

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 to do 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 (410 ILCS 37/10)

14 Sec. 10. Temporary restroom facility.

15 (a) Within 6 months after the Department of Public Health
16 adopts rules under this Act, the owner or the owner's
17 representative of a temporary building or building under
18 construction that is not yet occupied for its intended purpose
19 shall comply with paragraphs (2) and (3) of subsection (b) of
20 this Section.

21 (b) The owner or the owner's representative of a temporary
22 building or building under construction⁷ that is not yet
23 occupied for its intended purpose⁷ shall ensure that employees
24 working on the construction site have access to restroom
25 facilities that ~~which~~ meet the following requirements:

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

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

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

26 (B) For 20 employees or more, one toilet facility

1 and one urinal per 40 workers shall be provided.

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

4 (3) Hand cleansing units shall be provided.

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

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

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

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

15 (410 ILCS 37/10.5 new)

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

18 (a) Within 6 months after the Department of Public Health
19 adopts rules under this Act, employers in the construction
20 industry shall comply with this Section.

21 (b) Employers in the construction industry shall provide
22 their workers who menstruate and are performing construction
23 activities on a construction site with the following minimum
24 sanitary conditions:

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

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

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

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

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

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

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

19 (C) provided in kits for each employee who needs
20 the products.

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

24 (c) Employers in the construction industry shall provide
25 their workers who are lactating and performing construction
26 activities on a construction site with reasonable

1 accommodations upon request as needed to express breast milk
2 unless doing so constitutes an undue hardship. Minimum
3 reasonable accommodations shall comply with this Section and
4 the Nursing Mothers in the Workplace Act. Reasonable
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) milk expression equipment and a convenient water
16 source, for the employee to clean and wash hands, which is
17 located in a private location near the location where the
18 breast milk is expressed.

19 (d) On multiemployer construction sites, each employer is
20 responsible for ensuring that facilities for their own
21 employees are provided either directly or through agreement
22 with the prime contractor or the owner's representative of a
23 temporary building or building under construction.

24 (e) For purposes of this Section, "undue hardship" means
25 an action that is prohibitively expensive or disruptive when
26 considered in light of the following factors: (i) the nature

1 and cost of the accommodation needed; (ii) the overall
2 financial resources of the facility or facilities involved in
3 the provision of the reasonable accommodation, the number of
4 persons employed at the facility, the effect on expenses and
5 resources, or the impact of the accommodation upon the
6 operation of the facility; (iii) the overall financial
7 resources of the employer, the overall size of the business of
8 the employer with respect to the number of its employees, and
9 the number, type, and location of its facilities; and (iv) the
10 type of operation or operations of the employer, including the
11 composition, structure, and functions of the workforce of the
12 employer and the geographic, administrative, or fiscal
13 relationship of the facility or facilities in question to the
14 employer. The employer has the burden of proving undue
15 hardship. The fact that the employer provides or would be
16 required to provide a similar accommodation to similarly
17 situated employees creates a rebuttable presumption that the
18 accommodation does not impose an undue hardship on the
19 employer.

20 (f) On or before January 1, 2027, the Department of Public
21 Health, in consultation with the Department of Human Rights,
22 shall adopt rules concerning reasonable accommodations under
23 this Section, including what constitutes an undue hardship on
24 an employer that would prevent accommodation. The
25 administrative rules shall consider any impact on small
26 businesses as required by Section 5-30 of the Illinois

1 Administrative Procedure Act.

2 (410 ILCS 37/15)

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

9 Retaliation by employers is prohibited. It is unlawful for
10 any employer to threaten to take or to take any adverse action
11 against an employee because the employee:

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

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

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

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

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

24 (410 ILCS 37/20)

1 Sec. 20. Penalty.

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

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

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

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

20 (410 ILCS 37/25 new)

21 Sec. 25. Immunity from liability. An employer that in good
22 faith provides menstrual products in sealed packaging for
23 employee use as required by paragraph (3) of subsection (b) of
24 Section 10.5 of this Act shall not be liable in any civil
25 action for injuries resulting from the use of the product,

1 except for willful or wanton conduct by the employer.

2 Section 99. Effective date. This Act takes effect on
3 January 1, 2027.