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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 full achievement of  
2 gender equity requires attention to a wide variety of issues,  
3 both large and small. Full equality of men and women is  
4 enshrined in the letter of the law. However, in daily practice,  
5 all individuals face gendered expectations that, while seemingly  
6 insignificant on their own, act cumulatively to perpetuate  
7 calcified gender roles and to limit the full participation of  
8 both women and men in civil society and family life.

9           The legislature finds that requiring public establishments  
10 to make baby diaper-changing accommodations equally accessible  
11 to men and women will facilitate the participation of all  
12 individuals in civic and family life. Accordingly, the purpose  
13 of this Act is require equitable provision of baby diaper-  
14 changing accommodations in certain public establishments and  
15 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-A Definitions. As used in this part:

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

13 "New establishment or use" means a place of public  
14 accommodation that is constructed or substantially modified  
15 after June 30, 2019.

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 §489-B New establishments; criteria and application. (a)

20 A place of public accommodation shall be deemed to be  
21 constructed on the earlier of the date a certificate of



1 occupancy is issued or the first date of occupancy for public  
2 use, regardless of whether the establishment has obtained a  
3 certificate of occupancy in compliance with applicable state and  
4 county law.

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

10 (1) The reconstruction, rehabilitation, addition, or other  
11 improvement requires more than fifty per cent of the  
12 gross floor area occupied by the establishment or use;

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

17 (3) The estimated cost of the new construction or  
18 renovation of any restroom or restrooms as set forth  
19 in the applicable building permit is at least \$10,000;

20 provided that no establishment or use shall be deemed to be  
21 substantially modified if no structural changes are made to any



1 existing restroom in the building or facility occupied by the  
2 establishment or use.

3       **§489-C Requirement to provide accommodations.** (a) Every  
4 new establishment for public use shall be required to provide  
5 baby diaper-changing accommodations in accordance with this  
6 part. Each new establishment for public use shall be required  
7 to provide, at each floor level containing restrooms for public  
8 use, at least one baby diaper-changing accommodation that is  
9 accessible to women and one that is accessible to men, or a  
10 single accommodation accessible to both. Each new establishment  
11 for public use shall provide signage indicating the location of  
12 the baby diaper-changing accommodations.

13       (b) Every existing establishment for public use that has  
14 not been substantially modified as specified in section 489-B(b)  
15 shall provide baby diaper-changing accommodations for public use  
16 as provided in subsection (a) by July 1, 2022.

17       (c) Violation of this part is an unlawful discriminatory  
18 practice.

19       **§489-D Construction documents.** Construction documents for  
20 new establishments or uses shall show whether or not a restroom  
21 is a restroom for public use as defined in this part and the



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

9 **§489-E Hardship exemption.** An establishment for public  
 10 use shall not be subject to the provisions of this part if  
 11 compliance would create a hardship. Compliance shall be deemed  
 12 to create a hardship if:

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

19 **§489-F Violations; private cause of action.** Any person  
 20 who is injured by an unlawful discriminatory practice under this  
 21 part may bring proceedings to enjoin the unlawful discriminatory



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

7 **§489-G Exclusion from Hawaii civil rights commission.**

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

11 SECTION 3. In codifying the new sections added by section  
12 2 of this Act, the revisor of statutes shall substitute  
13 appropriate section numbers for the letters used in designating  
14 the new sections in this Act.

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. This Act shall take effect on July 1, 2019.

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**Report Title:**

Gender Equity; Baby Diaper-changing Accommodations

**Description:**

Requires all places of public accommodation constructed or substantially modified after June 30, 2019, to provide baby diaper-changing accommodations that are equally accessible to men and women. Requires all existing places of public accommodation that have not been substantially modified to provide baby diaper-changing accommodations that are equally accessible to men and women by July 1, 2022. (SD1)

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

