

**House File 422 - Introduced**

HOUSE FILE 422

BY ANDREWS

**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 civil 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 2. The department shall develop a standard electronic form  
2 that may be used by a health care professional to provide  
3 the signed statement as described in subsection 1. The form  
4 shall include a brief description of the consumer's rights  
5 under this chapter and shall be made available to the public  
6 electronically. This subsection shall not be construed to  
7 require the department to distribute printed versions of the  
8 form.

9 3. The department shall adopt rules pursuant to chapter 17A  
10 to administer this chapter.

11 **Sec. 6. NEW SECTION. 137E.6 Violations — penalties.**

12 1. A retail establishment or an employee of a retail  
13 establishment who does not comply with this chapter or refuses  
14 to provide a consumer access to an employee restroom facility  
15 as required by this chapter violates this chapter and is  
16 subject to the penalties specified in this section.

17 2. *a.* For a first violation of this section, the city  
18 or county attorney shall issue a warning letter to the  
19 retail establishment and to any employee of the retail  
20 establishment that denied access to an employee restroom  
21 facility in violation of this chapter, informing the retail  
22 establishment and the employee of the retail establishment of  
23 the requirements of this chapter.

24 *b.* A retail establishment or an employee of a retail  
25 establishment that subsequently violates this chapter after  
26 receiving the warning letter pursuant to subsection 1 is  
27 subject to a civil penalty of two hundred dollars.

28 3. A person who forges, alters, improperly transfers, or  
29 knowingly possesses and uses a forged or altered statement by a  
30 health care professional or an identification card is subject  
31 to a civil penalty of two hundred dollars.

32 **EXPLANATION**

33 The inclusion of this explanation does not constitute agreement with  
34 the explanation's substance by the members of the general assembly.

35 This bill provides for access to an employee restroom

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.