

Chapter 148

(House Bill 1183)

AN ACT concerning

Public Health – Retail Establishments – Use of Toilet Facilities by Customers

FOR the purpose of altering the circumstances under which a retail establishment that has a toilet facility for its employees is required to allow certain customers to use the facility; requiring the Department of Health and Mental Hygiene to create a certain identification card; making conforming changes; altering a certain definition; adding a certain definition; and generally relating to the use of employee toilet facilities by customers of retail establishments.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–635
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 24–209
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

5–635.

(a) In this section, “customer” means an individual who is lawfully on the premises of a retail establishment.

(b) A retail establishment and any employee of a retail establishment are not civilly liable for any act or omission in allowing a customer, including a customer **WHO HAS AN ELIGIBLE MEDICAL CONDITION**, as defined in § 24–209 of the Health – General Article, to use a toilet facility that is not a public toilet facility, if the act or omission:

(1) Is not willful or grossly negligent;

(2) Occurs in an area of the retail establishment that is not accessible to the public; and

(3) Results in an injury to or death of the customer or any individual other than an employee accompanying the customer.

(c) Notwithstanding any provision of this section, an employee toilet facility is not to be considered a public restroom.

Article – Health – General

24–209.

(a) **(1)** In this section[, “customer”] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) “CUSTOMER” means an individual who[:] IS LAWFULLY ON THE PREMISES OF A RETAIL ESTABLISHMENT.

(3) “ELIGIBLE MEDICAL CONDITION” MEANS:

[(1)] (I) [Suffers from] Crohn’s disease, ulcerative colitis or any other inflammatory bowel disease, or any other medical condition that requires immediate access to a toilet facility; or

[(2)] (II) [Utilizes] A CONDITION THAT REQUIRES THE USE OF an ostomy device.

(b) At the request of a customer **DURING NORMAL BUSINESS HOURS**, and where a public restroom is not readily available, each retail establishment [with 20 or more employees] that has a toilet facility for its employees shall allow the customer to use the facility **IF:**

(1) THREE OR MORE EMPLOYEES OF THE RETAIL ESTABLISHMENT ARE WORKING AT THE TIME THE CUSTOMER REQUESTS USE OF THE FACILITY; AND

(2) THE CUSTOMER SUFFERS FROM AN ELIGIBLE CONDITION THAT IS DOCUMENTED WITH:

~~(I)~~ A A SIGNED STATEMENT BY THE CUSTOMER’S HEALTH CARE PROVIDER ON AN IDENTIFICATION CARD THAT HAS BEEN PREPARED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, ~~OR~~

~~(H) AN IDENTIFICATION CARD THAT IS ISSUED BY A NONPROFIT ORGANIZATION THAT SERVES INDIVIDUALS WITH AN ELIGIBLE MEDICAL CONDITION.~~

(C) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL DEVELOP A STANDARD ~~ELECTRONIC~~ IDENTIFICATION CARD THAT ~~MAY BE~~ IS AVAILABLE ON THE DEPARTMENT'S WEB SITE TO BE PRINTED AND SIGNED BY A HEALTH CARE PROVIDER AS EVIDENCE OF THE EXISTENCE OF AN ELIGIBLE MEDICAL CONDITION.

[(c)] (D) Notwithstanding any provision of this section, an employee toilet facility is not to be considered a public restroom.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.