

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 315
Judicial Proceedings

(Senators Hooper and Hafer)

Retail Establishments - Immediate Restroom Access

This bill makes it a misdemeanor, punishable by a fine of up to \$50, for an employee of a retail establishment with 20 or more employees to refuse a customer access to the employee toilet facility when a public restroom is not readily available. For these purposes, customer is narrowly defined as an individual who: (1) suffers from Crohn's disease, ulcerative colitis, or any other inflammatory bowel disease or other medical condition that requires immediate access to a toilet facility; or (2) uses an ostomy device.

The bill also deletes this narrower definition of customer from an existing statute that provides retail establishments and their employees with immunity from civil liability for any act or omission in allowing a customer, defined as "any individual lawfully on the establishment's premises," to use a nonpublic toilet facility, so long as the act or omission: (1) is not willful or grossly negligent; (2) occurs in an area of the establishment that is not accessible to the public; and (3) results in an injury to or death of an individual other than the employee accompanying the customer.

Fiscal Summary

State Effect: None. This bill is expected to apply in a limited number of cases and enforcement could be handled with existing resources.

Local Effect: None – see above.

Small Business Effect: Potential minimal.

Analysis

Current Law: At a customer's request, and where a public restroom is not readily available, each retail establishment with 20 or more employees that has an employee toilet facility must allow the customer to use the employee facility. For these purposes, customer is narrowly defined as an individual who: (1) suffers from Crohn's disease, ulcerative colitis, or any other inflammatory bowel disease or other medical condition that requires immediate access to a toilet facility; or (2) uses an ostomy device.

A retail establishment and its employees are not civilly liable for any act or omission in allowing a more broadly-defined "customer" to use a nonpublic toilet facility, so long as the act or omission:

- is not willful or grossly negligent;
- occurs in an area of the retail establishment that is not accessible to the public; and
- results in an injury to or death of the customer or any individual other than an employee accompanying the customer.

Customer, for purposes of limiting civil liability, includes the narrow definition of customer set forth above and also includes any individual who is lawfully on the premises of a retail establishment.

Additional Information

Prior Introductions: SB 275 of 2002 received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

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ncs/jr

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