

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

**Louis L. Kafka**

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

**An Act Relative to Public Access of Private Restrooms.**

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PETITION OF:

| NAME:                | DISTRICT/ADDRESS: |
|----------------------|-------------------|
| Louis L. Kafka       | 8th Norfolk       |
| Michael W. Morrissey |                   |

# The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine  
\_\_\_\_\_

## AN ACT RELATIVE TO PUBLIC ACCESS OF PRIVATE RESTROOMS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           Section 1. Chapter 270 of the Massachusetts General Laws, as appearing in the 2004 Official  
2 Edition, is hereby amended by adding at the end thereof the following section:

3

4 Section 24.

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6 (a). Definitions- "customer" shall mean an individual who is lawfully on the premises of a retail  
7 establishment;

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9 "eligible medical condition" shall mean Crohn's disease or ulcerative colitis; or any other medical  
10 condition that requires immediate access to a restroom facility;

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12 "retail establishment" shall mean any business or place where members of the public have access as  
13 invitees or licenses.

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15 (b). A retail establishment that has a restroom facility for its employees shall allow a customer to use  
16 that facility during normal business hours if the following conditions are met:

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18 (1) The customer requesting the use of the employee restroom facility suffers from an eligible  
19 medical condition or uses an ostomy device, provided that the existence of the condition or device is  
20 documented in writing by the customer's physician;

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22 (2) two or more employees of the retail establishment are working at the time the customer  
23 requests use of the employee restroom facility;

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

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27 (4) the employee restroom facility is not located in an area where providing access would create  
28 an obvious health or safety risk to the customer or an obvious security risk to the establishment.

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30 (c). A retail establishment or an employee of a retail establishment is not civilly liable for an act or  
31 omission in allowing a customer who claims to have an eligible medical condition to use an employee  
32 restroom facility that is not a public restroom if the act or omission is not negligent and occurs in an area  
33 of the retail establishment that is not generally accessible to the public and results in an injury to, or  
34 death of, the customer or individual, other than an employee, accompanying the customer.

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36 (d). This section does not require a retail establishment to make any physical changes or improvements  
37 to an employee restroom facility located on the premises.

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39 (e). A violation of this section shall for the first offense be punished by a fine of one hundred dollars. A  
40 second or subsequent offense shall not be less than one hundred nor more than two hundred dollars.

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