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 full achievement of
gender equity requires attention to a wide variety of issues,
both large and small. Full equality of men and women is
enshrined in the letter of the law. However, in daily practice,
all individuals face gendered expectations that, while seemingly
insignificant on their own, act cumulatively to perpetuate
calcified gender roles and to limit the full participation of
both women and men in civil society and family life.

The legislature finds that requiring public establishments
to make baby diaper-changing accommodations equally accessible
to men and women will facilitate the participation of all
individuals in civic and family life. Accordingly, the purpose
of this Act is require 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 which is installed or placed in a separate, designated location in an establishment or use subject to the provisions of this part. Such accommodations may include, but are not limited to, stations, decks, and tables in women's and men's restrooms or unisex family restrooms.

"New establishment or use" means a place of public accommodation that is constructed or substantially modified after June 30, 2019.

"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.

§489- New establishments; criteria and application. (a) A place of public accommodation 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 law.

(b) A place of public accommodation 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 requires more than fifty per cent of the gross floor area occupied by the establishment or use;

(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 or use 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 or use.

§489- Requirement to provide accommodations. (a) Every
new establishment for public use shall be required to provide
baby diaper-changing accommodations in accordance with this
part. Each new establishment for public use shall be required
to provide, at each floor level containing restrooms for public
use, at least one baby diaper-changing accommodation that is
accessible to women and one that is accessible to men, or a
single accommodation accessible to both. Each new establishment
for public use shall provide signage indicating the location of
the baby diaper-changing accommodations.

(b) Violation of this part is an unlawful discriminatory
practice.

§489- Construction documents. Construction documents
for new establishments or uses 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, the restroom shall be a restroom for public use and a baby diaper-changing accommodation shall be provided upon the change of designation.

§489- Hardship exemption. A new establishment for public use 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 decision is for the plaintiff, the plaintiff shall be awarded reasonable attorneys' fees, the cost of suit, and $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. This Act does not affect rights and duties that
matured, penalties that were incurred, and proceedings that were
begun before its effective date.

SECTION 4. This Act shall take effect on July 1, 2019.

INTRODUCED BY: [Signature]
Report Title: Gender Equity; Baby Diaper-changing Accommodations

Description:
Requires all places of public accommodation constructed or substantially modified after June 30, 2019, 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.