

HOUSE BILL 1183

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3lr2702

By: **Delegates Conway, Cane, Eckardt, Gutierrez, Proctor, and Sophocleus**

Introduced and read first time: February 8, 2013

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2013

CHAPTER _____

1 AN ACT concerning

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

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

9 BY repealing and reenacting, with amendments,
10 Article – Courts and Judicial Proceedings
11 Section 5–635
12 Annotated Code of Maryland
13 (2006 Replacement Volume and 2012 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Health – General
16 Section 24–209
17 Annotated Code of Maryland
18 (2009 Replacement Volume and 2011 Supplement)

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

21 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 5-635.

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

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

9 (1) Is not willful or grossly negligent;

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

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

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

16 **Article – Health – General**

17 24-209.

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

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

22 **(3)** **“ELIGIBLE MEDICAL CONDITION”** MEANS:

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

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

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

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

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

6 **~~(i)~~ A A SIGNED STATEMENT BY THE CUSTOMER’S HEALTH**
7 **CARE PROVIDER ON AN IDENTIFICATION CARD THAT HAS BEEN PREPARED BY**
8 **THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE IN ACCORDANCE WITH**
9 **SUBSECTION (C) OF THIS SECTION;~~OR~~**

10 **~~(ii) AN IDENTIFICATION CARD THAT IS ISSUED BY A~~**
11 **~~NONPROFIT ORGANIZATION THAT SERVES INDIVIDUALS WITH AN ELIGIBLE~~**
12 **~~MEDICAL CONDITION.~~**

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.