

Calendar No. 65

117TH CONGRESS
1ST SESSION**S. 1658**

To amend the Fair Labor Standards Act of 1938 to expand access to breastfeeding accommodations in the workplace, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2021

Mr. MERKLEY (for himself, Ms. MURKOWSKI, Mr. BOOKER, Mr. CASEY, and Ms. DUCKWORTH) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

MAY 27, 2021

Reported by Mrs. MURRAY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Fair Labor Standards Act of 1938 to expand access to breastfeeding accommodations in the workplace, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “~~Providing Urgent Ma-~~
5 ~~ternal Protections for Nursing Mothers Act~~” or the
6 “~~PUMP for Nursing Mothers Act~~”.

1 **SEC. 2. BREASTFEEDING ACCOMMODATIONS IN THE WORK-**
 2 **PLACE.**

3 (a) ~~EXPANDING EMPLOYEE ACCESS TO BREAK TIME~~
 4 ~~AND SPACE.~~—The Fair Labor Standards Act of 1938 (29
 5 U.S.C. 201 et seq.) is amended—

6 (1) in section 7, by striking subsection (r);

7 (2) in section 15(a)—

8 (A) by striking the period at the end of
 9 paragraph (5) and inserting “; and”; and

10 (B) by adding at the end the following:

11 “(6) to violate any of the provisions of section
 12 18D.”;

13 (3) in section 16(b), by striking “7(r)” each
 14 place the term appears and inserting “18D”; and

15 (4) by inserting after section 18C the following:

16 **“SEC. 18D. BREASTFEEDING ACCOMMODATIONS IN THE**
 17 **WORKPLACE.**

18 “(a) ~~IN GENERAL.~~—An employer shall provide—

19 “(1) a reasonable break time for an employee to
 20 express breast milk for such employee’s nursing
 21 child for 1 year after the child’s birth each time
 22 such employee has need to express the milk; and

23 “(2) a place, other than a bathroom, that is
 24 shielded from view and free from intrusion from co-
 25 workers and the public; which may be used by an
 26 employee to express breast milk.

1 “(b) COMPENSATION.—

2 “(1) IN GENERAL.—Subject to paragraph (2),
3 an employer shall not be required to compensate an
4 employee receiving reasonable break time under sub-
5 section (a)(1) for any time spent during the workday
6 for such purpose unless otherwise required by Fed-
7 eral or State law or municipal ordinance.

8 “(2) RELIEF FROM DUTIES.—Break time pro-
9 vided under paragraph (1) shall be considered hours
10 worked if the employee is not completely relieved
11 from duty during the entirety of such break.

12 “(c) EXEMPTION.—An employer that employs less
13 than 50 employees shall not be subject to the requirements
14 of this section, if such requirements would impose an
15 undue hardship by causing the employer significant dif-
16 ficulty or expense when considered in relation to the size,
17 financial resources, nature, or structure of the employer’s
18 business.

19 “(d) LAWS PROVIDING GREATER PROTECTION.—
20 Nothing in this section shall preempt a State law or mu-
21 nicipal ordinance that provides greater protections to em-
22 ployees than the protections provided for under this sec-
23 tion.”.

24 “(b) CLARIFYING REMEDIES.—Section 16(b) of the
25 Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)) is

1 amended by striking “15(a)(3)” each place the term ap-
 2 pears and inserting “7(r) or 15(a)(3)”.

3 **SEC. 3. EFFECTIVE DATE.**

4 (a) **EXPANDING ACCESS.**—The amendments made by
 5 section 2(a) shall take effect on the date that is 120 days
 6 after the date of enactment of this Act.

7 (b) **REMEDIES AND CLARIFICATION.**—The amend-
 8 ments made by section 2(b) shall take effect on the date
 9 of enactment of this Act.

10 **SECTION 1. SHORT TITLE.**

11 *This Act may be cited as the “Providing Urgent Mater-*
 12 *nal Protections for Nursing Mothers Act” or the “PUMP*
 13 *for Nursing Mothers Act”.*

14 **SEC. 2. BREASTFEEDING ACCOMMODATIONS IN THE WORK-**
 15 **PLACE.**

16 (a) **EXPANDING EMPLOYEE ACCESS TO BREAK TIME**
 17 **AND SPACE.**—*The Fair Labor Standards Act of 1938 (29*
 18 *U.S.C. 201 et seq.) is amended—*

19 (1) *in section 7 (29 U.S.C. 207), by striking sub-*
 20 *section (r); and*

21 (2) *by inserting after section 18C (29 U.S.C.*
 22 *218c) the following:*

23 **“SEC. 18D. BREASTFEEDING ACCOMMODATIONS IN THE**
 24 **WORKPLACE.**

25 *“(a) IN GENERAL.—An employer shall provide—*

1 “(1) a reasonable break time for an employee to
 2 express breast milk for such employee’s nursing child
 3 for 1 year after the child’s birth each time such em-
 4 ployee has need to express the milk; and

5 “(2) a place, other than a bathroom, that is
 6 shielded from view and free from intrusion from co-
 7 workers and the public, which may be used by an em-
 8 ployee to express breast milk.

9 “(b) COMPENSATION.—

10 “(1) IN GENERAL.—Subject to paragraph (2), an
 11 employer shall not be required to compensate an em-
 12 ployee receiving reasonable break time under sub-
 13 section (a)(1) for any time spent during the workday
 14 for such purpose unless otherwise required by Federal
 15 or State law or municipal ordinance.

16 “(2) RELIEF FROM DUTIES.—Break time pro-
 17 vided under paragraph (1) shall be considered hours
 18 worked if the employee is not completely relieved from
 19 duty during the entirety of such break.

20 “(c) EXEMPTION.—An employer that employs less than
 21 50 employees shall not be subject to the requirements of this
 22 section, if such requirements would impose an undue hard-
 23 ship by causing the employer significant difficulty or ex-
 24 pense when considered in relation to the size, financial re-
 25 sources, nature, or structure of the employer’s business.

1 “(d) *LAWS PROVIDING GREATER PROTECTION.*—*Noth-*
 2 *ing in this section shall preempt a State law or municipal*
 3 *ordinance that provides greater protections to employees*
 4 *than the protections provided for under this section.*”.

5 (b) *CLARIFYING REMEDIES.*—*The Fair Labor Stand-*
 6 *ards Act of 1938 (29 U.S.C. 201 et seq.) is amended—*

7 (1) *in section 15(a) (29 U.S.C. 215(a))—*

8 (A) *by striking the period at the end of*
 9 *paragraph (5) and inserting “; and”; and*

10 (B) *by adding at the end the following:*

11 “(6) *to violate any of the provisions of section*
 12 *18D.*”; *and*

13 (2) *in section 16(b) (29 U.S.C. 216(b)), by strik-*
 14 *ing “15(a)(3)” each place the term appears and in-*
 15 *serting “15(a)(3) or 18D”.*

16 **SEC. 3. EFFECTIVE DATE.**

17 (a) *EXPANDING ACCESS.*—*The amendments made by*
 18 *section 2(a) shall take effect on the date of enactment of*
 19 *this Act.*

20 (b) *REMEDIES AND CLARIFICATION.*—*The amend-*
 21 *ments made by section 2(b) shall take effect on the date that*
 22 *is 120 days after the date of enactment of this Act.*

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