

Sixty-first  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1258

Introduced by

Representatives Potter, N. Johnson, Nottestad, Uglen

Senators Horne, Wardner

1 A BILL for an Act to provide individuals having medical conditions reasonable restroom access  
2 in retail establishments; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. Restroom access - Penalty.**

5 1. As used in this section, unless the context otherwise requires:

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

8 b. "Eligible medical condition" means Crohn's disease, ulcerative colitis, any  
9 other inflammatory bowel disease, inflammatory bowel syndrome, or any  
10 other medical condition that requires immediate access to a toilet facility. The  
11 term includes use of an ostomy device.

12 c. "Retail establishment" means a place of business open to the general public  
13 for the sale of goods or services. The term does not include a filling station or  
14 service station with a structure of eight hundred square feet [74.32 square  
15 meters] or less which has an employee toilet facility located within that  
16 structure.

17 2. A retail establishment that has a toilet facility for the establishment's employees  
18 shall allow a customer to use that employee toilet facility during normal business  
19 hours if the employee toilet facility is reasonably safe and all of the following  
20 conditions are met:

21 a. The customer requesting the use of the employee facility suffers from an  
22 eligible medical condition:

23 b. Three or more employees of the retail establishment are working at the time  
24 the customer requests use of the employee toilet facility;

- 1           c.   The retail establishment does not normally make a restroom available to the  
2               public;
- 3           d.   The employee toilet facility is located in an area where providing access  
4               would not create an obvious health or safety risk to the customer or an  
5               obvious security risk to the establishment; and
- 6           e.   A public restroom is not immediately accessible to the customer.
- 7        3.   A retail establishment or an employee of a retail establishment is not civilly liable  
8           for any act or omission in allowing a customer who claims to have an eligible  
9           medical condition to use an employee toilet facility that is not a public restroom if  
10          the act or omission:
  - 11          a.   Is not willful or grossly negligent;
  - 12          b.   Occurs in an area of the retail establishment which is not accessible to the  
13               public; and
  - 14          c.   Results in an injury to or death of the customer or any individual other than an  
15               employee accompanying the customer.
- 16        4.   This section does not require a retail establishment to make any physical changes  
17           to an employee toilet facility.
- 18        5.   A retail establishment or an employee of a retail establishment which violates this  
19           section is guilty of an infraction. The fine for a first offense may not exceed fifty  
20           dollars.