
SUBSTITUTE HOUSE BILL 2565

State of Washington

66th Legislature

2020 Regular Session

By House Environment & Energy (originally sponsored by Representatives Fitzgibbon, Doglio, and Hudgins)

READ FIRST TIME 02/03/20.

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 legislature finds that creating
6 labeling standards for disposable wipes products will protect the
7 public health, environment, water quality, and public infrastructure
8 used for the collection, transport, and treatment of wastewater. It
9 is not the intent of the legislature to address standards for
10 flushability with this chapter.

11 NEW SECTION. **Sec. 2.** The definitions in this section apply
12 throughout this chapter unless the context clearly requires
13 otherwise.

14 (1) "Covered entity" means a manufacturer of a covered product.
15 "Covered entity" also includes a wholesaler, supplier, or retailer
16 that is responsible for the labeling or packaging of a covered
17 product.

18 (2) "Covered product" means a nonflushable nonwoven disposable
19 wipe that is a premoistened wipe constructed from nonwoven sheets and
20 designed and marketed for diapering, personal hygiene, or surface

1 cleaning purposes. A nonflushable nonwoven disposable wipe excludes
2 any wipe product designed or marketed for cleaning or medicating the
3 anorectal or vaginal areas on the human body and labeled "flushable,"
4 "sewer safe," "septic safe," or otherwise indicating that the product
5 is appropriate for disposal in a toilet including, but not limited
6 to, premoistened toilet tissue.

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

9 (4) "Principal display panel" means the side of the covered
10 product package that is most likely to be displayed, presented, or
11 shown under customary conditions of display for retail sale. The term
12 is further defined as follows:

13 (a) In the case of a cylindrical or nearly cylindrical package,
14 the principal display panel constitutes forty percent of the product
15 package, as measured by multiplying the height of the container times
16 the circumference.

17 (b) In the case of a flexible film package, in which a
18 rectangular prism or nearly rectangular prism stack of wipes is
19 housed within the film, the principal display panel is measured by
20 multiplying the length times the width of the side of the package
21 when the flexible packaging film is pressed flat against the stack of
22 wipes on all sides of the stack.

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

25 (1) Use the "do not flush" symbol, or a gender equivalent
26 thereof, described in the INDA/EDANA code of practice 2 (COP2, as
27 published in "Guidelines for Assessing the Flushability of Disposable
28 Nonwoven Products," Edition 4, May 2018, by INDA/EDANA);

29 (2) Place the symbol on the principal display panel in a
30 prominent and reasonably visible location on the package which, in
31 the case of packaging intended to dispense individual wipes, is
32 permanently affixed in a location that is visible to a person each
33 time a wipe is dispensed from the package;

34 (3) Size the symbol to cover at least two percent of the surface
35 area of the side of the principal display panel on which the symbol
36 is presented;

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

1 (5) (a) Ensure the symbol has sufficient printed high contrast
2 with the immediate background of the packaging to render it likely to
3 be read by the ordinary individual under customary conditions of
4 purchase and use.

5 (b) For the purposes of this subsection, "printed high contrast"
6 means:

7 (i) Provided with either a light symbol on a dark background or a
8 dark symbol on a light background; and

9 (ii) A minimum level or percentage of contrast between the symbol
10 artwork and the background of at least seventy percent. Contrast in
11 percent is determined by:

12 (A) $\text{Contrast} = (B1 - B2) \times 100 / B1$; and

13 (B) Where B1 = light reflectance value of the lighter area and B2
14 = light reflectance value of the darker area.

15 NEW SECTION. **Sec. 4.** Upon the request by a person, a covered
16 entity must submit to that person, within ninety days of the request,
17 nonconfidential business information and documentation demonstrating
18 compliance with this chapter, in a format that is easy to understand.

19 NEW SECTION. **Sec. 5.** (1) The state, acting through the attorney
20 general, and cities and counties have concurrent authority to enforce
21 this chapter and to collect civil penalties for a violation of this
22 chapter, subject to the conditions in this section. An enforcing
23 government entity may impose a civil penalty in the amount of up to
24 two thousand dollars for the first violation of this chapter, up to
25 five thousand dollars for the second violation of this chapter, and
26 up to ten thousand dollars for the third and any subsequent violation
27 of this chapter. If a covered entity has paid a prior penalty for the
28 same violation to a different government entity with enforcement
29 authority under this subsection, the penalty imposed by a government
30 entity is reduced by the amount of the payment.

31 (2) Any civil penalties collected pursuant to this section must
32 be paid to the office of the city attorney, city prosecutor, district
33 attorney, or attorney general, whichever office brought the action.
34 Penalties collected by the attorney general on behalf of the state
35 must be deposited in the nonflushable products revolving account
36 created in section 7 of this act.

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

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

7 NEW SECTION. **Sec. 6.** Covered entities that violate the
8 requirements of this chapter are subject to civil penalties described
9 in section 5 of this act. A specific violation is deemed to have
10 occurred upon the sale of a noncompliant product by stock-keeping
11 unit number or unique item number. The repeated sale of the same
12 noncompliant product by stock-keeping unit number or unique item
13 number is considered a single violation. A city, county, or the state
14 must send a written notice of an alleged violation and a copy of the
15 requirements of this chapter to a noncompliant covered entity, which
16 will have ninety days to become compliant. A city, county, or the
17 state may assess a first penalty if the covered entity has not met
18 the requirements of this chapter ninety days following the date the
19 notification was sent. A city, county, or the state may impose a
20 second, third, and subsequent penalties on a covered entity that
21 remains noncompliant with the requirements of this chapter for every
22 month of noncompliance.

23 NEW SECTION. **Sec. 7.** The nonflushable products revolving
24 account is created in the custody of the state treasurer. All
25 receipts from civil penalties or other amounts recovered by the state
26 in enforcement actions under section 5 of this act must be deposited
27 in the account. Expenditures from the account must be used by the
28 attorney general for the payment of costs, expenses, and charges
29 incurred in the enforcement of this chapter. Only the attorney
30 general or the attorney general's designee may authorize expenditures
31 from the account. The account is subject to allotment procedures
32 under chapter 43.88 RCW, but an appropriation is not required for
33 expenditures.

34 NEW SECTION. **Sec. 8.** Sections 1 through 7, 9, and 11 of this
35 act constitute a new chapter in Title 70 RCW.

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

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

5 NEW SECTION. **Sec. 11.** This chapter preempts all existing or
6 future laws enacted by a county, city, town, or other political
7 subdivision of the state regarding the labeling of a covered product.
8 Nothing in this section is intended to preempt the enforcement
9 authority of a city or county as provided under sections 5 and 6 of
10 this act.

11 NEW SECTION. **Sec. 12.** 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.

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