

Legislative Update JULY 2023*

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EMPLOYERS MUST REASONABLY ACCOMMODATE PREGNANT WORKERS

The Pregnant Workers Fairness Act (PWFA) is a federal law in effect as of June 27, 2023 which obligates employers to provide reasonable accommodations to workers' known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation causes an undue hardship. Employers covered by the Act include private and public sector employers with at least fifteen (15) employees, employment agencies, and labor organizations. More information is found at: <https://www.eeoc.gov/wysk/what-you-should-know-about-pregnant-workers-fairness-act>.

Under the Act, covered employers are required to provide reasonable accommodations unless they would cause an "undue hardship" on the employer's operations. An undue hardship is significant difficulty or expense for the employer. Examples of possible reasonable accommodations include:

- Being given the ability to sit or drink water;
- Receiving closer parking;
- Receiving appropriately sized uniforms and safety apparel;
- Receiving flexible hours and/or additional break time to use the bathroom, eat, and rest
- Being given the ability to take leave or time off to recover from childbirth; and
- Being excused from strenuous activities and/or activities that involve exposure to compounds not safe for pregnancy.

Employers covered by the Act cannot:

- Require an employee to accept an accommodation without a discussion about the accommodation between the worker and the employer;
- Deny a job or other employment opportunities to a qualified employee or applicant based on the person's need for a reasonable accommodation;
- Require an employee to take leave if another reasonable accommodation can be provided that would let the employee keep working;
- Retaliate against an individual for reporting or opposing unlawful discrimination under the PWFA or participating in a PWFA proceeding (such as an investigation); or
- Interfere with any individual's rights under the PWFA.

Source: United States Equal Employment Opportunity Commission

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