

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1258

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1258

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 20, 2009

Recorder Job Number: 7297

Committee Clerk Signature

Ellen Letaney

Chairman Keiser: Opened the hearing on HB 1258 relating to provide individuals with medical conditions reasonable restroom access in retail establishments & provide a penalty.

Louise Potter~Representative from District 17. Give a brief explanation of Crohn's auto immune disease. Concerned about bathroom use at a retail store and goes over the HB 1258 to the committee.

Representative Ruby: How would someone in an establishment know if people have this disease?

Potter: That's a good question and I don't know how that will exactly work.

Representative Ruby: On page two, subsection four, talks about not having to make physical changes. I'm concerned about some of the potential in a wheelchair, would be open to any thought about this.

Potter: I wondered the same thing. There is not anything under two and also on page four this section does not require retail establishment to make any physical changes.

Vice Chairman Kasper: Are you aware of any circumstances in North Dakota where an employer has refused access to anyone for a condition like this or any other condition.

Potter: I'm not aware of any.

Chairman Keiser: As you read retail establishment, I wonder who doesn't it include?

Potter: Number B would somewhat pertain to that they have to have three or more employees.

Representative Nottestad: Testifies to support Representative Potter and explain the situation about a girl in his school who endured Crohn's Disease.

David Boeck~Protection & Advocacy Project. In paragraph two A, on line 21, it says a "customer suffering from", I don't think suffer is the word you want to use. You need to say "who has a eligible medical condition". The other point I want to make, most filling stations have toilets. I think paragraph C on line one on the second page should not be included because of paragraph E. They say the same thing. I could call someone in Illinois and find out how this interacts with the ADA.

Representative Ruby: If you are going to make major renovations, I guess I would want clarification under ADA, would need wheelchair accessible anyway because you are now allowing some access to the public?

Boeck: I don't clearly understand, are you saying that the remodeling would be to the store or just remodeling the restroom?

Representative Ruby: Either or.

Boeck: If you are remodeling the store, regular ADA rules would apply. Remodeling the restroom, you wouldn't spend enough money to trigger the ADA requirement.

Chairman Keiser: If hired somebody and are wheelchair bound, am I obligated to provide bathroom facilities for them?

Boeck: If it's burdensome, yes you would.

Vice Chairman Kasper: I would like the ADA language because I'm carrying this on the floor and I want to answer the question right.

Boeck: I will take a look and get back to you.

Veronic Zietz~Executive Director at The Arc of Bismarck. See testimony attachment 1.

Representative N Johnson: How would you let a retail know, they could be lying or not?

Zietz: Don't think people will lie about this.

Anyone here to testify in opposition, neutral of HB 1258?

Mike Rudd~Represent the North Dakota Retail Association as their President. I would be hard pressed for any retailer in North Dakota, if someone in urgent need of a bathroom and ask what disease they had.

Closes the hearing on HB 1258.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1258

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 20, 2009

Recorder Job Number: 7301

Committee Clerk Signature



Chairman Keiser: Opened the committee work session on HB 1258.

Chairman Keiser: Do we want to wait for Dave's report or take action.

What are the wishes?

Vice Chairman Kasper: Move a Do Pass

Representative Ruby: Second

Roll call was taken with 6 yea's, 6 nay's, 1 absent with Vice Chairman Kasper the carrier.

Chairman Keiser: Motion fails, is there another motion?

Representative N Johnson: Move an amendment.

Representative Schneider: Second

Representative N Johnson: Withdraws motion.

Chairman Keiser: Do we have a new motion to amend?

Representative N Johnson: Moves a new amendment

Representative Schneider: Second

In favor all ayes.

Vice Chairman Kasper: Further amend.

Representative N Johnson: Second.

In favor all ayes.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution No. 1258

Hearing Date: January 20, 2009

Representative Clark: Moves a do pass as amended.

Representative Gruchalla: Second.

Roll call was taken with 7 yea's, 6 nay's, 0 absent and Representative Clark is the carrier.

January 20, 2009

VR
1/20/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1258

Page 1, line 2, remove "; and to provide a penalty"

Page 1, line 4, remove "**Penalty**"

Page 1, line 21, replace "suffers from" with "claims to have"

Page 2, remove lines 18 through 20

Renumber accordingly

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1258

House House, Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass As Amended

Motion Made By Kasper Seconded By Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman		✗
Vice Chairman	✓		Representative Boe	✗	
Representative Clark		✓	Representative Gruchalla		✗
Representative N Johnson		✗	Representative Schneider		✗
Representative Nottestad		✗	Representative Thorpe		
Representative Ruby	✗				
Representative Sukut	✗				
Representative Vigesaa	✗				

Total (Yes) 6 No 6

Absent 1

Floor Assignment Vice ch Kasper

If the vote is on an amendment, briefly indicate intent:

Date: Jan 20 - 2009
Roll Call Vote # 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1258

House House, Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass As Amended

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		x	Representative Amerman	x	
Vice Chairman <u>Kasper</u>		x	Representative Boe		x
Representative Clark	y		Representative Gruchalla	y	
Representative N Johnson	x		Representative Schneider	x	
Representative Nottestad	y		Representative Thorpe	x	
Representative Ruby		y			
Representative Sukut		x			
Representative Vigesaa		x			

Total (Yes) 7 No 6

Absent 0

Floor Assignment Rep Clark

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1258: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (7 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1258 was placed
on the Sixth order on the calendar.

Page 1, line 2, remove "; and to provide a penalty"

Page 1, line 4, remove "**- Penalty**"

Page 1, line 21, replace "suffers from" with "claims to have"

Page 2, remove lines 18 through 20

Renumber accordingly

2009 SENATE HUMAN SERVICES

HB 1258

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1258

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 3/18/09

Recorder Job Number: 11172, 11174

Committee Clerk Signature

Mary K Monson

Minutes:

Senator J. Lee opened the hearing on HB 1258 to provide individuals having medical conditions reasonable restroom access in retail establishments.

Representative Louise Potter (District 17) introduced HB 1258. She explained that HB 1258 has to do with Crohn's disease and is modeled directly from an Illinois statute known as Ally's Law. Crohn's disease is an auto immune disease. It is an inflammatory bowel disease.

She explained that two of the predominant symptoms are diarrhea and intestinal cramping. She walked the committee through all parts of the bill. She was asked by a family in Grand Forks to present this bill.

Senator Heckaman referred to page 1, lines 23-24, and said in her rural areas it would be an issue. There are places that don't have public restrooms and don't have three or more people working at the same time. She asked if there was thought on this bill to maybe allow the physician to write some kind of a note to the family to take with them rather than change the law.

Rep. Potter thought the people do have something they carry with them. A business with only one person working would have the option to say "no".

She reported that she had asked the family if their daughter had been denied access to a restroom and they said she had been.

Senator J. Lee was thinking the three or more employees was a safety factor.

Senator Erbele asked if this is a law without a penalty.

Rep. Potter replied that it started out with a penalty but it was taken out.

Senator J. Lee thought there might be some worth in talking about having something from the doctor.

(Meter 11:58) Topics of discussion: notifying all businesses, regulating common decency, safety risks, and exempting certain structures.

Senator J. Lee asked what other states besides Illinois have passed this.

Rep. Potter said she would provide the committee with a map tracking the progress of Ally's Law. This was later provided. Attachment #2

Veronica Zietz (Executive Director, The Arc of Bismarck) testified in support of HB 1258. Attachment #1

Senator J. Lee asked if there are digestive conditions and diseases that are actually considered disabilities.

Ms. Zietz answered that, looking at the ADA Act, things that limit major life activities are usually considered disabilities.

Senator J. Lee – the word disability has a different connotation than disease or condition. She pointed out that ADA compliance is a different deal than just being polite to people that have a problem.

Ms. Zietz said the “any other medical conditions” in section 1 would be interpreted as certain disabilities.

Senator J. Lee said there are legal protections for people with recognized disabilities that are different from what might be done in a more informal fashion to accommodate people who have a problem.

Senator Dever asked Ms. Zietz if she knew if newly constructed retail establishments are required to have a public restroom.

Ms. Zietz thought it might depend on the size of the establishment.

David Boeck (Lawyer for the Protection and Advocacy Project) did not have written testimony but had answers to some of the questions asked by the committee.

The reason for three or more employees is because of a concern about security.

MN's bill is different in that a person has to present documentation that they have the disorder.

He didn't have the answer for why it does not include an establishment of 800 square feet.

He didn't know if newly establishments were required to have public restrooms. The ADA requires that, in terms of bathrooms being accessible, a facility built after January 26, 1993 must be completely accessible which would include both a public and an employee restroom.

This also applies to significant remodeling projects.

Senator J. Lee pointed out that she didn't see anything about documentation. The only thing she saw was that they amended out the penalty.

Mr. Boeck thought they had changed something on the first page.

There was discussion on the House changes. Mr. Boeck said the House committee was troubled by the penalty clause.

Senator J. Lee asked Mr. Boeck what he thought of the idea that someone might find they have an excuse to not provide service because they only have two people working where

otherwise they might have accommodated them.

Mr. Boeck thought that would be unlikely to happen. He didn't think this bill would change a person's attitude toward someone who is desperate to use a restroom.

Senator J. Lee said a good thing about the bill is there isn't any civil liability for the establishment.

Mike Rud (ND Retail Association) spoke in response to the question posed by **Senator Dever**. After 1993 a facility is required to have public restrooms if they are a certain size. He didn't know anything about the 800 square foot exemption and didn't think it was helpful to anyone. He didn't think this type of language was needed in North Dakota.

Senator Dever suggested that if businesses feel imposed on by regulation then there might be some push back.

Senator J. Lee suggested that if retail businesses recognize this kind of situation and try to be helpful it might be less onerous than legislation.

Mr. Rud agreed and said that anyone who runs an establishment probably already has this in place.

Bonnie Staiger (National Federation of Independent Business) reported that NFIB members who serve in the House of Representatives had lingering concerns when this went through that chamber. She felt that the old adage, "You can't legislate common courtesy and common sense", might apply here. A model bill that is suitable for a state like Minnesota or Illinois might not necessarily be the best fit for North Dakota. The organizations that represent small business could make a concerted effort to educate their members on the importance of being courteous to customers that have a need. Other issues remain on the bill such as security and safety. She felt it was a solution looking for a problem and requested a Do Not Pass.

There was no neutral testimony.

The hearing on HB 1258 was closed.

Job #11174

There was committee feeling that they were getting into an area that they don't need to legislate.

Senator Dever felt that if they did something with the bill they should remove the requirement that they provide access and leave immunity from liability as encouragement for them to do it.

He was okay with a do not pass, also.

Points of discussion (1) educating businesses to be responsive to those with needs, (2) liability issues, (3) enforcement.

Senator Heckaman moved a **Do Not Pass**.

Second by **Senator Dever**.

Roll call vote 6-0-0. **Motion carried**.

Carrier is Senator Heckaman.

Additional information – attachment #3

Date: 3/18/09

Roll Call Vote #: _____

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1258

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Rerefer to Appropriations
 Adopt Amendment Reconsider

Motion Made By Sen. Heckaman Seconded By Sen. Dever

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais	✓	
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Heckaman

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 18, 2009 2:05 p.m.

Module No: SR-49-5246
Carrier: Heckaman
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1258, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1258 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1258



The Arc of Bismarck

1211 Park Avenue
Bismarck, ND 58504
Phone/Fax: 701-222-1854
arcbis@midconetwork.com
www.thearcofbismarck.org

Testimony of Support House Bill No. 1258 January 20, 2009

5

Good morning Chairman and members of the Industry, Business, and Labor Committee. My name is Veronica Zietz (#166); I am the Executive Director at The Arc of Bismarck and am here today representing The Arc of Bismarck and The Arc of Cass County.

I support House Bill No. 1258 because it would allow a very reasonable accommodation to individuals who have certain disabilities, conditions, or diseases. This bill would provide individuals with accessibility to restrooms in retail businesses and other public establishments, which do not currently provide public restrooms.

It is estimated that between 60 and 70 million people in the United States suffer from different types of digestive disorders. The language of this bill lists specific conditions which are included in this startling statistic. Often times individuals with one of these conditions must have immediate access to a restroom.

This basically indicates that individuals, who suffer from any of these conditions, may not patronize many local businesses or establishments or even leave their homes for fear of inaccessibility to a restroom. Without accessibility to restrooms many individuals are afraid to leave their homes for fear of personal health problems and embarrassment. This severely limits major life activities; sometimes those that are even the most basic, such as paying their own bills, buying their own groceries, and being able to run errands. These are daily activities that many of us take for granted. By supporting this bill you would be allowing many individuals the freedom from worry of a condition that they live with every day. Please consider showing your support to many individuals in our community who live with digestive diseases, conditions, and disabilities by supporting this bill.

Thank you for your time and attention.

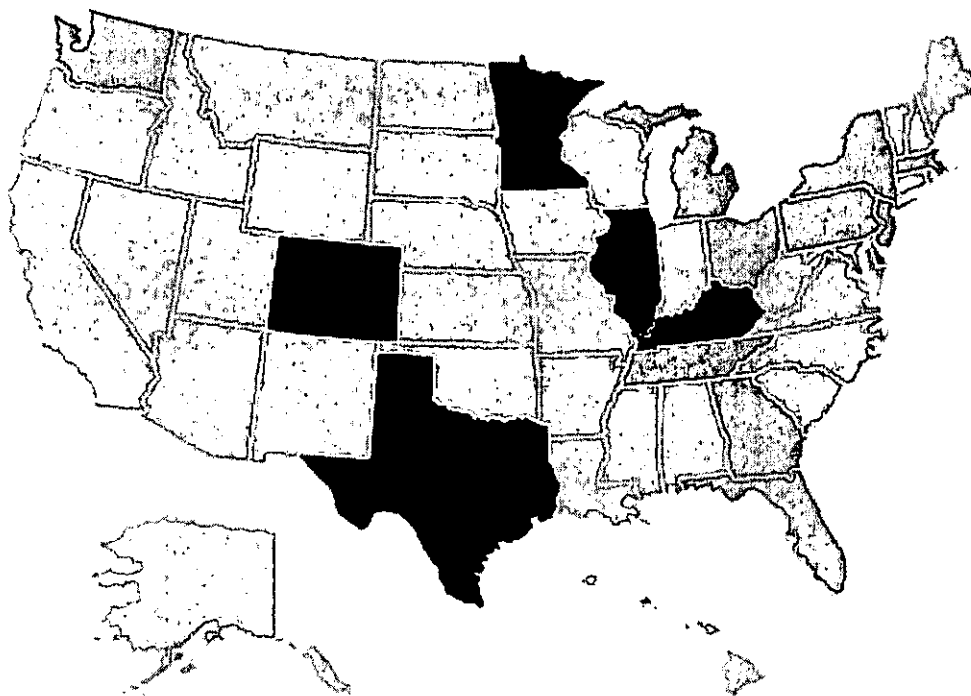


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Ally's Law Tracker

We'll be working hard to get the Restroom Access Act passed in all 50 states. Use this map to track the law's progress in each state. If a bill is pending in your state, [click here](#) to send a letter to your state representatives now.



- Bill passed
- Bill pending
- No bill introduced

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The Arc of Bismarck

1211 Park Avenue
Bismarck, ND 58504
Phone/Fax: 701-222-1854
arcbis@midconetwork.com
www.thearcofbismarck.org

#1

Testimony of Support House Bill No. 1258 March 18, 2009

Good morning Chairman Lee and members of the Human Services Committee. My name is Veronica Zietz (#166); I am the Executive Director at The Arc of Bismarck and am here today representing The Arc of Bismarck and The Arc of Cass County. The Arc is a non-profit organization focused on providing education, advocacy and supports to adults and children with disabilities to foster empowerment and full inclusion in the community.

I support House Bill No. 1258 because it would allow a very reasonable accommodation to individuals who have certain disabilities, conditions, or diseases. This bill would provide individuals with accessibility to restrooms in retail businesses and other public establishments, which do not currently provide public restrooms.

It is estimated that between 60 and 70 million people in the United States have different types of digestive disorders and disabilities. The language of this bill lists specific conditions which are included in this startling statistic. Often times individuals with one of these conditions must have immediate access to a restroom.

This basically indicates that individuals, who have any of these conditions, may not patronize many local businesses or establishments or even leave their homes for fear of inaccessibility to a restroom. Without accessibility to restrooms many individuals are afraid to leave their homes for fear of personal health problems and embarrassment. This severely limits major life activities; sometimes those that are even the most basic, such as paying their own bills, buying their own groceries, and being able to run errands. These are daily activities that many of us take for granted. By supporting this bill you would be allowing many individuals the freedom from worry of a condition that they live with every day. Please consider showing your support to many individuals in our community who live with digestive diseases, conditions, and disabilities by supporting this bill.

Thank you for your time and attention.

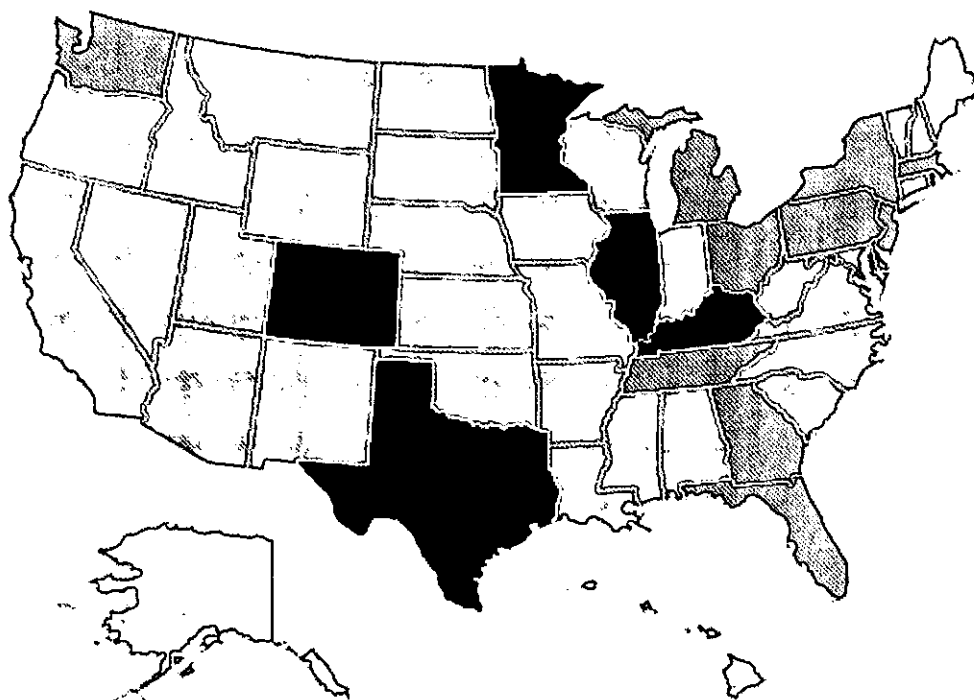


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- Bill passed
- Bill pending
- No bill introduced

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1258

#3

Potter, Louise S.

From: jucugause@aol.com
Sent: Tuesday, March 17, 2009 9:10 PM
To: Potter, Louise S.
Subject: KARLEIGH GAUSE Restroom Access Bill

Dear Senators,

My name is Karleigh Gause and I live in Grand Forks, ND. I am a 10 year old child that deals with Crohn's disease every day. Most of the time I deal with stomach aches and I need to use the bathroom frequently. There are times when I need to use a store bathroom when I am with my parents. I feel relived that I know I can use a public restroom when I need it. My disease causes me to need restrooms available where ever I am. Please pass the restroom bill so that I don't need to worry about using private restrooms. Hopefully this will help other people like me with Crohn's.

Sincerely,

Karleigh Gause
West Elementary
Grand Forks, ND

Weezy, This is it....right from Karleigh!
Hope this passes!

Karleigh Gause

The Average US Credit Score is 692. See yours in just 2 easy steps!