



CONNECTICUT

**TESTIMONY OF
NATIONAL FEDERATION OF INDEPENDENT BUSINESS
ANDY MARKOWSKI, CONNECTICUT STATE DIRECTOR
CONCERNING HB-6328,
AAC CUSTOMER ACCESS TO RESTROOMS IN RETAIL ESTABLISHMENTS
BEFORE THE PUBLIC HEALTH COMMITTEE
FEBRUARY 6, 2009**

The National Federation of Independent Business (NFIB), Connecticut's and the nation's leading small-business advocacy association, respectfully submits the following comments concerning HB-6277, An Act Concerning Customer Access To Restrooms In Retail Establishments:

In 2008, small business owners ranked compliance with "Unreasonable Government Regulations" as their 6th greatest concern (up from its 9th position in 2004) in "*Small Business Problems and Priorities*" - a research publication by the NFIB Research Foundation. Much like taxes, this generic problem category costs small businesses in several ways: understanding and keeping up-to-date with compliance requirements, cost of consultants or lawyers, employee time, management time, direct outlays, and lost productivity and/or sales. While the federal government alone adds approximately 150 new rules that cost business owners, adding additional state laws merely raises the cost and frustration level. Unfortunately, it appears that HB-6328 is yet another example of one of these regulations and is another way of government trying to micromanage small business.

Although we recognize how difficult gastrointestinal issues can be and feel sympathy for those who have experienced problems in this area, we fear that this issue is driven by a small number of people trying to use state government to dictate policy that should be handled between store owners and customers. It is unfortunate that "a few bad apples can ruin the whole bunch."

Allowing people in these situations to use employee restrooms is the humane and compassionate thing to do; however, imposing mandatory requirements is not fair to business, particularly small business. Some concerns of small business owners are:

- Overly broad definition of "retail establishment" (lines 14 – 15) and lack of exemption for small business;
- Security risks;
- Liability concerns, despite the attempt to seemingly absolve the business from simple negligence (lines 33 – 41);
- A need for a universal, nationally accepted standardized credential "card" - business owners and their workers are not trained to know the difference between real or forged documentation from "licensed healthcare providers", as well as not trained to recognize documentation that they may encounter provided by individuals from other states;
- "Slippery slope" argument that "eligible medical condition" could (or should potentially, out of fairness) be opened up to include a much larger segment of the population – what about Pregnancy? Prostate problems? Elderly and infirm? Small children being toilet-trained? The potential list could be endless.

In sum, while this bill is well-intentioned, it is unfortunately impractical and unnecessary. It infringes on the rights of private business and establishes extremely bad precedent. Given the state of Connecticut's current economy and budget issues, the real issue that should be foremost on the legislature's mind is promoting and creating a robust economic climate. Adding one more regulation to business is counter to this objective.