MAINE STATE LEGISLATURE

The following document is provided by the

LAW AND LEGISLATIVE DIGITAL LIBRARY

at the Maine State Law and Legislative Reference Library

http://legislature.maine.gov/lawlib



Reproduced from scanned originals with text recognition applied (searchable text may contain some errors and/or omissions)

(Emergency) (New Draft of S.P. 35, L.D. 19) FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document No. 1106

S.P. 371

11

12

In Senate, April 6, 1987

Reported by Senator Whitmore of Androscoggin for the Committee on Business Legislation and printed under Joint Rule 2. Original Bill sponsored by Senator Bustin of Kennebec.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Exempt Certain Eating

2 3 4	Establishments from the Requirements to Provide a Public Toilet Facility.		
5 6 7	Emergency preamble. Whereas, Acts of the Legis- lature do not become effective until 90 days after adjournment unless enacted as emergencies; and		
8 9 L 0	Whereas, recently introduced legislation requires that all restaurants have public rest rooms beginning January 1, 1987; and		

Whereas, the need for such facilities in small restaurants is not great; and

Whereas, such facilities would represent a considerable expense in construction costs, maintenance and space for smaller restaurants;

Whereas, the requirement for such facilities is a particular hardship for already established smaller restaurants; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore.

Be it enacted by the People of the State of Maine as follows:

22 MRSA §1682, as enacted by PL 1985, c. 171, §§1
16 and 2, is repealed and the following enacted in its
17 place:

18 §1682. Toilet facilities required

rooms or vestibules.

Unless it is licensed for fewer than 13 seats and is not licensed for on-premise consumption of alco-holic beverages, an eating establishment shall pro-vide at least one toilet facility for the use of its customers. Toilet facilities which require access through the food preparation area or the use of which would in any way cause the establishment to be in vi-olation of any state law or rule shall not be consid-ered as fulfilling this requirement. The location of the toilets shall be clearly marked, maintained in a sanitary condition, in good repair and their location identifiable from the eating area. There shall be no charge for their use. Lavatory facilities shall be located within or immediately adjacent to all toilet

Upon appeal, the Division of Health Engineering may exempt from the requirements of this chapter eating establishments of 13 to 25 seats which are not licensed for on-premise consumption of alcoholic beverages and which were in existence prior to September 30, 1985, and which:

)	1 2 3 4	1. Shopping malls. Are part of an enclosed mall which provides customer toilet facilities which are part of the public portion of the mall and not part of a business within the mall;
	5 6 7 8 9 10	2. Other locations. Have submitted evidence of an agreement with a 2nd party that customers of the eating establishment may use toilet facilities which are on the premises owned or rented by the 2nd party in cases where such use would not create a substantial inconvenience to the customer of the eating establishment;
	12 13 14	3. Construction costs. Are housed in buildings of unique construction which makes installation of a toilet facility cost prohibitive; or
	15 16 17	4. Space loss. Would lose 1/4 or more of their existing seating space if required to provide a toilet facility of a minimum size of 3 feet by 6 feet.
)	18 19 20 21	Any eating establishment which does not have a toilet facility available shall post a sign to that effect which may be seen upon entry to the eating establishment.
	22 23 24	Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.
	25	STATEMENT OF FACT
	26 27 28 29 30	Legislation passed in 1985 required that as of January 1, 1987, all restaurants must have at least one restroom for the use of its customers. Public law 1987, chapter 8, was passed on an emergency basis and postpones this deadline until July 1, 1987.
ì	31 32 33 34 35	The purpose of the original bill is to exempt certain restaurants from this requirement. The original bill removed all restaurants of under 27 seats, a number which was mistakenly felt to match the Division of Health Engineering's categorization of the continuous transfer to the continuous transfer transfer to the continuous transfer

_	This new draft exempts restaurants that do not
2	serve alcoholic beverages and have less than 13
3	seats. The provision regarding alcoholic beverages
ļ	is consistent with current rules which require all
5	such establishments to have 2 restrooms. It also al-
5	lows the department on appeal to exempt restaurants
7	of 13 to 25 seats which do not serve alcoholic bever-
3	ages and which were in existence prior to September
)	30, 1985, the year that the original restroom legis-
)	lation was passed, if they meet any one of 4 speci-
_	fied criteria.

This new draft also:

12

- 13 1. Forbids access to public toilet facilities through the food preparation area;
- 15 2. Requires that the location of the restroom be 16 identifiable from the dining area; and
- 3. Requires that restaurants without restrooms post a sign to that effect at their entrances.

19 2315032387