



January 29, 2016

SENATE BILL No. 361

DIGEST OF SB 361 (Updated January 27, 2016 12:27 pm - DI 104)

Citations Affected: IC 24-4; IC 34-30.

Synopsis: Access to employee restrooms. Provides that if a retail establishment has a restroom facility on its premises for the use of the retail establishment's employees, a customer, upon request, must be allowed to use the toilet facility during normal business hours if certain conditions are met. Specifies that a customer who uses the retail establishment's employee restroom facility is responsible for leaving the restroom facility in the same condition as when the customer entered the restroom facility. Provides immunity from civil liability for any act or omission in allowing the customer to use the employee toilet facility if all of the conditions are met, provided that the act or omission: (1) is not willful or grossly negligent; and (2) occurs in an area of the retail establishment that is not accessible to the public.

Effective: July 1, 2016.

Becker, Miller Patricia, Mrvan

January 11, 2016, read first time and referred to Committee on Health & Provider Services.
January 28, 2016, amended, reported favorably — Do Pass.

SB 361—LS 6737/DI 101



January 29, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 361

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 24-4-14.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]:
4 **Chapter 14.5. Access to Employee Restrooms for Customers**
5 **With Medical Conditions**
6 **Sec. 1. (a) The definitions set forth in this section apply**
7 **throughout this chapter.**
8 **(b) "Customer" means a person who is lawfully on the premises**
9 **of a retail establishment.**
10 **(c) "Eligible medical condition" means Crohn's disease or**
11 **ulcerative colitis.**
12 **(d) "Retail establishment" means a place of business that is**
13 **open to the general public for the sale of goods or services.**
14 **Sec. 2. (a) If a restroom facility for the use of the employees of**
15 **a retail establishment is located on the premises of the retail**
16 **establishment, the owner or operator of the retail establishment or**
17 **an employee of the retail establishment shall, upon request, allow**

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1 a customer to use the restroom facility during normal business
2 hours if all of the following conditions are met:

3 (1) The restroom facility is reasonably safe for use by the
4 customer.

5 (2) The customer requesting the use of the restroom facility:
6 (A) suffers from an eligible medical condition for which the
7 individual holds a written certification of the eligible
8 medical condition by the individual's treating health care
9 provider for the condition; or

10 (B) uses an ostomy device.

11 (3) At least three (3) employees of the retail establishment are
12 working in the retail establishment when the customer
13 requests use of the restroom facility.

14 (4) The retail establishment does not normally make the
15 restroom available to the public.

16 (5) Providing the customer with access to the restroom facility
17 does not create:

18 (A) an obvious health or safety risk to the customer; or

19 (B) an obvious security risk to the retail establishment;
20 because of the nature of the area in which the restroom
21 facility is located.

22 (6) There is no public restroom that is immediately accessible
23 to the customer.

24 (b) A customer with an eligible medical condition who uses a
25 retail establishment's restroom facility under this chapter is
26 responsible for leaving the restroom facility in the same condition
27 as when the customer entered the restroom facility.

28 **Sec. 3.** An owner, operator, or employee of a retail
29 establishment is not civilly liable for any act or omission in
30 allowing a customer that has an eligible medical condition to use a
31 restroom facility under the conditions set forth in section 2 of this
32 chapter if the act or omission:

33 (1) is not willful or grossly negligent; and

34 (2) occurs in an area of the retail establishment that is not
35 accessible to the public;

36 even if the act or omission results in an injury to or the death of the
37 customer or any individual other than an owner, operator, or
38 employee accompanying the customer.

39 **Sec. 4.** This chapter does not require any physical changes to be
40 made to an employee restroom facility located in a retail
41 establishment.

42 SECTION 2. IC 34-30-2-96.2 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2016]: **Sec. 96.2. IC 24-4-14.5-3 (Concerning**
3 **acts or omissions of an owner, operator, or employee of a retail**
4 **establishment in allowing a customer with an eligible medical**
5 **condition to use a restroom facility for employees).**



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 361, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 10 through 15, begin a new paragraph and insert:

"(c) "Eligible medical condition" means Crohn's disease or ulcerative colitis."

Page 2, line 1, after "2." insert **"(a)"**.

Page 2, line 1, delete "toilet" and insert **"restroom"**.

Page 2, line 5, delete "toilet" and insert **"restroom"**.

Page 2, line 7, delete "toilet" and insert **"restroom"**.

Page 2, line 9, delete "toilet" and insert **"restroom"**.

Page 2, line 10, delete ";" and insert **"for which the individual holds a written certification of the eligible medical condition by the individual's treating health care provider for the condition;"**.

Page 2, line 14, delete "toilet" and insert **"restroom"**.

Page 2, line 17, delete "toilet" and insert **"restroom"**.

Page 2, line 21, delete "toilet" and insert **"restroom"**.

Page 2, between lines 24 and 25, begin a new paragraph and insert:

"(b) A customer with an eligible medical condition who uses a retail establishment's restroom facility under this chapter is responsible for leaving the restroom facility in the same condition as when the customer entered the restroom facility."

Page 2, line 28, delete "toilet" and insert **"restroom"**.

Page 2, line 37, delete "toilet" and insert **"restroom"**.

Page 3, line 1, delete "toilet" and insert **"restroom"**.

and when so amended that said bill do pass.

(Reference is to SB 361 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 8, Nays 3.

