
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 704 Session of
2015

INTRODUCED BY COHEN, V. BROWN, FRANKEL, BISHOP, BROWNLEE,
CALTAGIRONE, M. DALEY, DAVIS, DEASY, DONATUCCI, FREEMAN,
GAINEY, KINSEY, MACKENZIE, McNEILL, D. MILLER, O'BRIEN,
C. PARKER, PASHINSKI, RAVENSTAHL, READSHAW, ROZZI, SAMUELSON,
SCHLOSSBERG, SCHREIBER, SCHWEYER, STURLA, THOMAS AND
YOUNGBLOOD, MARCH 4, 2015

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MARCH 4, 2015

AN ACT

1 Requiring reasonable workplace accommodations for workers whose
2 ability to perform the functions of a job are limited by
3 pregnancy, childbirth or a related medical condition; and
4 providing for duties of the Pennsylvania Human Relations
5 Commission.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Pregnant
10 Workers Fairness Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Commission." The Pennsylvania Human Relations Commission.

16 "Covered entity." The Commonwealth, a political subdivision
17 or board, department or commission of the Commonwealth, a school

1 district and a person employing one or more persons within this
2 Commonwealth.

3 "Employee." An employee of a covered entity.

4 "Person." One or more individuals, partnerships,
5 associations, organizations, corporations, legal
6 representatives, trustees in bankruptcy or receivers. The term
7 includes, but is not limited to, any owner, lessor, assignor,
8 builder, manager, broker, salesman, agent, employee, independent
9 contractor, lending institution and the Commonwealth and all
10 political subdivisions, authorities, boards and commissions of
11 the Commonwealth.

12 "Reasonable accommodation." A modification to the work
13 environment to enable an employee to continue working despite
14 limitations due to pregnancy, childbirth or a related medical
15 condition if the modification does not impose an undue hardship
16 on the employer.

17 Section 3. Reasonable accommodations.

18 (a) General rule.--It shall be an unlawful employment
19 practice for a covered entity to:

20 (1) Refuse an employee's or prospective employee's
21 request for a reasonable accommodation. A reasonable
22 accommodation may include, but is not limited to:

23 (i) Providing periodic rest or a chair for an
24 employee who stands for a long period of time, assistance
25 with heavy lifting, access to drinking water or
26 uncompensated break time.

27 (ii) Temporary job restructuring, a part-time or
28 modified work schedule, reassignment to a vacant
29 position, acquisition or modification of equipment or
30 devices, appropriate adjustment or modifications of

1 examinations and other similar accommodations.

2 (2) Deny employment opportunities to an employee or
3 prospective employee, if the denial is based on the
4 employee's or prospective employee's need for a reasonable
5 accommodation.

6 (3) Require an employee or prospective employee to
7 accept an accommodation that changes the terms, privileges,
8 or conditions of employment, including, but not limited to,
9 reductions in pay or hours or changes in shifts or location,
10 unless requested or agreed to by the employee or prospective
11 employee.

12 (4) Require an employee to take leave under any policy
13 of the covered entity or law if other reasonable
14 accommodations can be provided to address the employee's
15 limitations related to pregnancy, childbirth or related
16 medical conditions that would enable the employee to continue
17 working.

18 (b) Undue hardship.--The covered entity shall have the
19 burden of proving undue hardship under subsection (a). The
20 factors to be considered in determining whether a requested
21 reasonable accommodation presents an undue hardship to the
22 covered entity include, but are not limited to:

23 (1) The overall size and nature of the covered entity,
24 its structure, the composition of its work force and the
25 number and type of facilities.

26 (2) The extent, nature and cost of the requested
27 reasonable accommodation.

28 (c) Nondiscrimination.--No person may discriminate or
29 retaliate against an individual because the individual has
30 opposed any act or practice made unlawful by this act or because

1 the individual made a charge, testified, assisted or
2 participated in any manner in an investigation, proceeding or
3 hearing under this act.

4 Section 4. Remedies and enforcement.

5 A person claiming discrimination in violation of section 3
6 may:

7 (1) if otherwise permitted by the laws or rules of this
8 Commonwealth, bring an action for preliminary injunctive
9 relief in an appropriate court. Any order or relief shall be
10 granted in accordance with Pa.R.C.P. No. 1531 (relating to
11 Special Relief. Injunctions.); or

12 (2) make, sign and file with the commission a verified
13 complaint in writing pursuant to the procedures set forth in
14 the act of October 27, 1955 (P.L.744, No.222), known as the
15 Pennsylvania Human Relations Act, with all appeals,
16 enforcement mechanisms, judicial review and remedies,
17 including damages and attorney fees, available under that
18 act.

19 Section 5. Notice.

20 The commission shall create a written notice regarding
21 employees' rights under this act that employers shall display in
22 plain view in the workplace.

23 Section 6. Rulemaking.

24 Not later than two years after the effective date of this
25 act, the commission shall promulgate regulations to implement
26 the provisions of this act.

27 Section 7. Effective date.

28 This act shall take effect in 60 days.