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HOUSE BILL NO. 474

Offered January 10, 2024

Prefiled January 8, 2024

A *BILL to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 57, consisting of sections numbered 59.1-603 through 59.1-606, relating to Restroom Access Act.*

Patrons—Coyner (By Request) and Hope; Senator: Hashmi

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 57, consisting of sections numbered 59.1-603 through 59.606, as follows:

CHAPTER 57.

RESTROOM ACCESS ACT.

§ 59.1-603. Definitions.

As used in this chapter, unless the context requires a different meaning:

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

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

"Employee toilet facility" means a toilet facility in a retail establishment that is not a public restroom but is used by employees of the retail establishment.

"Retail establishment" means a place of business open to the general public for the sale of goods or services.

§ 59.1-604. Retail establishment; customer access to toilet facilities.

A retail establishment that has an employee toilet facility shall allow any customer to use such employee toilet facility during normal business hours if:

1. The customer does not have immediate access to a public restroom;

2. The employee toilet facility is not located in an area where providing access would create an obvious health or safety risk to the customer or others or an obvious security risk to the retail establishment;

3. The customer provides the retail establishment with evidence of the customer's eligible medical condition. Such evidence shall indicate that the customer suffers from an eligible medical condition or uses an ostomy device and shall either be a copy of a statement signed by a physician on a prescription form or an identification card issued by a nationally recognized health organization or a local health department; and

4. At least three employees of the retail establishment are working at the time the customer requests to use the employee toilet facility.

§ 59.1-605. Liability limited; changes to facility.

A. A retail establishment or the employee of such establishment shall not be civilly liable for any act or omission in allowing a customer with an eligible medical condition to use an employee toilet facility if the act or omission:

1. Is not willful or grossly negligent;

2. Occurs in an area of the retail establishment that is not accessible to the public; and

3. Results in an injury to or the death of the customer or any individual other than an employee accompanying the customer.

B. No retail establishment shall be required to make any changes to an employee toilet facility under this chapter.

§ 59.1-606. Civil liability.

A customer who suffers loss as the result of an act or omission by a retail establishment or an employee of a retail establishment that violates this chapter shall be entitled to bring an individual action to recover damages, not to exceed \$100, resulting from such violation.