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An Act To Require Businesses To Make Toilet Facilities Available to Individuals with Certain Medical Conditions

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §1671, as repealed and replaced by PL 1985, c. 737, Pt. A, §53, is amended to read:

§ 1671. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Shopping center. "Shopping center" means any building or facility containing 6 or more separate retail establishments which that are planned, developed, owned or managed as a unit, with an off-street public parking area of not less than 2 acres.

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

3. Eligible medical condition. "Eligible medical condition" means Crohn's disease, ulcerative colitis or any other inflammatory bowel disease, irritable bowel syndrome, a condition requiring the use of an ostomy device or any other medical condition that requires immediate access to a toilet facility.

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

Sec. 2. 22 MRSA §1672-B is enacted to read:

§ 1672-B. Retail establishments; access to employee toilet facilities

1. Access for customers with eligible medical conditions. A retail establishment that has a toilet facility for its employees shall allow a customer to use that facility during normal business hours if:

A. The customer requesting the use of the employee toilet facility suffers from an eligible medical condition;

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

C. Allowing the customer to use the toilet facility would not impose an undue burden on the retail establishment;

D. The retail establishment does not normally make a toilet facility available to the public;

E. The employee toilet facility 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 retail establishment; and

F. A public toilet facility is not immediately accessible to the customer.

2. Liability. A retail establishment or an owner or employee of a retail establishment is not civilly liable for any act or omission in allowing a customer to use an employee toilet facility that is not a public toilet facility pursuant to subsection 1 unless:

A. The retail establishment or owner or employee of the retail establishment is willfully or grossly negligent;

B. The act or omission occurs in an area of the retail establishment that is not accessible to the public; and

C. The act or omission results in an injury to or death of the customer or an individual other than an employee accompanying the customer.

3. Modifications not required. A retail establishment is not required to make any physical change to an employee toilet facility under this section.

4. Application. This section may not be construed to limit the rights, remedies and procedures afforded to individuals pursuant to the Maine Human Rights Act. The civil penalties in section 1674 may not be assessed for any violation of this section.

Sec. 3. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 22, chapter 270, in the chapter headnote, the words "shopping centers" are amended to read "shopping centers and retail establishments" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Effective September 12, 2009