

# House Bill 2372

Sponsored by Representatives BERGER, ROSENBAUM, Senator BURDICK (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires employers of 25 or more employees to provide unpaid rest periods to employees to express milk if providing rest periods does not cause undue hardship on operation of employer's business. Requires employer to make reasonable efforts to provide private location where employee can express milk. Provides civil penalty.

## A BILL FOR AN ACT

1  
2 Relating to breast-feeding; creating new provisions; and amending ORS 653.077 and 653.256.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 653.077 is amended to read:

5 653.077. (1) **As used in this section:**

6 (a) **"Reasonable efforts" means efforts that do not impose an undue hardship on the op-**  
7 **eration of an employer's business.**

8 (b) **"Undue hardship" means significant difficulty or expense when considered in relation**  
9 **to the size, financial resources, nature and structure of the employer's business.**

10 [(1)] (2)(a) An employer [may] **shall** provide reasonable unpaid rest periods to accommodate an  
11 employee who needs to express milk for her child.

12 (b) The employee shall notify the employer that the employee intends to express milk upon re-  
13 turning to work. [*The employee shall, if feasible, take the rest periods to express milk at the same time*  
14 *as rest periods that are otherwise provided to the employee. The employer may provide the employee*  
15 *up to 60 minutes in rest periods per eight-hour shift to express milk.*]

16 (c) **Unless otherwise agreed to by the employer and the employee, the employer shall**  
17 **provide the employee a 30-minute rest period to express milk during each four-hour work**  
18 **period, or the major part of a four-hour work period, to be taken by the employee approxi-**  
19 **mately in the middle of the work period.**

20 (d) **The employee shall, if feasible, take the rest periods to express milk at the same time**  
21 **as the rest periods or meal periods that are otherwise provided to the employee.**

22 (e) If the employer is required by law or contract to provide the employee with paid rest peri-  
23 ods, the employer shall treat the rest periods used by the employee for expressing milk as paid rest  
24 periods, up to the amount of time the employer is required to provide as paid rest periods. If an  
25 employee takes unpaid rest periods, the employer may allow the employee to work before or after  
26 her normal shift to make up the amount of time used during the unpaid rest periods. If the employee  
27 does not work to make up the amount of time used during the unpaid rest periods, the employer is  
28 not required to compensate the employee for that time.

29 (3) **The employee is entitled to use any paid accrued sick leave, paid accrued vacation**  
30 **leave or other paid leave that the employer offers in lieu of vacation leave during the rest**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **periods used by the employee to express milk.**

2 (4) **When an employer’s contribution to an employee’s health insurance is influenced by**  
 3 **the number of hours the employee works, the employer shall treat any unpaid rest periods**  
 4 **used by the employee to express milk as paid work time for the purpose of measuring the**  
 5 **number of hours the employee works.**

6 (5) **An employer is not required to provide rest periods under this section if to do so**  
 7 **would impose an undue hardship on the operation of the employer’s business.**

8 [(2)(a)] (6)(a) An employer [may] **shall make reasonable efforts to** provide a [room or other]  
 9 location, other than a public restroom or toilet stall, in close proximity to the employee’s work area  
 10 for the employee to express milk in private.

11 (b) The [room or other] location may include, **but is not limited to:**

12 (A) The employee’s work area if the work area meets the requirements of paragraph (a) of this  
 13 subsection; [or]

14 **(B) A room connected to a public restroom, such as a lounge, if the room allows the**  
 15 **employee to express milk in private; or**

16 [(B)] (C) A child care facility in close proximity to the employee’s work location where the  
 17 employee can express milk in private.

18 [(3)] (7) An employer may allow an employee to temporarily change job duties if the employee’s  
 19 regular job duties do not allow her to express milk.

20 [(4)] (8) This section applies only to an employer whose employee is expressing milk for a child  
 21 18 months of age or younger.

22 [(5)] (9) This section applies only to employers who employ 25 or more employees in the State  
 23 of Oregon for each working day during each of 20 or more calendar workweeks in the year in which  
 24 the rest periods are to be taken or in the year immediately preceding the year in which the rest  
 25 periods are to be taken.

26 **(10) Notwithstanding ORS 653.020 (3), this section applies to individuals engaged in ad-**  
 27 **ministrative, executive or professional work as described in ORS 653.020 (3).**

28 **(11) The Commissioner of the Bureau of Labor and Industries shall adopt rules to im-**  
 29 **plement and enforce this section.**

30 **SECTION 2.** ORS 653.256 is amended to read:

31 653.256. (1) In addition to any other penalty provided by law, the Commissioner of the Bureau  
 32 of Labor and Industries may assess a civil penalty not to exceed \$1,000 against any person who  
 33 willfully violates ORS 653.025, 653.030, 653.045, 653.050, 653.060, **653.077** or 653.261 or any rule  
 34 adopted thereunder.

35 (2) Civil penalties authorized by this section shall be imposed in the manner provided in ORS  
 36 183.745.

37 (3) All sums collected as penalties under this section shall be first applied toward reimbursement  
 38 of costs incurred in determining the violations, conducting hearings under this section and ad-  
 39 dressing and collecting [such] **the** penalties. The remainder, if any, of the sums collected as penalties  
 40 under this section shall be paid over by the commissioner to the Department of State Lands for the  
 41 benefit of the Common School Fund of this state. The department shall issue a receipt for the money  
 42 to the commissioner.

43 **SECTION 3.** **The amendments to ORS 653.077 and 653.256 by sections 1 and 2 of this 2007**  
 44 **Act apply only to conduct occurring on or after the effective date of this 2007 Act.**