

# Enrolled House Bill 2593

Sponsored by Representatives POWER, SMITH WARNER, WILLIAMSON, BOSHART DAVIS, Senator TAYLOR; Representatives FAHEY, KENY-GUYER, KOTEK, NERON, PRUSAK, SALINAS, SCHOUTEN, WILDE, Senators KNOPP, MONNES ANDERSON, WAGNER (Presession filed.)

CHAPTER .....

AN ACT

Relating to expression of milk in the workplace; amending ORS 653.077; and prescribing an effective date.

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

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

653.077. (1) As used in this section:

(a) "Reasonable efforts" means efforts that do not impose an undue hardship on the operation of an employer's business.

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

(2)(a) An employer shall provide reasonable unpaid rest periods to accommodate an employee who needs to express milk for *[her]* **the employee's** child.

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

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

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

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

(e) If the employer is required by law or contract to provide the employee with paid rest periods, the employer shall treat the rest periods used by the employee for expressing milk as paid rest periods, up to the amount of time the employer is required to provide as paid rest periods. If an employee takes unpaid rest periods, the employer may allow the employee to work before or after *[her]* **the employee's** normal shift to make up the amount of time used during the unpaid rest periods. If the employee does not work to make up the amount of time used during the unpaid rest periods, the employer is not required to compensate the employee for that time.

(3) When an employer's contribution to an employee's health insurance is influenced by the number of hours the employee works, the employer shall treat any unpaid rest periods used by the

employee to express milk as paid work time for the purpose of measuring the number of hours the employee works.

(4) An employer **with 10 or fewer employees** is not required to provide rest periods under this section if to do so would impose an undue hardship on the operation of the employer's business.

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

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

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

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

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

(6) An employer may allow an employee to temporarily change job duties if the employee's regular job duties do not allow [her] **the employee** to express milk.

(7) This section applies only to an employer whose employee is expressing milk for [her] **the employee's** child 18 months of age or younger.

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

*[(9)]* **(8)** Notwithstanding ORS 653.020 (3), this section applies to individuals engaged in administrative, executive or professional work as described in ORS 653.020 (3).

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

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

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

*[(11)]* **(10)** The Commissioner of the Bureau of Labor and Industries shall adopt rules to implement and enforce this section.

**SECTION 2. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.**

**Passed by House April 17, 2019**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate May 6, 2019**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2019

**Approved:**

.....M,....., 2019

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2019

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Bev Clarno, Secretary of State