

House File 2263 - Introduced

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BY KONFRST

A BILL FOR

1 An Act relating to access to an employee restroom facility in
2 retail establishments for individuals with eligible medical
3 conditions, and providing penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 137E.1 Short title.

2 This chapter shall be known and may be cited as the "*Restroom*
3 *Access Act*".

4 Sec. 2. NEW SECTION. 137E.2 Definitions.

5 As used in this chapter unless the context otherwise
6 requires:

7 1. "*Consumer*" means an individual who is lawfully on the
8 premises of a retail establishment.

9 2. "*Department*" means the department of public health.

10 3. "*Eligible medical condition*" means all of the following:

11 a. Crohn's disease, ulcerative colitis, or any other
12 inflammatory bowel disease.

13 b. Irritable bowel syndrome.

14 c. Any condition requiring the use of an ostomy device.

15 d. Any other medical condition that requires immediate
16 access to a restroom facility.

17 4. "*Employee restroom facility*" means a restroom that is
18 intended only for use by employees of a retail establishment
19 and not for use by the public.

20 5. "*Health care professional*" means a person licensed under
21 chapter 148 to practice medicine and surgery or osteopathic
22 medicine and surgery, a registered nurse or an advanced
23 registered nurse practitioner licensed under chapter 152 or an
24 advance practice registered nurse licensed under chapter 152E,
25 or a physician assistant licensed to practice under chapter
26 148C.

27 6. "*Ostomy device*" means a medical device that creates an
28 artificial passage for the elimination of body waste.

29 7. "*Restroom*" means a room containing a toilet.

30 8. "*Retail establishment*" means a place of business
31 regularly open to the public in which the retail sale of
32 goods or services to the ultimate consumer is the principal
33 business conducted, and includes professional corporations
34 and other entities where legal, medical, dental, engineering,
35 architectural, or other professional services are delivered.

1 *"Retail establishment"* does not include a residence unless
2 the residence is regularly open to the public as a place of
3 business.

4 Sec. 3. NEW SECTION. 137E.3 **Retail establishment —**
5 **consumer access to employee restroom facilities.**

6 1. A retail establishment that provides an employee
7 restroom facility for its employees and does not normally make
8 a restroom available to the public shall allow a consumer to
9 use the employee restroom facility during normal business hours
10 if the employee restroom facility is maintained in a reasonably
11 safe manner and all of the following conditions are met:

12 a. The consumer requesting the use of the employee restroom
13 facility suffers from an eligible medical condition and
14 provides written documentation, as approved by the department,
15 of the consumer's eligible medical condition to the retail
16 establishment.

17 b. A public restroom is not immediately accessible to the
18 consumer.

19 c. A sufficient number of employees of the retail
20 establishment are working at the time the consumer requests
21 use of the employee restroom facility such that the consumer
22 accessing the employee restroom facility does not cause the
23 retail establishment to cease or significantly curtail normal
24 business operations.

25 d. The employee restroom facility is located in an area of
26 the retail establishment that does not present an obvious risk
27 to the health or safety of the consumer or an obvious security
28 risk to the retail establishment. For the purposes of this
29 paragraph:

30 (1) *"Obvious risk to the health or safety of the consumer"*
31 includes but is not limited to a situation where accessing the
32 employee restroom facility requires the consumer to traverse an
33 area where manufacturing or heavy equipment is in use, items
34 are stored on high shelving, adequate lighting is not present,
35 the flooring is wet or slippery, or hazardous materials are

1 used or stored.

2 (2) "*Obvious security risk*" includes exposing the consumer
3 to sensitive company documents, materials, or trade secrets.

4 2. This section shall not require a retail establishment
5 to make any physical changes or improvements to an employee
6 restroom facility.

7 **Sec. 4. NEW SECTION. 137E.4 Liability.**

8 1. If an act or omission of a retail establishment or an
9 employee of a retail establishment, in allowing a consumer who
10 claims to have an eligible medical condition to use the retail
11 establishment's employee restroom facility as required by this
12 chapter, results in an injury to or death of the consumer or an
13 individual other than an employee of the retail establishment
14 who is accompanying the consumer in an area not usually
15 accessible to the public, the retail establishment and the
16 employee are immune from civil liability if the act or omission
17 is not grossly negligent.

18 2. An employee restroom facility provided to consumers
19 solely to comply with this section shall not be considered a
20 public restroom for the purposes of laws or regulations that
21 generally govern facilities available to the public, but shall
22 instead be governed by the laws and regulations that otherwise
23 govern the restroom facility if it were not made available to a
24 consumer pursuant to this chapter.

25 **Sec. 5. NEW SECTION. 137E.5 Written documentation of**
26 **eligible medical condition — rules.**

27 1. All of the following shall be accepted as written
28 documentation of a consumer's eligible medical condition:

29 a. A copy of a statement signed by a consumer's health care
30 professional that indicates the consumer has been formally
31 diagnosed with an eligible medical condition.

32 b. An identification card issued by a nationally recognized
33 health organization, approved by the department, that indicates
34 the consumer has been formally diagnosed with an eligible
35 medical condition.

1 facility in retail establishments for individuals with eligible
2 medical conditions.

3 The bill creates a new Code chapter entitled the "Restroom
4 Access Act".

5 The bill provides definitions for the purposes of the
6 new Code chapter, including "eligible medical condition",
7 which includes Crohn's disease, ulcerative colitis, or any
8 other inflammatory bowel disease, irritable bowel syndrome,
9 any condition requiring the use of an ostomy device, and any
10 other medical condition that requires immediate access to a
11 restroom facility; "employee restroom facility", "health care
12 professional", and "retail establishment".

13 The bill requires a retail establishment that provides
14 an employee restroom facility for its employees and does not
15 normally make a restroom available to the public to allow a
16 consumer to use the employee restroom facility during normal
17 business hours if the employee restroom facility is maintained
18 in a reasonably safe manner and certain conditions are met.
19 The conditions include that the consumer requesting the use of
20 the employee restroom facility suffers from an eligible medical
21 condition and provides written documentation of the consumer's
22 condition; a public restroom is not immediately accessible to
23 the consumer; a sufficient number of employees are working at
24 the time the consumer requests use of the employee restroom
25 facility; and the employee restroom facility is located in
26 an area of the retail establishment that does not present an
27 obvious risk to the health or safety of the consumer or an
28 obvious security risk to the retail establishment. The bill
29 does not require a retail establishment to make any physical
30 changes or improvements to an employee restroom facility.
31 The bill provides that if an act or omission of a retail
32 establishment or an employee of a retail establishment, in
33 allowing a consumer who claims to have an eligible medical
34 condition to use the retail establishment's employee restroom
35 facility as required by this chapter, results in an injury

1 to or death of the consumer or an individual other than an
2 employee of the retail establishment who is accompanying the
3 consumer in an area not usually accessible to the public, the
4 retail establishment and the employee are immune from civil
5 liability if the act or omission is not grossly negligent.

6 An employee restroom facility provided to comply with the
7 bill is not to be considered a public restroom for the purposes
8 of laws or regulations that generally govern facilities
9 available to the public, but shall instead be governed by
10 the laws and regulations that otherwise govern the restroom
11 facility if it were not made available to a consumer under the
12 bill.

13 The bill provides for the types of written documentation
14 that are acceptable under the bill and directs the department
15 of public health (DPH) to develop a standard electronic form
16 that may be used by a health care professional to provide the
17 acceptable signed statement under the bill. The bill directs
18 DPH to adopt administrative rules to administer the bill.

19 Under the bill, a retail establishment or an employee of
20 a retail establishment that does not comply with the bill or
21 refuses to provide a consumer access to an employee restroom
22 facility as required by the bill violates the Code chapter.
23 For a first violation, the city or county attorney shall issue
24 a warning letter to the retail establishment and any employee
25 of the retail establishment that denied access in violation of
26 the Code chapter, informing the retail establishment and the
27 employee of the retail establishment of the requirements of
28 this Code chapter. For a second or subsequent violation, the
29 retail establishment or employee is subject to a civil penalty
30 of \$200. The bill also provides that a person who forges,
31 alters, improperly transfers, or knowingly possesses and uses a
32 forged or altered statement by a health care professional or an
33 identification card is subject to a civil penalty of \$200.