
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1209 Session of
2014

INTRODUCED BY SMITH, TEPLITZ, WOZNIAK, STACK, WAUGH, FONTANA,
COSTA, FARNESE, WILLIAMS, SOLOBAY, YUDICHAK AND BREWSTER,
MARCH 31, 2014

REFERRED TO LABOR AND INDUSTRY, MARCH 31, 2014

AN ACT

1 Eliminating discrimination and ensuring reasonable workplace
2 accommodations for workers whose ability to perform the
3 functions of a job are limited by pregnancy, childbirth or a
4 related medical condition; establishing a private right of
5 action; and imposing duties on the Pennsylvania Human
6 Relations Commission.

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

9 Section 1. Short title.

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

12 Section 2. Definitions.

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

16 "Commission." The Pennsylvania Human Relations Commission.

17 "Covered entity." Includes the Commonwealth or any political
18 subdivision or authority, board, department, commission or
19 school district thereof and any person employing four or more

1 persons within this Commonwealth.

2 "Person." An individual, partnership, association,
3 organization, corporation, legal representative, trustee in
4 bankruptcy or receiver. The term includes, but is not limited
5 to, an owner, lessor, assignor, builder, manager, broker,
6 salesman, agent, employee, independent contractor and lending
7 institution.

8 "Reasonable accommodation." An accommodation for as long as
9 necessary to enable an employee to continue working despite
10 limitations due to pregnancy, childbirth or related medical
11 conditions that does not present an undue hardship on the
12 covered entity. The term may include, but is not limited to:

13 (1) Providing a chair, assistance with heavy lifting,
14 access to water for drinking or uncompensated break time.

15 (2) Temporary job restructuring, part-time or modified
16 work schedule, reassignment to a vacant position, acquisition
17 or modification of equipment or device, appropriate
18 adjustment or modification of examination and other similar
19 accommodation.

20 Section 3. Nondiscrimination with regard to reasonable
21 accommodations related to pregnancy, childbirth or
22 related medical conditions.

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

25 (1) (i) Refuse an employee's or prospective employee's
26 request for reasonable accommodations unless the covered
27 entity demonstrates that the accommodation would impose
28 an undue hardship on the covered entity's operations.

29 (ii) The covered entity shall have the burden of
30 proving undue hardship.

1 (iii) The factors to be considered in determining
2 whether a requested reasonable accommodation presents an
3 undue hardship to the covered entity include, but are not
4 limited to, the following:

5 (A) The overall size and nature of the covered
6 entity, its structure, the composition of its
7 workforce and the number and type of facilities.

8 (B) The extent, nature and cost of the requested
9 reasonable accommodation.

10 (2) Deny employment opportunities to an employee or
11 prospective employee, if such denial is based on the
12 employee's or prospective employee's need for a reasonable
13 accommodation.

14 (3) Require an employee or a prospective employee to
15 accept a reasonable accommodation that changes the terms,
16 privileges or conditions of the employee's or prospective
17 employee's employment, including, but not limited to,
18 reductions in pay or hours or changes in shifts or location,
19 unless requested or agreed to by the employee or prospective
20 employee.

21 (4) Require an employee to take leave under any policy
22 of the covered entity or law if other reasonable
23 accommodations can be provided to address the employee's
24 limitations related to pregnancy, childbirth or related
25 medical conditions that would enable the employee to continue
26 working.

27 (b) Prohibition against retaliation.--No person shall bar or
28 discharge from employment or in any other manner discriminate
29 against any employee or prospective employee who has made a
30 charge or filed any complaint or instituted or caused to be

1 instituted any proceeding under or related to this act,
2 including an investigation conducted by the employer, has
3 testified or is planning to testify or has assisted or
4 participated in any manner in any such investigation,
5 proceeding, hearing or action.

6 Section 4. Remedies and enforcement.

7 (a) Preliminary injunctive relief.--Notwithstanding the
8 provisions of the act of October 27, 1955 (P.L.744, No.222),
9 known as the Pennsylvania Human Relations Act, a person
10 claiming to be aggrieved by an alleged unlawful discriminatory
11 practice in violation of section 3 may bring, in an appropriate
12 court of this Commonwealth, an action for preliminary injunctive
13 relief in accordance with Rule 1531 of the Pennsylvania Rules of
14 Civil Procedure.

15 (b) Complaint with Pennsylvania Human Relations
16 Commission.--Either in addition to or in conjunction with
17 subsection (a), a person claiming to be aggrieved by an alleged
18 unlawful discriminatory practice in violation of section 3 may
19 make, sign and file with the commission a verified complaint in
20 writing pursuant to the procedures set forth in the Pennsylvania
21 Human Relations Act, with all available appeals, enforcement
22 mechanisms, judicial review and remedies, including damages and
23 attorney fees, available under that act.

24 Section 5. Notice.

25 (a) Duty of commission to develop.--The commission shall
26 develop a written fair practice notice regarding employees'
27 rights under this act.

28 (b) Duty of covered entities to display.--A covered entity
29 shall display the written fair practice notice developed under
30 this section in plain view in the workplace.

1 Section 6. Rulemaking.

2 Not later than one year after the effective date of this
3 section the commission shall promulgate regulations to
4 administer this act.

5 Section 7. Effective date.

6 This act shall take effect in 60 days.