

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 08-1276

BY REPRESENTATIVE(S) Kerr A., Borodkin, Carroll M., Ferrandino, Fischer, Frangas, Hodge, Kefalas, Labuda, Looper, Madden, Merrifield, Middleton, Primavera, Stafford, and Todd;
also SENATOR(S) Gibbs, Bacon, Groff, Schwartz, Shaffer, Tochtrop, Tupa, Williams, and Windels.

CONCERNING WORKPLACE ACCOMMODATIONS FOR NURSING MOTHERS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 8, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 13.5

Workplace Accommodations for Nursing Mothers

8-13.5-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "WORKPLACE ACCOMMODATIONS FOR NURSING MOTHERS ACT".

8-13.5-102. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(a) THE AMERICAN ACADEMY OF PEDIATRICS RECOMMENDS BREASTFEEDING EXCLUSIVELY FOR THE FIRST SIX MONTHS OF AN INFANT'S LIFE AND HAS CONTINUOUSLY ENDORSED BREASTFEEDING FOR AT LEAST ONE YEAR OR LONGER AS THE OPTIMAL FORM OF NUTRITION FOR INFANTS AND AS A FOUNDATION FOR GOOD FEEDING PRACTICES;

(b) EXTENSIVE RESEARCH INDICATES THAT THERE ARE DIVERSE AND COMPELLING ADVANTAGES TO NURSING FOR INFANTS, MOTHERS, FAMILIES, BUSINESSES, AND SOCIETY, INCLUDING LESS ILLNESS AMONG CHILDREN WHO ARE NURSED AND LOWER HEALTH CARE COSTS;

(c) EPIDEMIOLOGIC RESEARCH SHOWS THAT BREASTFEEDING INFANTS PROVIDES BENEFITS TO THEIR GENERAL HEALTH, GROWTH, AND DEVELOPMENT AND RESULTS IN SIGNIFICANT DECREASES IN RISK FOR NUMEROUS ACUTE ILLNESSES;

(d) BREASTFEEDING HAS BEEN SHOWN TO HAVE NUMEROUS HEALTH BENEFITS FOR MOTHERS, INCLUDING AN EARLIER RETURN TO PREPREGNANT WEIGHT, DELAYED RESUMPTION OF OVULATION WITH INCREASED CHILD SPACING, IMPROVED BONE REMINERALIZATION POSTPARTUM WITH REDUCTION IN HIP FRACTURES IN THE POSTMENOPAUSAL PERIOD, AND REDUCED RISK OF OVARIAN CANCER AND PREMENOPAUSAL BREAST CANCER;

(e) IN ADDITION TO INDIVIDUAL HEALTH BENEFITS, PROVIDING OPPORTUNITIES FOR BREASTFEEDING RESULTS IN SUBSTANTIAL BENEFITS TO EMPLOYERS, INCLUDING REDUCED HEALTH CARE COSTS, REDUCED EMPLOYEE ABSENTEEISM FOR CARE ATTRIBUTABLE TO INFANT ILLNESS, IMPROVED EMPLOYEE PRODUCTIVITY, HIGHER MORALE AND GREATER LOYALTY, IMPROVED ABILITY TO ATTRACT AND RETAIN VALUABLE EMPLOYEES, AND A FAMILY-FRIENDLY IMAGE IN THE COMMUNITY;

(f) NURSING IS A BASIC, NORMAL, AND IMPORTANT ACT OF NURTURING THAT SHOULD BE ENCOURAGED IN THE INTERESTS OF MATERNAL AND INFANT HEALTH.

(2) THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE PURPOSE OF THIS ARTICLE IS FOR THE STATE OF COLORADO TO BECOME INVOLVED IN THE NATIONAL MOVEMENT TO RECOGNIZE THE MEDICAL IMPORTANCE OF BREASTFEEDING, WITHIN THE SCOPE OF COMPLETE PEDIATRIC CARE, AND TO ENCOURAGE REMOVAL OF BOUNDARIES PLACED ON NURSING MOTHERS IN

THE WORKPLACE.

8-13.5-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "EMPLOYER" MEANS A PERSON ENGAGED IN BUSINESS WHO HAS ONE OR MORE EMPLOYEES. "EMPLOYER" INCLUDES THE STATE AND ANY POLITICAL SUBDIVISION OF THE STATE.

(2) "REASONABLE EFFORTS" MEANS ANY EFFORT THAT WOULD NOT IMPOSE AN UNDUE HARDSHIP ON THE OPERATION OF THE EMPLOYER'S BUSINESS.

(3) "UNDUE HARDSHIP" MEANS ANY ACTION THAT REQUIRES SIGNIFICANT DIFFICULTY OR EXPENSE WHEN CONSIDERED IN RELATION TO FACTORS SUCH AS THE SIZE OF THE BUSINESS, THE FINANCIAL RESOURCES OF THE BUSINESS, OR THE NATURE AND STRUCTURE OF ITS OPERATION, INCLUDING CONSIDERATION OF THE SPECIAL CIRCUMSTANCES OF PUBLIC SAFETY.

8-13.5-104. Right of nursing mothers to express breast milk in workplace - private location - discrimination prohibited. (1) AN EMPLOYER SHALL PROVIDE REASONABLE UNPAID BREAK TIME OR PERMIT AN EMPLOYEE TO USE PAID BREAK TIME, MEAL TIME, OR BOTH, EACH DAY TO ALLOW THE EMPLOYEE TO EXPRESS BREAST MILK FOR HER NURSING CHILD FOR UP TO TWO YEARS AFTER THE CHILD'S BIRTH.

(2) THE EMPLOYER SHALL MAKE REASONABLE EFFORTS TO PROVIDE A ROOM OR OTHER LOCATION IN CLOSE PROXIMITY TO THE WORK AREA, OTHER THAN A TOILET STALL, WHERE AN EMPLOYEE CAN EXPRESS BREAST MILK IN PRIVACY.

(3) AN EMPLOYER THAT MAKES REASONABLE EFFORTS TO ACCOMMODATE AN EMPLOYEE WHO CHOOSES TO EXPRESS BREAST MILK IN THE WORKPLACE SHALL BE DEEMED TO BE IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

(4) THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL PROVIDE, ON ITS WEB SITE, INFORMATION AND LINKS TO OTHER WEB SITES WHERE EMPLOYERS CAN ACCESS INFORMATION REGARDING METHODS TO

ACCOMMODATE NURSING MOTHERS IN THE WORKPLACE. THE DEPARTMENT SHALL CONSULT WITH APPROPRIATE ORGANIZATIONS OR ASSOCIATIONS TO DETERMINE THE APPROPRIATE INFORMATION AND WEB SITE LINKS TO PROVIDE ON THE DEPARTMENT'S WEB SITE SO AS TO PROVIDE EMPLOYERS WITH THE MOST ACCURATE AND USEFUL INFORMATION AVAILABLE.

(5) BEFORE AN EMPLOYEE MAY SEEK LITIGATION FOR A VIOLATION OF THIS SECTION, THERE SHALL BE NONBINDING MEDIATION BETWEEN THE EMPLOYER AND THE EMPLOYEE.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or

part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Peter C. Groff
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO