

1 AN ACT

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

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

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

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

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

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

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

16 (3) "Physician" has the meaning assigned by Section  
17 151.002, Occupations Code.

18 (4) "Retail establishment" means a place of business  
19 open to the general public for the sale of goods or services.

20 (b) A retail establishment that has a toilet facility for  
21 its employees shall allow a customer to use the toilet facility  
22 during normal business hours if:

23 (1) the retail establishment does not have a public  
24 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.

David Newkirk

President of the Senate

Jim Caddick

Speaker of the House

I certify that H.B. No. 416 was passed by the House on April 11, 2007, by the following vote: Yeas 113, Nays 32, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 416 on May 16, 2007, by the following vote: Yeas 105, Nays 37, 2 present, not voting.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 416 was passed by the Senate, with amendments, on May 14, 2007, by the following vote: Yeas 30, Nays 1.

Letsy Jew  
Secretary of the Senate

APPROVED: 15 JUN 07

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
5 PM O'CLOCK

Roger Winnie  
Secretary of State

**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