

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.