ASSEMBLY, No. 4000

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 4, 2020

Sponsored by:
Assemblyman THOMAS P. GIBLIN
District 34 (Essex and Passaic)
Assemblyman DANIEL R. BENSON
District 14 (Mercer and Middlesex)

SYNOPSIS

Requires retail establishments to allow individuals with certain medical conditions access to employee restrooms.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/11/2020)

AN ACT concerning public health and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. As used in this act:

"Customer" means an individual who is lawfully on the premises of a retail establishment who is not an employee of the establishment.

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

"Retail establishment" means a place where merchandise is displayed, held, stored, sold or offered to the public for sale. Retail establishment does not include a filling station or service station, with a structure of 800 square feet or less, that has an employee restroom within that structure.

2. a. Notwithstanding any provision of law to the contrary, a retail establishment that has a restroom solely for the use of its employees shall allow a customer to use the restroom during normal business hours if the restroom is safe, and all the following conditions are met:

(1) the customer requesting the use of the restroom suffers from an eligible medical condition;

(2) three or more employees of the retail establishment are working at the time the customer requests the use of the restroom;

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

(4) the restroom is not located in an area where providing public access would create an obvious health or safety risk to the customer or a security risk to the retail establishment; and

(5) a public restroom is not immediately accessible to the customer.

b. Nothing in this act shall be construed to require the retail establishment to make any physical changes to its restroom.

3. A retail establishment or an employee of a retail establishment shall not be civilly liable for any act or omission in allowing a customer with an eligible medical condition to use a restroom that is solely for the use of employees if the act or omission:

a. is not willful or grossly negligent;

b. occurs in an area of the retail establishment that is not accessible to the public; and

c. results in an injury to or death of a customer or any individual other than an employee accompanying the customer.

4. a. A proprietor or an employee of a retail establishment who violates the provisions of this act shall be guilty of a petty disorderly persons offense and shall be fined not more than $500 for each violation.

b. The Department of Health or the local board of health or the board, body or officers exercising the functions of the local board of health according to law, upon written complaint or having reason to suspect that a retail establishment covered by the provisions of this act is or may be in violation of the provisions of this act, shall, by written notification, advise the person having control of the establishment accordingly and order appropriate action to be taken. In addition to the penalty provided herein, the court may order immediate compliance with the provisions of this act.

c. A penalty recovered under the provisions of this act shall be recovered by and in the name of the Commissioner of Health or by and in the name of the local board of health. When the plaintiff is the Commissioner of Health, the penalty recovered shall be paid by the commissioner into the treasury of the State. When the plaintiff is a local board of health, the penalty recovered shall be paid by the local board into the treasury of the municipality where the violation occurred.

d. A municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of this act if the violation has occurred within the territorial jurisdiction of the court. The proceedings shall be summary and in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Process shall be in the nature of a summons or warrant and shall issue only at the suit of the Commissioner of Health, or the local board of health, as the case may be, as plaintiff.

5. This act shall take effect on the 60th day after the date of enactment.

STATEMENT

This bill requires a retail establishment that has a restroom solely for the use of its employees to allow a customer with an eligible medical condition immediate access to the restroom during normal business hours if the restroom is safe, and the following conditions are met: the customer requesting the use of the restroom suffers from an eligible medical condition; three or more employees of the retail establishment are working at the time the customer requests the use of the restroom; the retail establishment does not normally

make a restroom available to the public; he restroom is not located in an area where providing public access would create an obvious health or safety risk to the customer or a security risk to the retail establishment; and a public restroom is not immediately accessible to the customer.

This bill also stipulates that a retail establishment is not required to make any physical changes to its restroom.

As used in the bill, "eligible medical condition" means Crohn's disease, ulcerative colitis, any other inflammatory bowel disease, irritable bowel syndrome, or any medical condition that requires the use of an ostomy device or immediate access to a restroom. "Retail establishment" is defined as a place where merchandise is displayed, held, stored, sold or offered to the public for sale, but does not include a filling station or service station, with a structure of 800 square feet or less, that has an employee restroom within that structure.

The bill also clarifies that a retail establishment or any of its employees shall not be held civilly liable for any act or omission in allowing a customer with an eligible medical condition to use the restroom if the act or omission: is not willful or grossly negligent; occurs in an area of the retail establishment that is not accessible to the public; and results in an injury to or death of a customer or any individual other than an employee accompanying the customer.

Finally, a proprietor or an employee of a retail establishment violating the provisions of the bill shall be guilty of a petty disorderly persons offense and fined not more than $500 for each violation.