

JAN 22 2021

A BILL FOR AN ACT

RELATING TO ACCESSIBILITY.

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

1 SECTION 1. Chapter 321, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§321- Retail establishment; restroom access; eligible
5 medical condition. (a) A retail establishment that has a
6 toilet facility for its employees shall allow a customer to use
7 that facility during normal business hours; provided that the
8 following conditions are met:

9 (1) The customer requesting the use of the employee toilet
10 facility suffers from an eligible medical condition
11 and provides the retail establishment with proof of an
12 eligible medical condition, in the form of:

13 (A) A statement signed by a physician; or

14 (B) A specially issued card from a health
15 organization or state health agency.

16 (2) Three or more employees of the retail establishment
17 are working and physically present on the premises of



1 the retail establishment at the time the customer
2 requests use of the employee toilet facility;

3 (3) The retail establishment does not have a public
4 restroom that is immediately accessible to the
5 customer;

6 (4) The employee toilet facility is reasonably safe and is
7 not located in an area where providing access would
8 create an obvious health or safety risk to the
9 customer or an obvious security risk to the retail
10 establishment; and

11 (5) A public restroom is not immediately accessible to the
12 customer.

13 (b) A retail establishment or an employee of a retail
14 establishment shall not be civilly liable for any act or
15 omission in allowing a customer that has an eligible medical
16 condition to use an employee toilet facility that is not a
17 public restroom; provided that the act or omission is:

18 (1) Not wilful or grossly negligent;

19 (2) Occurs in an area of the retail establishment that is
20 not accessible to the public; and



1 (3) Results in an injury to or death of the customer or
2 any individual other than an employee accompanying the
3 customer.

4 (c) A retail establishment shall not be required to make
5 any physical changes to an employee toilet facility for the
6 purposes of this section.

7 (d) Any retail establishment or employee of a retail
8 establishment who violates this section shall be fined not more
9 than \$100 for each violation.

10 (e) For the purposes of this section:

11 "Customer" means an individual who is lawfully on the
12 premises of a retail establishment.

13 "Eligible medical condition" means Crohn's disease,
14 ulcerative colitis, any other inflammatory bowel disease,
15 irritable bowel syndrome, or any other medical condition that
16 requires immediate access to a toilet facility.

17 "Physician" means an individual authorized to practice
18 medicine or osteopathy under the law of any state.

19 "Retail establishment" means a place of business open to
20 the general public for the sale of goods or services. "Retail
21 establishment" does not include a retail service station, with a



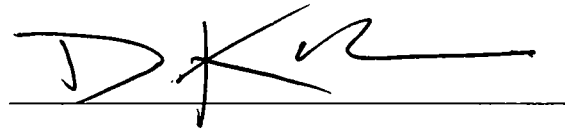
1 structure of eight hundred square feet or less, that has an
2 employee toilet facility located within that structure."

3 SECTION 2. New statutory material is underscored.

4 SECTION 3. This Act shall take effect on July 1, 2021.

5

INTRODUCED BY:





S.B. NO. 860

Report Title:

Restroom Access; Customer; Retail Establishment

Description:

Requires a retail establishment with an employee toilet facility to allow a customer suffering from an eligible medical condition to use that restroom during normal business hours, under certain conditions. Exempts a retail establishment and employees from civil liability in allowing an eligible customer to use an employee toilet facility. Establishes fines.

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

