

HOUSE BILL ANALYSIS

HB 1855

Brief Description: Protecting the act of breastfeeding.

Sponsors: Cody and Clements

Hearing: February 15, 1999

Brief Summary of Bill

- Makes discrimination on the basis of "nursing mother status" an unfair practice in providing public accommodations.
- Requires employers to make reasonable efforts to provide a private location for an employee to express her milk.
- Excludes the act of breast-feeding or expressing breast milk from the indecent exposure law.

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.

Discrimination. Washington's law against discrimination prohibits discrimination against a person in employment, in the enjoyment of public accommodations, in real estate, insurance, and credit transactions, and other specific circumstances based on the person's race, creed, color, national origin, sex, the presence of any sensory, mental, or physical disability or, in certain circumstances, other factors. Discriminatory acts are considered unfair practices—and may be the subject of complaints brought to the Washington Human Rights Commission or filed in court.

The prohibition against discriminating in providing public accommodations applies to "any place of public resort, accommodation, assemblage, or amusement" and includes:

- places kept for the entertainment, housing, or lodging of transient guests;
- places kept for the benefit, use, or accommodation of those seeking health, recreation, or rest;
- places where public amusement, entertainment, sports or recreation of any kind is offered with or without charge;
- places kept for the sale of goods, services, or personal property;
- public transportation terminals and stations;
- places where the public gathers, congregates, or assembles for amusement, recreation, or public purposes;
- public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants;
- any public library or educational institution or schools of special instruction;
- nursery schools, day-care centers, or children's camps.

Institutes, clubs, or places of accommodation that are distinctly private and educational facilities that are operated or maintained by a bona fide religious or sectarian institution are not public accommodations.

Workplace standards (industrial welfare). 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.

Indecent exposure laws. 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.

SUMMARY OF 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.

Discrimination. Discriminating on the basis of "nursing mother status" is an unfair practice

in providing public accommodations. It is not an unfair practice for a business that is not a public accommodation to designate a specific area of the business, other than a rest room, for a nursing mother to use so as not to disrupt the normal business operations. It is also not an unfair practice if an employer designates a specific room for employees to use for expressing breast milk as provided under the workplace standards (industrial welfare) law.

"Nursing mother status" means a woman who is breast-feeding or who is expressing breast milk.

Workplace standards (industrial welfare). 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.

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

RULES AUTHORITY: The bill does not contain provisions addressing the rule making powers of an agency.

FISCAL NOTE: Requested February 9, 1999.

EFFECTIVE DATE: Ninety days after adjournment of session in which bill is passed.