

JAN 22 2021

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# A BILL FOR AN ACT

RELATING TO ACCESSIBILITY.

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

1 SECTION 1. Chapter 321, Hawaii Revised Statutes, is  
2 amended by adding a new section to part I to be appropriately  
3 designated and to read as follows:

4 "§321- Retail establishment; restroom access; eligible  
5 medical condition. (a) A retail establishment that has a  
6 toilet facility for its employees shall allow a customer to use  
7 that facility during normal business hours; provided that the  
8 following conditions are met:

9 (1) The customer requesting the use of the employee toilet  
10 facility suffers from an eligible medical condition  
11 and provides the retail establishment with proof of an  
12 eligible medical condition, in the form of:

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

14 (B) A specially issued card from a health  
15 organization or state health agency.

16 (2) Three or more employees of the retail establishment  
17 are working and physically present on the premises of



1           the retail establishment at the time the customer  
2           requests use of the employee toilet facility;

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

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

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

13          (b) A retail establishment or an employee of a retail  
14          establishment shall not be civilly liable for any act or  
15          omission in allowing a customer that has an eligible medical  
16          condition to use an employee toilet facility that is not a  
17          public restroom; provided that the act or omission is:

18          (1) Not wilful or grossly negligent;

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



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

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

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

10       (e) For the purposes of this section:

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

13       "Eligible medical condition" means Crohn's disease,  
14       ulcerative colitis, any other inflammatory bowel disease,  
15       irritable bowel syndrome, or any other medical condition that  
16       requires immediate access to a toilet facility.

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

19       "Retail establishment" means a place of business open to  
20       the general public for the sale of goods or services. "Retail  
21       establishment" does not include a retail service station, with a



1 structure of eight hundred square feet or less, that has an  
2 employee toilet facility located within that structure."

3 SECTION 2. New statutory material is underscored.

4 SECTION 3. This Act shall take effect on July 1, 2021.

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INTRODUCED BY:



# S.B. NO. 860

**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.

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