

JAN 20 2023

A BILL FOR AN ACT

RELATING TO ACCESSIBILITY.

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

1 SECTION 1. The legislature finds that, in 2004, Allyson
2 Bain, a fourteen-year-old who had a flare-up of her Crohn's
3 disease, was shopping with her mother at a large retail
4 establishment in Illinois when she experienced a sudden need to
5 use the restroom. There were no public restrooms nearby and
6 Ms. Bain was denied access to the employee-only restroom of the
7 establishment, causing her to soil herself. Thereafter,
8 Ms. Bain and her mother worked with their state representative
9 to introduce and pass a bill to permit customers access to
10 employee-only bathrooms if the customer has an eligible medical
11 condition requiring immediate access to a toilet. Illinois
12 became the first state to enact the Restroom Access Act,
13 informally known as Ally's Law, in 2005.

14 The legislature further finds that individuals with certain
15 medical conditions, including but not limited to Crohn's disease
16 and inflammatory bowel disease, may experience urgent restroom
17 needs. Since the passage of Ally's law in Illinois, sixteen



1 other states have passed similar legislation, including
2 Colorado, Connecticut, Delaware, Kentucky, Maine, Maryland,
3 Massachusetts, Michigan, Minnesota, New York, Ohio, Oregon,
4 Tennessee, Texas, Washington, and Wisconsin. Ally's law falls
5 under the federal Americans with Disabilities Act of 1990.

6 The purpose of this Act is to join those states who have
7 adopted Ally's law and require any retail establishment
8 operating within the State that has an employee-only restroom to
9 permit a customer suffering from an eligible medical condition
10 to use that restroom during normal business hours under certain
11 conditions.

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

15 "§321- Retail establishment; customer access to employee
16 toilet facility; eligible medical condition. (a) A retail
17 establishment that has a toilet facility for its employees shall
18 allow a customer to use that facility during normal business
19 hours; provided that the following conditions are met:

20 (1) The customer requesting the use of the employee toilet
21 facility suffers from an eligible medical condition



1 and provides the retail establishment with proof of an
2 eligible medical condition, in the form of:
3 (A) A statement signed by a physician; or
4 (B) A specially issued card from a health
5 organization or state health agency;
6 (2) Three or more employees of the retail establishment
7 are working and physically present on the premises of
8 the retail establishment at the time the customer
9 requests use of the employee toilet facility;
10 (3) The retail establishment does not normally make a
11 restroom available to the public;
12 (4) The employee toilet facility is reasonably safe and is
13 not located in an area where providing access would
14 create an obvious health or safety risk to the
15 customer or an obvious security risk to the retail
16 establishment; and
17 (5) A public restroom is not immediately accessible to the
18 customer.
19 (b) A retail establishment or an employee of a retail
20 establishment shall not be civilly liable for damages arising
21 from any act or omission in allowing a customer who has an



1 eligible medical condition to use an employee toilet facility
2 that is not a public restroom; provided that the act or omission
3 is:

4 (1) Not negligent;

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

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

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

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

16 (e) For the purposes of this section:

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

19 "Eligible medical condition" means Crohn's disease,
20 ulcerative colitis, any other inflammatory bowel disease,



1 irritable bowel syndrome, or any other medical condition that
2 requires immediate access to a toilet facility.

3 "Physician" means an individual authorized to practice
4 medicine or osteopathy under the laws of any state.

5 "Retail establishment" means a place of business open to
6 the general public for the sale of goods or services. "Retail
7 establishment" does not include a fuel filling or service
8 station, with a structure of eight hundred square feet or less,
9 that has an employee toilet facility located within that
10 structure."

11 SECTION 3. New statutory material is underscored.

12 SECTION 4. This Act shall take effect upon its approval.

13

INTRODUCED BY:





S.B. NO. 753

Report Title:

Ally's Law; The Restroom Access Act; Retail Establishments;
Customer Access to Employee Toilet Facilities; Eligible Medical
Condition

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 in certain circumstances. 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.

