

2021 Regular Session

HOUSE BILL NO. 228

BY REPRESENTATIVE CARRIER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

SANITARY CODE: Provides relative to restroom access for individuals with certain conditions

1 AN ACT

2 To enact Part XI of Chapter 5-B of the Louisiana Revised Statutes of 1950, to be comprised  
3 of R.S. 40:1123.1 through 1123.4, relative to restroom access for individuals with  
4 certain conditions; to provide definitions; to provide for access to a retail  
5 establishment's employee restroom; to provide for exceptions; to provide for  
6 liability; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Part XI of Chapter 5-B of the Louisiana Revised Statutes of 1950,  
9 comprised of R.S. 40:1123.1 through 1123.4, is hereby enacted to read as follows:

10 PART XI. RESTROOM ACCESS ACT

11 §1123.1. Short title

12 This Part shall be known and may be cited as the "Restroom Access Act".

13 §1123.2. Definitions

14 As used in this Part, the following terms have the following meanings  
15 ascribed to them unless the context clearly indicates otherwise:

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

19 (2) "Ostomy device" means a medical device that creates an artificial  
20 passage for elimination of body waste.

1           (3) "Retail establishment" means any business whether a sole proprietorship,  
2           corporation, partnership, or otherwise that holds or stores articles, products,  
3           commodities, items, or components for sale to the public or to other retail  
4           establishments.

5           §1123.3. Restroom access

6           A. Any retail establishment that has a restroom for employee use, which  
7           does not permit individuals to access the employee restroom, shall allow an  
8           individual to use the restroom during normal business hours if the restroom is  
9           maintained in a reasonably safe manner and all of the following conditions are met:

10           (1) The individual requesting access to the employee restroom presents a  
11           copy of a written statement, signed, and issued by a healthcare provider on the  
12           healthcare provider's letterhead or of a facility with which the healthcare provider is  
13           associated, stating that the individual suffers from an eligible medical condition as  
14           provided in R.S. 40:1123.2 or utilizes an ostomy device.

15           (2) A public restroom is not immediately accessible to the individual.

16           (3) The employee restroom is located in an area of the retail establishment  
17           where access would not create an obvious risk to the health or safety of the  
18           individual or create an obvious security risk to the retail establishment.

19           B. This Section shall not apply to any retail establishment that meets either  
20           of the following criteria:

21           (1) It sells prescription drugs, if the employee restroom is located in an area  
22           where the individual may gain access to any prescription drugs.

23           (2) It maintains records or information that is subject to the Health Insurance  
24           Portability and Accountability Act of 1996, if the employee restroom is located in  
25           an area where the records or information may be accessed.

26           §1123.4. Liability

27           A. A retail establishment or an employee of a retail establishment shall not  
28           be liable for any act or omission when an individual is allowed access to an

- 1 employee restroom pursuant to the provisions of this Part, if such act or omission  
2 meets all of the following requirements:
- 3 (1) It does not constitute gross, willful, or wanton negligence on the part of  
4 the retail establishment or an employee of the retail establishment.
- 5 (2) It occurs in an area of the retail establishment that is not otherwise  
6 accessible to the public.
- 7 (3) It results in injury or death of the individual other than an employee  
8 accompanying the individual to the employee restroom.
- 9 B. No retail establishment shall be required to make any physical change to  
10 an employee restroom to effectuate the purposes of this Part.
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## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 228 Original

2021 Regular Session

Carrier

**Abstract:** Allows access to restrooms of retail establishments to persons with certain conditions.

Proposed law creates the "Restroom Access Act".

Proposed law defines the following terms:

- (1) Eligible medical condition.
- (2) Ostomy device.
- (3) Retail establishment.

Proposed law provides that any retail establishment that has a restroom for its employees and does not permit the public to access the employee restroom shall allow individuals to use the employee restroom during normal business hours if all of the following conditions are met:

- (1) The individual requesting access to the employee restroom presents a copy of a written statement, signed, and issued by a healthcare provider on the healthcare provider's letterhead or of a facility with which the healthcare provider is associated, stating that the individual suffers from an eligible medical condition or utilizes an ostomy device.
- (2) A public restroom is not immediately accessible to the individual.
- (3) The employee restroom is located in an area of the retail establishment where access would not create an obvious risk to the health or safety of the individual or create an obvious security risk to the retail establishment.

Proposed law states that no retail establishment that sells prescription drugs or maintains records of information that is subject to a HIPAA violation, shall allow access if the restroom is located in an area where the prescription drugs or records of information may be easily accessed.

Proposed law stipulates that no retail establishment or employee thereof shall be liable for any act or omission when an individual is allowed access to an employee restroom pursuant to proposed law if all of the following are met:

- (1) Does not constitute gross, willful, or wanton negligence on the part of the retail establishment or an employee of the retail establishment.
- (2) Occurs in an area of the retail establishment that is not otherwise accessible to the public.
- (3) Results in injury or death of the individual other than an employee accompanying the individual to the employee restroom.

Proposed law provides that no retail establishment shall make any physical change to allow persons access to the employee restroom to comply with proposed law.

(Adds R.S. 40:1123.1-1123.4)