CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5217

Chapter 379, Laws of 2025

69th Legislature
2025 Regular Session

PREGNANCY-RELATED ACCOMMODATIONS

EFFECTIVE DATE: January 1, 2027

Passed by the Senate April 18, 2025
Yeas 40 Nays 8

JOHN LOVICK

President of the Senate

Passed by the House April 14, 2025
Yeas 71 Nays 25

LAURIE JINKINS

Speaker of the House of Representatives

Approved May 20, 2025 10:27 AM

BOB FERGUSON

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5217** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 21, 2025

Secretary of State
State of Washington

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5217

AS AMENDED BY THE HOUSE

Passed Legislature - 2025 Regular Session

State of Washington 69th Legislature 2025 Regular Session

By Senate Ways & Means (originally sponsored by Senators Nobles, Lovelett, Hasegawa, Liias, Riccelli, Saldaña, Salomon, Stanford, Trudeau, and C. Wilson)

READ FIRST TIME 02/28/25.

AN ACT Relating to expanding pregnancy-related accommodations; amending RCW 2.36.100; adding a new chapter to Title 49 RCW; repealing RCW 43.10.005; prescribing penalties; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of labor and industries.

(2) "Director" means the director of the department of labor and industries or authorized representative.

(3) "Employee" means an employee who is employed in the business of the employee's employer whether by way of manual labor or otherwise.

(4) "Employer" has the same meaning and must be interpreted consistent with how that term is defined in RCW 49.60.040, except that for the purposes of this chapter only, "employer" includes any employer who employs one or more persons and any religious or sectarian organization not organized for private profit.

(5) "Pregnancy" includes the employee's pregnancy and pregnancy-related health conditions, including the need to express breast milk.

(6) "Reasonable accommodation" means:

(a) Providing more frequent, longer, or flexible restroom breaks;

(b) Modifying a no food or drink policy;

(c) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, or acquiring or modifying equipment, devices, or an employee's work station;

(d) Providing seating or allowing the employee to sit more frequently if the employee's job requires the employee to stand;

(e) Providing for a temporary transfer to a less strenuous or less hazardous position;

(f) Providing assistance with manual labor and limits on lifting;

(g) Scheduling flexibility for prenatal and postpartum visits;

(h) Providing reasonable break time for an employee to express breast milk for two years after the child's birth each time the employee has a need to express milk and providing a private location, other than a bathroom, if such a location exists at the place of 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 milk, the employer shall work with the employee to identify a convenient location and work schedule to accommodate their needs; and

(i) Any further pregnancy accommodation an employee may request, and to which an employer must give reasonable consideration in consultation with information provided on pregnancy accommodation by the department or the attending health care provider of the employee.

(7) "Undue hardship" means an action requiring significant difficulty or expense. An employer may not claim undue hardship for the accommodations under subsection (6)(a), (b), and (d) of this section, or for limits on lifting over 17 pounds.

NEW SECTION. **Sec. 2.** (1) It is an unfair practice for any employer to:

(a) Fail or refuse to make reasonable accommodation for an employee for pregnancy, unless the employer can demonstrate that doing so would impose an undue hardship on the employer's program, enterprise, or business;

(b) Take adverse action against an employee who requests, declines, or uses an accommodation under this section that affects the terms, conditions, or privileges of employment;

(c) Deny employment opportunities to an otherwise qualified employee if such denial is based on the employer's need to make reasonable accommodation required by this section;

(d) Require an employee to take leave if another reasonable accommodation can be provided for the employee's pregnancy.

(2) An employer may request that the employee provide written certification from the employee's treating health care professional regarding the need for reasonable accommodation, except for accommodations listed in section 1(6)(h) and section 8 of this act.

(3)(a) This chapter does not require an employer to create additional employment that the employer would not otherwise have created, unless the employer does so or would do so for other classes of employees who need accommodation.

(b) This chapter does not require an employer to discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job, unless the employer does so or would do so to accommodate other classes of employees who need accommodation.

(4) Any break time and any time traveling to a location, identified by the employer and employee as provided in section 1(6)(h) of this act, to express milk must be paid to the employee at the employee's regular compensation rate. An employee must not be required to use paid leave during break or travel time to express milk during work. Any break time to express milk is in addition to meal and rest periods under chapter 49.12 RCW.

(5) The department must provide online education materials explaining the respective rights and responsibilities of employers and employees who have a health condition related to pregnancy or childbirth. The online education materials must be prominently displayed on the department's website.

NEW SECTION. **Sec. 3.** (1) The department shall investigate complaints and enforce this chapter. Prior to issuing any order under this subsection, the department must first contact the employer and attempt in good faith to reach agreement on reasonable accommodation or interim accommodation. If the department and the employer are unable to reach agreement, the department may issue a temporary order immediately restraining any such condition, practice, method, process, or means in the workplace that violates any provision of this chapter. This temporary order may be in effect no longer than 90

calendar days. To extend the order beyond 90 calendar days, the department must seek a restraining order, or other such relief as appears appropriate under the circumstances, in the superior court of the county wherein such condition of employment or practice exists.

(2) In addition to the complaint process with the department, any person believed to have been injured by a violation of this chapter has a civil cause of action in court to enjoin further violations, or to recover the actual damages sustained by the person, or both, together with the cost of suit and reasonable attorneys' fees or any other appropriate remedy authorized by state or federal law.

(3) This section does not preempt, limit, diminish, or otherwise affect any other provision of law relating to sex discrimination or pregnancy, or in any way diminish or limit legal protections or coverage for pregnancy, childbirth, or pregnancy-related health conditions.

(4) The department may assess civil penalties for a violation of this chapter. For a violation of the accommodation described in section 1(6)(h) of this act, the department may assess a civil penalty under this chapter or RCW 49.17.530, but may not assess duplicative penalties for the same violation.

NEW SECTION. **Sec. 4.** (1) The department must adopt rules for purposes of implementing and enforcing this chapter including, but not limited to, rules establishing processes for enforcement and appeals of citations issued, and rules concerning the collection of civil penalties and other amounts owed. The rules must be at least equal to enforcement of the protections provided by chapter 49.46 RCW.

(2) The department must deposit all civil penalties paid under this chapter in the supplemental pension fund established under RCW 51.44.033.

NEW SECTION. **Sec. 5.** (1) The provisions of RCW 43.10.005 as they existed immediately prior to January 1, 2027, apply to employee and employer conduct, acts, or omissions occurring on or before December 31, 2026, including but not limited to the enforcement provisions set forth in RCW 43.10.005(6) as they existed immediately prior to January 1, 2027. Accordingly, a cause of action for conduct, acts, or omissions occurring on or before December 31, 2026, under RCW 43.10.005 as it existed immediately prior to January 1, 2027,

remains available within its applicable statute of limitations. As an exercise of the state's police powers and for remedial purposes, this subsection applies retroactively to claims based on conduct, acts, or omissions that occurred on or before December 31, 2026.

(2) The provisions of this chapter apply to employee and employer conduct, acts, or omissions occurring on or after January 1, 2027, including but not limited to the enforcement provisions set forth in section 3 of this act.

NEW SECTION. **Sec. 6.** This chapter may be known and cited as the healthy starts act.

Sec. 7. RCW 2.36.100 and 2023 c 205 s 1 are each amended to read as follows:

(1) Except for a person who is not qualified for jury service under RCW 2.36.070 or who chooses to opt out of jury service under subsection (2) of this section, no person may be excused from jury service by the court except upon a showing of undue hardship, extreme inconvenience, public necessity, or any reason deemed sufficient by the court for a period of time the court deems necessary.

(2)(a) A person who is 80 years of age or older may request to be excused from jury service if the person attests that the person is unable to serve due to health reasons. An attestation form must be developed by the court and may not include a requirement that a doctor's note be provided. This request must be granted by the court.

(b) A person who is breastfeeding or expressing breast milk for an infant under 24 months old may request to delay or be excused from jury service if the person attests that the person is unable to serve for this reason. An attestation form must be developed by the court and may not include a requirement that a doctor's note be provided. This request must be granted by the court.

(3) At the discretion of the court's designee, after a request by a prospective juror to be excused, a prospective juror excused from juror service for a particular time may be assigned to another jury term within the twelve-month period. If the assignment to another jury term is made at the time a juror is excused from the jury term for which he or she was summoned, a second summons under RCW 2.36.095 need not be issued. This subsection does not apply to people excused from jury service under subsection (2) of this section.

(4) When the jury source list has been fully summoned within a consecutive twelve-month period and additional jurors are needed, jurors who have already served during the consecutive twelve-month period may be summoned again for service. A juror who has previously served may only be excused if he or she served at least one week of juror service within the preceding twelve months. An excuse for prior service shall be granted only upon the written request of the prospective juror, which request shall certify the terms of prior service. Prior jury service may include service in superior court, in a court of limited jurisdiction, in the United States District Court, or on a jury of inquest.

NEW SECTION. **Sec. 8.** RCW 43.10.005 (Workplace pregnancy accommodations—Unfair practices—Definitions) and 2020 c 111 s 1, 2019 c 134 s 1, & 2017 c 294 s 3 are each repealed.

NEW SECTION. **Sec. 9.** Sections 1 through 6 of this act constitute a new chapter in Title 49 RCW.

NEW SECTION. **Sec. 10.** This act takes effect January 1, 2027.

Passed by the Senate April 18, 2025.
Passed by the House April 14, 2025.
Approved by the Governor May 20, 2025.
Filed in Office of Secretary of State May 21, 2025.

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