

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PERSONS WITH CERTAIN MEDICAL CONDITIONS
5 TO ACCESS THE RESTROOM IN A RETAIL ESTABLISHMENT; PROVIDING LIMITED IMMUNITY; AND
6 PRESCRIBING PENALTIES."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 **NEW SECTION. Section 1. Retail restroom access -- customers with medical conditions -- penalty**

11 **-- definitions.** (1) A retail establishment that has an employee restroom shall allow a customer with an eligible
12 medical condition to use that employee restroom during normal business hours if:

13 (a) the customer requesting the use of the employee restroom provides in writing either:

14 (i) a signed statement by the customer's health care provider on a form that has been prepared by the
15 department of public health and human services under subsection (2) of this section; or

16 (ii) an identification card that is issued by a nonprofit organization whose purpose includes serving
17 individuals who suffer from an eligible medical condition; and

18 (b) one of the following conditions is met:

19 (i) the employee restroom is reasonably safe and is not located in an area where providing access would
20 create an obvious health or safety risk to the customer; or

21 (ii) allowing the customer to access the restroom facility does not pose a security risk to the retail
22 establishment or its employees.

23 (2) The department of public health and human services shall develop a standard electronic form that
24 may be signed by a health care provider as evidence of the existence of an eligible medical condition as required
25 by subsection (1). The form must include a brief description of a customer's rights under this section and must
26 be made available for a customer or a customer's health care provider to access by computer. Nothing in this
27 section requires the department to distribute printed versions of the form.

28 (3) Fraudulent use of a form as evidence of the existence of an eligible medical condition is a
29 misdemeanor punishable by a fine of not more than \$1,000, or by imprisonment in a county jail for not more than
30 90 days, or both.



1 (4) For a first violation of this section, the city or county attorney shall issue a warning letter to the owner
2 or operator of the retail establishment and to any employee of a retail establishment who denies access to an
3 employee restroom in violation of this section, informing the owner or operator of the establishment and employee
4 of the requirements of this section. A retail establishment or an employee of a retail establishment that violates
5 this section after receiving a warning letter is subject to a civil penalty not to exceed \$125.

6 (5) A retail establishment is not required to make any physical changes to an employee restroom under
7 this section and may require that an employee accompany a customer or a customer with an eligible medical
8 condition to the employee restroom.

9 (6) A retail establishment or an employee of a retail establishment is not civilly liable for any act or
10 omission in allowing a customer or a customer with an eligible medical condition to use an employee restroom
11 if it results in an injury to or death of the customer or the customer with an eligible medical condition or any
12 individual other than an employee accompanying the customer or the customer with an eligible medical condition
13 and the act or omission meets all of the following:

14 (a) it is not grossly negligent; and

15 (b) it occurs in an area of the retail establishment that is not accessible to the public.

16 (7) For purposes of this section:

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

18 (b) "Eligible medical condition" means:

19 (i) Crohn's disease, ulcerative colitis, or any other inflammatory bowel disease;

20 (ii) irritable bowel syndrome;

21 (iii) any condition requiring use of an ostomy device; or

22 (iv) any permanent or temporary medical condition that requires immediate access to a restroom.

23 (c) "Employee restroom" means a restroom intended for employees only in a retail facility and not
24 intended for customers.

25 (d) "Health care provider" means an advanced practice registered nurse licensed under Title 37, chapter
26 8, a physician licensed under Title 37, chapter 3, or a physician assistant licensed under Title 37, chapter 20.

27 (e) (i) "Retail establishment" means a place of business open to the general public for the sale of goods
28 or services.

29 (ii) The term does not include any structure such as a filling station, service station, or restaurant with
30 800 square feet or less that has an employee restroom located within that structure.

