

Legislative Analysis



AVAILABILITY OF BATHROOMS IN RETAIL STORES

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House Bill 5046

Sponsor: Rep. Andy Meisner

Committee: Commerce

Complete to 8-27-07

A SUMMARY OF HOUSE BILL 5046 AS INTRODUCED 7-24-07

The bill would create a new act under which retail establishments would have to allow customers with certain medical conditions to use toilet facilities usually reserved for employees.

The bill would apply to customers with Crohn's disease, ulcerative colitis, any other inflammatory bowel disease, irritable bowel syndrome, or any other medical condition requiring immediate access to a toilet facility.

Under the bill, a customer seeking to use toilet facilities not normally available to the public would have to suffer from an eligible medical condition and provide the retailer with a copy of a statement on a prescription form and signed by a doctor indicating he or she suffers from such a condition or uses an ostomy device. The bill would not apply if a public restroom was immediately accessible to the customer or if the retailer's toilet facility was located in an area where public access would create an obvious health or safety risk to the customer or an obvious security risk to the retailer. The bill would only apply when the retailer had two or more employees working at the time of the customer's request. Further, the bill would not require a retail establishment to make any physical changes to an employee toilet facility.

A violation by a retail establishment would be a state civil infraction subject to a civil fine of up to \$100.

The bill would specify that a retailer or employee would not be civilly liable for any injury to or death of a customer allowed to use a toilet facility under the bill or to an individual other than an employee accompanying the customer unless all of the following applied: (1) the retailer or employee knew or should have known of the condition that caused the injury, should have realized the condition involved an unreasonable risk of harm, and should have expected the customer or accompanying individual would not discover or realize the danger; (2) the retailer or employee failed to exercise reasonable care to make the condition safe or warn the customer or other individual of the condition and risk; (3) the customer or other individual did not know or have reason to know of the condition and risk involved; and (4) the injury or death occurred in an area of the retail establishment not accessible to the public.

FISCAL IMPACT:

House Bill 5046 would have an indeterminate fiscal impact. The bill could increase the funding for local libraries and increase revenues to the Justice System Fund (JSF). Under current law, each non-traffic-related civil infraction may be assessed the following: a \$10 JSF assessment, fines that go to county treasurers to benefit local libraries, and court costs. A violation under this bill would be assessed a fine of up to \$100. This revenue would be allocated to local libraries. Each infraction would also be assessed a \$10 Justice System Assessment which would be deposited into the state Justice System Fund (JSF). The JSF supports various justice-related endeavors in the judicial branch, the Department of State Police, and the Department of Corrections. In addition, the assessed court costs would generate additional revenue for the governmental unit that funds the local court.

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