

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1037
Economic Matters

(Delegate Mandel, *et al.*)

**Retail Establishments - Public Restrooms and Toilet Facilities - Customer Use
and Posting Signs**

This bill requires *all* retail establishments to make an employee toilet facility available to *any* “customer” at the customer’s request. “Customer” is redefined to mean an individual who is lawfully on the premises of a retail establishment and where a public restroom is not readily available. The Secretary of Health and Mental Hygiene must adopt regulations to carry out these provisions. Violators are subject to a maximum \$25 civil penalty.

Fiscal Summary

State Effect: Department of Health and Mental Hygiene existing staff could write the required regulations. The civil penalty provisions of this bill are not expected to significantly affect State finances or operations.

Local Effect: Local law enforcement agencies could enforce the provisions of this bill on a complaint basis using existing budgeted resources.

Small Business Effect: Minimal impact for small businesses that must hang specific signs indicating where the bathroom is and whether it is a single sex or unisex facility and/or that are subject to a civil penalty.

Analysis

Bill Summary: The bill repeals provisions requiring a retail establishment with 20 or more employees to make an employee toilet facility available to customers who have

specific diseases or utilize an ostomy device. A retail establishment required to have a minimum number of sanitary fixtures under the National Standard Plumbing Code as adopted by the Department of Labor, Licensing, and Regulation (DLLR) must post a sign that designates a “public restroom” and states whether it is a single sex or unisex facility and post at least one conspicuous directional sign in a location visible to at least 50% of the authorized customer area of the retail establishment that indicates the route to a public restroom. Violators are subject to a maximum \$25 civil penalty. Retail establishments subject to this bill must be in compliance with its provisions by October 1, 2007.

Current Law: At a specified customer’s request, 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 a specified customer to use the facility. “Customer” means an individual who suffers from Crohn’s disease, ulcerative colitis or any other inflammatory bowel disease, or any other medical condition that requires immediate access to a toilet facility or utilizes an ostomy device.

A retail establishment and any employee of a retail establishment are not civilly liable for any act or omission in allowing a customer to use a toilet facility that is not a public toilet facility if 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. An employee toilet facility is not considered a public restroom.

Background: According to the U.S. Census Bureau, there were 19,461 retail establishments in Maryland in 2003, the most recent year data is available. Of those, 11,121 have 20 employees or less. The Maryland Board of Plumbing readopts the National Standard Plumbing Code every three years. However, the board does not keep records of the number of retail establishments required to have the minimum number of sanitary fixtures. Local governments are responsible for inspecting retail establishments.

State Revenues: The civil penalty provisions of this bill are not expected to significantly affect State revenues.

State Expenditures: Existing DHMH staff could write the regulations required by the bill.

DHMH advises that it would need a contractual community health administrator for six months in fiscal 2007 at a cost of \$21,102 to promulgate the regulations. The Department of Legislative Services (DLS) disagrees and believes that existing staff can write the regulations. DHMH further assumes that the bill will not result in more extensive health department inspections. Rather, DHMH assumes that local law

enforcement authorities would enforce the bill on a complaint basis. DLS agrees with these assumptions.

The bill would not affect DLLR.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; U.S. Census Bureau; Department of Legislative Services

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ncs/jr

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