

JAN 21 2022

A BILL FOR AN ACT

RELATING TO ACCESSIBILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that in 2004, Allyson
2 Bain, a fourteen-year-old Crohn's disease patient, was shopping
3 with her mother at a large retail establishment in Illinois when
4 she experienced a sudden need to use the restroom. But there
5 were no public restrooms nearby, and Ms. Bain was denied access
6 to the employees' only restroom of the establishment, resulting
7 in an accident. Thereafter, Ms. Bain and her mother worked with
8 their state representative to introduce and pass a bill to
9 permit patrons access to employees' only bathrooms if the patron
10 has a legitimate medical condition and urgent need. The bill,
11 informally known as Ally's law, was passed into law in 2005.

12 The legislature further finds that individuals with certain
13 medical conditions, including but not limited to Crohn's disease
14 and inflammatory bowel disease, may experience urgent restroom
15 needs. Since the passage of Ally's law, fifteen states have
16 passed similar legislation, including Colorado, Connecticut,
17 Delaware, Kentucky, Maine, Maryland, Massachusetts, Michigan,



1 Minnesota, Ohio, Oregon, Tennessee, Texas, Washington, and
2 Wisconsin. Ally's law falls under the Americans with
3 Disabilities Act of 1990.

4 The purpose of this Act is to extend the protections of
5 Ally's law to this State by requiring retail establishments
6 operating within the State, with an employees' only restroom, to
7 permit a patron suffering from eligible medical conditions to
8 use that restroom during normal business hours.

9 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
10 amended by adding a new section to part I to be appropriately
11 designated and to read as follows:

12 "§321- Retail establishment; restroom access; eligible
13 medical condition. (a) A retail establishment that has a
14 toilet facility for its employees shall allow a customer to use
15 that facility during normal business hours; provided that the
16 following conditions are met:

17 (1) The customer requesting the use of the employee toilet
18 facility suffers from an eligible medical condition
19 and provides the retail establishment with proof of an
20 eligible medical condition, in the form of:

21 (A) A statement signed by a physician; or



1 (B) A specially issued card from a health
2 organization or state health agency;

3 (2) Three or more employees of the retail establishment
4 are working and physically present on the premises of
5 the retail establishment at the time the customer
6 requests use of the employee toilet facility;

7 (3) The retail establishment does not have a public
8 restroom that is immediately accessible to the
9 customer;

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

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

17 (b) A retail establishment or an employee of a retail
18 establishment shall not be civilly liable for damages arising
19 from any act or omission in allowing a customer that has an
20 eligible medical condition to use an employee toilet facility



1 that is not a public restroom; provided that the act or omission
2 is:

3 (1) Not wilful or grossly negligent;

4 (2) Occurs in an area of the retail establishment that is
5 not accessible to the public; and

6 (3) Results in an injury to or death of the customer or
7 any individual other than an employee accompanying the
8 customer.

9 (c) A retail establishment shall not be required to make
10 any physical changes to an employee toilet facility for the
11 purposes of this section.

12 (d) Any retail establishment or employee of a retail
13 establishment who violates this section shall be fined not more
14 than \$100 for each violation.

15 (e) For the purposes of this section:

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

18 "Eligible medical condition" means Crohn's disease,
19 ulcerative colitis, any other inflammatory bowel disease,
20 irritable bowel syndrome, or any other medical condition that
21 requires immediate access to a toilet facility.



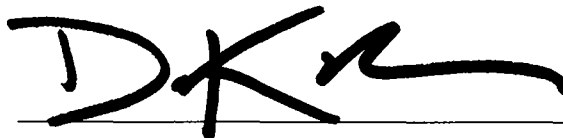
1 "Physician" means an individual authorized to practice
2 medicine or osteopathy under the law of any state.

3 "Retail establishment" means a place of business open to
4 the general public for the sale of goods or services. "Retail
5 establishment" does not include a retail service station, with a
6 structure of eight hundred square feet or less, that has an
7 employee toilet facility located within that structure."

8 SECTION 3. New statutory material is underscored.

9 SECTION 4. This Act shall take effect upon its approval.

10 INTRODUCED BY:





S.B. NO. 2913

Report Title:

Restroom Access; Customer; Retail Establishment

Description:

Requires a retail establishment with an employee toilet facility to allow a customer suffering from an eligible medical condition to use that restroom during normal business hours, under certain conditions. Exempts a retail establishment and employees from civil liability in allowing an eligible customer to use an employee toilet facility. Establishes fines.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

