A BILL FOR AN ACT

RELATING TO BREASTFEEDING IN THE WORKPLACE.

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

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

The purpose of this Act is to require employers to provide a reasonable break time and location shielded from view and intrusion by coworkers and the public for breastfeeding
employees to express milk in order to maintain milk supply and
continue breastfeeding.

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

"PART . OPPORTUNITY TO EXPRESS MILK

§378- Definitions. As used in this part:

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

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

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

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

(1) Reasonable break time for an employee to express milk
for the employee's nursing child for one year after
the child's birth each time the employee has a need to
express breast milk; and
(2) A location, other than the restroom, that is shielded
from view and free from intrusion by coworkers and
the public that may be used by an employee to express
breast milk.

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

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

§378- Civil actions for injunctive relief or damages.

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

(b) A cause of action pursuant to subsection (a) may be
brought in the appropriate court in the circuit where the
alleged violation occurred, where the plaintiff resides, or
where the defendant resides or has a principle place of
business.

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

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

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

"[§378-10]—Breastfeeding. No employer shall prohibit an
employee from expressing breast milk during any meal period or
other break period required by law to be provided by the
employer or required by collective bargaining agreement."

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

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)

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