
HOUSE BILL 1138

State of Washington 61st Legislature 2009 Regular Session

By Representatives Liias, Clibborn, Moeller, Green, Cody, Driscoll, Morrell, and Pedersen

Read first time 01/14/09. Referred to Committee on Judiciary.

1 AN ACT Relating to allowing persons with certain medical conditions
2 to access the restroom in a retail establishment; adding a new section
3 to chapter 70.54 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.54 RCW
6 to read as follows:

7 (1) A retail establishment that has a restroom facility for its
8 employees must allow a customer to use that facility during normal
9 business hours if the restroom facility is reasonably safe and all of
10 the following conditions are met:

11 (a) The customer requesting the use of the employee restroom
12 facility has been diagnosed with an eligible medical condition or uses
13 an ostomy device, and provides evidence of the existence of the
14 eligible medical condition or device in writing in the form of either:

15 (i) A signed statement by the customer's health care provider that
16 may be on a form that has been prepared by the department of health
17 under subsection (4) of this section; or

18 (ii) An identification card that is issued by a nonprofit

1 organization whose purpose includes serving individuals who suffer from
2 an eligible medical condition or use an ostomy device;

3 (b) Three or more employees of the retail establishment are working
4 at the time the customer requests use of the employee restroom
5 facility; and

6 (c) The retail establishment does not normally make a restroom
7 available to the public.

8 (2) For a first violation of this section, the city or county
9 attorney shall issue a warning letter to the retail establishment and
10 employee informing the establishment and employee of the requirements
11 of this section. A retail establishment or an employee of a retail
12 establishment that violates this section after receiving a warning
13 letter is guilty of a civil infraction. The fine for a first
14 infraction must not exceed one hundred dollars.

15 (3) A retail establishment is not required to make any physical
16 changes to an employee restroom facility under this section.

17 (4) The department of health shall develop a standard electronic
18 form that may be signed by a health care provider as evidence of the
19 existence of an eligible medical condition or use of an ostomy device
20 as required by subsection (1)(a) of this section. The form shall
21 include a brief description of a customer's rights under this section
22 and shall be made available for a customer or his or her health care
23 provider to access by computer. Nothing in this section requires the
24 department to distribute printed versions of the form.

25 (5) A retail establishment or an employee of a retail establishment
26 is not civilly liable for any act or omission in allowing a customer
27 who has an eligible medical condition or uses an ostomy device to use
28 an employee restroom facility that is not a public restroom if the act
29 or omission meets all of the following:

30 (a) It is not willful or grossly negligent;

31 (b) It occurs in an area of the retail establishment that is not
32 accessible to the public; and

33 (c) It results in an injury to or death of the customer or any
34 individual other than an employee accompanying the customer.

35 (6) For purposes of this section:

36 (a) "Customer" means an individual who is lawfully on the premises
37 of a retail establishment.

1 (b) "Eligible medical condition" means Crohn's disease, ulcerative
2 colitis, any other inflammatory bowel disease, irritable bowel
3 syndrome, or any other permanent or temporary medical condition that
4 requires immediate access to a restroom facility.

5 (c) "Health care provider" means an advanced registered nurse
6 practitioner licensed under chapter 18.79 RCW, an osteopathic physician
7 or surgeon licensed under chapter 18.57 RCW, an osteopathic physicians
8 assistant licensed under chapter 18.57A RCW, a physician or surgeon
9 licensed under chapter 18.71 RCW, or a physician assistant licensed
10 under chapter 18.71A RCW.

11 (d) "Retail establishment" means a place of business open to the
12 general public for the sale of goods or services. Retail establishment
13 does not include a filling station or service station with a structure
14 of eight hundred square feet or less that has an employee restroom
15 facility located within that structure.

--- END ---