

# FINAL BILL REPORT

## ESHB 2565

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Synopsis as Enacted

**Brief Description:** Concerning the labeling of disposable wipes products.

**Sponsors:** House Committee on Environment & Energy (originally sponsored by Representatives Fitzgibbon, Doglio and Hudgins).

**House Committee on Environment & Energy**  
**Senate Committee on Environment, Energy & Technology**

### **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 the intended use. They may also contain other ingredients, such as preservatives to prevent the growth of bacteria or mold.

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

#### 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.

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*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.*

## **Summary:**

### Definitions.

"Covered entity" means a manufacturer of a covered product and a wholesaler, supplier, or retailer that has contractually undertaken responsibility to the manufacturer for the "Do Not Flush" labeling of a covered product.

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

"Principal display panel" means the side of a product package that is most likely to be displayed, presented, or shown under customary conditions of display for retail sale.

### 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, or a gender equivalent thereof, described in the Guidelines for Assessing the Flushability of Disposable Nonwoven Products, Edition 4, published May 2018;
- place the symbol on the principal display panel 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 to a person each time a wipe is dispensed from the package;
- size the symbol to cover at least 2 percent of the surface area of the side of the principal display panel on which the symbol is presented;
- 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 immediate background of the packaging to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

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

Beginning January 1, 2023, no package or box containing a covered product manufactured on or before the effective date of the labeling requirements for that product may be offered for distribution or sale in the state.

### Enforcement.

Upon request by a city or a county, a covered entity must submit to the requesting entity, 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.

Cities, and counties have concurrent and exclusive 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 package. The repeated sale of the same noncompliant product package is considered part of the same 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.

Preemption.

The labeling requirements for covered products preempt all existing or future labeling laws enacted by a county, city, town, or other political subdivision of Washington. This preemption is not intended to preempt the enforcement authority of a city or county.

**Votes on Final Passage:**

House	92	3	
Senate	36	10	(Senate amended)
House	93	4	(House concurred)

**Effective:** July 1, 2022