

CHAPTER 287

HEALTH AND ENVIRONMENT

HOUSE BILL 08-1167

BY REPRESENTATIVE(S) Frangas, Garza-Hicks, Green, Kefalas, Madden, McFadyen, McGihon, Merrifield, Middleton, Solano, Stafford, Todd, and Labuda;
also SENATOR(S) Boyd.

AN ACT

CONCERNING SPECIALIZED LEGAL PROTECTIONS FOR CERTAIN MEMBERS OF VULNERABLE POPULATION GROUPS, AND, IN CONNECTION THEREWITH, PROHIBITING CERTAIN CONDUCT WITH RESPECT TO THE GUARANTEED ISSUE OF A MEDICARE SUPPLEMENT POLICY FOR DISABLED PERSONS, CREATING A WORKING GROUP TO STUDY HEALTH CARE ISSUES FOR VULNERABLE POPULATIONS, REQUIRING CERTAIN RETAIL ESTABLISHMENTS TO PROVIDE TOILET FACILITIES TO CUSTOMERS WHO SUFFER FROM CERTAIN MEDICAL CONDITIONS, AND REQUIRING THE CONDUCT OF DEVELOPMENTAL SCREENINGS AND ASSESSMENTS FOR CERTAIN CHILDREN RECEIVING WELFARE SERVICES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 10-16-108 (3), Colorado Revised Statutes, is amended to read:

10-16-108. Conversion and continuation privileges. (3) Continuation of policies and group service contracts - reduction in hours of work. Every group policy or group service contract delivered or issued for delivery in this state by an insurer subject to the provisions of part 2 of this article or by an entity subject to the provisions of part 3 or 4 of this article that covers full-time employees working forty or more hours per week shall contain a provision that the policyholder may elect to contract with the insurer or other entity to continue such policy or contract under the same conditions and for the same premium for such employees and their dependents even if the policyholder or employer reduces the working hours of such employees to less than thirty hours per week, if the following conditions are met:

(a) The covered employee ~~has been continuously~~ IS employed as a full-time employee of the policyholder or employer and ~~has been~~ IS insured under the group policy or group service contract, or under any group policy or group service contract providing similar benefits which said group policy or group service contract replaces, ~~for at least six months~~ immediately prior to such reduction in working

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

hours;

(b) The policyholder has imposed such reduction in working hours due to economic conditions OR THE REDUCTION OF HOURS IS DUE TO THE EMPLOYEE'S INJURY, DISABILITY, OR CHRONIC HEALTH CONDITIONS; and

(c) The policyholder intends to restore the employee to a full forty-hour work schedule as soon as economic conditions improve OR AS SOON AS THE EMPLOYEE IS ABLE TO RETURN TO FULL-TIME WORK.

SECTION 2. 10-18-103 (2) (b), Colorado Revised Statutes, is amended, and the said 10-18-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

10-18-103. Standards for policy provisions - guarantee issue. (2) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of medicare supplement policies and certificates. Such standards shall be in addition to and in accordance with all applicable laws under this title. No requirement of this title relating to minimum required policy benefits, other than the minimum standards contained in this article, shall apply to medicare supplement policies. The standards shall include, but need not be limited to:

(b) Initial and subsequent conditions of eligibility, WHICH SHALL INCLUDE THE GUARANTEED ISSUE REQUIREMENTS IN SUBSECTION (5) OF THIS SECTION;

(5) THE GUARANTEED ISSUE PERIOD FOR A MEDICARE SUPPLEMENT POLICY SHALL NOT BE FOR LESS THAN SIX MONTHS AFTER A PREVIOUS POLICY HAS BEEN INVOLUNTARILY TERMINATED FOR REASONS OTHER THAN NONPAYMENT OF PREMIUMS, OR FOR FRAUD OR ABUSE.

SECTION 3. Title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 41
Restroom Access Act

25-41-101. Restroom access - short title - definitions - retail establishments - liability - penalty. (1) THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "RESTROOM ACCESS ACT".

(2) AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CUSTOMER" MEANS AN INDIVIDUAL WHO IS LAWFULLY ON THE PREMISES OF A RETAIL ESTABLISHMENT.

(b) "ELIGIBLE MEDICAL CONDITION" MEANS CROHN'S DISEASE, ULCERATIVE COLITIS, ANY OTHER INFLAMMATORY BOWEL DISEASE, IRRITABLE BOWEL SYNDROME, OR ANY OTHER MEDICAL CONDITION THAT REQUIRES IMMEDIATE ACCESS TO A TOILET FACILITY.

(c) "RETAIL ESTABLISHMENT" MEANS A PLACE OF BUSINESS OPEN TO THE

GENERAL PUBLIC FOR THE SALE OF GOODS OR SERVICES. "RETAIL ESTABLISHMENT" DOES NOT INCLUDE A FILLING STATION OR SERVICE STATION THAT HAS AN ENCLOSED FLOOR AREA OF EIGHT HUNDRED SQUARE FEET OR LESS AND THAT HAS AN EMPLOYEE TOILET FACILITY LOCATED WITHIN THAT ENCLOSED FLOOR AREA.

(3) A RETAIL ESTABLISHMENT THAT HAS A TOILET FACILITY FOR ITS EMPLOYEES SHALL ALLOW A CUSTOMER TO USE THE TOILET FACILITY DURING NORMAL BUSINESS HOURS IF THE TOILET FACILITY IS REASONABLY SAFE AND ALL OF THE FOLLOWING CONDITIONS ARE MET:

(a) THE CUSTOMER REQUESTING THE USE OF THE EMPLOYEE TOILET FACILITY SUFFERS FROM AN ELIGIBLE MEDICAL CONDITION OR UTILIZES AN OSTOMY DEVICE AND OFFERS A PHYSICIAN'S NOTE INDICATING THE ELIGIBLE MEDICAL CONDITION OR DEVICE;

(b) THREE OR MORE EMPLOYEES OF THE RETAIL ESTABLISHMENT ARE WORKING AT THE TIME THE CUSTOMER 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 CUSTOMER OR AN OBVIOUS SECURITY RISK TO THE RETAIL ESTABLISHMENT; AND

(d) A PUBLIC RESTROOM IS NOT IMMEDIATELY ACCESSIBLE TO THE CUSTOMER.

(4) A RETAIL ESTABLISHMENT OR AN EMPLOYEE OF A RETAIL ESTABLISHMENT IS NOT CIVILLY LIABLE FOR ANY ACT OR OMISSION IN ALLOWING A CUSTOMER THAT HAS AN ELIGIBLE MEDICAL CONDITION TO USE AN EMPLOYEE TOILET FACILITY THAT IS NOT A PUBLIC RESTROOM IF THE ACT OR OMISSION:

(a) IS NOT WILLFUL OR GROSSLY NEGLIGENT;

(b) OCCURS IN AN AREA OF THE RETAIL ESTABLISHMENT THAT IS NOT ACCESSIBLE TO THE PUBLIC; AND

(c) RESULTS IN INJURY TO OR DEATH OF THE CUSTOMER OR ANY INDIVIDUAL OTHER THAN AN EMPLOYEE ACCOMPANYING THE CUSTOMER.

(5) THIS ARTICLE SHALL NOT BE CONSTRUED TO REQUIRE A RETAIL ESTABLISHMENT TO MAKE ANY PHYSICAL CHANGES TO AN EMPLOYEE TOILET FACILITY.

(6) A RETAIL ESTABLISHMENT OR AN EMPLOYEE OF A RETAIL ESTABLISHMENT THAT VIOLATES THIS ARTICLE IS GUILTY OF A PETTY OFFENSE AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS.

SECTION 4. Article 5 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-5-108. Developmental assessment - rules. THE APPROPRIATE COUNTY DEPARTMENT OF HUMAN SERVICES SHALL REFER EACH CHILD UNDER FIVE YEARS OF

AGE WHO IS THE SUBJECT OF A SUBSTANTIATED CASE OF ABUSE OR NEGLECT TO THE APPROPRIATE STATE OR LOCAL AGENCY FOR DEVELOPMENTAL SCREENING WITHIN SIXTY DAYS AFTER ABUSE OR NEGLECT HAS BEEN SUBSTANTIATED. THE STATE BOARD SHALL PROMULGATE RULES TO IMPLEMENT THIS SECTION.

SECTION 5. Part 1 of article 10.5 of title 27, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

27-10.5-141. Retaliation prohibited. NO PERSON SHALL BE DISCRIMINATED AGAINST BECAUSE HE OR SHE HAS MADE A COMPLAINT, TESTIFIED, ASSISTED, OR PARTICIPATED IN ANY MANNER IN AN INVESTIGATION, PROCEEDING, OR HEARING PURSUANT TO THIS ARTICLE, INCLUDING THE DISPUTE RESOLUTION PROCEDURES IN SECTION 27-10.5-107. A SERVICE AGENCY, INCLUDING THE DEPARTMENT AND ANY COMMUNITY CENTERED BOARD, SHALL NOT COERCE, INTIMIDATE, THREATEN, OR INTERFERE WITH ANY INDIVIDUAL IN THE EXERCISE OR ENJOYMENT OF ANY RIGHT PURSUANT TO THIS ARTICLE, OR ON ACCOUNT OF HIS OR HER HAVING EXERCISED OR ENJOYED ANY RIGHT PURSUANT TO THIS ARTICLE, OR ON ACCOUNT OF HIS OR HER HAVING AIDED OR ENCOURAGED ANY OTHER INDIVIDUAL IN THE EXERCISE OR ENJOYMENT OF ANY RIGHT PURSUANT TO THIS ARTICLE.

SECTION 6. Section 30 (1) of House Bill 08-1061, enacted at the Second Regular Session of the Sixty-sixth General Assembly, is amended to read:

Section 30. **Effective date.** (1) This act shall take effect January 1, 2009; EXCEPT THAT SECTIONS 10 AND 11 SHALL TAKE EFFECT JULY 1, 2009.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 27, 2008