
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 who had a flare-up of her Crohn's
3 disease, was shopping with her mother at a large retail
4 establishment in Illinois when she experienced a sudden need to
5 use the restroom. There were no public restrooms nearby and
6 Ms. Bain was denied access to the employee-only restroom of the
7 establishment, causing her to soil herself. Thereafter,
8 Ms. Bain and her mother worked with their state representative
9 to introduce and pass a bill to permit customers access to
10 employee-only bathrooms if the customer has an eligible medical
11 condition requiring immediate access to a toilet. Illinois
12 became the first state to enact the Restroom Access Act,
13 informally known as Ally's Law, in 2005.

14 The legislature further finds that individuals with certain
15 medical conditions, including but not limited to Crohn's disease
16 and inflammatory bowel disease, may experience urgent restroom
17 needs. Since the passage of Ally's law in Illinois, nineteen



1 other states have passed similar legislation, including
 2 California, Colorado, Connecticut, Delaware, Kentucky,
 3 Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota,
 4 New Hampshire, New York, Ohio, Oregon, Tennessee, Texas,
 5 Washington, and Wisconsin. Ally's law falls under the federal
 6 Americans with Disabilities Act of 1990.

7 The purpose of this Act is to join those states who have
 8 adopted Ally's law and require any retail establishment
 9 operating within the State that has an employee-only restroom to
 10 permit a customer suffering from an eligible medical condition
 11 to use that restroom during normal business hours under certain
 12 conditions.

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

16 "§321- Retail establishment; customer access to
 17 employee toilet facility; eligible medical condition. (a) A
 18 retail establishment that has a toilet facility for its
 19 employees shall allow a customer to use that facility during
 20 normal business hours; provided that the following conditions
 21 are met:



- 1 (1) The customer requesting the use of the employee toilet
2 facility suffers from an eligible medical condition
3 and provides the retail establishment with proof of an
4 eligible medical condition, in the form of:
- 5 (A) A statement signed by a physician; or
6 (B) A specially-issued card from a health
7 organization or state health agency;
- 8 (2) Three or more employees of the retail establishment
9 are working and physically present on the premises of
10 the retail establishment at the time the customer
11 requests use of the employee toilet facility;
- 12 (3) The retail establishment does not normally make a
13 restroom available to the public;
- 14 (4) The employee toilet facility is reasonably safe and is
15 not located in an area where providing access would
16 create an obvious health or safety risk to the
17 customer or an obvious security risk to the retail
18 establishment; and
- 19 (5) A public restroom is not immediately accessible to the
20 customer.



1 (b) A retail establishment shall not be required to make
2 any physical changes to an employee toilet facility for the
3 purposes of this section.

4 (c) Any retail establishment or employee of a retail
5 establishment who violates this section shall be fined no more
6 than \$100 for each violation.

7 (d) For the purposes of this section:
8 "Customer" means an individual who is lawfully on the
9 premises of a retail establishment.

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

14 "Physician" means an individual authorized to practice
15 medicine or osteopathy under the laws of any state.

16 "Retail establishment" means a place of business open to
17 the general public for the sale of goods or services. "Retail
18 establishment" does not include a fuel filling or service
19 station with a structure of eight hundred square feet or less,
20 that has an employee toilet facility located within that
21 structure."



1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect on December 31,

3 2050.



Report Title:

Ally's Law; The Restroom Access Act; Retail Establishments;
Customer Access to Employee Toilet Facilities; Eligible Medical
Condition

Description:

Requires retail establishments 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. Establishes fines. Effective 12/31/2050. (HD1)

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not legislation or evidence of legislative intent.*

