



## NEW FEDERAL LAW: REASONABLE BREAK TIME FOR NURSING MOTHERS

Effective March 23, 2010, the Patient Protection and Affordable Care Act amended Section 7 of the Fair Labor Standards Act to provide certain protections for employees to express milk at work. See 29 U.S.C. § 207(r).

### The Basics

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- **All employers** must extend protections to anyone to whom minimum wage and overtime laws apply.<sup>i</sup>
- An employer must provide an eligible employee with **reasonable break times** to express milk **and** a space other than a bathroom in which to do so.
  - The employer is not required to compensate an employee for these breaks, unless the employee would otherwise receive paid breaks.
- The employer must **provide a space other than a bathroom** that is shielded from view and free from intrusion by others.
- The law does not set a specific number of breaks. As a result, the **number of reasonable break times and the duration of these breaks** may vary depending on the needs of the employee.
- Employees must be given reasonable break times for **up to 1 year** after the child's birth.
- An employer is **exempt** from providing reasonable break times if:
  - It has fewer than 50 employees; and
  - Compliance with the law would create an undue hardship. An undue hardship is considered something of significant difficulty or expense in light of the employer's size, financial resources, nature, or structure of the business.
- Employers who violate the new law may face **civil or administrative proceedings**.

### Interaction with State Laws

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Idaho law does not provide additional protections to express milk at work. Nonetheless, state laws may supplement the federal law with additional protections. For more information on lactation laws and practices in other states, see <http://www.ncsl.org/issues-research/health/breastfeeding-state-laws.aspx>.

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## For More Information

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Some of the provisions of this new law are without definition. The Department of Labor has not yet issued regulations interpreting this law or its ambiguous provisions. Nonetheless, it did seek comment from the general public about this law in a recent request for information (<http://webapps.dol.gov/FederalRegister/PdfDisplay.aspx?DocId=24540>). In addition, the following resources may help employers decide how to best implement the law.

The **text of the law** is available at:

[http://www.dol.gov/whd/nursingmothers/Sec7rFLSA\\_btnm.htm](http://www.dol.gov/whd/nursingmothers/Sec7rFLSA_btnm.htm).

The Department of Labor's **fact sheet** on the Break Time for Nursing Mothers is available at <http://www.dol.gov/whd/regs/compliance/whdfs73.htm>.

Several other government agencies and organizations provide information and resources for establishing and supporting lactation programs:

- **Center of Disease Control**  
<http://www.cdc.gov/nccdphp/dnpao/hwi/toolkits/lactation/index.htm>.
- **Dept. of Health and Human Services**  
<http://www.womenshealth.gov/breastfeeding/government-in-action/business-case-for-breastfeeding>.
- **Corporate Voices for Working Families**  
<http://www.cvworkingfamilies.org/lactation>.
- **United States Breastfeeding Committee**  
<http://www.usbreastfeeding.org/Employment/WorkplaceSupport/WorkplaceSupportinFederalLaw/tabid/175/Default.aspx>.

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<sup>i</sup> For the complete definition, *see* Fair Labor Standards Act, 29 U.S.C. § 203(e) (2012).