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HOUSE BILL 205

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

G. Andrés Romero

AN ACT

RELATING TO PUBLIC RESTROOMS; REQUIRING THAT BABY CHANGING FACILITIES BE EQUALLY AVAILABLE TO MEN AND WOMEN IN RESTROOMS IN A PLACE OF PUBLIC ACCOMMODATION; PROVIDING FOR FINES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. ~~[NEW MATERIAL]~~ EQUAL ACCESS TO PUBLIC BABY CHANGING FACILITIES.--

A. As used in this section:

(1) "baby changing facility" means a table or other device suitable for changing the diaper of a child age three or under;

(2) "division" means the construction industries division of the regulation and licensing department; and

(3) "public accommodation" means:

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1 (a) an inn, hotel, motel or other place
2 of lodging except for an establishment that is located within a
3 building that contains not more than five rooms for rent or
4 hire and that is actually occupied by the proprietor of such
5 establishment as a residence;

6 (b) a restaurant, bar or other
7 establishment serving food or drink;

8 (c) a motion picture house, theater,
9 concert hall, stadium or other place of exhibition or
10 entertainment;

11 (d) an auditorium, convention center,
12 lecture hall or other place of public gathering;

13 (e) a bakery, grocery store, clothing
14 store, shopping center or other sales or rental establishment;

15 (f) a laundromat, bank, barber shop,
16 beauty shop, travel service, funeral parlor, gas station,
17 office of an accountant or lawyer, pharmacy, insurance office,
18 professional office of a health care provider, hospital or
19 other service establishment;

20 (g) a terminal, depot or other station
21 used for public transportation;

22 (h) a museum, library, gallery or other
23 place of public display or collection;

24 (i) a park, zoo, amusement park or other
25 place of recreation;

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1 (j) a nursery, elementary, secondary,
2 undergraduate or postgraduate school or other place of
3 education;

4 (k) a daycare center, senior citizen
5 center, homeless shelter, food bank, adoption agency or other
6 social service center establishment; and

7 (l) a gymnasium, health spa, bowling
8 alley, golf course or other place of exercise or recreation.

9 B. No later than January 1, 2020, the division
10 shall develop and adopt rules governing baby changing
11 facilities for restrooms in a place of public accommodation.

12 C. A place of public accommodation shall provide a
13 baby changing facility in restrooms for men and in restrooms
14 for women. This requirement applies only under the following
15 circumstances:

16 (1) when there is construction of a new
17 restroom; and

18 (2) to the extent it may be implemented in
19 compliance with local, state and federal laws regarding access
20 for persons with disabilities and with existing fire, health
21 and safety standards.

22 D. The requirements of Subsection C of this section
23 shall not apply to a restroom in a place of public
24 accommodation that:

25 (1) is not available or accessible for public

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1 use; or

2 (2) contains clear and conspicuous signage
3 indicating where a restroom with a baby changing facility is
4 located on the same floor of such place of public
5 accommodation.

6 E. This section shall not be construed to create a
7 private right of action for failure to comply with the
8 provisions of this section or rules adopted in accordance with
9 this section.

10 F. The division may assess a fine, not to exceed
11 two hundred fifty dollars (\$250), for violation of the
12 provisions of this section or rules adopted in accordance with
13 this section. Fines shall be credited to the current school
14 fund as provided in Article 12, Section 4 of the constitution
15 of New Mexico.