

# SENATE BILL REPORT

## SHB 1930

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As of March 18, 2019

**Title:** An act relating to providing reasonable accommodation for the expression of breast milk in the workplace.

**Brief Description:** Concerning reasonable accommodation for the expression of breast milk in the workplace.

**Sponsors:** House Committee on Labor & Workplace Standards (originally sponsored by Representatives Doglio, Dolan, Jinkins, Reeves, Shewmake, Stanford, Pollet, Macri, Senn and Ormsby).

**Brief History:** Passed House: 3/07/19, 96-1.

**Committee Activity:** Labor & Commerce: 3/18/19.

### Brief Summary of Bill

- Provides that for the purposes of reasonable accommodation for pregnancy, employers must provide reasonable break time for an employee to express breast milk for two years after the child's birth and provide a private location, other than a bathroom, to express breast milk.
- Provides that if the business location does not have a space for the employee to express breast milk, the employer must work with the employee to identify a convenient location and work schedule to accommodate their needs.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Staff:** Jarrett Sacks (786-7448)

**Background:** Pregnancy Accommodation. Under state law, it is an unfair practice for an employer with 15 or more employees to fail or refuse to make reasonable accommodation for an employee's pregnancy or pregnancy-related health condition, unless it would impose an undue hardship on the employer's program, enterprise, or business.

Reasonable accommodation means:

- providing more frequent, longer, or flexible restroom breaks;

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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 a part of the legislation nor does it constitute a statement of legislative intent.*

- modifying a no food or drink policy;
- providing job restructuring, part-time or modified work schedules, reassignment, or acquiring or modifying equipment or an employee's work station;
- providing seating or allowing the employee to sit more frequently if her job requires her to stand;
- providing for a temporary transfer to a less strenuous or less hazardous position;
- providing assistance with manual labor and limits on lifting;
- scheduling flexibility for prenatal visits; and
- any further accommodation an employee may request, and to which an employer must give reasonable consideration in consultation with information provided by the Department of Labor and Industries or the employee's health care provider.

The attorney general (AG) must investigate complaints and provide enforcement, including using conference and conciliation. An employee may file a complaint with the AG or bring a civil cause of action in court to enjoin further violations and recover actual damages, costs, and reasonable attorneys' fees or any other appropriate remedy.

Fair Labor Standards Act. Under the federal Fair Labor Standards Act (FLSA), employers must provide reasonable break time for an employee to express breast milk for up to one year after the child's birth each time the employee has the need to express milk. Employers are also required to provide a place, other than a bathroom, shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk. Employers with fewer than 50 employees are not subject to the FLSA requirement if compliance would impose an undue hardship considering the difficulty or expense of compliance and the size, financial resources, nature, and structure of the employer's business. The FLSA provision on expressing breast milk does not apply to employees who are exempt from the FLSA overtime requirements.

**Summary of Bill:** Under the state pregnancy accommodation law, the definition of pregnancy is amended to include the need to express breast milk.

Reasonable accommodations for pregnancy include providing reasonable break time for an employee to express breast milk for two years after the child's birth each time the employee has the need to express breast milk and providing a private location, other than a bathroom, if such a location exists at the business or worksite, which may be used by the employee to express breast milk. If the business location does not have a space for the employee to express breast milk, the employer must work with the employee to identify a convenient location and work schedule to accommodate their needs.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The pregnancy accommodation law was supposed to cover the expression of breast milk, but it was not interpreted that way. Federal law covers some employees but excludes salaried employees. The accommodation should cover everyone. Breastfeeding promotes long term health and we want to encourage that.

**Persons Testifying:** PRO: Representative Beth Doglio, Prime Sponsor; Amber Ulvenes, Midwives Association of Washington State.

**Persons Signed In To Testify But Not Testifying:** No one.