

HOUSE No. 2074

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Relative to Public Access of Private Restrooms..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 1. Chapter 270 of the Massachusetts General Laws, as appearing in the 2004
2 Official Edition, is hereby amended by adding at the end thereof the following section:

3 Section 24. (a). Definitions- “customer” shall mean an individual who is lawfully on the
4 premises of a retail establishment; “eligible medical condition” shall mean Crohn’s disease or
5 ulcerative colitis; or any other medical condition that requires immediate access to a restroom
6 facility;

7 “retail establishment” shall mean any business or place where members of the public
8 have access as invitees or licensees.

9 (b). A retail establishment that has a restroom facility for its employees shall allow a
10 customer to use that facility during normal business hours if the following conditions are met:

11 (1) The customer requesting the use of the employee restroom facility suffers from an
12 eligible medical condition or uses an ostomy device, provided that the existence of the condition
13 or device is documented in writing by the customer’s physician;

(2) two or more employees of the retail establishment are working at the time the customer requests use of the employee restroom facility;

(3) the retail establishment does not normally make a restroom available to the public;

(4) the employee restroom facility is not located in an area where providing access would create an obvious health or safety risk to the customer or an obvious security risk to the establishment.

(c). A retail establishment or an employee of a retail establishment is not civilly liable for an act or omission in allowing a customer who claims to have an eligible medical condition to use an employee restroom facility that is not a public restroom if the act or omission is not negligent and occurs in an area of the retail establishment that is not generally accessible to the public and results in an injury to, or death of, the customer or individual, other than an employee, accompanying the customer.

(d). This section does not require a retail establishment to make any physical changes or improvements to an employee restroom facility located on the premises.

(e). A violation of this section shall for the first offense be punished by a fine of one hundred dollars. A second or subsequent offense shall not be less than one hundred nor more than two hundred dollars.