

---

HOUSE BILL 2565

---

State of Washington

66th Legislature

2020 Regular Session

By Representatives Fitzgibbon, Doglio, and Hudgins

Read first time 01/15/20. Referred to Committee on Environment & Energy.

1 AN ACT Relating to the labeling of disposable wipes products;  
2 adding a new chapter to Title 70 RCW; creating a new section;  
3 prescribing penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires  
7 otherwise.

8 (1) "Covered entity" means a manufacturer of a covered product.  
9 "Covered entity" also includes a wholesaler, supplier, or retailer  
10 that is responsible for the labeling or packaging of a covered  
11 product.

12 (2) "Covered product" means a nonflushable nonwoven disposable  
13 wipe that is a premoistened wipe constructed from nonwoven sheets and  
14 designed and marketed for diapering, personal hygiene, or surface  
15 cleaning purposes. A nonflushable nonwoven disposable wipe excludes  
16 any wipe product designed or marketed for cleaning or medicating the  
17 anorectal or vaginal areas on the human body and labeled "flushable,"  
18 "sewer safe," "septic safe," or otherwise indicating that the product  
19 is appropriate for disposal in a toilet including, but not limited  
20 to, premoistened toilet tissue.

1 (3) "Label" means to represent by statement, word, picture,  
2 design, or emblem on the packaging of a covered product.

3 NEW SECTION. **Sec. 2.** A covered entity must clearly and  
4 conspicuously label a covered product as "do not flush" as follows:

5 (1) Use the "do not flush" symbol described in the INDA/EDANA  
6 Code of Practice 2 (COP2, as published in "Guidelines for Assessing  
7 the Flushability of Disposable Nonwoven Products," Edition 4, May  
8 2018, by INDA/EDANA);

9 (2) Size the symbol to cover at least two percent of the surface  
10 area of the side of the package on which the logo is presented;

11 (3) Place the symbol in a prominent and reasonably visible  
12 location on the package which, in the case of packaging intended to  
13 dispense individual wipes, is permanently affixed in a location that  
14 is visible near the point where individual wipes are dispensed;

15 (4) Ensure the symbol is not obscured by packaging seams, folds,  
16 or other package design elements; and

17 (5) Ensure the symbol has sufficiently high contrast with the  
18 background of the packaging to be highly readable.

19 NEW SECTION. **Sec. 3.** Upon the request by a person, a covered  
20 entity must submit to that person, within ninety days of the request,  
21 nonconfidential business information and documentation demonstrating  
22 compliance with this chapter, in a format that is easy to understand  
23 and scientifically accurate.

24 NEW SECTION. **Sec. 4.** (1) The state, acting through the attorney  
25 general, and cities and counties have concurrent authority to enforce  
26 this chapter and to collect civil penalties for a violation of this  
27 chapter, subject to the conditions in this section. An enforcing  
28 government entity may impose a civil penalty in the amount of up to  
29 two thousand dollars for the first violation of this chapter, up to  
30 five thousand dollars for the second violation of this chapter, and  
31 up to ten thousand dollars for the third and any subsequent violation  
32 of this chapter. If a covered entity has paid a prior penalty for the  
33 same violation to a different government entity with enforcement  
34 authority under this subsection, the penalty imposed by a government  
35 entity is reduced by the amount of the payment.

36 (2) Any civil penalties collected pursuant to this section must  
37 be paid to the office of the city attorney, city prosecutor, district

1 attorney, or attorney general, whichever office brought the action.  
2 Penalties collected by the attorney general on behalf of the state  
3 must be deposited in the nonflushable products revolving account  
4 created in section 6 of this act.

5 (3) The remedies provided by this section are not exclusive and  
6 are in addition to the remedies that may be available pursuant to  
7 chapter 19.86 RCW or other consumer protection laws, if applicable.

8 (4) In addition to penalties recovered under this section, the  
9 enforcing government entity may recover reasonable enforcement costs  
10 and attorneys' fees from the liable covered entity.

11 NEW SECTION. **Sec. 5.** Covered entities that violate the  
12 requirements of this chapter are subject to civil penalties described  
13 in section 4 of this act. A specific violation is deemed to have  
14 occurred upon the sale of a noncompliant product by stock-keeping  
15 unit number or unique item number. The repeated sale of the same  
16 noncompliant product by stock-keeping unit number or unique item  
17 number is considered a single violation. A city, county, or the state  
18 must send a written notice of an alleged violation and a copy of the  
19 requirements of this chapter to a noncompliant covered entity, which  
20 will have ninety days to become compliant. A city, county, or the  
21 state may assess a first penalty if the covered entity has not met  
22 the requirements of this chapter ninety days following the date the  
23 notification was sent. A city, county, or the state may impose a  
24 second, third, and subsequent penalties on a covered entity that  
25 remains noncompliant with the requirements of this chapter for every  
26 month of noncompliance.

27 NEW SECTION. **Sec. 6.** The nonflushable products revolving  
28 account is created in the custody of the state treasurer. All  
29 receipts from civil penalties or other amounts recovered by the state  
30 in enforcement actions under section 4 of this act must be deposited  
31 in the account. Expenditures from the account must be used by the  
32 attorney general for the payment of costs, expenses, and charges  
33 incurred in the enforcement of this chapter. Only the attorney  
34 general or the attorney general's designee may authorize expenditures  
35 from the account. The account is subject to allotment procedures  
36 under chapter 43.88 RCW, but an appropriation is not required for  
37 expenditures.

1        NEW SECTION.    **Sec. 7.**    The department of ecology has sole  
2 authority to adopt rules to ensure the proper implementation of this  
3 chapter.

4        NEW SECTION.    **Sec. 8.**    Sections 1 through 7 and 9 of this act  
5 constitute a new chapter in Title 70 RCW.

6        NEW SECTION.    **Sec. 9.**    This act takes effect July 1, 2022.

7        NEW SECTION.    **Sec. 10.**   For a covered product required to be  
8 registered by the United States environmental protection agency under  
9 the federal insecticide, fungicide, and rodenticide act (7 U.S.C.  
10 Sec. 136 et seq. (1996)), this act applies beginning July 1, 2023.

11       NEW SECTION.    **Sec. 11.**   If any provision of this act or its  
12 application to any person or circumstance is held invalid, the  
13 remainder of the act or the application of the provision to other  
14 persons or circumstances is not affected.

--- END ---