

Take Note: the Massachusetts Pregnant Workers Fairness Act Is Now In Effect!

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A new Massachusetts law significantly enhances existing anti-discrimination protections for pregnant employees. The [“Massachusetts Pregnant Workers Fairness Act,”](#) effective April 1, 2018, prevents discrimination against, and expressly protects, employees who are pregnant or are experiencing pre- and post-birth pregnancy-related medical needs, including, but not limited to, lactation, expressing breast milk, and recovering from childbirth.

This new law supplements several existing state and federal law protections for pregnant employees. Existing state-law includes parental leave requirements in chapter 149 of the Massachusetts General Laws, and existing federal protections exist in Title VII, the Americans with Disabilities Act, and lactation break and location accommodation requirements [passed as part of the Affordable Care Act](#) but applicable only to employees who are not exempt under the Fair Labor Standards Act.

The Pregnant Workers Fairness Act obligates employers to provide reasonable accommodations for pregnancy or conditions relating to pregnancy, which may include:

- more frequent or longer paid or unpaid breaks;
- time off to attend to a pregnancy complication or recover from childbirth with or without pay;
- acquisition or modification of equipment or seating;
- temporary transfer to a less strenuous or hazardous position;
- job restructuring;
- light duty;
- private non-bathroom space for expressing breast milk;
- assistance with manual labor; or
- a modified work schedule.

Employers must engage in a timely, good faith, and interactive process to determine an effective, reasonable accommodation for an employee to perform the essential functions of the job.

Interestingly, the Pregnant Workers Fairness Act explicitly *prohibits* an employer from requesting medical documentation justifying the accommodations of:

- more frequent restroom, food or water breaks;
- acquisition or modification of seating;
- limits on lifting more than 20 pounds; and
- private non-bathroom space for expressing breast milk.

The Massachusetts Commission Against Discrimination has already issued [Guidance](#) and [Q&As](#) relating to the law which, in addition to those conditions listed in the statute itself, identifies morning sickness as a pregnancy-related medical need that may require a reasonable accommodation of a later starting time.

Employers subject to Chapter 151B have an obligation to provide eligible employees with written notice of their rights under this new law. That notice must be “distributed” to all employees, provided to all new employees at or prior to employment, and given within 10 days to any employee who notifies the employer of a pregnancy or a condition relating to pregnancy.

With the law now in full force, employers should immediately review their handbooks and policies to ensure that they are in compliance with this new law, including by training staff about how to respond to inquiries from eligible employees. Employers with facilities in more than one state should take care to comply with all states’ requirements, which can differ in important ways.

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