

## **N.D.A.G. Letter to Leingang (Nov. 30, 1987)**

November 30, 1987

Mr. Robert J. Leingang  
Secretary-Inspector  
North Dakota State Plumbing Board  
204 West Thayer Avenue  
Bismarck, ND 58501

Dear Mr. Leingang:

Thank you for your letter of September 29, 1987, regarding restroom requirements in convenience stores. N.D.C.C. § 23-09-01(6) and 23-09-09(2) directly apply to your request. They state:

23-09-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

. . . .

6. "Restaurant" includes every building or other structure, or any part thereof, and all buildings in connection therewith, that are permanently kept, used, maintained, advertised, or held out to the public as a place where meals or lunches are served, but where sleeping accommodations are not furnished and includes a limited restaurant restricted to a specified menu.

23-09-09. Sanitation and safety. Every hotel, lodginghouse, boardinghouse, and restaurant shall be operated with strict regard for the health, safety, and comfort of its patrons. The following sanitary and safety regulations shall be followed:

. . . .

2. Lavatories, baths, sinks, drains connected with sewerage. In municipalities in which a system of public water supply and sewerage is maintained, every hotel, lodginghouse, and restaurant shall be equipped with suitable toilets for the accommodation of its guests, and such toilets shall be ventilated and connected by proper means of flushing with the water of said system. All lavatories, bathtubs, sinks, drains, and toilets shall be connected with such sewerage system. Separate toilets shall be furnished for each sex, each being properly designated.

A discussion with the State Department of Health and Consolidated Laboratories indicates that all convenience store facilities which serve limited menus (e.g., nachos, hot dogs, deli sandwiches, Stewart sandwiches) are required to have a limited restaurant license from the Department. If the facility provides sit-down locations within its structure, it may be required to have a full restaurant license. Thus, each of these facilities is required to provide separate toilet facilities for each sex. The store may choose to lock the individual restrooms, but must provide keys to these restrooms to customers upon request.

If you should have any further questions regarding this matter, please contact Bill Delmore, one of the assistant attorneys general assigned to the State Department of Health and Consolidated Laboratories, at 224-3234.

Sincerely,

Nicholas J. Spaeth

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