
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 and
13 baby feeding accommodations equally accessible to men and women
14 will facilitate the full participation of all individuals inside
15 and outside of their homes. Accordingly, the purpose of this
16 Act is to require the equitable provision of baby diaper-



1 changing accommodations and baby feeding accommodations in
2 certain public establishments and facilities.

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

6 "PART . BABY DIAPER-CHANGING ACCOMMODATIONS
7 AND BABY FEEDING ACCOMMODATIONS

8 §489- Definitions. As used in this part:

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

16 "Baby feeding accommodation" means a safe, sanitary, and
17 private place with a chair and a small table for feeding a baby.

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



1 "Restroom for public use" means a restroom that is
2 accessible to persons other than employees of the public
3 accommodation in which the restroom is located.

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

6 **§489- New establishments; criteria and application.**

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

13 (b) A place of public accommodation or state building
14 construction shall be deemed to be substantially modified so as
15 to require compliance with this part upon completion of any
16 reconstruction, rehabilitation, addition, or other improvement
17 of an existing building or facility if:

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



1 (2) The estimated cost of the reconstruction,
2 rehabilitation, addition, or other improvement as set
3 forth in the applicable building permit is at least
4 \$50,000; or

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

12 **§489- Requirement to provide baby diaper-changing**
13 **accommodations.** (a) On each floor containing restrooms for
14 public use, each new establishment shall be required to provide,
15 at a minimum, the following:

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

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

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



1 (c) A violation of this section shall constitute an
2 unlawful discriminatory practice.

3 §489- Requirement to provide baby feeding

4 accommodations. (a) Each new establishment shall be required
5 to provide baby feeding accommodations.

6 (b) A violation of this section shall constitute an
7 unlawful discriminatory practice.

8 §489- Construction documents. (a) Construction
9 documents for new establishments shall show whether or not a
10 restroom is a restroom for public use as defined in this part,
11 and the location of each baby diaper-changing accommodation
12 within all restrooms for public use. If a restroom is not shown
13 as a restroom for public use on the construction documents and,
14 subsequent to the issuance of the building permit authorizing
15 the construction or renovation of the restroom, there is a
16 change in the designation of the restroom to a restroom for
17 public use, a baby diaper-changing accommodation shall be
18 provided upon the change of designation.

19 (b) Construction documents shall show the location of each
20 baby feeding accommodation.



1 **§489- Hardship exemption.** A new establishment shall
2 not be subject to the provisions of this part if compliance
3 would create a hardship. Compliance shall be deemed to create a
4 hardship if:

5 (1) No reasonable physical option exists for providing
6 baby diaper-changing accommodations or baby feeding
7 accommodations;

8 (2) The cost of providing baby diaper-changing
9 accommodations exceeds ten per cent of the cost of
10 constructing, purchasing, or substantially modifying
11 the building or facility; or

12 (3) The cost of providing baby feeding accommodations
13 exceeds per cent of the cost of constructing,
14 purchasing, or substantially modifying the building or
15 facility.

16 **§489- Violations; private cause of action.** Any person
17 who is injured by an unlawful discriminatory practice under this
18 part may bring proceedings to enjoin the unlawful discriminatory
19 practice, and if the judgment is for the plaintiff, the
20 plaintiff shall be awarded reasonable attorneys' fees, the cost
21 of suit, and a sum of \$100. Any action under this part shall be



1 subject to the jurisdiction of the district courts as provided
2 in chapter 604 and may be commenced and conducted in the small
3 claims division of the district court.

4 §489- Exclusion from Hawaii civil rights commission.
5 Notwithstanding any other law to the contrary, this part shall
6 not be subject to chapter 368 and shall not be enforced by the
7 Hawaii civil rights commission."

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

10 "§107-27 Design of state buildings. (a) No later than
11 one year after the adoption of codes or standards pursuant to
12 section 107-24(c), the design of all state building construction
13 shall be in compliance with the Hawaii state building codes,
14 except state building construction shall be allowed to be
15 exempted from:

16 (1) County codes that have not adopted the Hawaii state
17 building codes;

18 (2) Any county code amendments that are inconsistent with
19 the minimum performance objectives of the Hawaii state
20 building codes or the objectives enumerated in this
21 part; or



1 (3) Any county code amendments that are contrary to code
2 amendments adopted by another county.

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

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

9 (d) State building construction shall include baby diaper-
10 changing accommodations and baby feeding accommodations pursuant
11 to part of chapter 489."

12 SECTION 4. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 5. New statutory material is underscored.

16 SECTION 6. This Act shall take effect on January 1, 2050.



Report Title:

Gender Equity; Baby Diaper-Changing and Baby Feeding
Accommodations

Description:

Requires all places of public accommodation and state building construction constructed or substantially modified after December 31, 2020, to provide baby diaper-changing accommodations and baby feeding accommodations that are equally accessible to men and women. (SB821 HD1)

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

