STATE OF NEW YORK

8541

IN ASSEMBLY

January 8, 2024

Introduced by M. of A. WALLACE -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to access to certain restroom facilities by employees of a utility entity

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 399-k of the general business law, as added by a chapter of the laws of 2023 relating to permitting employees of public utilities access to certain restroom facilities without being a paying customer, as proposed in legislative bills numbers S. 5444 and A. 6978, is amended to read as follows:

§ 399-k. Access to [~~restroom~~] **toilet** facilities **for utility workers**.

1. A place of business open to the general public for the sale of goods or services that has a toilet facility for its employees shall allow any individual who is lawfully on the premises of such place of business [~~while performing a utility related service~~] to use that toilet facility during normal business hours, even if the place of business does not normally make the employee toilet facility available to the public, provided that all of the following conditions are met:

a. the individual requesting the use of the employee toilet facility is an employee of a [~~public utility company or a public utility corporation as defined in section two of the public service law~~] **utility entity who is on duty providing utility-related services at the time of the request**, provided that the place of business may require the individual to present reasonable evidence that the individual is an employee of [~~such public~~] **a** utility entity;

b. two or more employees of the place of business are working at the time the individual requests use of the employee toilet facility;

c. the employee toilet facility is not located in an area where providing access would create an obvious health or safety risk to the requesting individual or create a security risk to the people, or property within the place of business;

d. use of the toilet facility would not create an obvious health or safety risk to the requesting individual; and

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD07109-02-4

e. a public restroom is not immediately accessible to the requesting individual.

2. A violation of the provisions of this section shall be punishable by a civil penalty not to exceed five hundred dollars for each violation.

3. [~~Businesses~~] **A place of business** shall not be liable for any injuries which result from toilet facility use by [~~utility workers~~] **an employee of a utility entity, provided that this subdivision shall not be interpreted, or construed, as a limit on liability for acts of gross negligence or for willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity**.

4. For purposes of this section, "employee of a utility entity" means an employee of a "utility company" or "public utility company" as such terms are defined in section two of the public service law, a municipal corporation that provides public utility services, a rural electric cooperative, or a state public authority that provides utility services, or an employee of a contractor that is providing utility-related services for any of the aforementioned entities.

§ 2. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2023 relating to permitting employees of public utilities access to certain restroom facilities without being a paying customer, as proposed in legislative bills numbers S. 5444 and A. 6978, takes effect.