

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)



STATE LAW LIBRARY
AUGUSTA, MAINE

124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 232

H.P. 186

House of Representatives, January 23, 2009

An Act To Require Businesses To Make Toilet Facilities Available to Individuals with Certain Medical Conditions

Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative RICHARDSON of Warren.

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

2 **Sec. 1. 22 MRSA §1671**, as repealed and replaced by PL 1985, c. 737, Pt. A, §53,
3 is amended to read:

4 **§1671. Definitions**

5 As used in this chapter, unless the context otherwise indicates, the following terms
6 have the following meanings.

7 **1. Shopping center.** "Shopping center" means any building or facility containing 6
8 or more separate retail establishments ~~which~~ that are planned, developed, owned or
9 managed as a unit, with an off-street public parking area of not less than 2 acres.

10 **2. Customer.** "Customer" means an individual who is lawfully on the premises of a
11 retail establishment.

12 **3. Eligible medical condition.** "Eligible medical condition" means Crohn's disease,
13 ulcerative colitis or any other inflammatory bowel disease, irritable bowel syndrome, a
14 condition requiring the use of an ostomy device or any other medical condition that
15 requires immediate access to a toilet facility.

16 **4. Retail establishment.** "Retail establishment" means a place of business open to
17 the general public for the sale of goods or services.

18 **Sec. 2. 22 MRSA §1672-B** is enacted to read:

19 **§1672-B. Retail establishments; access to employee toilet facilities**

20 **1. Access for customers with eligible medical conditions.** An owner or employee
21 of a retail establishment that has a toilet facility for its employees shall allow a customer
22 to use that facility during normal business hours if:

23 A. The customer requesting the use of the employee toilet facility suffers from an
24 eligible medical condition;

25 B. Three or more employees of the retail establishment are working at the time the
26 customer requests the use of the employee toilet facility;

27 C. The retail establishment does not normally make a toilet facility available to the
28 public;

29 D. The employee toilet facility is not located in an area where providing access
30 would create an obvious health or safety risk to the customer or an obvious security
31 risk to the retail establishment; and

32 E. A public toilet facility is not immediately accessible to the customer.

33 **2. Liability.** An owner or employee of a retail establishment is not civilly liable for
34 any act or omission in allowing a customer pursuant to subsection 1 to use an employee
35 toilet facility that is not a public toilet facility if the act or omission:

1
2
3
4
5
6
7
8
9
10
11
12

13

14
15
16
17
18

A. Is not willful or grossly negligent;

B. Occurs in an area of the retail establishment that is not accessible to the public;
and

C. Results in an injury to or death of the customer or an individual other than an employee accompanying the customer.

3. Modifications not required. A retail establishment is not required to make any physical change to an employee toilet facility under this section.

Sec. 3. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 22, chapter 270, in the chapter headnote, the words "shopping centers" are amended to read "shopping centers and retail establishments" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

SUMMARY

This bill requires an owner or employee of a retail establishment to make an employee toilet facility available to an individual upon request if that individual has an eligible medical condition as specified in the bill. It includes liability protection for an owner or employee of a retail establishment who provides a customer with an eligible medical condition access to an employee toilet facility.