

STATE OF NEW YORK

8064

IN SENATE

January 5, 2024

Introduced by Sen. SCARCELLA-SPANTON -- read twice and ordered printed,
and when printed to be committed to the Committee on Rules

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 Assem-
bly, do enact as follows:

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

6 § 399-k. Access to [~~restroom~~] toilet facilities for utility workers.
7 1. A place of business open to the general public for the sale of goods
8 or services that has a toilet facility for its employees shall allow any
9 individual who is lawfully on the premises of such place of business
10 [~~while performing a utility related service~~] to use that toilet facility
11 during normal business hours, even if the place of business does not
12 normally make the employee toilet facility available to the public,
13 provided that all of the following conditions are met:
14 a. the individual requesting the use of the employee toilet facility
15 is an employee of a [~~public utility company or a public utility corpo-~~
16 ~~ration as defined in section two of the public service law~~] utility
17 entity who is on duty providing utility-related services at the time of
18 the request, provided that the place of business may require the indi-
19 vidual to present reasonable evidence that the individual is an employee
20 of [~~such public~~] a utility entity;
21 b. two or more employees of the place of business are working at the
22 time the individual requests use of the employee toilet facility;
23 c. the employee toilet facility is not located in an area where
24 providing access would create an obvious health or safety risk to the
25 requesting individual or create a security risk to the people, or prop-
26 erty within the place of business;
27 d. use of the toilet facility would not create an obvious health or
28 safety risk to the requesting individual; and

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

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

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

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

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

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