



2009 ASSEMBLY BILL 709

1 **AN ACT** *to create* 146.29 and 895.512 of the statutes; **relating to:** requiring
2 access to toilet facilities in a retail establishment, immunity from civil liability
3 related to use of the toilet facilities, and providing penalties.

Analysis by the Legislative Reference Bureau

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

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

5 **146.29 Access to toilet facility in retail establishment. (1) DEFINITIONS.**

6 In this section:

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

10 (b) “Inflammatory bowel disease” means Crohn’s disease or ulcerative colitis.

ASSEMBLY BILL 709**SECTION 1**

1 (c) “Ostomy device” means a medical device that creates an artificial passage
2 for elimination of body waste.

3 (d) “Physician” has the meaning given in s. 448.01 (5).

4 (e) “Retail establishment” means a store or shop in which retail sales is the
5 principal business conducted, except that “retail establishment” does not include a
6 motor vehicle fuel retailer’s establishment that is a structure that is 800 square feet
7 or less in size.

8 **(2) ACCESS TO TOILET FACILITY REQUIRED.** A retail establishment that has a toilet
9 facility that is designated for use by the establishment’s employees shall permit a
10 person who suffers from an eligible medical condition or uses an ostomy device to use
11 the toilet facility if all of the following apply:

12 (a) The person provides the retail establishment any of the following:

13 1. A copy of a written statement, signed and issued by a physician on the
14 physician’s letterhead or that of the facility with which the physician is associated,
15 that indicates that the person suffers from an eligible medical condition or uses an
16 ostomy device.

17 2. An identification card issued by an entity approved by the department under
18 sub. (4) that indicates that the person suffers from an eligible medical condition or
19 uses an ostomy device.

20 (b) The person requests to use the toilet facility during the retail
21 establishment’s usual business hours.

22 (c) Three or more employees of the retail establishment are working at the
23 establishment at the time the person requests use of the toilet facility.

ASSEMBLY BILL 709

1 (d) The toilet facility is not located in an area where access creates an obvious
2 health or safety risk for the person or an obvious security risk for the retail
3 establishment.

4 (e) The retail establishment does not have a toilet facility that the public may
5 use.

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

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

10 **(4) ENTITIES THAT MAY ISSUE IDENTIFICATION CARDS.** The department shall
11 approve, to issue identification cards that may be used under sub. (2) (a) 2., entities
12 that provide services to, or advocate on behalf of, persons who suffer from an eligible
13 medical condition or use an ostomy device.

14 **(5) PENALTIES.** (a) Whoever violates sub. (2) may be required to forfeit not more
15 than \$200.

16 (b) Whoever does any of the following with respect to a written statement or
17 identification card that is specified in sub. (2) (a) may be required to forfeit not more
18 than \$200:

19 1. Forges a statement or identification card, or utters a forged statement or
20 identification card.

21 2. Alters a statement or identification card, or utters an altered statement or
22 identification card.

23 3. Transfers to another person, for use by that person, a statement or
24 identification card intended for use by a different person.

25 4. Knowingly possesses a forged or altered statement or identification card.

