

# House Bill 2038

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Commissioner of the Bureau of Labor and Industries Brad Avakian)

## 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**.

Conforms Oregon law related to expression of milk in workplace to federal law. Eliminates, for employers of 50 or more employees, exemption from providing rest periods for expression of milk in workplace if granting rest period creates undue hardship.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to expression of milk in the workplace; amending ORS 653.077; and declaring an emergency.

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 operation  
7 of an employer's business.

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

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

12 (b) *[The]* **When possible, an** employee shall provide reasonable notice to the employer that the  
13 employee intends to express milk upon returning to work **after the child's birth. Failure to give**  
14 **notice under this subsection is not grounds for discipline.**

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

19 **(c) The employer shall provide the employee a reasonable rest period to express milk**  
20 **each time the employee has a need to express milk.**

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

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

30 (3) When an employer's contribution to an employee's health insurance is influenced by the

**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 number of hours the employee works, the employer shall treat any unpaid rest periods used by the  
2 employee to express milk as paid work time for the purpose of measuring the number of hours the  
3 employee works.

4 (4) An employer **that employs fewer than 50 employees** is not required to provide rest periods  
5 under this section if to do so would impose an undue hardship on the operation of the employer's  
6 business.

7 (5)(a) An employer shall make reasonable efforts to provide a location, other than a public  
8 restroom or toilet stall, in close proximity to the employee's work area for the employee to express  
9 milk in private.

10 (b) The location may include, but is not limited to:

11 (A) The employee's work area if the work area meets the requirements of paragraph (a) of this  
12 subsection;

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

15 (C) A child care facility in close proximity to the employee's work location where the employee  
16 can express milk in private.

17 (6) An employer may allow an employee to temporarily change job duties if the employee's reg-  
18 ular job duties do not allow her to express milk.

19 (7) This section applies only to an employer whose employee is expressing milk for her child 18  
20 months of age or younger.

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

25 [(9)] (8) Notwithstanding ORS 653.020 (3), this section applies to individuals engaged in admin-  
26 istrative, executive or professional work as described in ORS 653.020 (3).

27 [(10)(a)] (9)(a) In addition to, and not in lieu of, any other requirement under this section, each  
28 school district board shall adopt a policy regarding breast-feeding in the workplace to accommodate  
29 an employee who needs to express milk for her child.

30 (b) Each policy must, at a minimum, designate a location at the school facility, other than a  
31 public restroom or toilet stall, in close proximity to the employee's work area for the employee to  
32 express milk in private.

33 (c) A policy adopted under this subsection, including the designated locations where an em-  
34 ployee may express milk, must be published in an employee handbook. In addition, a list of the  
35 designated locations must be readily available, upon request, in the central office of each school  
36 facility and in the central administrative office for each school district.

37 [(11)] (10) The Commissioner of the Bureau of Labor and Industries shall adopt rules to imple-  
38 ment and enforce this section.

39 **SECTION 2. This 2011 Act being necessary for the immediate preservation of the public**  
40 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
41 **on its passage.**