

Transgender Protections Expanded In California With All-Gender Restroom Law

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On Thursday, September 29, California Governor Jerry Brown signed legislation which will require all single-occupancy restrooms in any business establishment, place of public accommodation, or government agency to be identified as “all gender” and be universally accessible. The bathrooms to which this law applies are toilet facilities with no more than one water closet and one urinal, and with a locking mechanism controlled by the user.

The new law, which is touted as the most inclusive restroom access law in the country, goes into effect in March 2017. Public inspectors or building officials may check for compliance during any inspection. Therefore, employers should immediately change all signage used for their single-user restrooms to ensure none are designated as male or female-only.

Requiring gender-neutral bathrooms in California is consistent with the current overall trend of affording greater protections to the state’s transgender population. California’s new law comes into effect following the Department of Fair Employment & Housing’s (DFEH) guidance issued in early 2016 requiring employers to allow transgender employees access to restroom and locker room facilities which correspond to their gender identity.

The DFEH’s guidance parallels an April 2015 decision of the Equal Employment Opportunity Commission under federal law and a June 2015 “Guide to Restroom Access for Transgender Workers” published by the Occupational Safety and Health Administration.

ATTORNEYS

Danielle Hultenius Moore

Adam F. Sloustcher

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The issue of gender neutral bathrooms remains controversial. Governor Brown authorized California's new law just days after he passed a bill limiting state employee travel to North Carolina due to its transgender bathroom law. The controversy surrounding North Carolina's law has resulted in the state losing up to billions of dollars in canceled conferences, sporting events, and concerts.

Employers should stay alert as gender-neutral bathroom laws continue to develop.

If you have any questions about this new law, or how it may affect your organization, please contact your Fisher Phillips attorney or one of the attorneys in any of our California offices:

San Diego: 858.597.9600

Irvine: 949.851.2424

Los Angeles: 213.330.4500

Sacramento: 916.210.0400

San Francisco: 415.490.9000

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