

House Bill 828

By: Representative Stephens of the 164th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 30 of the Official Code of Georgia Annotated, relating to handicapped
2 persons, so as to provide for access to employee toilet facilities in a retail establishment; to
3 provide for definitions; to provide for exceptions; to provide for immunity from liability
4 related to use of such toilet facilities, to provide for a criminal penalty; to provide for a short
5 title; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

9 **SECTION 2.**

10 Title 30 of the Official Code of Georgia Annotated, relating to handicapped persons, is
11 amended by adding a new chapter to read as follows:

12 "CHAPTER 11

13 30-11-1.

14 As used in this chapter, the term:

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

17 (2) 'Eligible medical condition' means Crohn's disease, ulcerative colitis, any other
18 inflammatory bowel disease, irritable bowel syndrome, or any other medical condition
19 that requires immediate access to a toilet facility or that requires use of an ostomy device.

20 (3) 'Healthcare provider' means a licensed physician, physician assistant, or nurse
21 practitioner.

22 (4) 'Ostomy device' means a medical device that creates an artificial passage for
23 elimination of body waste.

24 (5) 'Retail establishment' means a place of business open to the general public for the
 25 sale of goods or services.

26 30-11-2.

27 (a) Any retail establishment that has a toilet facility for employee use, which typically does
 28 not permit customer access to such employee toilet facility, shall allow a customer to use
 29 that facility during normal business hours if the toilet facility is maintained in a reasonably
 30 safe manner and all of the following conditions are met:

31 (1) The customer requesting access to the employee toilet facility presents a copy of a
 32 written statement, signed, and issued by a healthcare provider on the healthcare provider's
 33 letterhead or of a facility with which the healthcare provider is associated, that indicates
 34 that the customer suffers from an eligible medical condition;

35 (2) A public restroom is not immediately accessible to the customer;

36 (3) At the time the request for access to the employee toilet facility is made, three or
 37 more employees of the retail establishment are working; and

38 (4) The employee toilet facility is located in an area of the retail establishment where
 39 providing access would not create an obvious risk to the health or safety of the customer
 40 or an obvious security risk to the retail establishment.

41 (b) This Code section shall not apply to a retail establishment that:

42 (1) Sells prescription drugs, if the employee toilet facility is located in an area in which
 43 the customer might gain access to any pharmaceuticals; and

44 (2) Maintains records or information that is subject to the federal Health Insurance
 45 Portability and Accountability Act of 1996, P.L. 104-191, if the employee toilet facility
 46 is located in an area in which such records or information might be accessed.

47 30-11-3.

48 (a) A retail establishment or an employee of a retail establishment shall not be liable for
 49 any acts or omissions in allowing a customer access to an employee toilet facility pursuant
 50 to the provisions of this chapter, if such acts and omissions meet all of the following:

51 (1) Do not constitute gross, willful, or wanton negligence on the part of the retail
 52 establishment or employee of the retail establishment;

53 (2) Occurred in an area of the retail establishment that is not otherwise accessible to
 54 customers; and

55 (3) Resulted in injury to or death of the customer or an individual other than an employee
 56 accompanying the customer to the employee toilet facility.

57 (b) No retail establishment shall be required to make any physical change to an employee
 58 toilet facility to effectuate the purposes of this chapter.

59 30-11-4.

60 Any person who violates this chapter shall be guilty of a misdemeanor."

61 **SECTION 3.**

62 All laws and parts of laws in conflict with this Act are repealed.