



House of Representatives

File No. 925

General Assembly

January Session, 2009

(Reprint of File No. 566)

Substitute House Bill No. 6328
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 8, 2009

**AN ACT CONCERNING CUSTOMER ACCESS TO RESTROOMS IN
RETAIL ESTABLISHMENTS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2009*) (a) As used in this
2 section:

3 (1) "Customer" means an individual who is lawfully on the premises
4 of a retail establishment;

5 (2) "Eligible medical condition" means Crohn's disease, ulcerative
6 colitis, inflammatory bowel disease, irritable bowel syndrome, celiac
7 disease or a medical condition that requires use of an ostomy device;

8 (3) "Licensed health care provider" means a physician or a physician
9 assistant licensed under chapter 370 of the general statutes or an
10 advanced practice registered nurse licensed under chapter 378 of the
11 general statutes;

12 (4) "Restroom" means a room containing a toilet; and

13 (5) "Retail establishment" means a place of business open to the
14 general public for the sale of goods or services.

15 (b) Any retail establishment that has a restroom for employee use,
16 which typically does not permit customer access to such employee
17 restroom, shall permit a customer to use the employee restroom
18 during normal business hours if the restroom is maintained in a
19 reasonably safe manner and all of the following conditions are met:

20 (1) The customer requesting access to the employee restroom
21 presents written evidence, issued by a licensed health care provider,
22 that documents that the customer suffers from an eligible medical
23 condition;

24 (2) A public restroom is not immediately accessible to the customer;

25 (3) At the time that the request for access to the employee restroom
26 is made, three or more employees of the retail establishment are
27 working; and

28 (4) The employee restroom is located in an area of the retail
29 establishment that does not present an obvious risk to the health or
30 safety of the customer or an obvious security risk to the retail
31 establishment.

32 (c) A retail establishment or employee of a retail establishment shall
33 not be liable for any acts or omissions in providing a customer access
34 to an employee restroom pursuant to the provisions of this section, if
35 such acts or omissions: (1) Do not constitute gross, wilful or wanton
36 negligence on the part of the retail establishment or employee of the
37 retail establishment; (2) occurred in an area of the retail establishment
38 that is not otherwise accessible to customers; and (3) resulted in injury
39 or death of a customer or individual other than an employee
40 accompanying the customer to the restroom.

41 (d) No retail establishment shall be required to make a physical
42 change to the employee restroom to effectuate the purposes of this

43 section.

44 (e) Any violation of subsection (b) of this section shall be an
45 infraction.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Judicial Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in a potential minimal revenue gain due to the infraction provision for violations related to restroom access in retail establishments.

House "A" (LCO 6438) changed violations from civil penalties enforced by the Commissioner of Consumer Protection (DCP) to infractions enforced by local and state police. This change eliminated the cost of \$95,000 associated with DCP enforcement.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6328 (as amended by House "A")******AN ACT CONCERNING CUSTOMER ACCESS TO RESTROOMS IN RETAIL ESTABLISHMENTS.*****SUMMARY:**

This bill provides access to employee restrooms in retail establishments to individuals with certain medical conditions. Specifically, a retail establishment with an employee restroom that typically is not open to the public must allow a customer to use the restroom during normal business hours if the restroom is maintained in a reasonably safe manner and all of the following conditions are met:

1. the customer presents written evidence from a licensed health care provider (physician, physician assistant, advanced practice registered nurse) that documents that the customer suffers from an "eligible medical condition" (such conditions are Crohn's disease, ulcerative colitis, inflammatory bowel disease, irritable bowel syndrome, celiac disease, or a medical condition requiring use of an ostomy device);
2. a public restroom is not immediately available to the customer;
3. at least three employees are working in the establishment at the time of the restroom access request; and
4. the employee restroom is located in an area of the establishment that does not present an obvious risk to the health or safety of the customer or an obvious security risk to the establishment.

The bill also (1) provides protection from liability for retail

establishments and employees under certain conditions, (2) does not require an establishment to make physical changes to the employee restroom to accomplish the bill's purposes, and (3) makes violation of the bill's requirements an infraction.

*House Amendment "A" makes a violation an infraction, instead of a civil penalty of \$100 imposed by the Department of Consumer Protection.

EFFECTIVE DATE: October 1, 2009

RETAIL ESTABLISHMENT, CUSTOMERS, AND RESTROOMS

The bill defines a "retail establishment" as a place of business open to the general public for the sale of goods or services. A "customer" is a person lawfully on the retail establishment's premises. A "restroom" means a room with a toilet.

LIABILITY PROTECTION

Under the bill, a retail establishment or its employees are not liable for any acts or omissions in providing customer access to an employee restroom if the acts or omissions: (1) do not constitute gross, willful, or wanton negligence by the establishment or employee, (2) occurred in an area of the establishment not otherwise accessible to customers, and (3) resulted in injury or death to a customer or individual other than the employee accompanying the customer to the restroom.

BACKGROUND

Infractions

Infractions are punishable by fines, usually set by Superior Court judges, of between \$35 and \$90, plus a \$20 or \$35 surcharge and an additional fee based on the amount of the fine. There may be other added charges depending on the type of infraction. An infraction is not a crime; violators can pay the fine by mail without making a court appearance.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 30 Nay 0 (03/20/2009)

General Law Committee

Joint Favorable

Yea 15 Nay 4 (04/21/2009)