

Union Calendar No. 75

117TH CONGRESS
1ST SESSION

H. R. 3110

[Report No. 117-102]

To amend the Fair Labor Standards Act of 1938 to expand access to breastfeeding accommodations in the workplace, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2021

Mrs. CAROLYN B. MALONEY of New York (for herself, Ms. HERRERA BEUTLER, Ms. ROYBAL-ALLARD, Ms. ADAMS, and Ms. UNDERWOOD) introduced the following bill; which was referred to the Committee on Education and Labor

JULY 22, 2021

Additional sponsors: Mr. FITZPATRICK, Mr. YOUNG, Ms. NORTON, and Mr. BACON

JULY 22, 2021

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on May 11, 2021]

A BILL

To amend the Fair Labor Standards Act of 1938 to expand access to breastfeeding accommodations in the workplace, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Providing Urgent Mater-*
 5 *nal Protections for Nursing Mothers Act” or the “PUMP*
 6 *for Nursing Mothers Act”.*

7 **SEC. 2. BREASTFEEDING ACCOMMODATIONS IN THE WORK-**
 8 **PLACE.**

9 (a) *EXPANDING EMPLOYEE ACCESS TO BREAK TIME*
 10 *AND PLACE.*—*The Fair Labor Standards Act of 1938 (29*
 11 *U.S.C. 201 et seq.) is amended—*

12 (1) *in section 7, by striking subsection (r);*

13 (2) *in section 15(a)—*

14 (A) *by striking the period at the end of*
 15 *paragraph (5) and inserting “; and”; and*

16 (B) *by adding at the end the following:*

17 “(6) *to violate any of the provisions of section*
 18 *18D.”;*

19 (3) *in section 16(b) by striking “7(r)” each place*
 20 *the term appears and inserting “18D of this title”;*
 21 *and*

22 (4) *by inserting after section 18C the following:*

23 **“SEC. 18D. BREASTFEEDING ACCOMMODATIONS IN THE**
 24 **WORKPLACE.**

25 “(a) *An employer shall provide—*

1 “(1) a reasonable break time for an employee to
2 express breast milk each time such employee has need
3 to express breast milk for the 2-year period beginning
4 on the date on which the circumstances related to
5 such need arise; and

6 “(2) a place, other than a bathroom, that is
7 shielded from view and free from intrusion from co-
8 workers and the public, which may be used by an em-
9 ployee to express breast milk.

10 “(b)(1) Subject to paragraph (2), an employer shall
11 not be required to compensate an employee receiving break
12 time under subsection (a)(1) for any time spent during the
13 workday for such purpose unless otherwise required by Fed-
14 eral or State law or municipal ordinance.

15 “(2) Break time provided under subsection (a)(1) shall
16 be considered hours worked if the employee is not completely
17 relieved from duty during the entirety of such break.

18 “(c) An employer that employs fewer than 25 employ-
19 ees shall not be subject to the requirements of this section,
20 if such requirements would impose an undue hardship by
21 causing the employer significant difficulty or expense when
22 considered in relation to the size, financial resources, na-
23 ture, or structure of the employer’s business.

24 “(d) No provision of this section or of any order there-
25 under shall excuse noncompliance with any Federal or

1 *State law or municipal ordinance that provides greater*
2 *protections to employees than the protections provided for*
3 *under this section.*

4 “(e)(1) *Subject to paragraph (2), before an employee*
5 *commences an action to recover liability under section 16(b)*
6 *for a violation of paragraph (a)(2), the employee shall in-*
7 *form the employer of the failure to provide adequate place*
8 *and provide the employer with 10 calendar days after such*
9 *notice is provided to come into compliance with subsection*
10 *(a)(2) with respect to such employee.*

11 “(2) *Paragraph (1) shall not apply in the case that—*

12 “(A) *the employee has been discharged because*
13 *the employee has made a request for break time or*
14 *place under this section or has opposed any employer*
15 *conduct related to this section; or*

16 “(B) *the employer has indicated that the em-*
17 *ployer has no intention of complying with subsection*
18 *(a)(2).*

19 “(f) *The circumstances described in subsection (a)(1)*
20 *arise if an employee—*

21 “(1) *begins providing breast milk for a nursing*
22 *child; or*

23 “(2) *gives birth, including to—*

24 “(A) *a stillborn child; or*

1 “(B) a child over whom the employee does
2 not retain legal custody.”.

3 (b) *CLARIFYING REMEDIES.*—Section 16(b) of the Fair
4 Labor Standards Act of 1938 (29 U.S.C. 216(b)) is amend-
5 ed by striking “15(a)(3)” each place the term appears and
6 inserting “7(r) or 15(a)(3)”.

7 (c) *GUIDANCE.*—Not later than 60 days after the date
8 of enactment of this Act, the Secretary of Labor shall issue
9 guidance with respect to employer compliance with section
10 18D of the Fair Labor Standards Act of 1938, as amended
11 by this Act, which shall be similar, with respect to specific
12 examples of compliance, to the guidance relating to “Sup-
13 porting Nursing Moms at Work” published on the website
14 of the Office on Women’s Health of the Department of
15 Health and Human Services as of such date of enactment.

16 **SEC. 3. EFFECTIVE DATE.**

17 (a) *EXPANDING ACCESS.*—The amendments made
18 under section 2(a) shall take effect on the date that is 120
19 days after the date of enactment of this Act.

20 (b) *REMEDIES AND CLARIFICATION.*—The amend-
21 ments made under section 2(b) shall take effect on the date
22 of enactment of this Act.

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