

**211.395 Use of toilet facilities in public or semipublic building -- Conditions -- Immunity from civil liability.**

- (1) The department shall inform the operator of any public or semipublic building regulated by KRS 211.180 that has a toilet facility for its employees that a person may use that facility during normal business hours if all of the following conditions are met:
  - (a) The person requesting the use of the employee toilet facility provides the public or semipublic building operator with evidence of the person's eligible medical condition including:
    1. A copy of a statement signed by a physician, defined in KRS 311.550, a physician assistant, defined in KRS 311.840, or an advanced practice registered nurse, defined in KRS 314.011, that indicates the person has an eligible medical condition or uses an ostomy device; or
    2. An identification card that is issued by a nationally recognized health organization and that indicates the person has an eligible medical condition or uses an ostomy device;
  - (b) Three (3) or more employees of the public or semipublic building are on the premises at the time the person requests use of the employee toilet facility;
  - (c) The public or semipublic building operator does not normally make a toilet facility available to the public;
  - (d) The employee toilet facility is not located in an area where providing access would create an obvious health or safety risk to the person requesting to use the facility or an obvious risk to the public or semipublic building; and
  - (e) A public toilet facility is not immediately accessible to the person.
- (2)
  - (a) The public or semipublic building operator is not civilly liable for any act or omission in allowing a person that has an eligible medical condition or uses an ostomy device to use an employee toilet facility that is not a public rest room if the act or omission meets the following requirements:
    1. It is not willful or grossly negligent; and
    2. It occurs in an area of the public or semipublic building that is not accessible to the public.
  - (b) The public or semipublic building operator is not civilly liable to any individual accompanying a person with an eligible medical condition or who uses an ostomy device upon the same conditions and requirements as those set forth in subsection (2)(a) of this section.
- (3) The public or semipublic building operator is not required to make any physical changes to an employee toilet facility under KRS 211.394 and this section.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 85, sec. 36, effective July 15, 2010. -- Created 2008 Ky. Acts ch. 23, sec. 2, effective July 15, 2008.