SENATE BILL No. 33

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-30-30.

Synopsis: Restroom access for certain retail customers. Provides that if a retail establishment has a toilet facility on its premises for the use of the retail establishment's employees, a customer, upon request, must be allowed to use the toilet facility during normal business hours if certain conditions are met, including that: (1) the customer has Crohn's disease or another medical condition requiring the customer to have immediate access to a toilet facility; (2) the toilet facility is reasonably safe for use by the customer; and (3) there is no public restroom immediately accessible to the customer. Makes it a Class C infraction to refuse to allow the customer to use the toilet facility if all of the conditions are met, but provides that the civil judgment imposed for the infraction may not be more than $100. Provides immunity from civil liability for any act or omission in allowing the customer to use the employee toilet facility if all the conditions are met, provided that the act or omission: (1) is not willful or grossly negligent; and (2) occurs in an area of the retail establishment that is not accessible to the public.

Effective: July 1, 2016.

Mrvan

January 5, 2016, read first time and referred to Committee on Civil Law.

Introduced

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 33

A BILL FOR AN ACT to amend the Indiana Code concerning civil liability and immunity.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 34-30-30 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

Chapter 30. Access to Employee Restroom for Customers With Medical Conditions

Sec. 1. (a) The definitions set forth in this section apply throughout this chapter.

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

(c) "Eligible medical condition" means any of the following:

(1) Crohn's disease, ulcerative colitis, or any other inflammatory bowel disease.

(2) Irritable bowel syndrome.

(3) Any other medical condition of an individual that requires the individual to have immediate access to a toilet facility.

(d) "Retail establishment" means a place of business that is open to the general public for the sale of goods or services.

Sec. 2. (a) If a toilet facility for the use of the employees of a retail establishment is located on the premises of the retail establishment, the owner or operator of the retail establishment or an employee of the retail establishment shall, upon request, allow a customer to use the toilet facility during normal business hours if all the following conditions are met:

(1) The toilet facility is reasonably safe for use by the customer.

(2) The customer requesting the use of the toilet facility:

(A) suffers from an eligible medical condition; or

(B) uses an ostomy device.

(3) At least three (3) employees of the retail establishment are working in the retail establishment when the customer requests use of the toilet facility.

(4) The retail establishment does not normally make the restroom available to the public.

(5) Providing the customer with access to the toilet facility does not create:

(A) an obvious health or safety risk to the customer; or

(B) an obvious security risk to the retail establishment;

because of the nature of the area in which the toilet facility is located.

(6) There is no public restroom that is immediately accessible to the customer.

(b) An:

(1) owner;

(2) operator; or

(3) employee;

of a retail establishment who denies a customer access to a toilet facility in violation of subsection (a) commits a Class C infraction. However, notwithstanding IC 34-28-5-4(c), the civil judgment imposed for an infraction committed in violation of subsection (a) may not be more than one hundred dollars ($100).

Sec. 3. Neither the owner, nor an operator, nor an employee of a retail establishment is civilly liable for any act or omission in allowing a customer that has an eligible medical condition to use a toilet facility under the conditions set forth in section 2(a) of this chapter if the act or omission:

(1) is not willful or grossly negligent; and

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

even if the act or omission results in an injury to or the death of the

customer or any individual other than an employee or operator accompanying the customer.

Sec. 4. This chapter does not require any physical changes to be made to an employee toilet facility located in a retail establishment.