

## NEW FEDERAL LAWS PROTECT PREGNANT AND NURSING MOTHERS

Two new federal laws protecting pregnant and nursing mothers have recently gone into effect.

### **Pregnant Workers Fairness Act (PWFA)**

Effective June 27, 2023, the PWFA amended Title VII of the Civil Rights Act of 1964 to require covered employers to provide reasonable accommodations to a worker's known limitations related to pregnancy, childbirth, or related conditions.

The law applies to private employers with 15 or more employees and public employers. Workers protected by the law include both employees and applicants. A qualified employee is one who can perform the essential functions of the position (with or without accommodation). An employee is also considered qualified if any inability to perform an essential function is for a temporary period, the essential function could be performed in the near future, and the inability to perform the essential function can be reasonably accommodated. Similar to provisions in the Americans with Disabilities Act (ADA), an employer is not required to make reasonable accommodations if to do so would present an undue hardship. Unlike the ADA, the PWFA only applies to "known limitations"—physical or mental conditions related to, affected by, or arising out of pregnancy, childbirth or related medical conditions that the employee (or their representative) has communicated to the employer. The condition is not required to meet the definition of a disability under the ADA.

The PWFA will be enforced by the Equal Employment Opportunity Commission (EEOC) and is subject to all the remedies available to employees under Title VII.

For those seeking information about the PWFA, the EEOC has published a document entitled [What You Should Know About the Pregnant Workers Fairness Act](#) and has also published this [infographic](#).

Note that California's Pregnancy Disability Leave (PDL) sets forth requirements that are more protective of employees than the PWFA. Employers with employees in California should continue to follow California law with regard to accommodations for employees with conditions related to pregnancy, childbirth or related conditions.

### **Providing Urgent Maternal Protection for Mothers Act (PUMP Act)**

On April 28, 2023, PUMP Act went into effect, expanding federal workplace protections for lactating workers. The law requires all employers covered by the Fair Labor Standards Act (FLSA) with 50 or more employees to allow employees reasonable break time to express breast milk for the employee's nursing child. The PUMP Act protects lactating workers for one year after the nursing child's birth.

There are several exemptions in the law. Employers with fewer than 50 employees are exempt from compliance with the law if they can show that doing so would cause an undue hardship—causing significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's

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business. The law does not apply to crewmembers of air carriers, and there are special rules for long-distance bus drivers as well as railroad workers.

For additional information, employers can review this [Fact Sheet](#) and these [FAQs](#) released by the U.S. Department of Labor's Wage and Hour Division.

Just as with the PWFA, the PUMP Act is less stringent than California law. Employers with employees in California should continue to comply with California's lactation accommodation laws.

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