

By: Chavez

H.B. No. 45

A BILL TO BE ENTITLED

AN ACT

relating to sanitation facilities at a temporary place of employment.

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

SECTION 1. Chapter 341, Health and Safety Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. SANITATION FACILITIES AT A TEMPORARY PLACE OF EMPLOYMENT

Sec. 341.151. DEFINITIONS. In this subchapter:

(1) "Chemical toilet" means a toilet facility in which human excreta are collected in a container charged with a chemical to disinfect and deodorize the contents before disposal.

(2) "Hand-washing facility" means a plumbing device for washing the hands, arms, face, and head for cleanliness and safety purposes. The term includes a lavatory, basin, and sink.

(3) "Nuisance" means:

(A) any object, place, or condition that constitutes a possible or probable medium for transmission of disease to or between humans; or

(B) any other object, place, or condition that may be specifically declared to be a nuisance by the board.

(4) "Number of employees" means the maximum number of employees present at any one time during a regular workday at a temporary place of employment.

1 (5) "Putrescible waste" means organic waste that rots
2 or undergoes anaerobic decomposition and becomes foul and
3 malodorous.

4 (6) "Sanitary facility" means equipment built or
5 installed to serve as a means of:

6 (A) dispensing drinking water;

7 (B) washing the hands;

8 (C) eliminating human excreta; or

9 (D) collecting refuse.

10 (7) "Toilet facility" means a plumbing device for the
11 deposit and discharge of human excreta. The term includes water
12 closets, biological or chemical toilets, and urinals.

13 (8) "Toilet room" means an enclosed area containing
14 one or more toilet facilities and offering personal privacy. A
15 toilet room may be permanent or portable.

16 Sec. 341.152. APPLICABILITY. (a) This subchapter applies
17 to a temporary place of employment, including a location at which a
18 person is directly or indirectly employed by another person in:

19 (1) work of a mobile nature or at a series of locations
20 involving movement from one location to another;

21 (2) work of a transitory or seasonal nature performed
22 for less than one year or at a temporary job site;

23 (3) work on a railroad maintenance-of-way; or

24 (4) work in any agricultural operation or activity
25 performed in the field or outside of any permanent structure or
26 facility.

27 (b) This subchapter does not apply to:

1 (1) a place of employment or numbers of employees to
2 which specific federal sanitation standards apply, as adopted under
3 the Occupational Safety and Health Act of 1970, 29 U.S.C. Sections
4 651-678; or

5 (2) the operation of railroad rolling stock.

6 Sec. 341.153. EMPLOYER DUTIES. (a) An employer is
7 responsible for providing and maintaining sanitary facilities at a
8 temporary place of employment in accordance with the minimum
9 standards established under this subchapter for the total number of
10 employees employed during each workday or part of a workday, except
11 as otherwise provided, whether the employment is direct or through
12 an intermediary.

13 (b) For labor performed under a contractual arrangement, an
14 employer is primarily responsible and each labor contractor of the
15 employer is jointly responsible for compliance with this
16 subchapter.

17 (c) At a temporary place of employment at which employees of
18 more than one employer perform work, each employer is responsible
19 for providing or arranging for the provision of sanitary facilities
20 that meet the minimum standards established under this subchapter
21 for the employer's number of employees.

22 (d) An employer may not:

23 (1) deduct from an employee's pay or charge a fee for
24 use of required sanitary facilities; or

25 (2) charge an employee for transportation provided to
26 or from the sanitary facilities.

27 (e) An employer shall:

1 (1) inform an employee of the employee's rights and
2 obligations under this subchapter; and

3 (2) notify an employee of:

4 (A) the location of all sanitary facilities
5 designated for employee use;

6 (B) any means of travel to the facilities, if
7 provided; and

8 (C) a subsequent change in location or other
9 arrangement.

10 (f) An employer that employs not more than six persons
11 performing work at a temporary place of employment on any workday is
12 not required to provide toilet and hand-washing facilities if:

13 (1) the employer has provided or arranged for
14 immediate transportation to and from nearby facilities; and

15 (2) the facilities meet minimum sanitary standards
16 under this subchapter and are accessible to the employees.

17 Sec. 341.154. INSPECTION. An employer or the employer's
18 designated representative shall inspect a job site and the related
19 sanitary facilities as often as necessary to ensure compliance with
20 this subchapter.

21 Sec. 341.155. EMPLOYEE DUTIES. An employee shall make
22 proper use of the sanitary facilities provided, as reasonable and
23 necessary, to prevent adversely affecting the health of the
24 employee or other persons.

25 Sec. 341.156. STANDARDS FOR FOOD SERVICE. An employer
26 shall ensure that the preparation, storage, and dispensing of food
27 at a temporary place of employment is in accordance with 25 Tex.

1 Admin. Code Sections 229.161-229.171 as administered by the health
2 authority with local jurisdiction.

3 Sec. 341.157. STANDARDS FOR EATING OR REST AREA. (a) At
4 all temporary places of employment at which employees or others are
5 required or allowed to eat or take rest periods at the job site, an
6 employer shall provide or designate one or more areas suitable for
7 those purposes for the maximum number of persons who may use the
8 areas at one time.

9 (b) An employer should, but is not required to, provide a
10 tarpaulin fly or similar covering during eating or rest periods in
11 an outdoor area if insufficient shade is available.

12 (c) An employer shall provide an adequate number of covered
13 receptacles for disposal of all waste food. The receptacles must
14 be:

15 (1) emptied at least once daily; and

16 (2) kept free of residues.

17 (d) An employer shall ensure that food is not:

18 (1) stored, prepared, or eaten in an area where a
19 material or substance is present in quantities or concentrations
20 that may contaminate food or be injurious to health; or

21 (2) stored or eaten in a toilet room.

22 Sec. 341.158. LIGHTING STANDARDS. An employer shall
23 provide in work areas where artificial lighting is necessary
24 lighting levels that are not less than:

25 (1) the levels of illumination described in the *IESNA*
26 *Lighting Handbook* (9th ed. 2000), published by the Illuminating
27 Engineering Society of North America; or

1 (2) stricter levels established by board rule.

2 Sec. 341.159. VENTILATION STANDARDS. (a) For an indoor or
3 enclosed space that people may occupy in the course of temporary
4 employment, an employer shall:

5 (1) provide proper ventilation by natural or
6 mechanical means; and

7 (2) supply fresh outside air of acceptable quality.

8 (b) This section establishes the minimum ventilation
9 standard if a local building code does not specify either
10 ventilation rates or amounts.

11 (c) A mechanical ventilation system should, but is not
12 required to, include an airflow measurement.

13 (d) The ventilation rate for a natural ventilation and
14 infiltration system must be measurable. An employer shall provide
15 mechanical ventilation if infiltration rates are not sufficient to
16 meet the ventilation air requirements.

17 (e) The minimum rate of ventilation may not be less than:

18 (1) five cubic feet per minute for each occupant; and

19 (2) 20 cubic feet per minute for each occupant where
20 smoking, cooking, or open flames are permitted.

21 (f) An employer shall ensure that the ventilation provided
22 under Subsection (e) is continuous during all working hours and any
23 other periods of occupancy.

24 Sec. 341.160. GENERAL SANITATION STANDARDS. (a) An
25 employer shall require:

26 (1) a work area to be kept clean to the extent the
27 nature of the work allows; and

1 (2) a job site to be kept free from obstructions that
2 may:

3 (A) cause or contribute to the injury of an
4 employee;

5 (B) cause an unsafe act to be committed; or

6 (C) impede sanitation.

7 (b) An employer shall maintain a temporary place of
8 employment in a sanitary condition.

9 Sec. 341.161. DRINKING WATER STANDARDS. (a) An employer
10 shall ensure that employees at a temporary place of employment have
11 an adequate supply of drinking water that is readily accessible to
12 all employees during all working hours and rest periods in
13 sufficient amounts to meet their needs.

14 (b) The drinking water must be obtained from a water system
15 complying with rules adopted by the Texas Commission on
16 Environmental Quality for public water systems.

17 (c) An employer may supply drinking water in a sealed glass
18 or plastic container obtained from a producer inspected by the Food
19 and Drug Division of the department in accordance with Chapter 431.

20 (d) The drinking water must be protected from contamination
21 until the time of consumption.

22 (e) An installed sanitary drinking fountain must meet:

23 (1) the specifications established by Standard
24 1010-2002, "Drinking Fountains and Self-Contained,
25 Mechanically-Refrigerated Drinking-Water Coolers," of the Air
26 Conditioning and Refrigeration Institute; or

27 (2) stricter specifications established by board

1 rule.

2 (f) At a location at which a drinking water supply system
3 that meets the minimum standards is not available, an employer may
4 provide individual, disposable, or portable containers filled with
5 water from a source that is in compliance with the minimum standards
6 under this section.

7 (g) An employer shall supply a total capacity of not less
8 than two quarts of drinking water for each of the number of
9 employees present for each workday.

10 (h) Except for a location at which drinking water is
11 supplied exclusively by fountain, an employer shall supply:

12 (1) disposable single-service drinking cups to all
13 employees at a job site;

14 (2) a container for storage of a sufficient number of
15 cups; and

16 (3) adjacent to each water dispenser, a receptacle for
17 the disposal of used cups.

18 (i) For drinking water cooled by ice, an employer shall
19 ensure the ice does not come in contact with the water unless the
20 ice is:

21 (1) manufactured from drinking water; and

22 (2) protected from contamination from the point of
23 manufacture until the time of consumption.

24 Sec. 341.162. STANDARDS FOR PORTABLE DRINKING WATER
25 CONTAINERS. (a) An employer shall ensure that a portable container
26 used to dispense drinking water is:

27 (1) clearly marked to identify the contents;

- 1 (2) maintained in a sanitary condition;
2 (3) designed to allow the container to be tightly
3 closed; and
4 (4) except for individual consumption containers,
5 equipped with a suitable tap.

6 (b) A portable container used to dispense drinking water may
7 not be used for any other purpose.

8 (c) An employer shall ensure that the drinking water in a
9 portable container does not exceed a temperature of 80 degrees
10 Fahrenheit during the time in which the water is dispensed to
11 employees.

12 (d) An employer shall dispense drinking water in a portable
13 container, other than an individual container, through a drinking
14 fountain or a gravity water tap.

15 Sec. 341.163. PROHIBITIONS ON DISTRIBUTION OF DRINKING
16 WATER. An employer may not dispense drinking water using:

17 (1) a container such as a barrel, pail, or tank from
18 which water must be poured or dipped; or

19 (2) a common drinking cup.

20 Sec. 341.164. NONPOTABLE WATER STANDARDS. (a) An employer
21 shall:

22 (1) clearly identify an outlet for nonpotable water,
23 such as an outlet that dispenses water for industrial, irrigation,
24 or fire-fighting purposes only; and

25 (2) inform all persons at the job site that the water
26 is unsafe for drinking, washing, or cooking.

27 (b) Nonpotable water may not be supplied or used for any

1 drinking water purpose under any circumstances.

2 Sec. 341.165. STANDARDS FOR TOILET FACILITIES AND TOILET
3 ROOMS. (a) An employer shall provide, in accordance with this
4 subchapter, toilet facilities in separate toilet rooms for each
5 sex. The toilet facilities:

6 (1) must be readily accessible to all employees during
7 all working hours and rest periods; and

8 (2) may be permanent or portable.

9 (b) An employer shall provide water-actuated, chemical, or
10 biological toilet facilities. Other systems, such as combustion
11 toilets, sealed-bag toilets, and vault toilets, may be used only
12 with the specific permission of the health authority with local
13 jurisdiction.

14 (c) Except as otherwise provided by this section, an
15 employer shall provide at least one fixed or portable toilet for
16 every 30 employees of each sex as determined on a daily basis at
17 each temporary place of employment.

18 (d) An employer that provides chemical toilets shall
19 provide at least one toilet for every 20 employees of each sex
20 unless cleanout service is provided more than once per week. If
21 toilet facilities are not used by women, urinals may be substituted
22 for up to one-third of the number of toilets required for men.

23 (e) If persons in addition to employees will use the toilet
24 facilities, an employer shall provide additional toilets.

25 (f) At a job site at which the total number of employees is
26 not more than 15, as determined on a daily basis, an employer may
27 provide for men and women a single toilet in a toilet room that

1 offers complete privacy and can be locked from the inside.

2 (g) An employer shall:

3 (1) maintain each toilet room and facility in a
4 sanitary condition, free of objectionable toilet odors, during all
5 work hours and rest periods;

6 (2) provide an adequate supply of toilet paper in a
7 suitable holder for each toilet;

8 (3) provide covered waste receptacles in all toilet
9 rooms used by women; and

10 (4) ensure the floors, walls, ceilings, partitions,
11 and doors of each toilet room are constructed of a finish that is
12 easily cleaned.

13 Sec. 341.166. SPECIFICATIONS FOR TOILET FACILITY OR TOILET
14 ROOM AT PERMANENT LOCATION. (a) An employer shall ensure that each
15 toilet facility at a permanent location:

16 (1) is housed in a separate compartment equipped with
17 a door and latch;

18 (2) contains between toilets a wall or partition of
19 sufficient height to assure privacy; and

20 (3) is installed in a manner to allow easy cleaning of
21 the toilet facility.

22 (b) Subsection (a)(3) does not prohibit the use of wall-hung
23 toilet stools or urinals.

24 (c) An employer shall ensure that each toilet has a seat
25 made of substantial material with a nonabsorbent finish.

26 (d) An employer shall ensure a toilet room at a permanent
27 location that is not ventilated by mechanical means has a screened

1 ventilation opening sufficiently large to allow adequate
2 ventilation.

3 Sec. 341.167. SPECIFICATIONS FOR PORTABLE TOILET FACILITY
4 OR ROOM. (a) An employer shall:

5 (1) ensure that a portable toilet facility is
6 constructed to be readily accessible and to assure privacy; and

7 (2) provide steps and handrails as necessary to allow
8 convenient and safe access and use by each person.

9 (b) An employer may provide a portable facility that:

10 (1) combines the toilet facility with a drinking
11 water, hand-washing, or waste-disposal facility;

12 (2) includes recommended first aid and emergency
13 equipment; and

14 (3) is capable of being towed or moved from one job
15 site to another.

16 (c) A portable facility provided under Subsection (b) must
17 meet the minimum sanitary standards under this subchapter.

18 (d) A building housing a portable toilet room may be a
19 mobile trailer or a prefabricated, skid-mounted, or other portable
20 structure.

21 (e) An employer shall ensure that:

22 (1) in a building containing more than one toilet
23 facility, each toilet facility is housed in a separate compartment
24 with a door and latch; and

25 (2) a wall or partition between toilets is of
26 sufficient height to assure privacy.

27 (f) An employer is not required to house a urinal in a

1 separate compartment.

2 (g) An employer shall ensure that:

3 (1) a tank in which waste is stored is vented to the
4 outside of the structure housing the tank; and

5 (2) a portable toilet room that is not ventilated by
6 mechanical means contains a screened ventilation opening.

7 Sec. 341.168. WASTE COLLECTION AND DISPOSAL STANDARDS. (a)
8 An employer shall ensure that a receptacle used for the collection
9 and storage of putrescible waste is:

10 (1) sturdily constructed so that it does not leak and
11 may be conveniently and thoroughly cleaned;

12 (2) equipped with a tight-fitting cover; and

13 (3) maintained in a sanitary condition.

14 (b) Disposable plastic bags of suitable size and strength
15 are recommended for use as liners for receptacles that collect and
16 store putrescible waste.

17 (c) An employer shall ensure that solid or liquid waste,
18 debris, refuse, and garbage are removed, as necessary to maintain
19 sanitary conditions, from work and rest areas in a manner that
20 avoids creating a nuisance or menace to health.

21 (d) An employer shall dispose of all waste, including human
22 excreta, in accordance with this subchapter and other applicable
23 laws covering the disposal of waste.

24 Sec. 341.169. HAND-WASHING FACILITY STANDARDS. (a) An
25 employer shall provide hand-washing facilities for maintaining
26 personal cleanliness at every temporary place of employment.

27 (b) An employer shall ensure that a hand-washing facility

1 is:

- 2 (1) maintained in a sanitary condition;
3 (2) convenient for employee use; and
4 (3) supplied with running drinking water, which may be
5 supplied by gravity flow.

6 (c) An employer shall ensure that at least one hand-washing
7 facility is:

- 8 (1) located in or adjacent to any toilet room, whether
9 portable or at a permanent location, that is provided for
10 employees' use; and
11 (2) provided for every two toilet facilities.

12 (d) An employer shall ensure each hand-washing facility
13 includes:

- 14 (1) a dispenser containing a cleansing agent; and
15 (2) conveniently located individual hand towels and
16 proper receptacles for disposal.

17 (e) If a sufficient supply of drinking water for
18 hand-washing cannot be provided at a particular temporary job site,
19 an employer may provide an ample supply of disposable,
20 pre-moistened cleaning towels and emulsifiable skin cleaners. The
21 disposable cleaning towels may not serve as a permanent substitute
22 for a hand-washing facility.

23 Sec. 341.170. SPECIFICATIONS FOR A PORTABLE HAND-WASHING
24 FACILITY. An employer shall ensure that:

- 25 (1) a portable hand-washing facility is supplied with
26 at least one-half gallon of drinking water for washing purposes for
27 each of the number of employees present for a regular workday;

1 (2) the storage tank for the water is kept in a
2 sanitary condition; and

3 (3) used wash water is disposed of in a holding tank or
4 seepage pit or by another means that does not create a nuisance or
5 menace to health.

6 Sec. 341.171. TRAVEL LIMITATION. (a) An employer shall
7 provide sanitary facilities:

8 (1) for a travel route that is unimpeded or that does
9 not require a climb, not more than 400 meters from the work site; or

10 (2) for a travel route that is impeded or that requires
11 a climb, not more than five minutes' walking time from the work
12 site.

13 (b) An employer that cannot comply with Subsection (a)
14 shall:

15 (1) provide sanitary facilities that meet the minimum
16 sanitary standards under this subchapter at the nearest possible
17 location; and

18 (2) provide or arrange for transportation to and from
19 the facilities during work and rest periods, subject to Subsection
20 (c).

21 (c) Travel time to facilities provided under Subsection (b)
22 may not exceed five minutes.

23 (d) This section does not apply to an employee who:

24 (1) is employed as a mounted rider; or

25 (2) operates moving power equipment or vehicles on the
26 job.

27 SECTION 2. This Act takes effect December 1, 2004.