

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: H2/13/23

A Bill

HOUSE BILL 1334

5 By: Representatives T. Shephard, F. Allen, Ennett, Pilkington, Scott, Springer, *Duffield*
6 By: Senator L. Chesterfield
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE RESTROOM ACCESS ACT; TO ALLOW
10 RESTROOM ACCESS TO CUSTOMERS WITH CERTAIN ELIGIBLE
11 MEDICAL CONDITIONS; AND FOR OTHER PURPOSES.
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Subtitle

15 TO CREATE THE RESTROOM ACCESS ACT; AND TO
16 ALLOW RESTROOM ACCESS TO CUSTOMERS WITH
17 CERTAIN ELIGIBLE MEDICAL CONDITIONS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 20, Chapter 14, Subchapter 3, is
23 amended to add an additional section to read as follows:

24 20-14-311. Restroom Access Act.

25 (a) This section shall be known and may be cited as the "Restroom
26 Access Act".

27 (b) As used in this section:

28 (1) "Customer" means an individual who is lawfully on the
29 premises of a retail establishment;

30 (2) "Eligible medical condition" means Crohn's disease,
31 ulcerative colitis, any other inflammatory bowel disease, irritable bowel
32 syndrome, or any other medical condition that requires immediate access to a
33 toilet facility; and

34 (3)(A) "Retail establishment" means a place of business open to
35 the public for the sale of goods or services.

36 (B) "Retail establishment" does not include a filling



1 station or service station with a structure of eight hundred square feet (800
2 sq. ft.) or less that has an employee toilet facility located within that
3 structure.

4 (c) A retail establishment that has a toilet facility for its
5 employees shall allow a customer to use that facility during normal business
6 hours if the employee toilet facility is reasonably safe and all of the
7 conditions under this subsection are met:

8 (1) The customer requesting the use of the employee toilet
9 facility provides the retail establishment with evidence of the customer's
10 eligible medical condition that may include:

11 (A) A copy of a statement signed by a physician, advanced
12 practice registered nurse, physician assistant, or another person acting
13 under the delegation and supervision of a licensed physician that indicates
14 that the customer suffers from an eligible medical condition or uses an
15 ostomy device; or

16 (B) An identification card that is issued by a nationally-
17 recognized health organization which indicates that the customer suffers from
18 an eligible medical condition or uses an ostomy device;

19 (2) Three (3) or more employees of the retail establishment are
20 working at the time the customer requests use of the employee toilet
21 facility;

22 (3) The retail establishment does not normally make a restroom
23 available to the public;

24 (4) The employee toilet facility is not located in an area where
25 providing access would create an obvious health or safety risk to the
26 customer or an obvious security risk to the retail establishment; and

27 (5) A public restroom is not immediately accessible to the
28 customer.

29 (d) A customer who uses an employee toilet facility under this section
30 shall leave the employee toilet facility in the same condition as the toilet
31 facility was before the customer used the employee toilet facility.

32 (e) In providing access to an employee toilet facility under this
33 section, the retail establishment or an employee of a retail establishment
34 does not owe the customer to whom access is provided a greater degree of care
35 than is owed to a licensee on the premises.

36 (f) A retail establishment or an employee of a retail establishment is

1 not civilly liable for any act or omission in allowing a customer to use an
2 employee toilet facility that is not a public restroom if the act or
3 omission:

4 (1) Is not willfully or grossly negligent;

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

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

9 (g) A retail establishment is not required to make any physical
10 changes to an employee toilet facility under this section.

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12 */s/T. Shephard*
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