HOUSE DOCKET, NO. 2917 FILED ON: 1/21/2011

HOUSE . . . . . No. 2366

The Commonwealth of Massachusetts

PRESENTED BY:

Louis L. Kafka

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to public access of private restrooms.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Louis L. Kafka	*8th Norfolk*
Alice K. Wolf	*25th Middlesex*
George T. Ross	*2nd Bristol*
Cory Atkins	*14th Middlesex*
Sarah K. Peake	*4th Barnstable*
Cynthia S. Creem	☐ *[District]* ☐
Patricia D. Jehlen	☐ *[District]* ☐
Kathi-Anne Reinstein	*16th Suffolk*
William C. Galvin	*6th Norfolk*
James E. Timilty	☐ *[District]* ☐

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By Mr. Kafka of Stoughton, a petition (accompanied by bill, House, No. 2366) of Louis L. Kafka and others relative to public access of private restrooms. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *2074* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act relative to public access of private restrooms.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1. Chapter 270 of the Massachusetts General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding at the end thereof the following section:

Section 24. (a). Definitions- "customer" shall mean an individual who is lawfully on the premises of a retail establishment;"eligible medical condition" shall mean Crohn's disease or ulcerative colitis; or any other medical condition that requires immediate access to a restroom facility;

"retail establishment" shall mean any business or place where members of the public have access as invitees or licenses.

(b). A retail establishment that has a restroom facility for its employees shall allow a customer to use that facility during normal business hours if the following conditions are met:

(1) The customer requesting the use of the employee restroom facility suffers from an eligible medical condition or uses an ostomy device, provided that the existence of the condition or device is documented in writing by the customer's physician;

(2) two or more employees of the retail establishment are working at the time the customer requests use of the employee restroom facility;

(3) the retail establishment does not normally make a restroom available to the public;

17 (4) the employee restroom facility is not located in an area where providing access would
18 create an obvious health or safety risk to the customer or an obvious security risk to the
19 establishment.

20 (c). A retail establishment or an employee of a retail establishment is not civilly liable for
21 an act or omission in allowing a customer who claims to have an eligible medical condition to
22 use an employee restroom facility that is not a public restroom if the act or omission is not
23 negligent and occurs in an area of the retail establishment that is not generally accessible to the
24 public and results in an injury to, or death of, the customer or individual, other than an employee,
25 accompanying the customer.

26 (d). This section does not require a retail establishment to make any physical changes or
27 improvements to an employee restroom facility located on the premises.

28 (e). A violation of this section shall for the first offense be punished by a fine of one
29 hundred dollars. A second or subsequent offense shall not be less than one hundred nor more
30 than two hundred dollars.