

SENATE BILL REPORT

SHB 1213

As Reported by Senate Committee On:
Environment, Energy & Technology, March 21, 2023

Title: An act relating to compliance with labeling requirements for wipes.

Brief Description: Concerning compliance with labeling requirements for wipes.

Sponsors: House Committee on Environment & Energy (originally sponsored by Representatives Ybarra, Fitzgibbon, Ramel, Doglio and Macri).

Brief History: Passed House: 2/6/23, 93-0.

Committee Activity: Environment, Energy & Technology: 3/10/23, 3/21/23 [DP].

Brief Summary of Bill

- Eliminates the 2023 deadline for nonflushable disposable wipes subject to the labeling requirements of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) to also meet state labeling requirements for nonflushable disposable wipes.
- Requires a FIFRA-regulated wipe to achieve compliance with labeling requirements by the later of July 1, 2025 or 24 months after the product receives label approval under FIFRA from the United States Environmental Protection Agency.
- Clarifies that nonflushable disposable wipes that were manufactured prior to July 1, 2022, may be sold so long as the product is labeled consistent with requirements.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: Do pass.

Signed by Senators Nguyen, Chair; Lovelett, Vice Chair; MacEwen, Ranking Member; Boehnke, Lovick, Short, Trudeau and Wellman.

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

Staff: Gregory Vogel (786-7413)

Background: Disposable wipes include wipes made for baby care, hand washing, personal cleansing, makeup removal, and household cleaning. Many types of disposable wipes are federally regulated for quality and content, including wipes intended to control germs on inanimate surfaces and wipes containing insecticides, which are regulated by the United States Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The Washington State Department of Agriculture (WSDA) administers FIFRA as well as the state Pesticide Control Act and the state Pesticide Application Act. Its activities include adopting rules requiring the registration and restricted use of pesticides, and labeling requirements applicable to pesticides.

Under legislation enacted in 2020, packaging for nonflushable disposable wipes must be labeled clearly and conspicuously with a Do Not Flush label that:

- uses a Do Not Flush symbol established in 2018 guidelines published by trade associations representing wipe material and product suppliers;
- places 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;
- sizes 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;
- ensures the symbol is not obscured by packaging seams, folds, or other package design elements; and
- ensures 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.

The Do Not Flush labeling requirements took effect for most nonflushable disposable wipes on July 1, 2022. For nonflushable disposable wipes required to be registered by EPA under FIFRA, Do Not Flush labeling requirements take effect July 1, 2023. Manufacturers are responsible for compliance with labeling requirements unless a wholesaler, supplier, or retailer has contractually undertaken responsibility to the manufacturer for Do Not Flush labeling requirements.

Beginning January 1, 2023, no package or box containing nonflushable disposable wipes subject to Do Not Flush labeling requirements that were manufactured on or before January 1, 2022, may be offered for distribution or sale.

Cities and counties have concurrent and exclusive authority to enforce the Do Not Flush labeling requirements and collect civil penalties for violation of the requirements. The Do Not Flush labeling requirements for nonflushable disposable wipes preempt all existing or future labeling laws enacted by a county, city, town, or other political subdivision of Washington.

Summary of Bill: The 2023 effective date for Do Not Flush labeling requirements applicable to nonflushable disposable wipes required to be registered under FIFRA is eliminated. Instead, manufacturers responsible for FIFRA-regulated wipes or wipes subject to WSDA pesticide registration requirements must:

- submit a label compliant with Do Not Flush labeling requirements to EPA by July 1, 2023, and upon approval by EPA, submit a label to WSDA for approval; and
- comply with Do Not Flush labeling requirements, beginning with wipes manufactured after July 1, 2025, or 24 months after receiving EPA labeling approval, whichever is later.

Nonflushable disposable wipes newly introduced into commerce in Washington after July 1, 2023, must begin complying with Do Not Flush labeling requirements by July 1, 2025.

If either EPA or WSDA do not approve a product label that complies with all of the Do Not Flush labeling requirements, the manufacturer must use a label that meets as many of the Do Not Flush labeling requirements as EPA and WSDA have approved. A manufacturer may include words or phrases in addition to those specified in Do Not Flush labeling requirements if necessary to obtain WSDA or EPA approval for the label.

A manufacturer of nonflushable disposable wipes in commerce in Washington as of July 1, 2023 that has not received WSDA approval 24 months after EPA has approved a label remains in compliance with Do Not Flush requirements if the manufacturer provides evidence, upon request, of the timely submission of the label to WSDA.

Packages of nonflushable disposable wipes manufactured on or before July 1, 2022, may be sold after January 1, 2023, if the product has been labeled consistent with state labeling requirements.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: It's a cleanup bill, as in, it's all about wipes. All we're doing is that for the companies that have put labels on the wipes, with a deadline that will pass soon, but have to get federal government approval, we want to give them a little more time to get this approval.

The bill will help these manufacturers meet federal requirements and allow them more time to implement the labeling requirements.

Persons Testifying: PRO: Representative Alex Ybarra, Prime Sponsor; Brent Ludeman,

Household & Commercial Products Association.

Persons Signed In To Testify But Not Testifying: No one.