

2007 DRAFTING REQUEST

Bill

Received: 12/20/2007

Received By: **dkennedy**

Wanted: As time permits

Identical to LRB:

For: **Karl Van Roy (608) 266-0616**

By/Representing: **Tanya (aide)**

This file may be shown to any legislator: **NO**

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.VanRoy@legis.wisconsin.gov**

Carbon copy (CC:) to: **robin.ryan@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Restroom access for persons with eligible medical conditions

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	dkennedy 12/20/2007	wjackson 12/26/2007	nnatzke 01/02/2008	_____	sbasford 01/02/2008		Crime
/1	dkennedy 02/01/2008	wjackson 02/05/2008	nnatzke 02/05/2008	_____	cdurst 02/05/2008		Crime
/2	dkennedy 02/05/2008	wjackson 02/05/2008	nnatzke 02/06/2008	_____	sbasford 02/06/2008	sbasford 02/07/2008	

FE Sent For: N/A

<END>

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/1	dkennedy 02/01/2008	wjackson 02/05/2008	nmatzke 02/05/2008	_____	cduerst 02/05/2008		

FE Sent For:

1/2 Wlj 2/5

nwn
2/6

nwn/rs
2/6

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*nwn
2/5*

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/?	dkennedy	/pl wlj 12/26	nwn 1/2	nwn 1/2			

FE Sent For:

<END>

Kennedy, Debora

From: Hein, Tanya
Sent: Thursday, December 20, 2007 2:48 PM
To: Kennedy, Debora
Subject: Drafting Request

Attachments: 20071220144420077.pdf



2007122014442007
7.pdf (86 KB)

Debora,

Per our conversation, here is the Illinois Law that we would like to have drafted for Wisconsin.

Thank you for your assistance.

Tanya R. Hein
Legislative Aide
Rep. Karl Van Roy
90th Assembly District

Public Act 094-0450

HB0834 Enrolled

LRB094 07984 RXD 38166 b

AN ACT concerning public health, which may be referred to as Ally's Law.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Restroom Access Act.

Section 5. Definitions. In this Act:

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

"Eligible medical condition" means Crohn's disease, ulcerative colitis, any other inflammatory bowel disease, irritable bowel syndrome, or any other medical condition that requires immediate access to a toilet facility.

"Retail establishment" means a place of business open to the general public for the sale of goods or services. "Retail establishment" does not include a filling station or service station, with a structure of 800 square feet or less, that has an employee toilet facility located within that structure.

Section 10. Retail establishment; customer access to restroom facilities. A retail establishment that has a toilet facility for its employees shall allow a customer to use that facility during normal business hours if the toilet facility is reasonably safe and all of the following conditions are met:

(1) The customer requesting the use of the employee toilet facility suffers from an eligible medical condition or utilizes an ostomy device.

(2) Three or more employees of the retail establishment are working at the time the customer requests use of the employee toilet facility.

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

(4) The employee toilet 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 retail establishment.

(5) A public restroom is not immediately accessible to the customer.

Section 15. Liability.

(a) A retail establishment or an employee of a retail establishment is not civilly liable for any act or omission in allowing a customer that has an eligible medical condition to use an employee toilet facility that is not a public restroom if the act or omission meets all of the following:

(1) It is not willful or grossly negligent.

(2) It occurs in an area of the retail establishment that is not accessible to the public.

(3) It results in an injury to or death of the customer or any individual other than an employee accompanying the customer.

(b) A retail establishment is not required to make any physical changes to an employee toilet facility under this Act.

Section 20. Violation. A retail establishment or an employee of a retail establishment that violates Section 10 is guilty of a petty offense. The penalty is a fine of not more than \$100.

Section 99. Effective date. This Act takes effect upon becoming law.

Effective Date: 8/4/2005

Kennedy, Debora

From: Hein, Tanya
Sent: Thursday, December 20, 2007 2:49 PM
To: Kennedy, Debora
Subject: FW: Please support the Restroom Access Act

Debora,

Here is the constituent letter regarding the issue in case it may be helpful to you.

Tanya R. Hein
Legislative Aide
Rep. Karl Van Roy
90th Assembly District

-----Original Message-----

From: Julie Brunner [mailto:juliebrunner@sbcglobal.net]
Sent: Wednesday, December 05, 2007 12:02 AM
To: Rep. Van Roy
Subject: Please support the Restroom Access Act

Julie Brunner
1270 Bayport Terrace
Green Bay, WI 54313-7100

December 5, 2007

The Honorable Karl Van Roy
Wisconsin Assembly
State Capitol; PO Box 8953
Madison, WI 53708-8953

Dear Representative Van Roy:

Crohn's disease (CD) is an inflammatory bowel disease (IBD) that affects over 600,000 Americans. It has no known cure and can inflict pain & discomfort on sufferers at any time or place. When a person suffers a Crohn's episode, often only the use of a restroom can alleviate their discomfort.

And what could be worse than suffering a CD episode in public? Having it happen at a business with no public restroom and being denied access to the employee-only facilities - causing a subsequent humiliating incident.

The state of Illinois did something about this problem. It started when a teenaged CD patient named Ally Bain got in contact with her state representative detailing her own public incident. Ally wanted change. She wanted to make sure what happened to her would never happen again to her or anyone else. So she asked that Illinois pass a new law granting Crohn's sufferers access to employee-only restrooms if they were to ever have an episode.

In May of 2005, Illinois House Bill 834 was introduced, passed unanimously, and officially called the Restroom Access Act. It addressed all of Ally's concerns and will forever be known as Ally's Law.

I ask you today to vote for bill this bill in our state. With your help, we can eliminate these avoidable, embarrassing and potentially harmful situations.

Thank you for your time. I hope you find this bill as important as I do.

As both a person with Crohn's disease and a Nurse Practitioner I am asking that you please

take a moment to read the above information. This disease and issue affects many more people than you may think because this is not a topic of preferred discussion. It may sound frivolous, but I certainly hope that one of my representatives will be able to see the necessity and rise to the challenge. Thank you for your time and attention.

Sincerely,

Julie Brunner
920.434.7879

1/2/07

2007 - 2008 LEGISLATURE

D-NOTE

3713/PI

LRB-3248/P1

DAK:wlj:pg

stays ↑

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 AN ACT *to create* 146.29 and 895.512 of the statutes; **relating to:** requiring

2 access by certain customers to certain toilet facilities, providing immunity from

3 certain civil liability, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill requires a retail establishment, as defined in the bill, that has a toilet facility that is designated for use by the establishment's employees to permit use of the facility by customers who request it, under certain conditions. In order for the requirement to apply, the customer must suffer from an eligible medical condition or use an ostomy device; three or more of the retail establishment's employees must be working at the establishment at the time the request is made; the retail establishment must not usually make the toilet facility available to customers; the toilet facility must not be located in an area where access creates an obvious health or safety risk for the customer or an obvious security risk for the retail establishment; and a public toilet facility must not be immediately available to the customer.

The bill specifies that a retail establishment may not, under the requirement, be required to make physical changes to a toilet facility that is designated for use by the establishment's employees.

Under the bill, a violation of the requirement is subject to a forfeiture that may not exceed \$200. However, a retail establishment and employee of an establishment are immune from civil liability for the death or injury of a customer, or of an individual other than an employee who accompanies the customer, that is caused by

or during the use of a toilet facility under the bill's requirement, unless the death or injury was caused by a willful or wanton act or omission of the employee.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 146.29 of the statutes is created to read:

2 **146.29 Customer access to toilet facility. (1) DEFINITIONS.** In this section:

3 (a) “Customer” means an individual, other than the owner or an employee of
4 a retail establishment, who is lawfully on the premises of the establishment.

5 (b) “Eligible medical condition” means inflammatory bowl disease, irritable
6 bowel syndrome, or any other medical condition that periodically requires
7 immediate access to a toilet facility.

8 (c) “Inflammatory bowel disease” means Crohn’s disease or ulcerative colitis.

9 (d) “Ostomy device” means a medical device that creates an artificial passage
10 for elimination of body waste.

11 (e) “Retail establishment” means a store or shop in which retail sales is the
12 principal business conducted, except that “retail establishment” does not include a
13 motor vehicle fuel retailer’s establishment that is a structure that is 800 square feet
14 or less in size and that has a toilet facility located within the structure that is
15 designated for use by the retailer’s employees.

16 **(2) CUSTOMER ACCESS TO TOILET FACILITY REQUIRED.** A retail establishment that
17 has a toilet facility that is designated for use by the establishment’s employees shall,
18 during the establishment’s usual business hours, permit use of the facility by a
19 customer who requests the use, if all of the following conditions are met:

20 (a) The customer suffers from an eligible medical condition or uses an ostomy
21 device.

1 (b) Three or more employees of the retail establishment are working at the
2 establishment at the time the customer requests use of the toilet facility.

3 (c) The retail establishment does not usually make a toilet facility available to
4 a customer.

5 (d) The toilet facility is not located in an area where access creates an obvious
6 health or safety risk for the customer or an obvious security risk for the retail
7 establishment.

8 (e) A public toilet facility is not immediately accessible to the customer.

9 (3) LIMITATION ON REQUIREMENT. No retail establishment may, under this
10 section, be required to make physical changes to a toilet facility that is designated
11 for use by the establishment's employees.

12 (4) PENALTY. Any person who violates sub. (2) may be required to forfeit not
13 more than \$200. Each day of continued violation constitutes a separate offense.

14 SECTION 2. 895.512 of the statutes is created to read:

15 **895.512 Civil liability exemption; customer access to toilet facility.** If
16 an employee of a retail establishment permits a customer to use the establishment's
17 toilet facility, under the requirements of s. 146.29, the employee and the
18 establishment are immune from civil liability for the death of or injury to the
19 customer, or an individual other than an employee who accompanies the customer,
20 that is caused by or during the use of the facility, unless the death or injury was
21 caused by a willful or wanton act or omission of the employee.

22 (END)

D-NOTE

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3713/P1dn

DAK:.....

WLJ

To Representative Van Roy:

This bill is in preliminary form^g to provide you with the opportunity to fully review and, if necessary, revise it prior to introduction. The following issues arose in the course of drafting:

1. How is the employee or owner of the retail establishment to know if, in fact, a requesting customer actually suffers from an eligible medical condition or uses an ostomy device?
2. I have drafted a forfeiture of \$200; this corresponds to a Class D forfeiture under s. 939.52, stats. Okay?
3. The Illinois bill requires, as a condition for required access to apply, that three or more employees of the retail establishment be working at the time the customer requests use of the toilet facility. I have drafted this, but I'm not sure why this is a requirement. Is it what you want?
4. Please review s. 895.512, as created in the bill. According to Bob Nelson, the drafter whose subject area specialization is courts and court procedures, "gross negligence" is no longer used in this state. I have modeled the section, in part, after ~~s. 895.515 (3)~~ and 895.517 (3), stats. Okay? 5

Please do not hesitate to contact me for any other assistance with respect to this bill.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3713/P1dn
DAK:wlj:nwn

January 2, 2008

To Representative Van Roy:

This bill is in preliminary form to provide you with the opportunity to fully review and, if necessary, revise it prior to introduction. The following issues arose in the course of drafting:

1. How is the employee or owner of the retail establishment to know if, in fact, a requesting customer actually suffers from an eligible medical condition or uses an ostomy device?
2. I have drafted a forfeiture of \$200; this corresponds to a Class D forfeiture under s. 939.52, stats. Okay?
3. The Illinois bill requires, as a condition for required access to apply, that three or more employees of the retail establishment be working at the time the customer requests use of the toilet facility. I have drafted this, but I'm not sure why this is a requirement. Is it what you want?
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Please do not hesitate to contact me for any other assistance with respect to this bill.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov

Kennedy, Debora

From: Hein, Tanya
Sent: Thursday, January 31, 2008 1:19 PM
To: Kennedy, Debora
Subject: Changes to Restroom Access Act Draft LRB 3713

Debora,

You asked me a couple of questions regarding the preliminary draft for LRB 3713 relating to Restroom Access. Attached is a link to a similar bill introduced in Michigan. We would like to incorporate some ideas from there.

- ✓ 1. You asked about proof of a medical condition. See Page 2, lines 12-15. We would like to have a proof requirement that is easy for individuals, similar to what Michigan came up with. Page 1, line 4 has a definition of doctor to go along with that.
- ✓ 2. You asked if a \$200 forfeiture was ok. Yes.
- ✓ 3. You asked if 3 or more employees was ok. We have decided to change it to 2. (Michigan did this - See page 2, lines 9-11.)
- ✓ 4. You asked about the replacement language for gross negligence. That should work.

Finally, Michigan has a penalty for anyone presenting a false prescription form. See page 3 lines 22-27 and continuing on to page 4. We would like to adopt something similar. I'm not sure what the appropriate penalty should be. What do we have currently for forging or altering a prescription form?

<http://www.legislature.mi.gov/documents/2007-2008/billengrossed/House/pdf/2007-HEBH-5046.pdf>

Thanks for your assistance!!!

Tanya R. Hein
Legislative Aide

~~~~~  
State Representative Karl Van Roy  
90th Assembly District  
123 West, State Capitol  
P.O. Box 8953  
Madison, WI 53708  
Tel: 608-266-0616  
Fax: 608-282-3690

**SUBSTITUTE FOR  
HOUSE BILL NO. 5046**

(As amended September 11, 2007)

A bill to provide for restroom access for persons with certain medical conditions; to provide immunity from liability for permitting restroom access; and to prescribe penalties.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. As used in this act:

2       (a) "Customer" means an individual who is lawfully on the  
3 premises of a retail establishment.

4       (b) "Doctor" means a licensed doctor of medicine or a licensed  
5 doctor of osteopathic medicine and surgery.

6       (c) "Eligible medical condition" means Crohn's disease,  
7 ulcerative colitis, any other inflammatory bowel disease, irritable  
8 bowel syndrome, [pregnancy,] or any other medical condition that requires  
9 immediate access to a toilet facility.

1 (d) "Retail establishment" means a place of business open to  
2 the general public for the sale of goods or services.

3 Sec. 2. A retail establishment that has a toilet facility for  
4 its employees shall allow a customer to use that facility during  
5 normal business hours if all of the following are met:

6 (a) The customer requesting use of the employee toilet  
7 facility suffers from an eligible medical condition or utilizes an  
8 ostomy device.

9 (b) Two or more employees of the retail establishment are  
10 working at the time the customer requests use of the employee  
11 toilet facility.

12 (c) The customer provides the retail establishment with a copy  
13 of a statement on a prescription form that indicates the customer  
14 suffers from an eligible medical condition or utilizes an ostomy  
15 device, signed by a doctor.

16 (d) The retail establishment does not normally make a restroom  
17 available to the public.

18 (e) The employee toilet facility is not located in an area  
19 where providing access would create an obvious health or safety  
20 risk to the customer or an obvious security risk to the retail  
21 establishment.

22 (f) A public restroom is not immediately accessible to the  
23 customer.

24 Sec. 3. A retail establishment or an employee of a retail  
25 establishment is not civilly liable for any injury to or death of a  
26 customer allowed to use an employee toilet facility that is not a  
27 public restroom, or to an individual other than an employee

1 accompanying the customer, unless all of the following are met:

2 (a) The retail establishment or the employee of the retail  
3 establishment knew or should have known of the condition that  
4 caused the injury or death, should have realized that the condition  
5 involved an unreasonable risk of harm to a customer or other  
6 individual, and should have expected that the customer or other  
7 individual would not discover or realize the danger.

8 (b) The retail establishment or the employee of the retail  
9 establishment failed to exercise reasonable care to make the  
10 condition safe or to warn the customer or other individual of the  
11 condition and the risk.

12 (c) The customer or other individual did not know or have  
13 reason to know of the condition and the risk involved.

14 (d) The injury or death occurred in an area of the retail  
15 establishment that is not accessible to the public.

16 Sec. 4. A retail establishment or an employee of a retail  
17 establishment that violates section 2 is responsible for a state  
18 civil infraction and may be ordered to pay a civil fine of not more  
19 than \$100.00.

20 Sec. 5. A retail establishment is not required to make any  
21 physical changes to an employee toilet facility under this act.

22 Sec. 6. A person who does any of the following is guilty of a  
23 misdemeanor:

24 (a) Falsely makes, publishes, passes, alters, or forges a  
25 prescription form described in section 2(c).

26 (b) Alters or forges a doctor's signature on a prescription  
27 form described in section 2(c).

- 1 (c) Knowingly possesses a false, forged, or altered
- 2 prescription form described in section 2(c).

## Kennedy, Debora

---

**From:** Hein, Tanya  
**Sent:** Thursday, January 31, 2008 5:18 PM  
**To:** Kennedy, Debora  
**Subject:** RE: Changes to Restroom Access Act Draft LRB 3713

**Follow Up Flag:** Follow up  
**Flag Status:** Red

That sounds better. Thanks!

### **Tanya R. Hein**

Legislative Aide  
Rep. Karl Van Roy  
90th Assembly District

---

**From:** Kennedy, Debora  
**Sent:** Thursday, January 31, 2008 5:17 PM  
**To:** Hein, Tanya  
**Subject:** RE: Changes to Restroom Access Act Draft LRB 3713

\$200 as a forfeiture; no imprisonment? (That's the penalty under a Class D forfeiture (s. 939.52, stats.)

---

**From:** Hein, Tanya  
**Sent:** Thursday, January 31, 2008 4:57 PM  
**To:** Kennedy, Debora  
**Subject:** RE: Changes to Restroom Access Act Draft LRB 3713

Thanks. I'm thinking that jail time seems excessive for forging a prescription form just to use a bathroom. It's not the same level as fraudulently trying to get a narcotic.

Would you have a suggestion for an alternative penalty?

### **Tanya R. Hein**

Legislative Aide  
Rep. Karl Van Roy  
90th Assembly District

---

**From:** Kennedy, Debora  
**Sent:** Thursday, January 31, 2008 4:45 PM  
**To:** Hein, Tanya  
**Subject:** RE: Changes to Restroom Access Act Draft LRB 3713

The penalty for violation of s. 450.11 (7) (a) (forging a prescription order) is a fine of not more than \$500 or imprisonment of not more than 6 months, or both.

---

**From:** Hein, Tanya  
**Sent:** Thursday, January 31, 2008 1:19 PM  
**To:** Kennedy, Debora  
**Subject:** Changes to Restroom Access Act Draft LRB 3713

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<http://www.legislature.mi.gov/documents/2007-2008/billengrossed/House/pdf/2007-HEBH-5046.pdf>

Thanks for your assistance!!!

**Tanya R. Hein**

Legislative Aide

~~~~~  
State Representative Karl Van Roy

90th Assembly District

123 West, State Capitol

P.O. Box 8953

Madison, WI 53708

Tel: 608-266-0616

Fax: 608-282-3690



TUESDAY 2/5
State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3713/PL 1

DAK:wlj:nwn

↑
stays

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

two ✓

NOTE

the customer must provide the retail establishment with a copy a sworn and notarized written statement that is signed by a physician

Regen

1 AN ACT *to create* 146.29 and 895.512 of the statutes; **relating to:** requiring
2 access by certain customers to certain toilet facilities, providing immunity from
3 certain civil liability, and providing a penalty.

penalty

Analysis by the Legislative Reference Bureau

This bill requires a retail establishment, as defined in the bill, that has a toilet facility that is designated for use by the establishment's employees to permit use of the facility by customers who request it, under certain conditions. In order for the requirement to apply, the customer must suffer from an eligible medical condition or use an ostomy device; ~~three~~ two or more of the retail establishment's employees must be working at the establishment at the time the request is made; the retail establishment must not usually make the toilet facility available to customers; the toilet facility must not be located in an area where access creates an obvious health or safety risk for the customer or an obvious security risk for the retail establishment; and a public toilet facility must not be immediately available to the customer.

The bill specifies that a retail establishment may not, under the requirement, be required to make physical changes to a toilet facility that is designated for use by the establishment's employees.

Under the bill, a violation of the requirement is subject to a forfeiture that may not exceed \$200. However, a retail establishment and employee of an establishment are immune from civil liability for the death or injury of a customer, or of an individual other than an employee who accompanies the customer, that is caused by

or during the use of a toilet facility under the bill's requirement, unless the death or injury was caused by a willful or wanton act or omission of the employee.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 146.29 of the statutes is created to read:

2 **146.29 Customer access to toilet facility. (1) DEFINITIONS.** In this section:

3 (a) "Customer" means an individual, other than the owner or an employee of
4 a retail establishment, who is lawfully on the premises of the establishment.

5 (b) "Eligible medical condition" means inflammatory bowel disease, irritable
6 bowel syndrome, or any other medical condition that periodically requires
7 immediate access to a toilet facility.

8 (c) "Inflammatory bowel disease" means Crohn's disease or ulcerative colitis.

9 (d) "Ostomy device" means a medical device that creates an artificial passage
10 for elimination of body waste.

INSERT 210
11 (f) "Retail establishment" means a store or shop in which retail sales is the
12 principal business conducted, except that "retail establishment" does not include a
13 motor vehicle fuel retailer's establishment that is a structure that is 800 square feet
14 or less in size and that has a toilet facility located within the structure that is
15 designated for use by the retailer's employees.

16 **(2) CUSTOMER ACCESS TO TOILET FACILITY REQUIRED.** A retail establishment that
17 has a toilet facility that is designated for use by the establishment's employees shall,
18 during the establishment's usual business hours, permit use of the facility by a
19 customer who requests the use, if all of the following conditions are met:

20 (a) The customer suffers from an eligible medical condition or uses an ostomy
21 device.

TWO

INSERT
3-2

(b) ~~Three~~ or more employees of the retail establishment are working at the establishment at the time the customer requests use of the toilet facility.

(d) The retail establishment does not usually make a toilet facility available to a customer.

(e) The toilet facility is not located in an area where access creates an obvious health or safety risk for the customer or an obvious security risk for the retail establishment.

(f) A public toilet facility is not immediately accessible to the customer.

(3) LIMITATION ON REQUIREMENT. No retail establishment may, under this section, be required to make physical changes to a toilet facility that is designated for use by the establishment's employees.

(4) ~~PENALTY~~ ^(c) PENALTIES. Any person who violates sub. (2) may be required to forfeit not more than \$200. ^(a) Each day of continued violation ^(b) constitutes a separate offense. ^(c) under para (a) or (b)

INSERT
3-13

SECTION 2. 895.512 of the statutes is created to read:

895.512 Civil liability exemption; customer access to toilet facility. If an employee of a retail establishment permits a customer to use the establishment's toilet facility, under the requirements of s. 146.29, the employee and the establishment are immune from civil liability for the death of or injury to the customer, or an individual other than an employee who accompanies the customer, that is caused by or during the use of the facility, unless the death or injury was caused by a willful or wanton act or omission of the employee.

(END)

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3713/lins
DAK:wj:nwn

INSERT A

Also under the bill, forging a statement or uttering a forged statement; altering a statement or uttering an altered statement; transferring to a customer, for use by that customer, a statement intended for use by a different customer; and knowingly possessing a forged or altered statement are subject to a forfeiture that may not exceed \$200.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

INSERT 2-10

1 (e) "Physician" has the meaning given in s. 448.01 (5).

INSERT 3-2

2 (c) The customer provides the retail establishment with a copy of a sworn and
3 notarized written statement, signed by a physician, that indicates that the customer
4 suffers from an eligible medical condition or uses an ostomy device.

INSERT 3-13

5 ✓ (b) Any person who does any of the following with respect to a written
6 statement that is specified in sub. (2) (c) may be required to forfeit not more than
7 \$200:

- 8 1. Forges a statement or utters a forged statement.
- 9 2. Alters a statement or utters an altered statement.
- 10 3. Transfers to a customer, for use by that customer, a statement intended for
11 use by a different customer.
- 12 4. Knowingly possesses a forged or altered statement.

Change
Semicolons
to commas →

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3713/1dn
DAK:wlj:nwn

To Representative Van Roy:

1. I have not used in this bill the term "prescription order," which in Wisconsin statutes corresponds to Michigan's term "prescription form," as proposed. Under s. 450.11, stats., numerous requirements apply to a prescription order that seem inappropriate for its use under this bill. Instead, I have required that the document be a sworn and notarized written statement that is signed by a physician (please see s. 137.19¹, stats., for requirements for notarized statements). Please review.

2. Please note the wording that I have used for s. 146.29⁴ (3) (b). The exact wording of the Michigan law seems inapt: "falsely" seems to be used to modify "alters or forges," redundantly. Also, "falsely making" and "forging" seem to be identical.

Please let me know if I may provide you with any other assistance concerning this draft.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3713/1dn
DAK:wlj:nwn

February 5, 2008

To Representative Van Roy:

1. I have not used in this bill the term "prescription order," which in Wisconsin statutes corresponds to Michigan's term "prescription form," as proposed. Under s. 450.11, stats., numerous requirements apply to a prescription order that seem inappropriate for its use under this bill. Instead, I have required that the document be a sworn and notarized written statement that is signed by a physician. (Please see s. 137.19, stats., for requirements for notarized statements.) Please review.

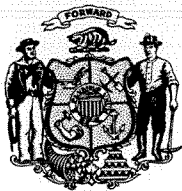
2. Please note the wording that I have used for s. 146.29 (4) (b). The exact wording of the Michigan law seems inapt: "falsely" seems to be used to modify "alters or forges," redundantly. Also, "falsely making" and "forging" seem to be identical.

Please let me know if I may provide you with any other assistance concerning this draft.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov

1/5/08 From Tampa

p. 3 - ~~delete~~ change request for written,
notarized statement to
written statement signed + issued by
a phys on the phys's letterhead or that
of the facility with w/ the phys
is associated.



SOON - Inedit 2/5
State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3713/12
DAK:wlj:aww

stays

2007 BILL

1 **AN ACT** *Regen* *and issued ✓* to create 146.29 and 895.512 of the statutes; **relating to:** requiring
 2 access by certain customers to certain toilet facilities, providing immunity from
 3 certain civil liability, and providing penalties.

Analysis by the Legislative Reference Bureau

This bill requires a retail establishment, as defined in the bill, that has a toilet facility that is designated for use by the establishment's employees to permit use of the facility by customers who request it, under certain conditions. In order for the requirement to apply, the customer must suffer from an eligible medical condition or use an ostomy device; two or more of the retail establishment's employees must be working at the establishment at the time the request is made; the customer must provide the retail establishment with a copy of a ~~sworn and notarized~~ written statement that is signed by a physician; the retail establishment must not usually make the toilet facility available to customers; the toilet facility must not be located in an area where access creates an obvious health or safety risk for the customer or an obvious security risk for the retail establishment; and a public toilet facility must not be immediately available to the customer.

The bill specifies that a retail establishment may not, under the requirement, be required to make physical changes to a toilet facility that is designated for use by the establishment's employees.

Under the bill, a violation of the requirement is subject to a forfeiture that may not exceed \$200. However, a retail establishment and employee of an establishment are immune from civil liability for the death or injury of a customer, or of an

BILL

individual other than an employee who accompanies the customer, that is caused by or during the use of a toilet facility under the bill's requirement, unless the death or injury was caused by a willful or wanton act or omission of the employee.

Also under the bill, forging a statement or uttering a forged statement, altering a statement or uttering an altered statement, transferring to a customer, for use by that customer, a statement intended for use by a different customer, and knowingly possessing a forged or altered statement are subject to a forfeiture that may not exceed \$200.

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7 immediate access to a toilet facility.

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10 for elimination of body waste.

11 (e) "Physician" has the meaning given in s. 448.01 (5).

12 (f) "Retail establishment" means a store or shop in which retail sales is the
13 principal business conducted, except that "retail establishment" does not include a
14 motor vehicle fuel retailer's establishment that is a structure that is 800 square feet

BILL

1 or less in size and that has a toilet facility located within the structure that is
2 designated for use by the retailer's employees.

3 (2) CUSTOMER ACCESS TO TOILET FACILITY REQUIRED. A retail establishment that
4 has a toilet facility that is designated for use by the establishment's employees shall,
5 during the establishment's usual business hours, permit use of the facility by a
6 customer who requests the use, if all of the following conditions are met:

7 (a) The customer suffers from an eligible medical condition or uses an ostomy
8 device. *with* *on the physician's letterhead or that of the facility*
with which the physician is associated

9 (b) Two or more employees of the retail establishment are working at the
10 establishment at the time the customer requests use of the toilet facility.

11 (c) The customer provides the retail establishment with a copy of a sworn and
notarized *or* written statement, signed *and issued* by a physician, that indicates that the customer
12 suffers from an eligible medical condition or uses an ostomy device.

14 (d) The retail establishment does not usually make a toilet facility available to
15 a customer.

16 (e) The toilet facility is not located in an area where access creates an obvious
17 health or safety risk for the customer or an obvious security risk for the retail
18 establishment.

19 (f) A public toilet facility is not immediately accessible to the customer.

20 (3) LIMITATION ON REQUIREMENT. No retail establishment may, under this
21 section, be required to make physical changes to a toilet facility that is designated
22 for use by the establishment's employees.

23 (4) PENALTIES. (a) Any person who violates sub. (2) may be required to forfeit
24 not more than \$200.

BILL

1 (b) Any person who does any of the following with respect to a written
2 statement that is specified in sub. (2) (c) may be required to forfeit not more than
3 \$200:

- 4 1. Forges a statement or utters a forged statement.
- 5 2. Alters a statement or utters an altered statement.
- 6 3. Transfers to a customer, for use by that customer, a statement intended for
7 use by a different customer.
- 8 4. Knowingly possesses a forged or altered statement.

9 (c) Each day of continued violation under par. (a) or (b) constitutes a separate
10 offense.

11 **SECTION 2.** 895.512 of the statutes is created to read:

12 **895.512 Civil liability exemption; customer access to toilet facility.** If
13 an employee of a retail establishment permits a customer to use the establishment's
14 toilet facility, under the requirements of s. 146.29, the employee and the
15 establishment are immune from civil liability for the death of or injury to the
16 customer, or an individual other than an employee who accompanies the customer,
17 that is caused by or during the use of the facility, unless the death or injury was
18 caused by a willful or wanton act or omission of the employee.

19 (END)

Basford, Sarah

From: Hein, Tanya
Sent: Thursday, February 07, 2008 3:32 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-3713/2 Topic: Restroom access for persons with eligible medical conditions

Please Jacket LRB 07-3713/2 for the ASSEMBLY.