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S.181

Introduced by Senators Sears, Lyons and Ingram

Referred to Committee on Health and Welfare

Date: January 7, 2020

Subject: Health; inflammatory bowel disease; public accommodation;
restroom access

Statement of purpose of bill as introduced: This bill proposes to require retail establishments to allow a customer with an inflammatory bowel disease to use an employee restroom when a public restroom is not immediately accessible.

An act relating to access to employee restrooms for individuals living with an inflammatory bowel disease

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1, 18 V.S.A. § 1211 is added to read:~~

§ 1311. RESTROOM ACCESS; INFLAMMATORY BOWEL DISEASE

(a) As used in this section:

(1) "Customer" means a member of the public who is lawfully on the premises of a retail establishment.

(2) "Eligible medical condition" means Crohn's disease, ulcerative colitis, any other inflammatory bowel disease, irritable bowel syndrome, or any other medical condition that requires immediate access to a restroom.

1 (3) "Employee restroom" means a restroom intended for only the
2 employees of a retail facility and not for customers.

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

5 (b) A retail establishment that has an employee restroom shall allow a
6 customer to use that restroom during normal business hours if all of the
7 following conditions are met:

8 (1) The customer requesting the use of the employee restroom has an
9 eligible medical condition or uses an ostomy device and offers a physician's
10 note indicating the eligible medical condition or device.

11 (2) The retail establishment does not have a public restroom that is
12 immediately accessible to the customer.

13 (3) The employee restroom is not located in an area where providing
14 access would create an obvious health or safety risk to the customer or an
15 obvious security risk to the establishment.

16 (4) At the time the request for access to the employee restroom is made,
17 three or more employees of the retail establishment are working.

18 (c) A retail establishment or an employee of a retail establishment is not
19 civily liable for any act or omission in allowing a customer meeting the
20 conditions in subsection (b) of this section to use an employee restroom if the
21 act or omission.

- 1 ~~(1) is not willful or grossly negligent;~~
- 2 ~~(2) occurs in an area of the retail establishment that is not accessible to~~
- 3 ~~the public; and~~
- 4 ~~(3) results in injury to or death of the customer or any individual other~~
- 5 ~~than the employee accompanying the customer.~~
- 6 ~~(d) An employee of a retail establishment who refuses to provide access to~~
- 7 ~~an employee restroom to a customer with an eligible medical condition or~~
- 8 ~~ostomy device and who offers a physician's note pursuant to this section shall~~
- 9 ~~be fined not more than \$500.00.~~

10 Sec. 2. EFFECTIVE DATE

11 ~~This act shall take effect on July 1, 2020.~~

** * * Restroom Access for Eligible Conditions * * **

Sec. 1. 18 V.S.A. § 1311 is added to read:

§ 1311. RESTROOM ACCESS; INFLAMMATORY BOWEL DISEASE

(a) As used in this section:

(1) "Customer" means a member of the public who is lawfully on the premises of a retail establishment.

(2) "Eligible medical condition" means Crohn's disease, ulcerative colitis, any other inflammatory bowel disease, irritable bowel syndrome, or any other medical condition that requires immediate access to a restroom.

(3) "Employee restroom" means a restroom intended for only the employees of a retail facility and not for customers.

(4) "Retail establishment" means a place of business open to the general public for the sale of goods or services.

(b) A retail establishment that has an employee restroom shall allow a customer to use that restroom during normal business hours if all of the following conditions are met:

(1) The customer requesting the use of the employee restroom has an eligible medical condition or uses an ostomy device and offers a card signed by the customer's physician indicating the eligible medical condition or device.

(2) The retail establishment does not have a public restroom that is immediately accessible to the customer.

(3) The employee restroom is not located in an area where providing access would create an obvious health or safety risk to the customer or an obvious security risk to the establishment.

(4) At the time the request for access to the employee restroom is made, three or more employees of the retail establishment are working.

~~(c) A retail establishment or an employee of a retail establishment is not civilly liable for any act or omission in allowing a customer meeting the conditions in subsection (b) of this section to use an employee restroom if the act or omission:~~

~~(1) is not willful or grossly negligent;~~

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

~~(3) results in injury to or death of the customer or any individual other than the employee accompanying the customer.~~

(c) A retail establishment or person employed by a retail establishment shall not be subject to civil liability for an act or omission in allowing a customer to use an employee restroom pursuant to this section if the act or omission results in injury or death to the customer or the individual accompanying the customer, provided the act or omission occurs in an area of the retail establishment that is not accessible to the public. Nothing in this section shall be construed to limit or otherwise affect the liability of any person for damages resulting from that person's gross negligence or willful misconduct.

(d) An employee of a retail establishment who refuses to provide access to an employee restroom to a customer with an eligible medical condition or ostomy device who offers a card signed by the customer's physician pursuant to this section shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action to enforce this section shall be brought in the Judicial Bureau pursuant to 4 V.S.A. chapter 29.

(e) The Department of Health shall develop a printable card available on its website that, when signed by a physician licensed pursuant to 26 V.S.A.

chapter 23 or 33 who diagnoses and treats the eligible medical condition or provides for the use of an ostomy device, may be carried by a patient with an eligible medical condition or ostomy device to ensure access to an employee restroom in a retail establishment in accordance with this section.

* * * Judicial Bureau * * *

Sec. 2. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(30) Violations of 18 V.S.A. § 1311, relating to restroom access for persons with an eligible medical condition.

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* * * Effective Date * * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2020.