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## Transportation Committee

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### HB 1457

**Brief Description:** Concerning a motor carrier's ability to access restroom facilities required by rules authorized under chapter 49.17 RCW.

**Sponsors:** Representatives Robertson, Berry, Santos, Reed and Fosse.

**Brief Summary of Bill**

- Requires businesses that must provide restrooms under the Washington Industrial Safety and Health Act and that either ship or receive cargo or property to allow the motor carrier that is picking up or delivering the cargo or property to have access to the restrooms, under certain conditions.

**Hearing Date:** 1/30/23

**Staff:** Mark Matteson

**Background:**

Motor Carriers.

Motor carriers are entities that transport property for others in interstate or intrastate commerce. Motor carriers are generally regulated by the Utility and Transportation Commission under state law.

Shippers and Receivers.

A shipper is a business or person that tenders property to a motor carrier for transportation in interstate or intrastate commerce. A receiver, also known as consignee, is a business or person who takes delivery of property from a motor carrier in interstate or intrastate commerce.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

### Restroom Requirements.

Under the Washington Industrial Safety and Health Act (WISHA), an employer must provide a workplace free from recognized hazards. The Department of Labor and Industries (L&I) administers WISHA. L&I has adopted general health and safety standards, pursuant to WISHA, that apply to most industries. Employers must generally provide restrooms to employees with a minimum number of toilets, based on the maximum number of employees present at any one time during a shift. An exception to this rule is allowed for mobile crews or work locations not normally attended by employees.

A retail establishment that has an employee restroom must allow a customer to use that employee restroom during normal business hours if:

- three or more employees of the retail establishment are working at the time the customer requests use of the employee restroom, and the establishment does not normally make a restroom available to the public; and
- the employee restroom is reasonably safe, and is not located in an area where providing access would create an obvious health or safety risk to the customer, or allowing the customer to access the employee restroom does not pose a security risk to the retail establishment or its employees.

A terminal operator of a port district must provide a sufficient number of restrooms for use by drayage truck operators in areas of the terminal that drayage truck operators typically access.

This requirement is met if the terminal operator:

- allows drayage truck operators access to existing restrooms while the drayage truck operators are on port property, when access does not pose an obvious safety risk to the drayage truck operators and other workers in the area, is in areas where drayage truck operators typically have access, and does not violate federal terminal security requirements;
- provides additional restrooms at locations where there is the most need; and
- has a policy that allows drayage truck operators to leave their vehicles at reasonable times and locations for purposes of accessing restrooms.

The Department of Health (DOH) and L&I are granted jurisdiction to enforce the restroom requirements for port district terminal operators. The DOH is allowed to issue a warning for a first violation of the requirements and a class 2 civil infraction for subsequent violations. Failure to comply with the restroom requirement is a violation of WISHA.

### **Summary of Bill:**

#### Restroom Access for Motor Carriers.

A shipper or receiver required to provide a restroom by rules authorized under WISHA must allow a motor carrier delivering goods to the receiver, or picking goods up from the shipper, to use that restroom during normal business hours if:

- the restroom is located in an area where providing access would not create an obvious health or safety risk to the motor carrier; and

- allowing the motor carrier access to the restroom does not pose any obvious security, health, or safety risk to the shipper, receiver, or its employees.

A shipper or receiver is not required to make any physical changes to a restroom and may require that an employee accompany a motor carrier to the restroom. A shipper or receiver, or an employee of a shipper or receiver, is not civilly liable for any act or omission in allowing a motor carrier to use a restroom if: (1) the act or omission is not willful or grossly negligent; (2) occurs in an area of the shipper or receiver facility that is not accessible to the public; and (3) results in an injury to, or death of the motor carrier, or any individual other than an employee accompanying the motor carrier.

Enforcement.

The DOH and L&I have jurisdiction. The DOH may issue a warning letter to a shipper or receiver for a first violation. A shipper or receiver that violates these provisions after receiving a warning letter is guilty of a class 2 civil infraction. Failure of a shipper or receiver to comply with this section is a violation of WISHA. The DOH and L&I may not take duplicate enforcement actions for violations.

**Appropriation:** None.

**Fiscal Note:** Requested on January 23, 2023.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.