

Approved by the Governor

on JUL 1 2013

THE SENATE
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

ACT 249

S.B. NO. 532
S.D. 1
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO BREASTFEEDING IN THE WORKPLACE.

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

1 SECTION 1. The legislature finds that breastfeeding
2 provides important health benefits to both mother and child.
3 However, only one in five children in Hawaii receive the minimum
4 six months of exclusive breastfeeding recommended by the
5 American Academy of Pediatrics and the World Health Organization
6 to reduce risk of obesity, diabetes, infectious disease, asthma,
7 allergies, and certain childhood cancers. The legislature also
8 finds that mother-child separation due to work presents a
9 serious challenge to breastfeeding when workplaces do not
10 accommodate the needs of breastfeeding employees. According to
11 the Hawaii Pregnancy Risk Assessment Monitoring System, one in
12 five women stop breastfeeding because they need to return to
13 work or school. Without break time or a private location to
14 express milk, mothers may find their milk supply dwindling and
15 give up breastfeeding.

16 The purpose of this Act is to require employers to provide
17 a reasonable break time and location shielded from view and
18 intrusion by coworkers and the public for breastfeeding



1 employees to express milk in order to maintain milk supply and
2 continue breastfeeding.

3 SECTION 2. Chapter 378, Hawaii Revised Statutes, is
4 amended by adding a new part to be appropriately designated and
5 to read as follows:

6 "PART . OPPORTUNITY TO EXPRESS MILK

7 §378- Definitions. As used in this part:

8 "Employee" means an individual who performs a service for
9 wages or other remuneration under a contract for hire, written
10 or oral, or expressed or implied. "Employee" includes an
11 individual employed by the State or a political subdivision of
12 the State.

13 "Employer" means a person who has one or more employees.

14 "Employer" includes an agent of an employer or of the State or a
15 political subdivision thereof, but does not include the United
16 States.

17 §378- Opportunity to express milk. (a) An employer
18 shall provide:

- 19 (1) Reasonable break time for an employee to express milk
20 for the employee's nursing child for one year after
21 the child's birth each time the employee has a need to
22 express breast milk; and



1 (2) A location, other than the restroom, that is shielded
2 from view and free from intrusion from coworkers and
3 the public that may be used by an employee to express
4 breast milk.

5 (b) Every employer covered by this section shall post a
6 notice in a conspicuous place accessible to employees and use
7 other appropriate means to keep the employer's employees
8 informed of the protections and obligations under this part.

9 (c) Subsection (a) shall not apply to any employer who has
10 fewer than twenty employees if the employer can show that the
11 requirements under subsection (a) would impose an undue hardship
12 by causing the employer significant difficulty or expense in
13 relation to the size, financial resources, nature, or structure
14 of the employer's business.

15 **§378- Civil actions for injunctive relief or damages.**

16 (a) An employee who alleges a violation of this part may bring
17 a civil action for appropriate injunctive relief, actual
18 damages, or both within two years after the occurrence of the
19 alleged violation.

20 (b) A cause of action pursuant to subsection (a) may be
21 brought in the appropriate court in the circuit where the
22 alleged violation occurred, where the plaintiff resides, or



1 where the defendant resides or has a principle place of
2 business.

3 (c) A defendant who violates this part shall be fined \$500
4 for each violation. A civil fine that is ordered pursuant to
5 this section shall be deposited with the director of finance to
6 the credit of the state general fund.

7 (d) For purposes of this section, "damages" means damages
8 for injury or loss caused by each violation of this part,
9 including reasonable attorney's fees."

10 SECTION 3. Section 378-10, Hawaii Revised Statutes, is
11 repealed.

12 ~~["§378-10] Breastfeeding. No employer shall prohibit an~~
13 ~~employee from expressing breastmilk during any meal period or~~
14 ~~other break period required by law to be provided by the~~
15 ~~employer or required by collective bargaining agreement."]~~

16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken.

18 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Breastfeeding; Workplace Accommodation

Description:

Requires certain employers to provide reasonable time and private location for breastfeeding employees to express breast milk. Requires covered employers to post a notice. Establishes a civil fine for each violation. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

