

**HOUSE . . . . . No. 2366**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Louis L. Kafka*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to public access of private restrooms.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>1/21/2011</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>	<i>2/1/2011</i>
<i>George T. Ross</i>	<i>2nd Bristol</i>	<i>2/1/2011</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>	<i>2/1/2011</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>2/4/2011</i>
<i>Cynthia S. Creem</i>		<i>2/4/2011</i>
<i>Patricia D. Jehlen</i>		<i>2/4/2011</i>
<i>Kathi-Anne Reinstein</i>	<i>16th Suffolk</i>	<i>2/4/2011</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>	<i>1/25/2011</i>
<i>James E. Timilty</i>		<i>1/25/2011</i>

**HOUSE . . . . . No. 2366**

By Mr. Kafka of Stoughton, a petition (accompanied by bill, House, No. 2366) of Louis L. Kafka and others relative to public access of private restrooms. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 2074 OF 2009-2010.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Eleven**  
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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 licenses.

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;

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

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

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

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

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

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