

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 205

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

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO PUBLIC RESTROOMS; REQUIRING THAT BABY CHANGING FACILITIES BE INCLUDED IN NEW CONSTRUCTION OF ALL RESTROOMS THAT ARE AVAILABLE OR ACCESSIBLE FOR PUBLIC USE IN A PLACE OF PUBLIC ACCOMMODATION AS LIMITED BY DISABILITY ACCESS REQUIREMENTS AND SAFETY STANDARDS; EXCEPTING RESTROOMS WITH CERTAIN SIGNAGE; PROVIDING FOR A PLAN APPROVAL PROCESS; PROVIDING FOR NO PRIVATE RIGHT OF ACTION; PROVIDING FOR ADMINISTRATIVE PENALTY.

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

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

A. 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.

B. A place of public accommodation shall provide a baby changing facility in each restroom located in the place of public accommodation 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.

C. The requirements of Subsection B 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.

D. All drawings, specifications and other submittal documents as to new construction of a place of public

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accommodation shall incorporate the requirements of this section when submitted to the SCORC → ~~division~~ appropriate authority having jurisdiction ← SCORC for plan review. The SCORC → ~~division~~ authority having jurisdiction ← SCORC shall not SCORC → ~~issue a certificate of occupancy~~ approve drawings and submittal documents ← SCORC for new construction of a place of public accommodation unless drawings, specifications and other submittal documents comply with the provisions of this section. SCORC → No certificate of occupancy shall be issued for new construction of a place of public accommodation unless fully compliant with the provisions of this section. ← SCORC

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.

SCORC → ~~F. The division may assess an administrative penalty, not to exceed two hundred fifty dollars (\$250), for violation of the provisions of this section or rules adopted in accordance with this section. Administrative penalties shall be credited to the department to offset the costs of administering the requirements of this section.~~ ← SCORC

SCORC → ~~G.~~ F. ← SCORC As used in this section:

SCORC → (1) "authority having jurisdiction" means the state or a municipality, county or other political subdivision that has a full-service building department employing a full-time certified building official and has permitting, inspection and enforcement authority over the general construction, electrical and mechanical-plumbing trades

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**within its jurisdiction;** ←SCORC

SCORC → ~~(1)~~ (2) ←SCORC "baby changing facility" means a table or other device suitable for changing the diaper of a child age three or under;

SCORC → ~~(2)~~ (3) ←SCORC "department" means the regulation and licensing department;

SCORC → ~~(3)~~ (4) ←SCORC "division" means the construction industries division of the regulation and licensing department; and

SCORC → ~~(4)~~ (5) ←SCORC "public accommodation" means:

(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;

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(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.