

SENATE BILL 315

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SB 275/02 - JPR

2003 Regular Session
3lr0736

By: **Senators Hooper and Hafer**

Introduced and read first time: January 31, 2003

Assigned to: Education, Health, and Environmental Affairs

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 (2002 Replacement Volume)

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 2002 Supplement)

19 BY repealing
20 Article - Health - General
21 Section 24-210
22 Annotated Code of Maryland
23 (2000 Replacement Volume and 2002 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, 2003.