

By Senator Sobel

33-01331-15

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1                   A bill to be entitled  
2           An act relating to toilet access; amending s. 381.009,  
3           F.S.; defining terms; requiring a retail establishment  
4           serving the public which has a toilet facility for its  
5           employees to allow a customer to use the facility  
6           during normal business hours if certain conditions are  
7           met; providing that a retail establishment or an  
8           employee of a retail establishment is not civilly  
9           liable for a specified act or omission that occurs as  
10          a result of allowing a customer to use an employee  
11          toilet facility; authorizing the Department of Health  
12          to impose a fine upon a retail establishment or an  
13          employee of a retail establishment in certain  
14          circumstances; providing that the amounts collected  
15          from fines shall be deposited into an appropriate  
16          trust fund of the Department of Health; requiring a  
17          customer to present to an employee of a retail  
18          establishment proof of an eligible medical condition;  
19          providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23           Section 1. Section 381.009, Florida Statutes, is amended to  
24           read:

25           381.009 Toilets required by department regulations; charge  
26           for use of prohibited; toilets in retail establishments.-

27           (1) A ~~No~~ place of employment or a place serving the public  
28           may not ~~shall make a~~ charge for the use of a ~~any~~ toilet that  
29           ~~which~~ is required to be provided by regulation of the Department

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30 of Health. Any place of employment or place serving the public  
31 which violates this act is guilty of a misdemeanor of the second  
32 degree, punishable as provided in s. 775.083.

33 (2) (a) As used in this subsection, the term:

34 1. "Customer" means an individual who is lawfully on the  
35 premises of a retail establishment.

36 2. "Eligible medical condition" means Crohn's disease,  
37 ulcerative colitis, any other inflammatory bowel disease,  
38 irritable bowel syndrome, or any other medical condition that  
39 requires immediate access to a toilet facility.

40 3. "Retail establishment" means a place of business that is  
41 open to the general public for the sale of goods or services.

42 (b) A retail establishment serving the public which has a  
43 toilet facility for its employees must allow a customer to use  
44 the toilet facility during normal business hours if all of the  
45 following conditions are met:

46 1. The customer requesting the use of the employee toilet  
47 facility suffers from an eligible medical condition as described  
48 in subparagraph (a)2. or uses an ostomy device.

49 2. Three or more employees of the retail establishment are  
50 working at the time the customer requests use of the employee  
51 toilet facility.

52 3. The retail establishment does not normally make a  
53 restroom available to the public.

54 4. The employee toilet facility is not located in an area  
55 in which allowing a customer access would create an obvious  
56 health or safety risk to the customer or an obvious security  
57 risk to the retail establishment.

58 5. A public restroom is not immediately accessible to the

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59 customer.

60 (c) A retail establishment or an employee of a retail  
61 establishment is not civilly liable for any act or omission that  
62 occurs as a result of allowing a customer to use an employee  
63 toilet facility that is not a public restroom if the act or  
64 omission meets all of the following criteria:

65 1. It is not willful or grossly negligent.

66 2. It occurs in an area of the retail establishment that is  
67 not accessible to the public.

68 3. It results in an injury to or the death of the customer  
69 or any individual other than an employee accompanying the  
70 customer.

71 (d) This subsection does not require a retail establishment  
72 to make any physical changes to an employee toilet facility.

73 (e) The Department of Health may impose a fine of up to \$50  
74 upon a retail establishment or an employee of a retail  
75 establishment for a violation of subsection (b). All amounts  
76 collected under this section shall be deposited into an  
77 appropriate trust fund of the Department of Health.

78 (f) When requesting access to an employee toilet facility,  
79 a customer must present to an employee of the retail  
80 establishment proof of an eligible medical condition. The proof  
81 shall take the form of a document issued by a licensed physician  
82 or the Crohn's and Colitis Foundation of America identifying the  
83 customer and citing this section.

84 Section 2. This act shall take effect July 1, 2015.