

**SUBSTITUTE FOR  
HOUSE BILL NO. 5046**

(As amended September 11, 2007)

A bill to provide for restroom access for persons with certain medical conditions; to provide immunity from liability for permitting restroom access; and to prescribe penalties.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. As used in this act:

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

4           (b) "Doctor" means a licensed doctor of medicine or a licensed  
5 doctor of osteopathic medicine and surgery.

6           (c) "Eligible medical condition" means Crohn's disease,  
7 ulcerative colitis, any other inflammatory bowel disease, irritable  
8 bowel syndrome, [pregnancy,] or any other medical condition that requires  
9 immediate access to a toilet facility.

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

3 Sec. 2. A retail establishment that has a toilet facility for  
4 its employees shall allow a customer to use that facility during  
5 normal business hours if all of the following are met:

6 (a) The customer requesting use of the employee toilet  
7 facility suffers from an eligible medical condition or utilizes an  
8 ostomy device.

9 (b) Two or more employees of the retail establishment are  
10 working at the time the customer requests use of the employee  
11 toilet facility.

12 (c) The customer provides the retail establishment with a copy  
13 of a statement on a prescription form that indicates the customer  
14 suffers from an eligible medical condition or utilizes an ostomy  
15 device, signed by a doctor.

16 (d) The retail establishment does not normally make a restroom  
17 available to the public.

18 (e) The employee toilet facility is not located in an area  
19 where providing access would create an obvious health or safety  
20 risk to the customer or an obvious security risk to the retail  
21 establishment.

22 (f) A public restroom is not immediately accessible to the  
23 customer.

24 Sec. 3. A retail establishment or an employee of a retail  
25 establishment is not civilly liable for any injury to or death of a  
26 customer allowed to use an employee toilet facility that is not a  
27 public restroom, or to an individual other than an employee

1 accompanying the customer, unless all of the following are met:

2 (a) The retail establishment or the employee of the retail  
3 establishment knew or should have known of the condition that  
4 caused the injury or death, should have realized that the condition  
5 involved an unreasonable risk of harm to a customer or other  
6 individual, and should have expected that the customer or other  
7 individual would not discover or realize the danger.

8 (b) The retail establishment or the employee of the retail  
9 establishment failed to exercise reasonable care to make the  
10 condition safe or to warn the customer or other individual of the  
11 condition and the risk.

12 (c) The customer or other individual did not know or have  
13 reason to know of the condition and the risk involved.

14 (d) The injury or death occurred in an area of the retail  
15 establishment that is not accessible to the public.

16 Sec. 4. A retail establishment or an employee of a retail  
17 establishment that violates section 2 is responsible for a state  
18 civil infraction and may be ordered to pay a civil fine of not more  
19 than \$100.00.

20 Sec. 5. A retail establishment is not required to make any  
21 physical changes to an employee toilet facility under this act.

22 Sec. 6. A person who does any of the following is guilty of a  
23 misdemeanor:

24 (a) Falsely makes, publishes, passes, alters, or forges a  
25 prescription form described in section 2(c).

26 (b) Alters or forges a doctor's signature on a prescription  
27 form described in section 2(c).

- 1 (c) Knowingly possesses a false, forged, or altered
- 2 prescription form described in section 2(c).