



Governor's Advisory Council for Exceptional Citizens (GACEC)
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MEMORANDUM

DATE: April 23, 2014

TO: The Honorable Members of the Delaware General Assembly

FROM: Terri Hancharick, Chairperson
GACEC

RE: **House Bill No. 245 with House Amendment 1 (Restroom Access)**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed House Bill No. 245, with House Amendment 1 which would permit customers of retail establishments with employee restrooms to use the restrooms that are not usually accessible to the public. The employee restrooms could be used if the following conditions are met: 1) the customer has written documentation of a qualifying medical condition or uses an ostomy device; 2) two or more employees are working at the time of the request; 3) the retail establishment does not normally make the restroom available to the public; and 4) access would not create an obvious health or safety risk. Retailers would not be liable for acts or omissions which do not constitute negligence. Retailers would not be required to make physical alterations to restrooms. Enforcement would be delegated to the Division of Public Health (DPH). A first violation would result in a warning. Any subsequent violation could result in a \$100 civil penalty paid to DPH. The GACEC **endorses** this proposed legislation.

As noted in the articles, "The Restroom Access Act: A Major Victory for Crohn's Patients" and "Paradee to Introduce Restroom Access Bill for Crohn's Sufferers". As the articles note, at least thirteen states have already passed similar legislation, including Connecticut, Illinois, Kentucky, Massachusetts, Texas, Washington, Minnesota, Colorado, Ohio, Michigan, Oregon, and Wisconsin. The Delaware legislation, which adopts a warning and civil penalty approach, is more benign to retailers than other states which impose criminal fines. Balancing the modest impact on retailers against the embarrassment and suffering experienced by covered individuals, the legislation merits our support and enactment.

Thank you for your time and consideration. Please feel free to contact me or Wendy Strauss should you have questions.