HOUSE BILL 205

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

INTRODUCED BY

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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:

.212104.1
(a) an inn, hotel, motel or other place of lodging except for an establishment that is located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as a residence;

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

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

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

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

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

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

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

(i) a park, zoo, amusement park or other place of recreation;
(j) a nursery, elementary, secondary, undergraduate or postgraduate school or other place of education;

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

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

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

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

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

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

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

(1) is not available or accessible for public
use; or

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

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

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