

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: H2/13/23
A Bill

HOUSE BILL 1334

By: Representatives T. Shephard, F. Allen, Ennett, Pilkington, Scott, Springer, *Duffield*
By: Senator L. Chesterfield

For An Act To Be Entitled

AN ACT TO CREATE THE RESTROOM ACCESS ACT; TO ALLOW RESTROOM ACCESS TO CUSTOMERS WITH CERTAIN ELIGIBLE MEDICAL CONDITIONS; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE RESTROOM ACCESS ACT; AND TO ALLOW RESTROOM ACCESS TO CUSTOMERS WITH CERTAIN ELIGIBLE MEDICAL CONDITIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 20, Chapter 14, Subchapter 3, is amended to add an additional section to read as follows:

20-14-311. Restroom Access Act.

(a) This section shall be known and may be cited as the "Restroom Access Act".

(b) As used in this section:

(1) "Customer" means an individual who is lawfully on the premises of a retail establishment;

(2) "Eligible medical condition" means Crohn's disease, ulcerative colitis, any other inflammatory bowel disease, irritable bowel syndrome, or any other medical condition that requires immediate access to a toilet facility; and

(3)(A) "Retail establishment" means a place of business open to the public for the sale of goods or services.

(B) "Retail establishment" does not include a filling



station or service station with a structure of eight hundred square feet (800 sq. ft.) or less that has an employee toilet facility located within that structure.

(c) A retail establishment that has a toilet facility for its employees shall allow a customer to use that facility during normal business hours if the employee toilet facility is reasonably safe and all of the conditions under this subsection are met:

(1) The customer requesting the use of the employee toilet facility provides the retail establishment with evidence of the customer's eligible medical condition that may include:

(A) A copy of a statement signed by a physician, advanced practice registered nurse, physician assistant, or another person acting under the delegation and supervision of a licensed physician that indicates that the customer suffers from an eligible medical condition or uses an ostomy device; or

(B) An identification card that is issued by a nationally-recognized health organization which indicates that the customer suffers from an eligible medical condition or uses an ostomy device;

(2) Three (3) or more employees of the retail establishment are working at the time the customer requests use of the employee toilet facility;

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

(4) The employee toilet facility is not located in an area where providing access would create an obvious health or safety risk to the customer or an obvious security risk to the retail establishment; and

(5) A public restroom is not immediately accessible to the customer.

(d) A customer who uses an employee toilet facility under this section shall leave the employee toilet facility in the same condition as the toilet facility was before the customer used the employee toilet facility.

(e) In providing access to an employee toilet facility under this section, the retail establishment or an employee of a retail establishment does not owe the customer to whom access is provided a greater degree of care than is owed to a licensee on the premises.

(f) A retail establishment or an employee of a retail establishment is

not civilly liable for any act or omission in allowing a customer to use an employee toilet facility that is not a public restroom if the act or omission:

(1) Is not willfully 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.

(g) A retail establishment is not required to make any physical changes to an employee toilet facility under this section.

/s/T. Shephard