
ENGROSSED SUBSTITUTE HOUSE BILL 2307

State of Washington

64th Legislature

2016 Regular Session

By House Labor & Workplace Standards (originally sponsored by Representatives Farrell, Senn, Riccelli, Appleton, Wylie, Robinson, Tarleton, Goodman, Ormsby, Tharinger, Gregerson, Pollet, Sullivan, Stanford, Jinkins, Kuderer, Ortiz-Self, S. Hunt, Blake, Lytton, Kilduff, Fitzgibbon, Kagi, Sells, Reykdal, Walkinshaw, Rossetti, Sawyer, Orwall, Peterson, Van De Wege, McBride, Kirby, Fey, Santos, Cody, Hudgins, Bergquist, Moscoso, and Frame)

READ FIRST TIME 01/21/16.

1 AN ACT Relating to providing reasonable accommodations in the
2 workplace for pregnant women; adding a new section to chapter 43.10
3 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.10
6 RCW to read as follows:

7 (1) It is an unfair practice for any employer:

8 (a) To fail or refuse to make reasonable accommodation for an
9 employee for pregnancy, childbirth, or a pregnancy-related health
10 condition including, but not limited to, the need to express breast
11 milk, unless the employer can demonstrate that doing so would impose
12 an undue hardship on the employer's program, enterprise, or business,
13 subject to subsection (2) of this section;

14 (b) To take adverse action against an employee who requests or
15 uses an accommodation under this section that affects the terms,
16 conditions, or privileges of employment;

17 (c) To deny employment opportunities to an otherwise qualified
18 employee if such denial is based on the employer's need to make
19 reasonable accommodation required by this section;

20 (d) To require an employee to take leave if another reasonable
21 accommodation can be provided for the employee's pregnancy,

1 childbirth, or pregnancy-related health condition, unless the
2 employee declines to accept the accommodation offered in lieu of
3 taking leave; or

4 (e) To require an employee who is pregnant, has a condition
5 related to childbirth, or has a pregnancy-related health condition to
6 accept an accommodation that the person chooses not to accept.

7 (2)(a) Except as provided in (b) of this subsection, an employer
8 may request that the employee provide written certification from her
9 treating health care professional regarding the need for reasonable
10 accommodation if the need for reasonable accommodation is not
11 apparent to a reasonable person.

12 (b) An employer may not require an employee to provide written
13 certification, and the employer may not claim undue hardship, for the
14 following accommodations:

15 (i) Longer, more frequent, or flexible restroom, food, or water
16 breaks;

17 (ii) Seating;

18 (iii) Limits on lifting over twenty pounds; and

19 (iv) Flexible scheduling to accommodate for prenatal and
20 postnatal health care visits.

21 (3) For the purposes of this section, "reasonable accommodation"
22 means measures that enable the proper performance of the particular
23 job held or desired and enable the enjoyment of equal benefits,
24 privileges, or terms and conditions of employment. "Reasonable
25 accommodation" includes, but is not limited to:

26 (a) Allowing for time off to recover from childbirth;

27 (b) Acquiring or modifying equipment or an employee's work
28 station;

29 (c) Providing for a temporary transfer to a less strenuous or
30 less hazardous position;

31 (d) Providing assistance with manual labor; and

32 (e) Modifying work schedules.

33 (4)(a) This section does not require an employer to create
34 additional employment that the employer would not otherwise have
35 created, unless the employer does so or would do so for other classes
36 of employees who need accommodation.

37 (b) This section does not require an employer to discharge any
38 employee, transfer any employee with more seniority, or promote any
39 employee who is not qualified to perform the job, unless the employer

1 does so or would do so to accommodate other classes of employees who
2 need accommodation.

3 (5) This section does not preempt, limit, diminish, or otherwise
4 affect any other provision of law relating to sex discrimination or
5 pregnancy, or in any way diminish or limit the coverage for a
6 condition related to pregnancy, childbirth, or a pregnancy-related
7 health condition.

8 (6) The attorney general shall investigate complaints and enforce
9 this section. In addition to the complaint process with the attorney
10 general, any person deeming himself or herself injured by any act in
11 violation of this section shall have a civil cause of action in court
12 to enjoin further violations, or to recover the actual damages
13 sustained by the person, or both, together with the cost of suit
14 including reasonable attorneys' fees or any other appropriate remedy
15 authorized by state or federal law.

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