

PEOPLE

Carmen M. Cato

CAPABILITIES

Employment Law

PUMP ACT AND PREGNANT WORKERS FAIRNESS ACT - NEW LEGISLATION EXPANDS COVERAGE

Advisory

5.12.23

PUMP Act

New federal legislation gives most nursing employees the right to take a break from work to pump breast milk, and a private area in which to do it, for up to one year after a child's birth. The Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act) expands previous regulations under the Fair Labor Standards Act (FLSA) that gave these rights only to "exempt" employees—now hourly employees are included.

The Pump Act requires employers to provide break time for employees who need to pump breast milk "each time such employee has need to express the milk," and provide a private space to do so that is shielded from view, free from intrusion, and available when needed by the nursing employee. The space does not have to be permanently set aside for pumping breast milk, and can be as simple as a room with a lock on the door and signage, but it **cannot be a bathroom**.

The PUMP Act applies to all businesses with 50 or more employees with no exception, and those with fewer than 50 employees unless the business can show the law causes an undue hardship on the business. The break time can be unpaid for hourly workers if pay is not otherwise required by law or contract; however, salaried workers should receive their full salary. Businesses that violate the law can be liable for unpaid minimum or overtime wages, employment reinstatement and payment of wages lost, and additional damages including economic losses, punitive damages, and attorneys' fees.

PUMP ACT AND PREGNANT WORKERS FAIRNESS ACT - NEW LEGISLATION EXPANDS COVERAGE

The PUMP Act is currently in effect, so employers should comply with the law's requirements immediately. The Department of Labor will enforce the PUMP Act, but as of April 28, 2023, employees can also file suit over a violation of the law.

The U.S. Department of Labor has more information and specific examples on its website: **[FLSA Protections for Employee to Pump Breast Milk at Work](#)**.

Pregnant Workers Fairness Act

Pregnant Workers Fairness Act (PWFA) is separate from the PUMP Act, and extends the Americans with Disabilities Act to cover pregnant workers. This means businesses with 15 or more employees must provide reasonable accommodations to a worker's known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation would cause the employer "undue hardship." The U.S. Equal Employment Opportunity Commission (EEOC) will enforce the Act, which goes into effect on June 27, 2023.

The EEOC has more information on its website: **[What You Should Know About the Pregnant Workers Fairness Act](#)**.