

SENATE, No. 1329

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED FEBRUARY 8, 2010

Sponsored by:

Senator ANDREW R. CIESLA

District 10 (Monmouth and Ocean)

SYNOPSIS

Requires retail establishments to allow individuals with certain medical conditions access to employee restrooms.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning public health and supplementing Title 26 of the
2 Revised Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. As used in this act:

8 “Customer” means an individual who is lawfully on the premises
9 of a retail establishment who is not an employee of the
10 establishment.

11 “Eligible medical condition” means Crohn’s disease, ulcerative
12 colitis, any other inflammatory bowel disease, irritable bowel
13 syndrome, or any medical condition that requires the use of an
14 ostomy device or immediate access to a restroom.

15 “Retail establishment” means a place where merchandise is
16 displayed, held, stored, sold or offered to the public for sale. Retail
17 establishment does not include a filling station or service station,
18 with a structure of 800 square feet or less, that has an employee
19 restroom within that structure.

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21 2. a. Notwithstanding any provision of law to the contrary, a
22 retail establishment that has a restroom solely for the use of its
23 employees shall allow a customer to use the restroom during normal
24 business hours if the restroom is safe, and all the following
25 conditions are met:

26 (1) the customer requesting the use of the restroom suffers from
27 an eligible medical condition;

28 (2) three or more employees of the retail establishment are
29 working at the time the customer requests the use of the restroom;

30 (3) the retail establishment does not normally make a restroom
31 available to the public;

32 (4) the restroom is not located in an area where providing public
33 access would create an obvious health or safety risk to the customer
34 or a security risk to the retail establishment; and

35 (5) a public restroom is not immediately accessible to the
36 customer.

37 b. Nothing in this act shall be construed to require the retail
38 establishment to make any physical changes to its restroom.

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40 3. A retail establishment or an employee of a retail
41 establishment shall not be civilly liable for any act or omission in
42 allowing a customer with an eligible medical condition to use a
43 restroom that is solely for the use of employees if the act or
44 omission:

45 a. is not willful or grossly negligent;

46 b. occurs in an area of the retail establishment that is not
47 accessible to the public; and

1 c. results in an injury to or death of a customer or any
2 individual other than an employee accompanying the customer.

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4 4. a. A proprietor or an employee of a retail establishment who
5 violates the provisions of this act shall be guilty of a petty
6 disorderly persons offense and shall be fined not more than \$500 for
7 each violation.

8 b. The Department of Health and Senior Services or the local
9 board of health or the board, body or officers exercising the
10 functions of the local board of health according to law, upon written
11 complaint or having reason to suspect that a retail establishment
12 covered by the provisions of this act is or may be in violation of the
13 provisions of this act, shall, by written notification, advise the
14 person having control of the establishment accordingly and order
15 appropriate action to be taken. In addition to the penalty provided
16 herein, the court may order immediate compliance with the
17 provisions of this act.

18 c. A penalty recovered under the provisions of this act shall be
19 recovered by and in the name of the Commissioner of Health and
20 Senior Services or by and in the name of the local board of health.
21 When the plaintiff is the Commissioner of Health and Senior
22 Services, the penalty recovered shall be paid by the commissioner
23 into the treasury of the State. When the plaintiff is a local board of
24 health, the penalty recovered shall be paid by the local board into
25 the treasury of the municipality where the violation occurred.

26 d. A municipal court shall have jurisdiction over proceedings
27 to enforce and collect any penalty imposed because of a violation of
28 this act if the violation has occurred within the territorial
29 jurisdiction of the court. The proceedings shall be summary and in
30 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,
31 c.274 (C.2A:58-10 et seq.). Process shall be in the nature of a
32 summons or warrant and shall issue only at the suit of the
33 Commissioner of Health and Senior Services, or the local board of
34 health, as the case may be, as plaintiff.

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36 5. This act shall take effect on the 61st day after the date of
37 enactment.

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STATEMENT

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42 This bill requires a retail establishment that has a restroom solely
43 for the use of its employees to allow a customer with an eligible
44 medical condition immediate access to the restroom during normal
45 business hours if the restroom is safe, and the following conditions
46 are met:

- 47 • The customer requesting the use of the restroom suffers from
48 an eligible medical condition;

S1329 CIESLA

- 1 • Three or more employees of the retail establishment are
2 working at the time the customer requests the use of the
3 restroom;
- 4 • The retail establishment does not normally make a restroom
5 available to the public;
- 6 • The restroom is not located in an area where providing
7 public access would create an obvious health or safety risk
8 to the customer or a security risk to the retail establishment;
9 and
- 10 • A public restroom is not immediately accessible to the
11 customer.

12 This bill also stipulates that a retail establishment is not required
13 to make any physical changes to its restroom.

14 As used in the bill, “eligible medical condition” means Crohn’s
15 disease, ulcerative colitis, any other inflammatory bowel disease,
16 irritable bowel syndrome, or any medical condition that requires the
17 use of an ostomy device or immediate access to a restroom. “Retail
18 establishment” is defined as a place where merchandise is
19 displayed, held, stored, sold or offered to the public for sale, but
20 does not include a filling station or service station, with a structure
21 of 800 square feet or less, that has an employee restroom within that
22 structure.

23 The bill also clarifies that a retail establishment or any of its
24 employees shall not be held civilly liable for any act or omission in
25 allowing a customer with an eligible medical condition to use the
26 restroom if the act or omission:

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

33 Finally, a proprietor or an employee of a retail establishment
34 violating the provisions of the bill shall be guilty of a petty
35 disorderly persons offense and fined not more than \$500 for each
36 violation.