

---

By: **Senator Hooper (By Request)**  
Introduced and read first time: January 23, 2002  
Assigned to: Judicial Proceedings

---

A BILL ENTITLED

1 AN ACT concerning

2 **Retail Establishments - Immediate Restroom Access**

3 FOR the purpose of making it a misdemeanor, subject to a certain penalty, for an  
4 employee of a retail establishment to refuse to allow a customer the use of an  
5 employee restroom facility under certain circumstances; repealing immunity  
6 from civil liability for retail establishments and their employees; and generally  
7 relating to customer access to employee restroom facilities in retail  
8 establishments.

9 BY repealing and reenacting, with amendments,  
10 Article - Courts and Judicial Proceedings  
11 Section 5-635  
12 Annotated Code of Maryland  
13 (1998 Replacement Volume and 2001 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article - Health - General  
16 Section 24-209  
17 Annotated Code of Maryland  
18 (2000 Replacement Volume and 2001 Supplement)

19 BY repealing  
20 Article - Health - General  
21 Section 24-210  
22 Annotated Code of Maryland  
23 (2000 Replacement Volume and 2001 Supplement)

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

1 **Article - Courts and Judicial Proceedings**

2 5-635.

3 (a) In this section "customer" means an individual who is lawfully on the  
4 premises of a retail establishment.

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

9 (1) Is not willful or grossly negligent;

10 (2) Occurs in an area of the retail establishment that is not accessible to  
11 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 is  
15 not to be considered a public restroom.

16 **Article - Health - General**

17 24-209.

18 (a) In this section, "customer" means an individual who:

19 (1) Suffers from Crohn's disease, ulcerative colitis or any other  
20 inflammatory bowel disease, or any other medical condition that requires immediate  
21 access to a toilet facility; or

22 (2) Utilizes an ostomy device.

23 (b) At the request of a customer, and where a public restroom is not readily  
24 available, each retail establishment with 20 or more employees that has a toilet  
25 facility for its employees shall allow the customer to use the facility.

26 (C) AN EMPLOYEE OF A RETAIL ESTABLISHMENT WHO REFUSES TO PROVIDE  
27 ACCESS TO AN EMPLOYEE TOILET FACILITY FOR A CUSTOMER, AS PROVIDED IN THIS  
28 SECTION, IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A  
29 FINE NOT TO EXCEED \$50.

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

1 [24-210.

2 A retail establishment and any employee of a retail establishment shall have the  
3 immunity from liability described under § 5-635 of the Courts and Judicial  
4 Proceedings Article.]

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2002.