

# HOUSE BILL REPORT

## HB 1855

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### As Reported By House Committee On:

Commerce & Labor  
Appropriations

**Title:** An act relating to breastfeeding.

**Brief Description:** Protecting the act of breastfeeding.

**Sponsors:** Representatives Cody, Clements, Conway, O'Brien, Murray, Cairnes, Keiser, Lantz, Wolfe, Kenney, Hatfield, Santos, Wood, Ogden, Rockefeller, Regala, McIntire, Stensen, Dickerson, Kessler and Gombosky.

### Brief History:

#### Committee Activity:

Commerce & Labor: 2/15/99, 2/25/99 [DPS];  
Appropriations: 3/6/99 [DP2S(w/o sub CL)].

#### Brief Summary of Second Substitute Bill

- Excludes the act of breast-feeding or expressing breast milk from the indecent exposure law.
- Allows employers with approved workplace breastfeeding policies to use "baby-friendly" designations in promotional materials.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Clements, Republican Co-Chair; B. Chandler, Republican Vice Chair; Wood, Democratic Vice Chair; Lisk and McMorris.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Conway, Democratic Co-Chair; Hurst and McIntire.

**Staff:** Chris Cordes (786-7103).

## **Background:**

Washington does not have statutes addressing the right of a woman to breast-feed her child. Several other states have enacted laws specifically relating to this issue. Some states make breast-feeding a civil right and entitle a woman to breast-feed her child in any public or private location where she is authorized to be. Other states limit application of their indecent exposure laws, or provide incentives for businesses to develop "baby-friendly" policies.

In Washington, a person is guilty of indecent exposure if the person intentionally makes any open and obscene exposure of himself knowing that such conduct is likely to cause reasonable affront or alarm. Indecent exposure can be a misdemeanor, gross misdemeanor, or class C felony, depending upon various factors.

The Department of Labor and Industries is responsible for investigating conditions of employment and for adopting workplace standards, such as requirements for rest and meal breaks, personal privacy, and methods by which employees perform services.

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## **Summary of Substitute Bill:**

Legislative findings. The Legislature makes a number of findings about the health benefits of breast-feeding to mothers and babies, and the benefits to employers who support breast-feeding employees because of increased productivity, company loyalty, and lower employee health care costs.

Indecent exposure. The act of breast-feeding or expressing breast milk is not indecent exposure.

Workplace standards. A public or private sector employer must make reasonable efforts to provide a convenient, sanitary, safe, and private location for an employee to express her milk unless reasonable safety or security considerations require other options. This requirement is met by providing a clean women's lavatory or a clean lavatory with a locking door.

An employer that wishes to use a "baby-friendly" designation in its promotional materials must develop a workplace policy on breast-feeding approved by the Department of Health. The policy must address flexible work scheduling, accessible private locations and clean water facilities, and hygienic milk storage alternatives.

**Substitute Bill Compared to Original Bill:** The substitute bill deletes the provisions of the original bill that would have made discrimination on the basis of "nursing mother status" an unfair practice in providing public accommodations under the Law Against Discrimination.

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**Appropriation:** None.

**Fiscal Note:** Requested on February 9, 1999.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** (Original bill) It creates an important change in public perception to assure that breast-feeding is not indecent exposure. Similarly, breast-feeding mothers should not be discriminated against in public places. It is good public policy to encourage "baby-friendly" workplaces. This bill will give small businesses necessary flexibility in addressing workplace issues for breast-feeding employees.

**Testimony Against:** (Original bill) This bill does not go far enough to assist breast-feeding women. Some sections of the bill contradict each other. For example, the provisions that allow businesses to designate a place to be used by nursing mothers will result in businesses intimidating new, insecure mothers. It is also not clear what would happen if a nursing mother refused to move to the designated location. The bill should not allow an employer to meet the standard by providing a lavatory for expressing milk. Many workplace lavatories do not have electrical outlets, which are necessary to operate the best breast pumps. Also, lavatories raise issues about contamination, especially with respect to premature babies. Employers should not be concerned about this bill as it only requires them to make a "reasonable effort." They would not have to build a special room for breast-feeding employees, for example. Some states go much farther to assist nursing mothers.

**Testified:** (In favor) Representative Eileen Cody, prime sponsor; Amber Balch, Association of Washington Business; and Dedi Hitchens, National Federal of Independent Business.

(Opposed) Darcy Pintado; Marsha Hudson; and Gretchen Greer.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Commerce & Labor. Signed by 29 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Alexander, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Barlean; Benson; Boldt; Carlson; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Lambert; Linville; Mastin; McIntire; McMorris; Parlette; Regala; Rockefeller; Ruderman; Sullivan; Tokuda and Wensman.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Lisk and Mulliken.

**Staff:** Deborah Frazier (786-7152).

**Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Commerce & Labor:** The substitute bill deletes the requirement for an employer to make a reasonable effort to provide a private room or location in the workplace for an employee to express milk.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** None.

**Testimony Against:** None.

**Testified:** None.