

new

breastfeeding

law changes
for MN Employers



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Breastfeeding Law Changes for MN Employers

Time to Express Milk

Current Law

An employer must provide reasonable unpaid break time to an employee to express milk "for her infant child."

What Changes

An employer may not reduce an employee's compensation for time taken to express milk. The new law clarifies that an employee has a right to take multiple breaks each day and is eligible for break times during the 12 months following the birth of the child.

What Doesn't Change

The break times must, if possible, run concurrently with any break times already provided to the employee. An employer is not required to provide break time if doing so would unduly disrupt the employer's operations.

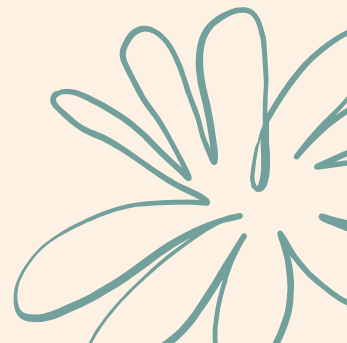
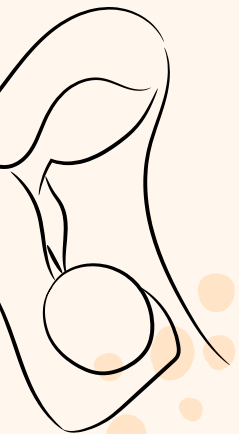
Pregnancy Accommodations

Current Law

Employers with 21 or more employees at one or more sites must provide pregnancy accommodations.

What Changes

Employers with 15 or more employees must provide pregnancy accommodations.



What does this mean for workplaces?

Time to Express Milk: Here are three examples of common workplace practices that will change under the new law:

1

Based on an eight-hour shift, many employers offer a paid, 15-minute break to employees during the first half of their shift, a mid-shift unpaid meal break and a paid, 15-minute break during the second half of their shift. Under the new law, if a lactating employee needs 15 minutes or more to express milk in the morning or afternoon, the employer would need to consider all of that time as compensable. Note: this change does not require current unpaid break time such as a meal break to be converted to paid break time.

2

Some employers have required lactating employees to use accrued paid time off, vacation or sick time for time used to express milk. Under the new law, that would be considered a loss of compensation and would not be allowed.

3

Some employers have required lactating employees to stay after their regular shift has ended to make up for time used to express milk. Under the new law, that would be considered a loss of compensation and would not be allowed.

Pregnancy Accommodations: Here are some components of the law employers and workers should be aware of:

1

Prior to a 2020 Minnesota Court of Appeals decision and the 2021 statutory change to the pregnancy accommodation law, there was confusion about whether employees must work for an employer for at least 12 months prior to requesting pregnancy accommodations and have worked at least half the hours of a full-time employee during those 12 months. Due to the law change, there is no employment length or hour of work requirement for an employee to qualify for a pregnancy accommodation. If an employee works for an employer with 15 or more employees, the employee is eligible for a pregnancy accommodation on day one of employment.

2

As under current law, an employer may not require an employee to take leave or accept an accommodation.

3

As under current law, an employee may request and an employer must provide accommodations for more frequent restroom, food and water breaks, seating and limits on lifting over 20 pounds. An employee does not need the advice of a licensed health care provider or certified doula for these accommodations. Reasonable accommodation may include other accommodations, such as temporary transfer to a less strenuous or hazardous position. The employee and employer shall engage in an interactive process with respect to an employee's request for a reasonable accommodation.



Resources

Providing accommodations for nursing mothers is the law both at the federal and state level. Workplaces must provide time for moms to express milk and a private place that is not a bathroom stall.

Use the list below to help in the process of becoming a breastfeeding friendly workplace.



Step 1: Written Policy or Guideline

- Addresses support for breastfeeding moms ([good news - we have templates ready for you to use!](#))
- Provides adequate break time to express milk
- Provision for a place to express milk that complies with the law
- Provides a process for educating staff about the policy



Step 2: Support

- Employer maintains a list of local breastfeeding resources ([we got you covered with our local breastfeeding support brochure!](#))
- Provide opportunities for moms to receive support and encouragement



Step 3: Place

- Workplaces must provide a private room with a lock that is not a bathroom stall. The room should provide: a chair, table, electrical outlet, pumping equipment, access to refrigerator or communicate how moms need to store their milk ([good news - we have mini-grant funds to help you with this!](#))
- Must be within a five minute walk



Step 4: Be Recognized for Your Efforts

- Apply for the Breastfeeding Friendly Workplace designation through the Minnesota Department of Health ([it's free and easy!](#)).

Interested? Have questions? Want assistance? We are happy to help you! Contact PH Moua, the SHIP Worksite Wellness Coordinator, for free assistance and support at OlmstedSHIP@co.olmsted.mn.us.