

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2565

66th Legislature
2020 Regular Session

Passed by the House March 7, 2020
Yeas 93 Nays 4

**Speaker of the House of
Representatives**

Passed by the Senate March 5, 2020
Yeas 36 Nays 10

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2565** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2565

AS AMENDED BY THE SENATE

Passed Legislature - 2020 Regular Session

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 public
7 health, the 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 and a wholesaler, supplier, or retailer that has contractually
16 undertaken responsibility to the manufacturer for the "do not flush"
17 labeling of a covered 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 household

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

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

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

13 (a) In the case of a cylindrical or nearly cylindrical package,
14 the surface area of the principal display panel constitutes forty
15 percent of the product package, as measured by multiplying the height
16 of the container times 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 surface area of the principal display
20 panel constitutes the length times the width of the side of the
21 package when the flexible packaging film is pressed flat against the
22 stack of 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 principal display panel on which the symbol is presented;

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

38 (5) Ensure the symbol has sufficiently high contrast with the
39 immediate background of the packaging to render it likely to be read

1 by the ordinary individual under customary conditions of purchase and
2 use. In the case of a printed symbol, "high contrast" is defined as
3 follows:

4 (a) Provided with either a light symbol on a dark background or a
5 dark symbol on a light background; and

6 (b) A minimum level or percentage of contrast between the symbol
7 artwork and the background of at least seventy percent. Contrast in
8 percent is determined by:

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

10 (ii) Where B1 = light reflectance value of the lighter area and
11 B2 = light reflectance value of the darker area; and

12 (6) Beginning January 1, 2023, no package or box containing a
13 covered product manufactured on or before the effective date of this
14 section may be offered for distribution or sale in the state.

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

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

32 (2) Any civil penalties collected pursuant to this section must
33 be paid to the enforcing governmental entity that brought the action.

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

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

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

18 NEW SECTION. **Sec. 7.** Sections 1 through 6, 8, and 10 of this
19 act constitute a new chapter in Title 70 RCW.

20 NEW SECTION. **Sec. 8.** This act takes effect July 1, 2022.

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

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

31 NEW SECTION. **Sec. 11.** If any provision of this act or its
32 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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