

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 08-0296.01 Christy Chase

HOUSE BILL 08-1276

HOUSE SPONSORSHIP

Kerr A.,

SENATE SPONSORSHIP

Gibbs,

House Committees

Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING WORKPLACE ACCOMMODATIONS FOR NURSING**
102 **MOTHERS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Establishes a standard for an employer to provide reasonable unpaid break time or allow an employee to use paid break or meal time to express breast milk for her nursing child for up to 2 years after the birth of the child and to make reasonable efforts to provide a nursing mother with a private location in which to express milk in the workplace. Specifies that an employer that makes reasonable efforts to accommodate an employee who chooses to express milk in the workplace shall be

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
February 26, 2008

deemed to be in compliance with the workplace accommodations standards.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Title 8, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 13.5**

5 **Workplace Accommodations for Nursing Mothers**

6 **8-13.5-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
7 BE CITED AS THE "WORKPLACE ACCOMMODATIONS FOR NURSING
8 MOTHERS ACT".

9 **8-13.5-102. Legislative declaration.** (1) THE GENERAL
10 ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

11 (a) THE AMERICAN ACADEMY OF PEDIATRICS RECOMMENDS
12 BREASTFEEDING EXCLUSIVELY FOR THE FIRST SIX MONTHS OF AN INFANT'S
13 LIFE AND HAS CONTINUOUSLY ENDORSED BREASTFEEDING FOR AT LEAST
14 ONE YEAR OR LONGER AS THE OPTIMAL FORM OF NUTRITION FOR INFANTS
15 AND AS A FOUNDATION FOR GOOD FEEDING PRACTICES;

16 (b) EXTENSIVE RESEARCH INDICATES THAT THERE ARE DIVERSE
17 AND COMPELLING ADVANTAGES TO NURSING FOR INFANTS, MOTHERS,
18 FAMILIES, BUSINESSES, AND SOCIETY, INCLUDING LESS ILLNESS AMONG
19 CHILDREN WHO ARE NURSED AND LOWER HEALTH CARE COSTS;

20 (c) EPIDEMIOLOGIC RESEARCH SHOWS THAT BREASTFEEDING
21 INFANTS PROVIDES BENEFITS TO THEIR GENERAL HEALTH, GROWTH, AND
22 DEVELOPMENT AND RESULTS IN SIGNIFICANT DECREASES IN RISK FOR
23 NUMEROUS ACUTE ILLNESSES;

24 (d) BREASTFEEDING HAS BEEN SHOWN TO HAVE NUMEROUS
25 HEALTH BENEFITS FOR MOTHERS, INCLUDING AN EARLIER RETURN TO

1 PREPREGNANT WEIGHT, DELAYED RESUMPTION OF OVULATION WITH
2 INCREASED CHILD SPACING, IMPROVED BONE REMINERALIZATION
3 POSTPARTUM WITH REDUCTION IN HIP FRACTURES IN THE
4 POSTMENOPAUSAL PERIOD, AND REDUCED RISK OF OVARIAN CANCER AND
5 PREMENOPAUSAL BREAST CANCER;

6 (e) IN ADDITION TO INDIVIDUAL HEALTH BENEFITS, PROVIDING
7 OPPORTUNITIES FOR BREASTFEEDING RESULTS IN SUBSTANTIAL BENEFITS
8 TO EMPLOYERS, INCLUDING REDUCED HEALTH CARE COSTS, REDUCED
9 EMPLOYEE ABSENTEEISM FOR CARE ATTRIBUTABLE TO INFANT ILLNESS,
10 IMPROVED EMPLOYEE PRODUCTIVITY, HIGHER MORALE AND GREATER
11 LOYALTY, IMPROVED ABILITY TO ATTRACT AND RETAIN VALUABLE
12 EMPLOYEES, AND A FAMILY-FRIENDLY IMAGE IN THE COMMUNITY;

13 (f) NURSING IS A BASIC, NORMAL, AND IMPORTANT ACT OF
14 NURTURING THAT SHOULD BE ENCOURAGED IN THE INTERESTS OF
15 MATERNAL AND INFANT HEALTH.

16 (2) THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE
17 PURPOSE OF THIS ARTICLE IS FOR THE STATE OF COLORADO TO BECOME
18 INVOLVED IN THE NATIONAL MOVEMENT TO RECOGNIZE THE MEDICAL
19 IMPORTANCE OF BREASTFEEDING, WITHIN THE SCOPE OF COMPLETE
20 PEDIATRIC CARE, AND TO ENCOURAGE REMOVAL OF BOUNDARIES PLACED
21 ON NURSING MOTHERS IN THE WORKPLACE.

22 **8-13.5-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
23 CONTEXT OTHERWISE REQUIRES:

24 (1) "EMPLOYER" MEANS A PERSON ENGAGED IN BUSINESS WHO HAS
25 ONE OR MORE EMPLOYEES. "EMPLOYER" INCLUDES THE STATE AND ANY
26 POLITICAL SUBDIVISION OF THE STATE.

27 (2) "REASONABLE EFFORTS" MEANS ANY EFFORT THAT WOULD NOT

1 IMPOSE AN UNDUE HARDSHIP ON THE OPERATION OF THE EMPLOYER'S
2 BUSINESS.

3 (3) "UNDUE HARDSHIP" MEANS ANY ACTION THAT REQUIRES
4 SIGNIFICANT DIFFICULTY OR EXPENSE WHEN CONSIDERED IN RELATION TO
5 FACTORS SUCH AS THE SIZE OF THE BUSINESS, THE FINANCIAL RESOURCES
6 OF THE BUSINESS, OR THE NATURE AND STRUCTURE OF ITS OPERATION,
7 INCLUDING CONSIDERATION OF THE SPECIAL CIRCUMSTANCES OF PUBLIC
8 SAFETY.

9 **8-13.5-104. Right of nursing mothers to express breast milk in**
10 **workplace - private location - discrimination prohibited.** (1) AN
11 EMPLOYER SHALL PROVIDE REASONABLE UNPAID BREAK TIME OR PERMIT
12 AN EMPLOYEE TO USE PAID BREAK TIME, MEAL TIME, OR BOTH, EACH DAY
13 TO ALLOW THE EMPLOYEE TO EXPRESS BREAST MILK FOR HER NURSING
14 CHILD FOR UP TO TWO YEARS AFTER THE CHILD'S BIRTH.

15 (2) THE EMPLOYER SHALL MAKE REASONABLE EFFORTS TO
16 PROVIDE A ROOM OR OTHER LOCATION IN CLOSE PROXIMITY TO THE WORK
17 AREA, OTHER THAN A TOILET STALL, WHERE AN EMPLOYEE CAN EXPRESS
18 BREAST MILK IN PRIVACY.

19 (3) AN EMPLOYER THAT MAKES REASONABLE EFFORTS TO
20 ACCOMMODATE AN EMPLOYEE WHO CHOOSES TO EXPRESS BREAST MILK IN
21 THE WORKPLACE SHALL BE DEEMED TO BE IN COMPLIANCE WITH THE
22 REQUIREMENTS OF THIS SECTION.

23 (4) THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL
24 PROVIDE, ON ITS WEB SITE, INFORMATION AND LINKS TO OTHER WEB SITES
25 WHERE EMPLOYERS CAN ACCESS INFORMATION REGARDING METHODS TO
26 ACCOMMODATE NURSING MOTHERS IN THE WORKPLACE. THE
27 DEPARTMENT SHALL CONSULT WITH APPROPRIATE ORGANIZATIONS OR

1 ASSOCIATIONS TO DETERMINE THE APPROPRIATE INFORMATION AND WEB
2 SITE LINKS TO PROVIDE ON THE DEPARTMENT'S WEB SITE SO AS TO PROVIDE
3 EMPLOYERS WITH THE MOST ACCURATE AND USEFUL INFORMATION
4 AVAILABLE.

5 (5) BEFORE AN EMPLOYEE MAY SEEK LITIGATION FOR A VIOLATION
6 OF THIS SECTION, THERE SHALL BE NONBINDING MEDIATION BETWEEN THE
7 EMPLOYER AND THE EMPLOYEE.

8 **SECTION 2. Effective date.** This act shall take effect at 12:01
9 a.m. on the day following the expiration of the ninety-day period after
10 final adjournment of the general assembly that is allowed for submitting
11 a referendum petition pursuant to article V, section 1 (3) of the state
12 constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008);
13 except that, if a referendum petition is filed against this act or an item,
14 section, or part of this act within such period, then the act, item, section,
15 or part, if approved by the people, shall take effect on the date of the
16 official declaration of the vote thereon by proclamation of the governor.