

STAND. COM. REP. NO.

2845

Honolulu, Hawaii

MAR 04 2022

RE: S.B. No. 2913
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2913, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ACCESSIBILITY,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require 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;
- (2) Exempt a retail establishment and employees from civil liability in allowing an eligible customer to use an employee toilet facility; and
- (3) Establish fines.

Your Committee received testimony in support of this measure from the Hawai'i Civil Rights Commission, Disability and Communication Access Board, and one individual. Your Committee received testimony in opposition to this measure from the Retail Merchants of Hawaii and Hawaii Association for Justice.

Your Committee finds that people who suffer from certain diseases such as inflammatory bowel disease and Crohn's disease



often need urgent and sudden access to a toilet facility. Irritable bowel disease is an invisible disability, but many sufferers feel housebound because of the need to be near a restroom. This measure would allow those individuals more freedom and would not create any additional costs to businesses.

Your Committee notes that a retail establishment's duty of care owed to its employees is negligence. Accordingly, your Committee has amended this measure by clarifying that a retail establishment shall not be civilly liable for damages arising from any act or omission in allowing a customer that has an eligible medical condition to use an employee toilet facility that is not a public restroom; provided that the act or omission is not negligent.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2913, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2913, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2913, SD1	HTH, JDC	03-01-22		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
KEOHOKALOLE, Jarrett (VC)	✓			
ACASIO, Laura	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
LEE, Chris	✓			
FEVELLA, Kurt	✓			
TOTAL	7	—	—	—
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Hal Rhoads</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes