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## A BILL FOR AN ACT

RELATING TO GENDER EQUITY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that achieving complete  
2 gender equity requires that the State address numerous issues of  
3 varying scale. The legislature further finds that article I,  
4 section 3 of the Constitution of the State of Hawaii, states  
5 that "[e]quality of rights under the law shall not be denied or  
6 abridged by the State on account of sex". However, individuals  
7 of all genders continue to face gendered expectations that  
8 perpetuate ingrained gender roles and discourage the full  
9 participation of both women and men inside and outside of their  
10 homes.

11           The legislature believes that requiring public  
12 establishments to make baby diaper-changing accommodations  
13 equally accessible to men and women will facilitate the full  
14 participation of all individuals inside and outside of their  
15 homes. Accordingly, the purpose of this Act is to require the  
16 equitable provision of baby diaper-changing accommodations in  
17 certain public establishments and facilities.



1 SECTION 2. Chapter 489, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4 "PART . BABY DIAPER-CHANGING ACCOMMODATIONS

5 §489- Definitions. As used in this part:

6 "Baby diaper-changing accommodation" means a safe,  
7 sanitary, and convenient baby diaper-changing station, deck,  
8 table, or similar amenity that is installed or placed in a  
9 separate, designated location in an establishment subject to the  
10 provisions of this part. "Baby diaper-changing accommodation"  
11 includes but is not limited to stations, decks, and tables in  
12 women's, men's, or unisex family restrooms.

13 "New establishment" means a place of public accommodation  
14 or state building construction that is constructed or  
15 substantially modified after December 31, 2020.

16 "Restroom for public use" means a restroom that is  
17 accessible to persons other than employees of the public  
18 accommodation in which the restroom is located.

19 "State building construction" shall have the same meaning  
20 as used in section 107-21.



1           §489-       New establishments; criteria and application.

2   (a)   A place of public accommodation or state building  
3   construction shall be deemed to be constructed on the earlier of  
4   the date a certificate of occupancy is issued or the first date  
5   of occupancy for public use, regardless of whether the  
6   establishment has obtained a certificate of occupancy in  
7   compliance with applicable state and county laws.

8       (b)   A place of public accommodation or state building  
9   construction shall be deemed to be substantially modified so as  
10   to require compliance with this part upon completion of any  
11   reconstruction, rehabilitation, addition, or other improvement  
12   of an existing building or facility if:

13       (1)   The reconstruction, rehabilitation, addition, or other  
14           improvement directly affects more than fifty per cent  
15           of the gross floor area occupied by the establishment;

16       (2)   The estimated cost of the reconstruction,  
17           rehabilitation, addition, or other improvement as set  
18           forth in the applicable building permit is at least  
19           \$50,000; or



1           (3) The estimated cost of the new construction or  
2           renovation of any restroom or restrooms as set forth  
3           in the applicable building permit is at least \$10,000;  
4 provided that no establishment shall be deemed to be  
5 substantially modified if no structural changes are made to any  
6 existing restroom in the building or facility occupied by the  
7 establishment.

8           **§489- Requirement to provide accommodations.** (a) On  
9 each floor containing restrooms for public use, each new  
10 establishment shall be required to provide, at a minimum, the  
11 following:

12           (1) Two baby diaper-changing accommodations that are  
13           accessible, one each, by women and men; or

14           (2) One baby diaper-changing accommodation that is  
15           accessible by both women and men.

16           (b) Each new establishment shall post signage indicating  
17 the location of the baby diaper-changing accommodations.

18           (c) A violation of this section shall constitute an  
19 unlawful discriminatory practice.

20           **§489- Construction documents.** Construction documents  
21 for new establishments shall show whether or not a restroom is a



1 restroom for public use as defined in this part, and the  
2 location of each baby diaper-changing accommodation within all  
3 restrooms for public use. If a restroom is not shown as a  
4 restroom for public use on the construction documents and,  
5 subsequent to the issuance of the building permit authorizing  
6 the construction or renovation of the restroom, there is a  
7 change in the designation of the restroom to a restroom for  
8 public use, a baby diaper-changing accommodation shall be  
9 provided upon the change of designation.

10       **§489- Hardship exemption.** A new establishment shall  
11 not be subject to the provisions of this part if compliance  
12 would create a hardship. Compliance shall be deemed to create a  
13 hardship if:

- 14       (1) No reasonable physical option exists for providing  
15             baby diaper-changing accommodations; or
- 16       (2) The cost of providing baby diaper-changing  
17             accommodations exceeds ten per cent of the cost of  
18             constructing, purchasing, or substantially modifying  
19             the building or facility.

20       **§489- Violations; private cause of action.** Any person  
21 who is injured by an unlawful discriminatory practice under this



1 part may bring proceedings to enjoin the unlawful discriminatory  
2 practice, and if the judgment is for the plaintiff, the  
3 plaintiff shall be awarded reasonable attorneys' fees, the cost  
4 of suit, and a sum of \$100. Any action under this part shall be  
5 subject to the jurisdiction of the district courts as provided  
6 in chapter 604, and may be commenced and conducted in the small  
7 claims division of the district court.

8           **§489- Exclusion from Hawaii civil rights commission.**  
9 Notwithstanding any other law to the contrary, this part shall  
10 not be subject to chapter 368 and shall not be enforced by the  
11 Hawaii civil rights commission."

12           SECTION 3. Section 107-27, Hawaii Revised Statutes, is  
13 amended to read as follows:

14           **"§107-27 Design of state buildings.** (a) No later than  
15 one year after the adoption of codes or standards pursuant to  
16 section 107-24(c), the design of all state building construction  
17 shall be in compliance with the Hawaii state building codes,  
18 except state building construction shall be allowed to be  
19 exempted from:

20           (1) County codes that have not adopted the Hawaii state  
21 building codes;



1           (2) Any county code amendments that are inconsistent with  
2           the minimum performance objectives of the Hawaii state  
3           building codes or the objectives enumerated in this  
4           part; or

5           (3) Any county code amendments that are contrary to code  
6           amendments adopted by another county.

7           (b) Exemptions shall include county ordinances allowing  
8           the exercise of indigenous Hawaiian architecture adopted in  
9           accordance with section 46-1.55.

10          (c) The State shall consider hurricane resistant criteria  
11          when designing and constructing new public schools for the  
12          capability of providing shelter refuge.

13          (d) State building construction shall include baby diaper-  
14          changing accommodations pursuant to part        of chapter 489."

15          SECTION 4. This Act does not affect rights and duties that  
16          matured, penalties that were incurred, and proceedings that were  
17          begun before its effective date.

18          SECTION 5. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on January 1, 2021.

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# H.B. NO. 1435

**Report Title:**

Gender Equity; Baby Diaper-Changing Accommodations.

**Description:**

Requires all places of public accommodation and state building construction constructed or substantially modified after 12/31/20 to provide baby diaper-changing accommodations that are equally accessible to men and women.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

