A BILL FOR AN ACT

RELATING TO GENDER EQUITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that achieving complete
gender equity requires that the State address numerous issues of
varying scale. The legislature further finds that article I,
section 3 of the Constitution of the State of Hawaii, states
that "[e]quality of rights under the law shall not be denied or
abridged by the State on account of sex". However, individuals
of all genders continue to face gendered expectations that
perpetuate ingrained gender roles and discourage the full
participation of both women and men inside and outside of their
homes.

The legislature believes that requiring public
establishments to make baby diaper-changing accommodations
equally accessible to men and women will facilitate the full
participation of all individuals inside and outside of their
homes. Accordingly, the purpose of this Act is to require the
equitable provision of baby diaper-changing accommodations in
certain public establishments and facilities.
SECTION 2. Chapter 489, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . BABY DIAPER-CHANGING ACCOMMODATIONS

§489- Definitions. As used in this part:

"Baby diaper-changing accommodation" means a safe, sanitary, and convenient baby diaper-changing station, deck, table, or similar amenity that is installed or placed in a separate, designated location in an establishment subject to the provisions of this part. "Baby diaper-changing accommodation" includes but is not limited to stations, decks, and tables in women's, men's, or unisex family restrooms.

"New establishment" means a place of public accommodation or state building construction that is constructed or substantially modified after December 31, 2020.

"Restroom for public use" means a restroom that is accessible to persons other than employees of the public accommodation in which the restroom is located.

"State building construction" shall have the same meaning as used in section 107-21.
§489- New establishments; criteria and application.

(a) A place of public accommodation or state building construction shall be deemed to be constructed on the earlier of the date a certificate of occupancy is issued or the first date of occupancy for public use, regardless of whether the establishment has obtained a certificate of occupancy in compliance with applicable state and county laws.

(b) A place of public accommodation or state building construction shall be deemed to be substantially modified so as to require compliance with this part upon completion of any reconstruction, rehabilitation, addition, or other improvement of an existing building or facility if:

1. The reconstruction, rehabilitation, addition, or other improvement directly affects more than fifty per cent of the gross floor area occupied by the establishment;

2. The estimated cost of the reconstruction, rehabilitation, addition, or other improvement as set forth in the applicable building permit is at least $50,000; or
(3) The estimated cost of the new construction or renovation of any restroom or restrooms as set forth in the applicable building permit is at least $10,000; provided that no establishment shall be deemed to be substantially modified if no structural changes are made to any existing restroom in the building or facility occupied by the establishment.

§489- Requirement to provide accommodations. (a) On each floor containing restrooms for public use, each new establishment shall be required to provide, at a minimum, the following:

(1) Two baby diaper-changing accommodations that are accessible, one each, by women and men; or

(2) One baby diaper-changing accommodation that is accessible by both women and men.

(b) Each new establishment shall post signage indicating the location of the baby diaper-changing accommodations.

(c) A violation of this section shall constitute an unlawful discriminatory practice.

§489- Construction documents. Construction documents for new establishments shall show whether or not a restroom is a
restroom for public use as defined in this part, and the
location of each baby diaper-changing accommodation within all
restrooms for public use. If a restroom is not shown as a
restroom for public use on the construction documents and,
subsequent to the issuance of the building permit authorizing
the construction or renovation of the restroom, there is a
change in the designation of the restroom to a restroom for
public use, a baby diaper-changing accommodation shall be
provided upon the change of designation.

§489- Hardship exemption. A new establishment shall
not be subject to the provisions of this part if compliance
would create a hardship. Compliance shall be deemed to create a
hardship if:

(1) No reasonable physical option exists for providing
baby diaper-changing accommodations; or

(2) The cost of providing baby diaper-changing
accommodations exceeds ten per cent of the cost of
constructing, purchasing, or substantially modifying
the building or facility.

§489- Violations; private cause of action. Any person
who is injured by an unlawful discriminatory practice under this
part may bring proceedings to enjoin the unlawful discriminatory
practice, and if the judgment is for the plaintiff, the
plaintiff shall be awarded reasonable attorneys' fees, the cost
of suit, and a sum of $100. Any action under this part shall be
subject to the jurisdiction of the district courts as provided
in chapter 604, and may be commenced and conducted in the small
claims division of the district court.

§489- Exclusion from Hawaii civil rights commission.
Notwithstanding any other law to the contrary, this part shall
not be subject to chapter 368 and shall not be enforced by the
Hawaii civil rights commission."

SECTION 3. Section 107-27, Hawaii Revised Statutes, is
amended to read as follows:

"§107-27 Design of state buildings. (a) No later than
one year after the adoption of codes or standards pursuant to
section 107-24(c), the design of all state building construction
shall be in compliance with the Hawaii state building codes,
except state building construction shall be allowed to be
exempted from:

(1) County codes that have not adopted the Hawaii state
building codes;
(2) Any county code amendments that are inconsistent with the minimum performance objectives of the Hawaii state building codes or the objectives enumerated in this part; or

(3) Any county code amendments that are contrary to code amendments adopted by another county.

(b) Exemptions shall include county ordinances allowing the exercise of indigenous Hawaiian architecture adopted in accordance with section 46-1.55.

(c) The State shall consider hurricane resistant criteria when designing and constructing new public schools for the capability of providing shelter refuge.

(d) State building construction shall include baby diaper-changing accommodations pursuant to part of chapter 489."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. New statutory material is underscored.
SECTION 6. This Act shall take effect on January 1, 2021.

INTRODUCED BY: 

Nicole E. Lowen

[Signatures of other legislators]

JAN 2 4 2019
Report Title:
Gender Equity; Baby Diaper-Changing Accommodations.

Description:
Requires all places of public accommodation and state building construction constructed or substantially modified after 12/31/20 to provide baby diaper-changing accommodations that are equally accessible to men and women.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.