

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1303 Session of 2009

INTRODUCED BY SOLOBAY, BARRAR, BRENNAN, BRIGGS, DePASQUALE, DONATUCCI, FRANKEL, HARKINS, KOTIK, MANN, MUNDY, JOSEPHS, FREEMAN, MURT, K. SMITH, McILVAINE SMITH, SAMUELSON, KORTZ AND LENTZ, APRIL 21, 2009

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 19, 2010

AN ACT

1 Amending the act of July 8, 2007 (P.L.90, No.28), entitled "An
2 act permitting a mother the freedom to nurse her child in
3 public; and providing that breastfeeding may not be
4 considered a nuisance, indecent exposure, sexual conduct or
5 obscenity," further providing for declaration of policy; and
6 ~~providing for definitions, for workplace protection, for~~
7 ~~violations and~~ PROVIDING for information.



8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 2 of the act of July 8, 2007 (P.L.90,
11 No.28), known as the Freedom to Breastfeed Act, is amended to
12 read:

13 Section 2. Declaration of policy.

14 The General Assembly finds that breastfeeding a baby is an
15 important and basic act of nurturing that must be protected in
16 the interests of maternal and child health and family values,
17 and increased attention must be paid to the needs of
18 breastfeeding children and mothers who breastfeed or express
19 breast milk.

1 Section 2. The act is amended by adding ~~sections~~ A SECTION
2 to read:

3 ~~Section 2.1. Definitions.~~

4 ~~The following words and phrases when used in this act shall~~
5 ~~have the meanings given to them in this section unless the~~
6 ~~context clearly indicates otherwise:~~

7 ~~"Department." The Department of Labor and Industry of the~~
8 ~~Commonwealth.~~

9 ~~"Employee." Any individual employed by an employer.~~

10 ~~"Employer." The term shall have the meaning given to it in~~
11 ~~the act of October 27, 1955 (P.L.744, No.222), known as the~~
12 ~~Pennsylvania Human Relations Act.~~

13 ~~"Employment agency." The term shall have the meaning given~~
14 ~~to it in the act of October 27, 1955 (P.L.744, No.222), known as~~
15 ~~the Pennsylvania Human Relations Act.~~

16 ~~"Labor organization." The term shall have the meaning given~~
17 ~~to it in the act of October 27, 1955 (P.L.744, No.222), known as~~
18 ~~the Pennsylvania Human Relations Act.~~

19 ~~Section 5. Workplace protection.~~

20 ~~An employer, employment agency or labor organization shall~~
21 ~~not:~~

22 ~~(1) Refuse to hire or employ, bar or discharge from~~
23 ~~employment, withhold pay, demote, penalize or otherwise~~
24 ~~discriminate against an individual:~~

25 ~~(i) on the basis that the individual is lactating;~~

26 ~~or~~

27 ~~(ii) who files a complaint in accordance with~~
28 ~~section 6.~~

29 ~~(2) Prohibit an employee who is lactating from~~
30 ~~expressing her breast milk during any meal period or other~~

~~break period provided by the employer, employment agency or labor organization or required by collective bargaining agreement.~~

~~Section 6. Violations.~~

~~(a) Complaints. An individual claiming to be aggrieved by a violation of section 5 may file a complaint with the department within 90 days after the alleged violation.~~

~~(b) Form. The department shall develop and post on its Internet website a form for individuals to use in filing a complaint with the department in respect to a violation under section 5.~~

~~(c) Notice. Within 30 days of receipt of a complaint, the department shall provide the employer, employment agency or labor organization with a copy of the complaint.~~

~~(d) Response. An employer, employment agency or labor organization shall have 30 days from receipt of the complaint to respond in writing to the department regarding the complaint.~~

~~(e) Determination by department. Within 90 days of receipt of a complaint, the department shall notify the complainant and employer, employment agency or labor organization of a determination as to whether a violation has occurred and whether a civil penalty shall be assessed by the department.~~

~~(f) Penalties. Upon a determination by the department that a violation has occurred, the department may assess a civil penalty not to exceed \$300 for a first violation and \$1,000 for each subsequent violation of section 5.~~

~~(g) Additional remedies preserved. Nothing in this act shall be construed to impair any existing statutory or common law rights, powers or duties or bar the relief otherwise available under the law to the complainant.~~

1 Section 7 5. Information. ←

2 The ~~department~~ DEPARTMENT OF LABOR AND INDUSTRY and ←

3 Department of Health shall make available to the general public

4 on the departments' Internet websites information and links to

5 other websites where the public can access information

6 concerning breastfeeding and expressing breast milk, including

7 information relating to expressing breast milk, in the ←

8 workplace. The ~~department~~ DEPARTMENT OF LABOR AND INDUSTRY shall ←

9 make available on its Internet website information to assist and

10 encourage employers, employment agencies and labor organizations

11 to provide a room or other location in close proximity to the

12 work area, other than a toilet stall, where an employee can

13 express breast milk in privacy. WITH THE ASSISTANCE OF HEALTH ←

14 CARE PROVIDERS THE DEPARTMENT OF HEALTH SHALL DEVELOP WRITTEN

15 MATERIALS CONCERNING THIS ACT FOR DISTRIBUTION TO WOMEN OF

16 CHILDBEARING AGE.

17 Section 3. This act shall take effect in 60 days.