

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 304 (Senator Hooper) (By Request)
Judicial Proceedings

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 where a public restroom is not readily available if the customer has shown the employee evidence of a medical condition. Evidence of a medical condition can include an identification card issued by a nationally recognized health organization or a local health department.

Fiscal Summary

State Effect: Potential minimal general fund revenue increase. The 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 a toilet facility for its employees must allow the customer to use the employee facility. For these purposes, a 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: (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.

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: A similar bill, SB 275, was introduced in the 2002 session. It received an unfavorable report by the Senate Judicial Proceedings Committee.

Cross File: None.

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

Fiscal Note History: First Reader - February 18, 2004
ncs/jr

Analysis by: Lisa A. Daigle

Direct Inquiries to:
(410) 946-5510
(301) 970-5510