven disposable wipe that is a premoistened wipe constructed from nonwoven sheets and designed and marketed for diapering, personal hygiene, or surface cleaning purposes. A nonflushable, nonwoven disposable wipe excludes any wipe product labeled "flushable," "sewer safe," "septic safe," or otherwise indicating that the product is appropriate for disposal in a toilet.

Labeling Requirements for Covered Products.

A covered entity must clearly and conspicuously label a covered product as "Do Not Flush" as follows:

- use the "Do Not Flush" symbol described in the Guidelines for Assessing the Flushability of Disposable Nonwoven Products, Edition 4, published May 2018;
- size the symbol to cover at least 2 percent of the surface area of the side of the package on which the logo is presented;
- place the symbol in a prominent and reasonably visible location on the package which, in the case of packaging intended to dispense individual wipes, is permanently affixed in a location that is visible near the point where individual wipes are dispensed;
- ensure the symbol is not obscured by packaging seams, folds, or other package design elements; and
- ensure the symbol has sufficiently high contrast with the background of the packaging to be highly readable.

These requirements take effect for most products July 1, 2022. For covered products required to be registered by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, these requirements take effect July 1, 2023.

Enforcement.

Upon request by a person, a covered entity must submit to that person, within 90 days of the request, nonconfidential business information and documentation demonstrating compliance with the labeling requirements, in a format that is easy to understand and scientifically accurate.

The Attorney General, cities, and counties have concurrent authority to enforce the labeling requirements and collect civil penalties for a violation of the requirements. A specific violation is deemed to have occurred upon the sale of a noncompliant product by stock-keeping unit

number or unique item number. The repeated sale of the same noncompliant product by stock-keeping unit number or unique item number is considered a single violation.

An enforcing government entity may impose a civil penalty in the amount of up to \$2,000 for the first violation, 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 government entity with enforcement authority, the penalty imposed by a government entity is reduced by the amount of the payment.

The Department of Ecology has sole authority to adopt rules to ensure proper implementation of the labeling requirements.

Nonflushable Products Revolving Account.

All receipts from civil penalties or other amounts recovered by the state in enforcement action must be deposited into the Nonflushable Products Revolving Account, which is created in the custody of the State Treasurer. Expenditures from the account must be used by the Attorney General for the payment of costs, expenses, and charges incurred in the enforcement of the labeling requirements. Only the Attorney General or the Attorney General's designee may authorize expenditures from the account.

Appropriation: None.

Fiscal Note: Requested on January 15, 2020.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.