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HEALTH AND SAFETY CODE - HSC

DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406] (*Division 104 added by Stats. 1995, Ch. 415, Sec. 6.*)

PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406] (*Part 15 added by Stats. 1995, Ch. 415, Sec. 6.*)

CHAPTER 2. Restrooms [118500 - 118703] (*Chapter 2 added by Stats. 1995, Ch. 415, Sec. 6.*)

ARTICLE 6. Restroom Access for Medical Conditions [118700 - 118703] (*Article 6 added by Stats. 2022, Ch. 893, Sec. 1.*)

118700. For purposes of this article, the following definitions apply:

- (a) "Department" means the State Department of Public Health, unless otherwise specified.
- (b) "Eligible medical condition" means Crohn's disease, ulcerative colitis, other inflammatory bowel disease, irritable bowel syndrome, or another medical condition that requires immediate access to a toilet facility.

(*Added by Stats. 2022, Ch. 893, Sec. 1. (AB 1632) Effective January 1, 2023.*)

118701. (a) The State Department of Public Health shall implement this article, in consultation with the Department of Consumer Affairs.

(b) This article shall be implemented only to the extent that it is neither in conflict with nor construed to limit rights under the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), the Unruh Civil Rights Act (Section 51 of the Civil Code), or any other civil rights law, as applicable.

(c) An employee toilet facility, as accessed pursuant to this article, shall not be construed as a place of public accommodation for purposes of state law.

(*Added by Stats. 2022, Ch. 893, Sec. 1. (AB 1632) Effective January 1, 2023.*)

118702. (a) A place of business that is open to the general public for the sale of goods and that has a toilet facility for its employees shall allow any individual who is lawfully on the premises of that place of business to use that toilet facility during normal business hours, even if the place of business does not normally make the employee toilet facility available to the general public, if all of the following conditions are met:

- (1) The individual requesting use of the employee toilet facility has an eligible medical condition, as defined in Section 118700, or uses an ostomy device. The place of business may require the individual to present reasonable evidence that the individual meets the condition in this paragraph, as described in subdivision (b).
- (2) Three or more employees of the place of business are working onsite at the time that the individual requests use of the employee toilet facility.
- (3) The employee toilet facility is not located in an employee changing area or an area where providing access would create an obvious health or safety risk to the requesting individual or would create an obvious security risk to the place of business.
- (4) Use of the employee toilet facility would not create an obvious health or safety risk to the requesting individual.
- (5) A public restroom is not immediately accessible to the requesting individual.

(b) If the place of business requires the requesting individual to present reasonable evidence that the individual has an eligible medical condition or uses an ostomy device, the individual may present a signed statement issued to the individual by a physician, nurse practitioner, or physician assistant, licensed under the Business and Professions Code, on a form developed by the department pursuant to Section 118703. The signed statement is sufficient for purposes of presenting reasonable evidence, if required by the place of business.

(c) (1) Subject to paragraphs (2) to (4), inclusive, a violation of subdivision (a) is subject to a civil penalty not exceeding one hundred dollars (\$100) for each violation.

(2) A place of business is not civilly liable for a violation of subdivision (a) unless the violation is willful or grossly negligent.

(3) An employee of a place of business is not civilly liable, and shall not be subject to paragraph (1), for a violation of subdivision (a). The employee shall not be subject to discharge or any other disciplinary action by their employer for a violation of subdivision (a), unless the employee's action is contrary to an expressed policy developed by their employer pursuant to this section.

(4) This section does not create or imply a private right of action for a violation of subdivision (a).

(d) A place of business is not required to make any physical changes to an employee toilet facility for purposes of this section.

(Added by Stats. 2022, Ch. 893, Sec. 1. (AB 1632) Effective January 1, 2023.)

118703. (a) The department shall develop a standard electronic form that may be signed by a health care provider, as specified in subdivision (b) of Section 118702, to serve as reasonable evidence of the existence of an eligible medical condition or use of an ostomy device. The department shall post the form, in a printable format, on the department's internet website.

(b) The form shall include all of the following components:

(1) Space for the requesting individual's name.

(2) Space for the requesting individual's address.

(3) Space for the requesting individual's date of birth.

(4) Space for the health care provider's name, signature, and statement confirming the eligible medical condition or use of an ostomy device.

(5) Both of the following statements:

(A) "MEDICAL ALERT: RESTROOM ACCESS REQUIRED."

(B) "The holder of this form uses an ostomy device or suffers from Crohn's disease, ulcerative colitis, other inflammatory bowel disease, irritable bowel syndrome, or another medical condition that requires immediate access to a toilet facility."

(6) A reference to this article and to any regulations adopted to implement this article.

(Added by Stats. 2022, Ch. 893, Sec. 1. (AB 1632) Effective January 1, 2023.)