

RESOLUTION 10-04-2018 – AS AMENDED

DIGEST

Health and Safety: Diaper Changing Stations in Restaurants

Amends Health and Safety Code Section 118506 to require that all restaurants provide diaper changing stations.

STATEMENT OF REASONS

The Problem: Health & Safety Code section 118506, added by AB 1127 (Calderon), went into effect on January 1, 2018. Section 118506 requires “diaper changing stations” to be installed and maintained in all restaurants “with an occupancy of at least 60 persons.” However, the new requirement only applies to new construction or to renovations that cost \$10,000 or more.

There are many restaurants that seat less than 60 persons that are frequented by families with young children. Many of these facilities already specifically cater to families, by providing children’s menus and highchairs. It is neither sanitary nor safe to change a baby’s diaper on a public restroom floor. In addition, it is not safe to change a baby’s diaper on the sink counter, if there is one, because the baby can fall down onto the floor and become injured. Further, it is neither sanitary nor safe to change a baby’s diaper on the floor within the restaurant’s seating area where food is being served.

The Solution: This resolution would expand existing law to provide one or two diaper changing stations, according to the configuration of the restrooms.

In addition, wall-mounted diaper changing tables are not very expensive. For example, Koala Kare sells a horizontal-wall mounted model for \$210. Requiring diaper changing stations within restaurant restrooms will provide a higher standard of health and safety for the babies, for the parents, and for the restaurants – for very little cost. Moreover, restaurants that provide diaper changing stations are likely to generate more business, which will make up for the initial costs to install the diaper changing stations. As a result, the new requirements in this resolution are not unduly burdensome or unreasonable for all restaurants.

Further, if an existing restroom is too small this resolution allows the local building official to issue a waiver of the requirements of the statute.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Health and Safety Code section 118506 to read as follows:

- 1 § 118506
- 2 (a) (1) A theater or movie house, grocery store, health facility, convention center, sports
- 3 arena, auditorium, cultural complex, exhibition hall, library, passenger terminal, permanent
- 4 amusement park structure, ~~restaurant with an occupancy of at least 60 persons,~~ as determined by
- 5 the State Fire Marshal, shopping center of more than 25,000 square feet, tourist attraction, or
- 6 retail store of more than 5,000 square feet shall install and maintain at least one baby diaper

7 changing station if the facility is open to the public. There shall be at least one safe, sanitary,
8 convenient, and publicly accessible baby diaper changing station that is accessible to women
9 entering a restroom provided for use by women and one that is accessible to men entering a
10 restroom provided for use by men, or for a single-user, all-gender restroom, at least one safe,
11 sanitary, convenient, and publicly accessible baby diaper changing station ~~that is accessible to~~
12 ~~both men and women.~~

13 (2) (A) All restaurants open to the public shall install and maintain at least one baby
14 diaper changing station. There shall be at least one safe, sanitary, convenient, and publicly
15 accessible baby diaper changing station that is accessible to women entering a restroom provided
16 for use by women and one that is accessible to men entering a restroom provided for use by men,
17 or for a single-user, all-gender restroom, at least one safe, sanitary, convenient, and publicly
18 accessible baby diaper changing station.

19 (B) If the structure is of such a configuration that it is either too small or unable to
20 accommodate the installation of a diaper changing station, then the local building official may,
21 upon application by the party affected, issue a waiver of the requirement of (a)(2).

22 (b) This section does not apply to an industrial building or to a nightclub or bar that does
23 not permit anyone who is under 18 years of age to enter the premises. This section also does not
24 apply to a restroom located in a health facility if the restroom is intended for the use of one
25 patient or resident at a time.

26 ~~(b c)~~ This section shall not be enforceable by a private right of action.

27 ~~(e d)~~ (1) Subdivision (a)(1) applies to all new construction, and, except as otherwise
28 provided in paragraph (2), to all renovations of bathrooms for which a permit has been obtained,
29 in which the estimated cost of the new construction or renovation is ten thousand dollars
30 (\$10,000) or more. If an entity subject to subdivision (a) is already in compliance with that
31 subdivision at the time of new construction or renovation, additional restrooms equipped with
32 baby diaper changing stations are not required.

33 (2) Subdivision (a) does not apply to a renovation if a local building permitting entity or
34 building inspector determines that the installation of a baby diaper changing station is not
35 feasible or would result in a failure to comply with applicable building standards governing the
36 right of access for persons with disabilities. The permitting entity or building inspector may grant
37 an exemption from the requirements of subdivision (a) under those circumstances.

38 ~~(d e)~~ For purposes of this section, the following definitions shall apply:

39 (1) "Health facility" has the meaning set forth in Section 1250.

40 (2) ~~Subdivision (a)(2) "Restaurant with an occupancy of at least 60 persons"~~ does not
41 apply to a restaurant with a seating area if there is a centrally located facility with a baby diaper
42 changing station that is open to the public and located within 300 feet of the entrance to the
43 restaurant.

(Proposed new language underlined, language to be deleted stricken)

PROPONENT: San Mateo County Bar Association

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule other than those expressly identified.

CURRENT OR PRIOR RELATED LEGISLATION

Health & Safety Code section 118506 added by Stats. 2017, Ch. 755, Sec. 3. (AB 1127, Calderon) Effective January 1, 2018.

See also SB 1358 (Wolk, 2014), which would have required large public venues, including restaurants, to install changing tables in both women's and men's bathrooms.

See also SB 1350 (Lara, 2014), which would have required that for businesses that are building a new bathroom or renovating a bathroom with plans to install a changing table, then diapering stations would have to be accessible to both men and women.

H.R. 5147 (114th Congress, 2015-2016) Bathrooms Accessible in Every Situation (BABIES) Act, (2016), requiring men's restrooms in federal buildings open to the public to contain diaper changing areas.

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RESOLUTIONS COMMITTEE RECOMMENDATION
APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Health and Safety Code section 118506 to require that all restaurants provide diaper changing stations. This resolution should be approved in principle because diaper changing stations are necessary for safety of children and to provide a sanitary option for changing diapers.

Current law requires that diaper changing stations be provided in men's and women's restrooms in a long list of types of businesses, including restaurants. However, in the current statute, this requirement to provide diaper changing stations only applies to restaurants that have occupancy of at least 60 persons. There are many restaurants that provide bathroom facilities but have occupancy of less than 60 persons. Providing diaper changing stations to parents is also necessary in the smaller restaurants to avoid the parent having to change a diaper on the floor of the restroom or the restaurant, or in a way that is not safe for the child.

Adding this requirement is not cost prohibitive to small business owners. Diaper changing stations can be purchased online starting at approximately \$150, and are simple and cost effective to install. In addition, there is a provision for an exception to the requirement if a local building official determines that the restaurant's restrooms are too small or unable to accommodate the installation of a diaper changing station.

