

1 AN ACT concerning health.

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

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  
16 supply, result in the escape of toxic gases into the  
17 environment, and result in potentially lethal disease and  
18 epidemic. It is further found that minimum numbers of plumbing  
19 facilities and fixtures are necessary for the comfort and  
20 convenience of workers and persons in public places and that  
21 individuals who are employed on construction sites and who are  
22 menstruating, lactating, or both need additional support from

1 their employers to ensure construction site safety and a  
2 construction industry that is inclusive of all workers.

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

4 (410 ILCS 37/6 new)

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

6 "Construction industry" means any constructing, altering,  
7 reconstructing, repairing, rehabilitating, refinishing,  
8 refurbishing, remodeling, remediating, renovating, custom  
9 fabricating, maintenance, landscaping, improving, wrecking,  
10 painting, decorating, demolishing, or adding to or subtracting  
11 from any building, structure, highway, roadway, street,  
12 bridge, alley, sewer, ditch, sewage disposal plant,  
13 waterworks, parking facility, railroad, excavation, or other  
14 structure, project, development, real property, or  
15 improvement, or any part thereof, whether or not the  
16 performance of the work described involves the addition to or  
17 fabrication into any structure, project, development, real  
18 property, or improvement described in this Section of any  
19 material or article of merchandise, including moving  
20 construction-related materials on the job site. "Construction  
21 industry" does not include:

22 (1) landscaping services not performed in connection  
23 with a construction project;

24 (2) custom fabrication or manufacturing performed at a  
25 fixed facility; or

1           (3) work performed at the same location for fewer than  
2           5 consecutive work days.

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

5           "Employer" has the meaning given to that term in Section 2  
6           of the Illinois Wage Payment and Collection Act. "Employer"  
7           includes the State and units of local government, any  
8           political subdivision of the State or units of local  
9           government, or any State or local government agency.  
10          "Employer" does not include an entity that engages in the  
11          business of providing temporary bathrooms or temporary toilet  
12          facilities.

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

15           (410 ILCS 37/10)

16           Sec. 10. Temporary restroom facility.

17          (a) Within 6 months after the effective date of this  
18          amendatory Act of the 104th General Assembly, the owner or the  
19          owner's representative of a temporary building or building  
20          under construction that is not yet occupied for its intended  
21          purpose shall comply with paragraphs (2) and (3) of subsection  
22          (b) of this Section.

23          (b) The owner or the owner's representative of a temporary  
24          building or building under construction, that is not yet  
25          occupied for its intended purpose, shall ensure that employees

1 working on the construction site have access to restroom  
2 facilities ~~that~~ ~~which~~ meet the following requirements:

3 (1) Toileting facilities shall be enclosed and  
4 discharged into a sanitary sewer. In lieu of connecting to  
5 a sewer, the sanitary facility may be a portable,  
6 enclosed, chemically-treated tank-tight unit.

7 (2) If a woman or an individual who menstruates is  
8 present and employed for construction purposes on the  
9 construction site, if the nature of the person's job does  
10 not inherently limit the person's presence on the  
11 construction site to 2 days or less, and if there are 10 or  
12 more workers of any gender at the construction site, then  
13 a separate toilet facility shall be provided at the  
14 construction site and designated, for use by women and  
15 individuals who menstruate, with exterior signage to  
16 identify the class of individuals who shall have access,  
17 except in existing places of public accommodation or  
18 public buildings in compliance with the Equitable  
19 Restrooms Act. Otherwise, toileting individual portable  
20 units are used, separate toileting facilities are not  
21 required for males and females. Toileting facilities shall  
22 be provided based on the Occupational Safety and Health  
23 Administration construction sanitation standards, which  
24 are as follows:

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

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

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

5 (3) Hand cleansing units shall be provided.

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

8 (5) For non-residential temporary buildings or  
9 non-residential buildings, the restroom facilities shall  
10 be located within 300 feet of the entrance of the building  
11 under construction.

12 (6) For residential temporary buildings or residential  
13 buildings, the restroom facilities shall be made readily  
14 available in nearby areas.

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

16 (410 ILCS 37/10.5 new)

17 Sec. 10.5. Sanitary conditions for construction workers  
18 who menstruate, express milk, or both.

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

22 (b) Employers in the construction industry shall provide  
23 their workers who menstruate, who are performing construction  
24 activities on a construction site, and whose jobs do not  
25 inherently limit their presence on the work site to 2 days or

1 less with the following minimum sanitary conditions:

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

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

6 (B) a permanent structure with a bathroom with  
7 toileting facilities that can be secured with a latch  
8 upon entry;

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

11 (3) a sufficient amount or supply of menstrual hygiene  
12 products that are available at no cost to the workers and  
13 are:

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

16 (B) located, for construction sites with 10 or  
17 more workers, in bathrooms that are designated for  
18 workers who menstruate and that are marked with  
19 exterior signage that identifies the class of  
20 individuals who shall have access; or

21 (C) provided in kits for each employee who needs  
22 the products.

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

26 (c) Employers in the construction industry shall provide

1 their workers who are lactating and performing construction  
2 activities on a construction site with lactation  
3 accommodations upon request as needed to express breast milk  
4 unless doing so constitutes an undue hardship. Lactation  
5 accommodations under this Section may include:

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

8 (2) a location, other than the bathroom, that is  
9 convenient and sanitary for the employee to express breast  
10 milk, that is private and lockable from the inside, and  
11 that is identified by exterior signage that designates who  
12 shall have access;

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

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

19 (d) Compliance with minimum lactation accommodations under  
20 this Section does not relieve employers from compliance with  
21 the Nursing Mothers in the Workplace Act or the Illinois Human  
22 Rights Act.

23 (e) On multiemployer construction sites, each employer is  
24 responsible for ensuring that facilities for their own  
25 employees are provided either directly or through agreement  
26 with the prime contractor or the owner's representative of a

1 temporary building or building under construction.

2 (f) For purposes of this Section, "undue hardship" means  
3 an action that is prohibitively expensive or disruptive when  
4 considered in light of the following factors: (i) the nature  
5 and cost of the accommodation needed; (ii) the overall  
6 financial resources of the facility or facilities involved in  
7 the provision of the lactation accommodation, the number of  
8 persons employed at the facility, the effect on expenses and  
9 resources, or the impact of the accommodation upon the  
10 operation of the facility; (iii) the overall financial  
11 resources of the employer, the overall size of the business of  
12 the employer with respect to the number of its employees, and  
13 the number, type, and location of its facilities; (iv) the  
14 type of operation or operations of the employer, including the  
15 composition, structure, and functions of the workforce of the  
16 employer and the geographic, administrative, or fiscal  
17 relationship of the facility or facilities in question to the  
18 employer; and (v) whether making the accommodation would  
19 create dangerous conditions risking the health and safety of  
20 employees, or would unreasonably disrupt the operations and  
21 completion of the project at the construction site. The  
22 employer has the burden of proving undue hardship. The fact  
23 that the employer provides or would be required to provide a  
24 similar accommodation to similarly situated employees creates  
25 a rebuttable presumption that the accommodation does not  
26 impose an undue hardship on the employer.

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

5           (410 ILCS 37/15)

6       Sec. 15. Enforcement. Inspectors employed by  
7 municipalities and counties may inspect construction sites to  
8 ensure compliance with this Act. Employees on construction  
9 sites may call the county or municipality with jurisdiction  
10 over the construction site to request an inspection if  
11 noncompliance with this Act is suspected.

12       Retaliation by employers is prohibited. It is unlawful for  
13 any employer to threaten to take or to take any adverse action  
14 against an employee because the employee:

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

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

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

21       It is unlawful for any employer to consider the need for a  
22 lactation or a menstruation accommodation by an employee as a  
23 negative factor in any employment action that involves hiring,  
24 evaluating, promoting, disciplining, terminating, or  
25 laying-off of the employee.

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

2 (410 ILCS 37/20)

3 Sec. 20. Penalty.

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

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

11 (c) Any owner or employer who receives notice that it has  
12 failed to provide a separate toilet facility, menstrual  
13 products, or lactation accommodations required under this Act  
14 for a woman or individual who menstruates or expresses breast  
15 milk shall have a 7-day grace period to comply with this Act  
16 before the owner or employer shall be subject to a penalty  
17 under this Act. The notice required under this Section must be  
18 provided in writing to the owner or employer. The grace period  
19 shall not apply if the owner or employer has previously  
20 received notice with respect to the same employee.

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

22 (410 ILCS 37/25 new)

23 Sec. 25. Immunity from liability. An employer that in good  
24 faith provides menstrual products in sealed packaging for

1 employee use as required by paragraph (3) of subsection (b) of  
2 Section 10.5 of this Act shall not be liable in any civil  
3 action for injuries resulting from the use of the product,  
4 except for willful or wanton conduct by the employer.

5 Section 99. Effective date. This Act takes effect January  
6 1, 2027.