



Rep. Theresa Mah

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10400SB3465ham001

LRB104 20521 BDA 37956 a

1 AMENDMENT TO SENATE BILL 3465

2 AMENDMENT NO. _____. Amend Senate Bill 3465 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Construction Site Temporary Restroom
5 Facility Act is amended by changing Sections 1, 5, 10, 15, and
6 20 and by adding Sections 6, 10.5, and 25 as follows:

7 (410 ILCS 37/1)

8 Sec. 1. Short title. This Act may be cited as the
9 Construction Site Temporary Restroom Facility and Sanitary
10 Conditions for Menstruation and Lactation Act.

11 (Source: P.A. 94-42, eff. 6-17-05.)

12 (410 ILCS 37/5)

13 Sec. 5. Legislative finding. It has been established by
14 scientific evidence that improper plumbing can result in the
15 introduction of pathogenic organisms into the potable water

1 supply, result in the escape of toxic gases into the
2 environment, and result in potentially lethal disease and
3 epidemic. It is further found that minimum numbers of plumbing
4 facilities and fixtures are necessary for the comfort and
5 convenience of workers and persons in public places and that
6 individuals who are employed on construction sites and who are
7 menstruating, lactating, or both need additional support from
8 their employers to ensure construction site safety and a
9 construction industry that is inclusive of all workers.

10 (Source: P.A. 94-42, eff. 6-17-05.)

11 (410 ILCS 37/6 new)

12 Sec. 6. Definitions. As used in this Act:

13 "Construction industry" means any constructing, altering,
14 reconstructing, repairing, rehabilitating, refinishing,
15 refurbishing, remodeling, remediating, renovating, custom
16 fabricating, maintenance, landscaping, improving, wrecking,
17 painting, decorating, demolishing, or adding to or subtracting
18 from any building, structure, highway, roadway, street,
19 bridge, alley, sewer, ditch, sewage disposal plant,
20 waterworks, parking facility, railroad, excavation, or other
21 structure, project, development, real property, or
22 improvement, or any part thereof, whether or not the
23 performance of the work described involves the addition to or
24 fabrication into any structure, project, development, real
25 property, or improvement described in this Section of any

1 material or article of merchandise, including moving
2 construction-related materials on the job site. "Construction
3 industry" does not include:

4 (1) landscaping services not performed in connection
5 with a construction project;

6 (2) custom fabrication or manufacturing performed at a
7 fixed facility; or

8 (3) work performed at the same location for fewer than
9 5 consecutive work days.

10 "Employee" has the meaning given to that term in Section 2
11 of the Illinois Wage Payment and Collection Act.

12 "Employer" has the meaning given to that term in Section 2
13 of the Illinois Wage Payment and Collection Act. "Employer"
14 includes the State and units of local government, any
15 political subdivision of the State or units of local
16 government, or any State or local government agency.
17 "Employer" does not include an entity that engages in the
18 business of providing temporary bathrooms or temporary toilet
19 facilities.

20 "Menstrual hygiene products" means tampons and sanitary
21 napkins for use in connection with the menstrual cycle.

22 (410 ILCS 37/10)

23 Sec. 10. Temporary restroom facility.

24 (a) Within 6 months after the effective date of this
25 amendatory Act of the 104th General Assembly, the owner or the

1 owner's representative of a temporary building or building
2 under construction that is not yet occupied for its intended
3 purpose shall comply with paragraphs (2) and (3) of subsection
4 (b) of this Section.

5 (b) The owner or the owner's representative of a temporary
6 building or building under construction, that is not yet
7 occupied for its intended purpose, shall ensure that employees
8 working on the construction site have access to restroom
9 facilities ~~that which~~ meet the following requirements:

10 (1) Toileting facilities shall be enclosed and
11 discharged into a sanitary sewer. In lieu of connecting to
12 a sewer, the sanitary facility may be a portable,
13 enclosed, chemically-treated tank-tight unit.

14 (2) If a woman or an individual who menstruates is
15 present and employed for construction purposes on the
16 construction site, if the nature of the person's job does
17 not inherently limit the person's presence on the
18 construction site to 2 days or less, and if there are 10 or
19 more workers of any gender at the construction site, then
20 a separate toilet facility shall be provided at the
21 construction site and designated, for use by women and
22 individuals who menstruate, with exterior signage to
23 identify the class of individuals who shall have access,
24 except in existing places of public accommodation or
25 public buildings in compliance with the Equitable
26 Restrooms Act. Otherwise, toileting individual portable

1 ~~units are used, separate toileting facilities are not~~
2 ~~required for males and females. Toileting~~ facilities shall
3 be provided based on the Occupational Safety and Health
4 Administration construction sanitation standards, which
5 are as follows:

6 (A) For 20 employees or less, one toilet facility
7 shall be provided.

8 (B) For 20 employees or more, one toilet facility
9 and one urinal per 40 workers shall be provided.

10 (C) For 200 or more employees, one toilet facility
11 and one urinal per 50 workers shall be provided.

12 (3) Hand cleansing units shall be provided.

13 (4) All non-sewered units shall be pumped and cleansed
14 regularly to ensure adequate working facilities.

15 (5) For non-residential temporary buildings or
16 non-residential buildings, the restroom facilities shall
17 be located within 300 feet of the entrance of the building
18 under construction.

19 (6) For residential temporary buildings or residential
20 buildings, the restroom facilities shall be made readily
21 available in nearby areas.

22 (Source: P.A. 94-42, eff. 6-17-05.)

23 (410 ILCS 37/10.5 new)

24 Sec. 10.5. Sanitary conditions for construction workers
25 who menstruate, express milk, or both.

1 (a) Within 6 months after the effective date of this
2 amendatory Act of the 104th General Assembly, employers in the
3 construction industry shall comply with this Section.

4 (b) Employers in the construction industry shall provide
5 their workers who menstruate, who are performing construction
6 activities on a construction site, and whose jobs do not
7 inherently limit their presence on the work site to 2 days or
8 less with the following minimum sanitary conditions:

9 (1) access, on the construction site, either to:

10 (A) a minimum size bathroom that can include a
11 standard sized portable chemical toilet and that can
12 be secured with a latch upon entry; or

13 (B) a permanent structure with a bathroom with
14 toileting facilities that can be secured with a latch
15 upon entry;

16 (2) an adequate amount of time to accommodate for
17 multiple layers of clothing while using the bathroom; and

18 (3) a sufficient amount or supply of menstrual hygiene
19 products that are available at no cost to the workers and
20 are:

21 (A) located, for construction sites with fewer
22 than 10 workers, in all gender-neutral bathrooms;

23 (B) located, for construction sites with 10 or
24 more workers, in bathrooms that are designated for
25 workers who menstruate and that are marked with
26 exterior signage that identifies the class of

1 individuals who shall have access; or

2 (C) provided in kits for each employee who needs
3 the products.

4 As used in this subsection (b), "a sufficient amount or
5 supply of menstrual hygiene products" means at least 10 units
6 of the products.

7 (c) Employers in the construction industry shall provide
8 their workers who are lactating and performing construction
9 activities on a construction site with lactation
10 accommodations upon request as needed to express breast milk
11 unless doing so constitutes an undue hardship. Lactation
12 accommodations under this Section may include:

13 (1) a flexible work schedule, including scheduling
14 breaks that provide time for expressing breast milk;

15 (2) a location, other than the bathroom, that is
16 convenient and sanitary for the employee to express breast
17 milk, that is private and lockable from the inside, and
18 that is identified by exterior signage that designates who
19 shall have access;

20 (3) convenient hygienic refrigeration on the
21 construction site for the storage of milk; and

22 (4) a convenient water source that is in a private
23 location near the location where the breast milk is
24 expressed and that is available for the employee's use to
25 clean and wash hands and wash milk expression equipment.

26 (d) Compliance with minimum lactation accommodations under

1 this Section does not relieve employers from compliance with
2 the Nursing Mothers in the Workplace Act or the Illinois Human
3 Rights Act.

4 (e) On multiemployer construction sites, each employer is
5 responsible for ensuring that facilities for their own
6 employees are provided either directly or through agreement
7 with the prime contractor or the owner's representative of a
8 temporary building or building under construction.

9 (f) For purposes of this Section, "undue hardship" means
10 an action that is prohibitively expensive or disruptive when
11 considered in light of the following factors: (i) the nature
12 and cost of the accommodation needed; (ii) the overall
13 financial resources of the facility or facilities involved in
14 the provision of the lactation accommodation, the number of
15 persons employed at the facility, the effect on expenses and
16 resources, or the impact of the accommodation upon the
17 operation of the facility; (iii) the overall financial
18 resources of the employer, the overall size of the business of
19 the employer with respect to the number of its employees, and
20 the number, type, and location of its facilities; (iv) the
21 type of operation or operations of the employer, including the
22 composition, structure, and functions of the workforce of the
23 employer and the geographic, administrative, or fiscal
24 relationship of the facility or facilities in question to the
25 employer; and (v) whether making the accommodation would
26 create dangerous conditions risking the health and safety of

1 employees, or would unreasonably disrupt the operations and
2 completion of the project at the construction site. The
3 employer has the burden of proving undue hardship. The fact
4 that the employer provides or would be required to provide a
5 similar accommodation to similarly situated employees creates
6 a rebuttable presumption that the accommodation does not
7 impose an undue hardship on the employer.

8 (g) On or before January 1, 2027, the Department of Public
9 Health, in consultation with the Department of Human Rights,
10 shall provide guidance to employers via a website or other
11 means concerning lactation accommodations.

12 (410 ILCS 37/15)

13 Sec. 15. Enforcement. Inspectors employed by
14 municipalities and counties may inspect construction sites to
15 ensure compliance with this Act. Employees on construction
16 sites may call the county or municipality with jurisdiction
17 over the construction site to request an inspection if
18 noncompliance with this Act is suspected.

19 Retaliation by employers is prohibited. It is unlawful for
20 any employer to threaten to take or to take any adverse action
21 against an employee because the employee:

22 (1) exercises employee's rights or attempts to
23 exercise the employee's rights under this Section;

24 (2) opposes practices that the employee believes to be
25 in violation of this Section; or

1 (3) supports the exercise of the employee's rights of
2 another under this Section.

3 It is unlawful for any employer to consider the need for a
4 lactation or a menstruation accommodation by an employee as a
5 negative factor in any employment action that involves hiring,
6 evaluating, promoting, disciplining, terminating, or
7 laying-off of the employee.

8 (Source: P.A. 94-42, eff. 6-17-05.)

9 (410 ILCS 37/20)

10 Sec. 20. Penalty.

11 (a) Any owner or employer who fails or refuses to comply
12 with the provisions of this Act shall be deemed guilty of a
13 petty offense and shall be issued a fine not to exceed \$100.

14 (b) Any owner or employer convicted of violating the
15 provisions of this Act shall be subject to a conviction for
16 succeeding offenses for each day he or she fails or refuses to
17 comply with the provisions of this Act.

18 (c) Any owner or employer who receives notice that it has
19 failed to provide a separate toilet facility, menstrual
20 products, or lactation accommodations required under this Act
21 for a woman or individual who menstruates or expresses breast
22 milk shall have a 7-day grace period to comply with this Act
23 before the owner or employer shall be subject to a penalty
24 under this Act. The notice required under this Section must be
25 provided in writing to the owner or employer. The grace period

1 shall not apply if the owner or employer has previously
2 received notice with respect to the same employee.

3 (Source: P.A. 94-42, eff. 6-17-05.)

4 (410 ILCS 37/25 new)

5 Sec. 25. Immunity from liability. An employer that in good
6 faith provides menstrual products in sealed packaging for
7 employee use as required by paragraph (3) of subsection (b) of
8 Section 10.5 of this Act shall not be liable in any civil
9 action for injuries resulting from the use of the product,
10 except for willful or wanton conduct by the employer.

11 Section 99. Effective date. This Act takes effect January
12 1, 2027.".