

NEWS & INSIGHTS

The PUMP Act: What you need to know

INSIGHTSLEGAL UPDATE

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A law that will further protect nursing women in the workplace will go into effect this month and require employers – including school districts – to give additional accommodations to nursing mothers.

President Joe Biden signed into law the “Providing Urgent Maternal Protections for Nursing Mothers Act” or “PUMP for Nursing Mothers Act” on December 29, 2022. With the 120-day delay on enforcement provision, the effective date for enforcement is **April 28**.

Background

The PUMP Act is an amendment to the Fair Labor Standards Act of 1938 and builds on the Break Time for Nursing Mothers Act that passed in 2010. The expansion of the 2010 act results in protections for millions more women, including teachers and other school employees.

Key Elements Q&A

What does the PUMP Act require?

The PUMP Act requires that, for one year following a child's birth, employers of over 50 employees provide "a reasonable break time for an employee to express milk...each time such employee has need to express the milk" and a place, "other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public," to do so.

Do I need to find space for exclusive use by pumping mothers?

No. According to [guidance](#) provided by the U.S. Department of Labor, the space provided to nursing mothers for pumping need not be exclusively dedicated to pumping, but it must be made available when needed by the employee. A space may be converted into a space for pumping as long as it is private and shielded from view.

Is there a limit on how many breaks an employee can ask for?

No. There is no limit on the number of pumping breaks an employee can request.

Is there a limit to how long a pump break can last?

No. The time taken must be "reasonable."

Can I deduct pay from my employee's paycheck for the time she spends pumping?

It depends. Under the PUMP Act, when an employee is using time at work to pump, the employee need not be compensated, but only as long as the employee is completely relieved from duty. Likewise, if an employer provides paid breaks, an employee who uses break time to pump must be compensated in the same way that other employees are compensated for break time. [Guidance](#) from the DOL states that a teacher who uses the time she is pumping to grade papers and complete student records teacher must be compensated for the time spent pumping and doing work at the same time.

Can I fire someone whose pumping breaks are too cumbersome to accommodate?

No. The FLSA, under which the PUMP Act was passed, prohibits retaliation for filing a complaint, orally or in writing, about an employer's failure to follow the law. The Department of Labor would consider it retaliation for an employer to fire an employee, or move them to a lower-paying job, on the grounds that pumping breaks interfere with job performance.

Does the PUMP Act apply to part-time employees?

Yes.

Are there any other new protections for pregnant or nursing mothers we should be aware of?

Yes. The PUMP Act was accompanied in its passage by the Pregnant Workers Fairness Act, which takes effect on June 27, and requires employers to make “reasonable accommodations” to a worker’s known limitations due to pregnancy, childbirth or related medical conditions. Per [guidance](#) from the EEOC, these accommodations could include the ability to sit or drink water, receive closer parking, have flexible hours and receive additional breaktime.

If you have any questions about the PUMP Act and what your business should do to be ready for its enforcements, please [contact me](#), [Jeffrey D. Litts](#) or any member of the [Saxton & Stump Education Group](#).

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