



1 **§16-44-2. Definitions.**

2 As used in this article:

3 (1) "Customer" means a person or individual who is lawfully  
4 on the premises of a retail establishment;

5 (2) "Eligible medical condition" means any medical condition  
6 that requires immediate access to a toilet facility as determined  
7 by a health care provider. These conditions include, but are not  
8 limited to, Crohn's disease, ulcerative colitis, any inflammatory  
9 bowel disease or irritable bowel syndrom;

10 (3) "Retail establishment" means a place of business open to  
11 the general public for the sale of goods or services to an ultimate  
12 consumer. A retail establishment includes, but is not limited to,  
13 a grocery store, mercantile, delicatessen or any place where  
14 merchandise is displayed, held or offered for sale.

15 **§16-44-3. Customer access to restroom facility; retail**  
16 **establishment.**

17 A retail establishment which has a toilet facility for its  
18 employees that is not open to the general public shall allow a  
19 customer to use that toilet facility during normal business hours  
20 if the following conditions are met:

21 (1) The customer requesting the use of the toilet facility  
22 suffers from an eligible medical condition or uses an ostomy  
23 device;

24 (2) Three or more employees of the retail establishment are

1 working at the time the customer requests use of the employee  
2 toilet facility;

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

5 (4) The employee toilet facility is not located in an area  
6 where providing access would create an obvious health or safety  
7 risk to the customer or an obvious security risk to the retail  
8 establishment; and

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

11 **§16-44-4. Limitation of liability.**

12 (a) A retail establishment or an employee of a retail  
13 establishment is not civilly liable for any action or omission in  
14 allowing a customer that has an eligible medical condition to use  
15 an employee toilet facility that is not a public restroom if the  
16 act or omission:

17 (1) Is not willful or grossly negligent;

18 (2) Occurs in an area of the retail establishment that is not  
19 accessible to the public; and

20 (3) Results in an injury or death to the customer, or any  
21 individual other than an employee accompanying the customer.

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

24 **§16-44-5. Penalties for violations.**

1       A retail establishment or an employee of a retail  
2 establishment that violates the provisions of this article is  
3 guilty of a misdemeanor and, upon conviction thereof, shall be  
4 fined not more than \$100.

NOTE: The purpose of this bill is to provide access to private  
employee restrooms for persons with certain eligible medical  
conditions.

This article is new; therefore, strike-throughs and  
underscoring have been omitted.