

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 205

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

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:

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.

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1 B. A place of public accommodation shall provide a
2 baby changing facility in each restroom located in the place of
3 public accommodation under the following circumstances:

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

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

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

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

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

19 D. All drawings, specifications and other submittal
20 documents as to new construction of a place of public
21 accommodation shall incorporate the requirements of this
22 section when submitted to the division for plan review. The
23 division shall not issue a certificate of occupancy for new
24 construction of a place of public accommodation unless
25 drawings, specifications and other submittal documents comply

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1 with the provisions of this section.

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

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

12 G. As used in this section:

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

16 (2) "department" means the regulation and
17 licensing department;

18 (3) "division" means the construction
19 industries division of the regulation and licensing department;
20 and

21 (4) "public accommodation" means:

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

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1 establishment as a residence;

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

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

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

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

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

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

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

20 (i) a park, zoo, amusement park or other
21 place of recreation;

22 (j) a nursery, elementary, secondary,
23 undergraduate or postgraduate school or other place of
24 education;

25 (k) a daycare center, senior citizen

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1 center, homeless shelter, food bank, adoption agency or other
2 social service center establishment; and

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

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