



Rep. Theresa Mah

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10400HB4760ham001

LRB104 18656 TRT 36685 a

1 AMENDMENT TO HOUSE BILL 4760

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4760 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 to do 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 (410 ILCS 37/10)

21 Sec. 10. Temporary restroom facility.

22 (a) Within 6 months after the Department of Public Health  
23 adopts rules under this Act, the owner or the owner's  
24 representative of a temporary building or building under  
25 construction that is not yet occupied for its intended purpose

1 shall comply with paragraphs (2) and (3) of subsection (b) of  
2 this Section.

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

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

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

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

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

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

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

11 (3) Hand cleansing units shall be provided.

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

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

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

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

22 (410 ILCS 37/10.5 new)

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

25 (a) Within 6 months after the Department of Public Health

1 adopts rules under this Act, employers in the construction  
2 industry shall comply with this Section.

3 (b) Employers in the construction industry shall provide  
4 their workers who menstruate and are performing construction  
5 activities on a construction site with the following minimum  
6 sanitary conditions:

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

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

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

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

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

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

21 (B) located, for construction sites with 10 or  
22 more workers, in bathrooms that are designated for  
23 workers who menstruate and that are marked with  
24 exterior signage that identifies the individuals who  
25 shall have access; or

26 (C) provided in kits for each employee who needs

1           the products.

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

5           (c) Employers in the construction industry shall provide  
6 their workers who are lactating and performing construction  
7 activities on a construction site with reasonable  
8 accommodations upon request as needed to express breast milk  
9 unless doing so constitutes an undue hardship. Minimum  
10 reasonable accommodations shall comply with this Section and  
11 the Nursing Mothers in the Workplace Act. Reasonable  
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) milk expression equipment and a convenient water  
23 source, for the employee to clean and wash hands, which is  
24 located in a private location near the location where the  
25 breast milk is expressed.

26           (d) On multiemployer construction sites, each employer is

1 responsible for ensuring that facilities for their own  
2 employees are provided either directly or through agreement  
3 with the prime contractor or the owner's representative of a  
4 temporary building or building under construction.

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

1       (f) On or before January 1, 2027, the Department of Public  
2 Health, in consultation with the Department of Human Rights,  
3 shall adopt rules concerning reasonable accommodations under  
4 this Section, including what constitutes an undue hardship on  
5 an employer that would prevent accommodation. The  
6 administrative rules shall consider any impact on small  
7 businesses as required by Section 5-30 of the Illinois  
8 Administrative Procedure Act.

9           (410 ILCS 37/15)

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

16       Retaliation by employers is prohibited. It is unlawful for  
17 any employer to threaten to take or to take any adverse action  
18 against an employee because the employee:

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

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

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

25       It is unlawful for any employer to consider the need for a

1 lactation or a menstruation accommodation by an employee as a  
2 negative factor in any employment action that involves hiring,  
3 evaluating, promoting, disciplining, terminating, or  
4 laying-off of the employee.

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

6 (410 ILCS 37/20)

7 Sec. 20. Penalty.

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

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

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

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

1 (410 ILCS 37/25 new)

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

8 Section 99. Effective date. This Act takes effect January  
9 1, 2027.".