

New York Adopts New Workplace Nursing Mothers' Law

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On December 9, 2022, Governor Kathy Hochul signed into law a new workplace lactation bill, set to go into effect on June 7, 2023. The law, which amends Section 206-c of the New York Labor Law, requires that an employer provide reasonable unpaid break time, or allow for the use of paid break or meal time, each time an employee has a reasonable need to express breast milk, for up to three years following childbirth. The law further states that upon employee request, an employer is obligated to provide a location for expressing breast milk. The designated location must contain a chair, a working surface, and an electrical outlet. Additionally, the location must be in close proximity to the employee's work area, near clean running water, with lighting, shielded from view, and free from intrusion by other people. The designated location cannot be in a restroom or toilet stall. Furthermore, if the workplace has access to refrigeration, the employer must allow for the storage of expressed milk.

Although the designated location is not required to be used solely for expressing breast milk, the location must be made available when needed for this purpose by employees. While the designated location is being occupied by an employee for expressing breast milk, the employer must provide notice to all employees that the location cannot be used for any other purpose. If compliance with this law imposes an undue hardship on the employer, the employer is still required to make reasonable efforts to provide a location for an employee to express breast milk in privacy, other than a restroom or toilet stall, which is in close proximity to the work area.

The law also requires that the Commissioner develop and implement a written policy regarding the rights of nursing employees to express breast milk in the workplace. Employers are then required to provide this policy to all employees upon hire, annually, and to employees returning to work following the birth of a child. The policy must inform employees of their rights under Section 206-c of the Labor Law; detail the process by which an employee can request a location for expressing breast milk; and provide a reasonable time frame by which employers must respond to said employee's request, but not to exceed five business days.

Lastly, the law prohibits an employer, their agents, or any other person from discharging, threatening, penalizing, or in any way discriminating or retaliating against any employee for exercising their rights under Section 206-c of the Labor Law.

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Topics

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