

House File 508 - Introduced

HOUSE FILE 508

BY KONFRST, MASCHER, ANDERSON,
HUNTER, JACOBY, KRESSIG,
McCONKEY, BROWN-POWERS,
LOHSE, and NIELSEN

A BILL FOR

1 An Act creating the restroom emergency access Act, and
2 providing civil penalties.
3 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 *Emergency 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 advanced 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 emergency 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 have emergency access to the employee restroom facility during
10 normal business hours if the employee restroom facility is
11 maintained in a reasonably safe manner and all of the following
12 conditions are met:

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

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

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

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

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

1 the flooring is wet or slippery, or hazardous materials are
2 used or stored.

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

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

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

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

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

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

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

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

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

1 medical condition.

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

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

12 Sec. 6. NEW SECTION. 137E.6 Violations — penalties.

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

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

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

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

33

EXPLANATION

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

1 This bill provides for emergency access to an employee
2 restroom facility in retail establishments for individuals with
3 eligible medical conditions.

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

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

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

1 establishment's employee restroom facility as required by this
2 chapter, results in an injury to or death of the consumer or an
3 individual other than an employee of the retail establishment
4 who is accompanying the consumer in an area not usually
5 accessible to the public, the retail establishment and the
6 employee are immune from civil liability if the act or omission
7 is not grossly negligent.

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

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

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

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1 to a civil penalty of \$200.