

SENATE AMENDMENTS

2nd Printing

By: Strama, King of Taylor, Howard of Travis,
et al.

H.B. No. 416

A BILL TO BE ENTITLED

AN ACT

relating to providing for restroom access for persons with certain medical conditions; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as the Restroom Access Act.

SECTION 2. Subchapter D, Chapter 341, Health and Safety Code, is amended by adding Section 341.069 to read as follows:

Sec. 341.069. ACCESS TO RESTROOM FACILITIES. (a) In this section:

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

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

(3) "Physician" has the meaning assigned by Section 151.002, Occupations Code.

(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 a toilet facility for its employees shall allow a customer to use the toilet facility during normal business hours if:

(1) the retail establishment does not have a public restroom that is immediately accessible to the customer;

1 (2) the employee toilet facility is not located in an
2 area where providing access would create an obvious health or
3 safety risk to the customer or an obvious security risk to the
4 retail establishment;

5 (3) the customer requesting use of the employee toilet
6 facility provides the retail establishment with evidence of the
7 customer's eligible medical condition including:

8 (A) a copy of a statement signed by a physician
9 that indicates the customer suffers from an eligible medical
10 condition or uses an ostomy device; or

11 (B) an identification card that is issued by a
12 nationally recognized health organization or a local health
13 department and that indicates the customer suffers from an eligible
14 medical condition or uses an ostomy device; and

15 (4) three or more employees of the retail
16 establishment are working and physically present on the premises of
17 the retail establishment at the time the customer requests to use
18 the employee toilet facility.

19 (c) A customer who uses a toilet facility as authorized by
20 this section shall leave the toilet facility in the same condition
21 as it was before the customer used the toilet facility.

22 (d) A retail establishment or an employee of a retail
23 establishment is not liable in civil damages for any act or omission
24 in allowing a customer to use an employee toilet facility that is
25 not a public restroom in accordance with this section if the act or
26 omission:

27 (1) is not wilful or grossly negligent;

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

3 (3) results in property damage or bodily injury to or
4 death of the customer or any individual other than an employee
5 accompanying the customer.

6 (e) An employee of a retail establishment who refuses to
7 provide a customer with access to an employee toilet facility as
8 required by this section commits an offense. An offense under this
9 section is a misdemeanor punishable by a fine of not more than \$100.

10 (f) A retail establishment is not required to make any
11 physical changes to an employee toilet facility under this section.

12 SECTION 3. This Act takes effect September 1, 2007.

ADOPTED

MAY 14 2007

Leta Spaw
Secretary of the Senate

By: Strama/Watson

H.B. No. 416

Substitute the following for H.B. No. 416:

By: Nelson

C.S. H.B. No. 416

A BILL TO BE ENTITLED

AN ACT

relating to providing for restroom access for persons with certain medical conditions; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as the Restroom Access Act.

SECTION 2. Subchapter D, Chapter 341, Health and Safety Code, is amended by adding Section 341.069 to read as follows:

Sec. 341.069. ACCESS TO RESTROOM FACILITIES. (a) In this section:

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

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

(3) "Physician" has the meaning assigned by Section 151.002, Occupations Code.

(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 a toilet facility for its employees shall allow a customer to use the toilet facility during normal business hours if:

(1) the retail establishment does not have a public restroom that is immediately accessible to the customer;

1 (2) the employee toilet facility is not located in an
2 area where providing access would create an obvious health or
3 safety risk to the customer or an obvious security risk to the
4 retail establishment;

5 (3) the customer requesting use of the employee toilet
6 facility provides the retail establishment with evidence of the
7 customer's eligible medical condition including:

8 (A) a copy of a statement signed by a physician, a
9 registered nurse, a physician's assistant, or a person acting under
10 the delegation and supervision of a licensed physician in
11 conformance with Subchapter A, Chapter 157, Occupations Code, that
12 indicates the customer suffers from an eligible medical condition
13 or uses an ostomy device; or

14 (B) an identification card that is issued by a
15 nationally recognized health organization or a local health
16 department and that indicates the customer suffers from an eligible
17 medical condition or uses an ostomy device; and

18 (4) three or more employees of the retail
19 establishment are working and physically present on the premises of
20 the retail establishment at the time the customer requests to use
21 the employee toilet facility.

22 (c) A customer who uses a toilet facility as authorized by
23 this section shall leave the toilet facility in the same condition
24 as it was before the customer used the toilet facility.

25 (d) In providing access to an employee toilet facility under
26 this section, the retail establishment or employee does not owe the
27 customer to whom access is provided a greater degree of care than is

1 owed to a licensee on the premises.

2 (e) An employee of a retail establishment who refuses to
3 provide a customer with access to an employee toilet facility as
4 required by this section commits an offense. An offense under this
5 section is a misdemeanor punishable by a fine of not more than \$100.

6 (f) A retail establishment is not required to make any
7 physical changes to an employee toilet facility under this section.

8 SECTION 3. This Act takes effect September 1, 2007.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 2, 2007

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB416 by Strama (Relating to providing for restroom access for persons with certain medical conditions; providing a criminal penalty.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to require retail establishments to allow customers with certain medical conditions to use the toilet facility normally reserved only for employees during normal business hours if: 1) the retail establishment does not have a public restroom that is immediately accessible to the customer, 2) providing access would not present an obvious health or safety risk to the customer or a security risk to the retail establishment, 3) the customer provides evidence of the eligible medical condition, and 4) three or more employees of the retail establishment are working and physically present on the premises.

The bill would establish a criminal penalty for employees of retail establishments who refuse to provide a customer with access to an employee toilet facility as required by this bill.

The bill would take effect September 1, 2007.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: JOB, CL, PP, SJ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 17, 2007

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB416 by Strama (Relating to providing for restroom access for persons with certain medical conditions; providing a criminal penalty.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to require retail establishments to allow customers with certain medical conditions to use the toilet facility normally reserved only for employees during normal business hours if: 1) the retail establishment does not have a public restroom that is immediately accessible to the customer, 2) providing access would not present an obvious health or safety risk to the customer or a security risk to the retail establishment, 3) the customer provides evidence of the eligible medical condition, and 4) three or more employees of the retail establishment are working and physically present on the premises.

The bill would establish a criminal penalty for employees of retail establishments who refuse to provide a customer with access to an employee toilet facility as required by this bill.

The bill would take effect September 1, 2007.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: JOB, CL, PP, SJ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 15, 2007

TO: Honorable Dianne White Delisi, Chair, House Committee on Public Health

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB416 by Strama (Relating to providing for restroom access for persons with certain medical conditions; providing a criminal penalty.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to require retail establishments to allow customers with certain medical conditions to use the toilet facility normally reserved only for employees during normal business hours if: 1) the retail establishment does not have a public restroom that is immediately accessible to the customer, 2) providing access would not present an obvious health or safety risk to the customer or a security risk to the retail establishment, 3) the customer provides evidence of the eligible medical condition, and 4) three or more employees of the retail establishment are working and physically present on the premises.

The bill would establish a criminal penalty for employees of retail establishments who refuse to provide a customer with access to an employee toilet facility as required by this bill.

The bill would take effect September 1, 2007.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: JOB, CL, PP, SJ

2

1-011

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 5, 2007

TO: Honorable Dianne White Delisi, Chair, House Committee on Public Health

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB416 by Strama (Relating to providing for restroom access for persons with certain medical conditions; providing a criminal penalty.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to require retail establishments to allow customers with certain medical conditions to use the toilet facility normally reserved only for employees during normal business hours if: 1) the retail establishment does not have a public restroom that is immediately accessible to the customer, 2) providing access would not present an obvious health or safety risk to the customer or a security risk to the retail establishment, 3) the customer provides evidence of the eligible medical condition, and 4) three or more employees of the retail establishment are working and physically present on the premises.

The bill would establish a criminal penalty for employees of retail establishments who refuse to provide a customer with access to an employee toilet facility as required by this bill.

The bill would take effect September 1, 2007.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: JOB, CL, PP, SJ

4

Loft

