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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1685 Session of  
2017

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INTRODUCED BY DALEY, MICCARELLI, DEAN, DONATUCCI, RABB,  
SAMUELSON, SOLOMON, BARRAR, SCHLOSSBERG, DRISCOLL, SIMS,  
O'BRIEN, McNEILL, D. COSTA, DAVIS, WATSON, ROZZI, FRANKEL,  
DeLUCA, BOYLE, BRIGGS, GILLEN, McCARTER, WHEATLEY, KAVULICH  
AND KIM, JULY 27, 2017

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JULY 27, 2017

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AN ACT

1 Providing for workplace accommodations for nursing mothers.

2 The General Assembly of the Commonwealth of Pennsylvania  
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Workplace  
6 Accommodations for Nursing Mothers Act.

7 Section 2. Definitions.

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

11 "Department." The Department of Labor and Industry of the  
12 Commonwealth.

13 "Employer." A person, firm, association, partnership,  
14 corporation, organization, institution or public employer,  
15 including the Commonwealth and a political subdivision of the  
16 Commonwealth, employment agencies or labor organizations that

1 have one or more employees.

2 "Employment agency." A person regularly undertaking, with or  
3 without compensation, to procure opportunities to work or to  
4 procure, recruit or place employees.

5 "Labor organization." An organization that exists for the  
6 purpose, in whole or part, of collective bargaining or of  
7 dealing with employers concerning grievances, terms or  
8 conditions of employment or of other mutual aid or protection in  
9 relation to employment.

10 "Undue hardship." An action that requires significant  
11 difficulty or expense when considered in relation to factors  
12 such as the size of the employer, the financial resources of the  
13 employer or the nature and structure of its operation.

14 Section 3. Right of nursing mothers to express breast milk and  
15 breastfeed in workplace.

16 (a) Breaktime.--An employer shall provide unpaid breaktime  
17 or permit an employee to use paid breaktime, mealtime or both,  
18 to allow the employee to express breast milk for her nursing  
19 child.

20 (b) Room.--The employer shall provide a room or other  
21 private location in close proximity to the work area, other than  
22 a bathroom, where an employee can express breast milk so long as  
23 these requirements do not impose an undue hardship on an  
24 employer with fewer than 50 employees.

25 (c) No retaliation.--An employer may not:

26 (1) Refuse to hire, employ, bar, discharge from  
27 employment, withhold pay from, demote or penalize a  
28 lactating employee because an employee breastfeeds or  
29 expresses milk on the employer's premises.

30 (2) Retaliate against an employee who has made a

1 charge, filed a complaint or instituted or caused to be  
2 instituted a proceeding under or related to this act,  
3 including an investigation conducted by the employer.

4 (3) Retaliate against an employee who has testified,  
5 is planning to testify or has assisted or participated in  
6 any manner in an investigation, proceeding, hearing or  
7 action under or related to this act.

8 Section 4. Violations.

9 (a) Complaints.--An individual claiming to be aggrieved by a  
10 violation of section 3 may file a complaint with the department  
11 within 90 days after the alleged violation.

12 (b) Preliminary relief.--An individual may file an action  
13 seeking preliminary injunctive relief in a court of common pleas  
14 of competent jurisdiction if immediate relief is needed.

15 (c) Form.--The department shall develop and post on its  
16 publicly accessible Internet website a form for individuals to  
17 use in filing a complaint with the department with respect to a  
18 violation under section 3.

19 (d) Notice.--Within 30 days of receipt of a complaint, the  
20 department shall provide the employer, employment agency or  
21 labor organization with a copy of the complaint.

22 (e) Response.--An employer shall have 30 days from receipt  
23 of the complaint to respond in writing to the department  
24 regarding the complaint.

25 (f) Determination by department.--Within 90 days of receipt  
26 of a complaint, the department shall notify the complainant and  
27 employer of a determination as to whether a violation has  
28 occurred and whether a civil penalty shall be assessed by the  
29 department.

30 (g) Relief.--Upon a determination by the department that a

1 violation has occurred, the department shall enjoin the employer  
2 from violating this act and order the employer to pay  
3 compensatory damages to the complainant. The department may also  
4 assess a civil penalty not to exceed \$300 for a first violation  
5 and \$1,000 for each subsequent violation of section 3.

6 (h) Appeal.--A party that is dissatisfied with the  
7 determination of the department may file an appeal with  
8 Commonwealth Court within 30 days of receiving notice of the  
9 determination.

10 (i) Additional remedies preserved.--Nothing in this act  
11 shall be construed to impair existing statutory or common law  
12 rights, powers or duties or bar the relief otherwise available  
13 under the law to the complainant.

14 Section 5. Notification.

15 (a) Notification to employees.--

16 (1) Every employer subject to this act shall post and  
17 keep posted a notice in accordance with the following:

18 (i) The notice shall be prepared or approved by the  
19 department.

20 (ii) The notice shall be posted in conspicuous  
21 places on the premises of the employer where notices to  
22 employees are customarily posted.

23 (iii) The notice shall summarize the requirements of  
24 this act and include information pertaining to the  
25 procedures and remedies to enforce this act.

26 (2) The department shall furnish copies of summaries and  
27 rules to employers upon request without charge and shall  
28 publish these documents on the department's publicly  
29 accessible Internet website.

30 (b) Information for the public.--The department and the

1 Department of Health of the Commonwealth shall make available to  
2 the general public on the departments' publicly accessible  
3 Internet websites information and links to other websites where  
4 the public can access information concerning breastfeeding and  
5 expressing breast milk, including information relating to  
6 expressing breast milk in the workplace.

7 (c) Information for employers.--On its publicly accessible  
8 Internet website, the department shall provide information and  
9 links to other Internet websites where employers can access  
10 information regarding methods to accommodate nursing mothers in  
11 the workplace. The department shall consult with appropriate  
12 organizations or associations to determine the appropriate  
13 information and Internet website links to provide employers with  
14 the most accurate and useful information available.

15 Section 6. Effective date.

16 This act shall take effect in 60 days.