



# Workplace provisions supporting pregnant, lactating employees

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# Training topics

- What does Labor Standards do?
- Nursing mothers and lactating employees
- Pregnancy and parental leave
- Pregnancy accommodations
- Paid family and medical leave
- Resources



# Labor standards enforced by DLI

- Minnesota Fair Labor Standards Act
- Women's Economic Security Act
- Child Labor Standards Act
- Minnesota Prevailing Wage Act
- Wage Theft Prevention Act
- Other laws related to employment, wages, conditions, hours.



# Labor Standards services and process

- Investigations
  - Wage claim
  - Inform and educate
  - Investigation
- Education and outreach
  - Technical assistance
  - Training
  - Videos
  - Website and materials



# Nursing mothers: Minnesota Statute § 181.939

- Employers who employ at least one person must:
  - provide reasonable break time for nursing mothers to express milk; and
  - make reasonable efforts to provide space other than a bathroom that is shielded from view and free from intrusion **that includes access to an electrical outlet.**
- Anti-retaliation
  - Employers are prohibited from retaliating against an employee for asserting rights under this law.



# Nursing mothers protections

- Updated nursing mothers protections (2021 and 2023 sessions):
  - No reduction to compensation for time used for expressing milk.
  - Break times to express milk regardless of the child's age.
  - Requiring lactation spaces be “clean, private and secure.”
  - Employee break times to express milk regardless of whether the break time would unduly disrupt the employer's operations.

# Nursing mothers protections, continued

- Ensuring employees can choose when to take break time to express milk, regardless of if the break time aligns with already provided breaks.
- Requiring employers provide a written notice to employees of their right to express milk and receive pregnancy accommodations at the time of hire and publish these rights in the employee handbook (sample notice available on DLI website).
- *Example case: Technician scheduled back-to-back-to-back appointments.*

# Pregnancy and parental leave

Up to 12 weeks of unpaid leave during or following pregnancy for prenatal care, pregnancy or related health conditions, childbirth or adoption, or bonding time by a birthing or non-birthing parent.

2023 session update:

- All employees, regardless of employer size or how long they have been employed, have a right to unpaid leave during or following a pregnancy.





# Pregnancy accommodations

- Employers must provide “reasonable accommodation” to employees with health conditions related to pregnancy or childbirth
- The following are required employer accommodations:
  - more frequent restroom, food and water breaks;
  - seating; and
  - limits on lifting over 20 pounds.
- Additional accommodations may be reasonable depending on the situation, including temporary transfer to a less strenuous position.



# Pregnancy accommodations, continued

- Employer cannot require an employee to take or accept pregnancy accommodations
- Employers are prohibited from retaliating against an employee for asserting rights under this law
- 2023 session update:
  - All employees, regardless of employer size or how long they have been employed, have a right to pregnancy accommodations.
- *Example case: Assembly worker not allowed seating.*

# Paid family and medical leave

Paid family and medical leave is a new program launching for Minnesotans in 2026. It provides paid leave when:

- a serious health condition prevents an employee from working;
- an employee needs time to care for a family member or a new child; and
- an employee needs to tend to certain military-related events or personal safety issues.

Additional information is available on the [Minnesota Department of Employment and Economic Development's paid family and medical leave page](#).



# Paid family and medical leave, continued

DLI will enforce the employment protections in the bill, including:

- employee right to reinstatement after leave;
- employers may not retaliate against an employee for requesting or obtaining benefits;
- employee right to continued insurance during leave; and
- agreements to waive paid family and medical leave rights are void.



# Resources

- Employee-focused brochures in four languages: [david.skovholt@state.mn.us](mailto:david.skovholt@state.mn.us).
- Informational videos in four languages.
- [dli.mn.gov/newparents](https://dli.mn.gov/newparents) (WESA landing page).
- [WESA engagement and education grant](#)
- Sign up for *The Wage and Hour Bulletin* on our website.
- Contact DLI's Labor Standards at 651-284-5075 or [dli.laborstandards@state.mn.us](mailto:dli.laborstandards@state.mn.us).

Are you pregnant or  
a new parent?



Learn about your rights  
in the workplace.



# Breastfeeding support in the workplace

Holly Glaubitz

Workplace Wellness Coordinator | Minnesota Department of Health

# The benefits of breastfeeding

- For the parent



- For the baby



# Breastfeeding recommendations

- American Academy of Pediatrics and the World Health Organization Supports
  - Breastfeeding exclusively for at least six months
  - Babies breastfeed for a minimum of two years with appropriate complimentary foods introduced
  - The longer a parent breastfeeds the more benefits to both parent and baby



# Why support breastfeeding in the workplace



- ROI of 3:1
- Healthy baby = employee at work
- Absences to care for sick children occur 2x more often for non breastfed infants



94%  
retention

Why support  
breastfeeding in  
the workplace

Employer of  
choice



**Breastfeeding  
Friendly**



Recognized



Breastfeeding Friendly Workplace Designation

# Purpose of the program

- Increase the number of workplaces supporting breastfeeding families
- Recognize the importance of employer support
- Support parents to continue breastfeeding for up to a year and beyond



# STEP(s) to becoming BFF



Support



Time



Education



Place

- Evaluate breastfeeding supports:
  - Evaluate and update your policy regularly
  - Survey those who have used the lactation room
  - Follow the demographics of your workforce
    - Are you hiring younger employees of childbearing age
    - Have there been any baby booms or an increase in employees taking parental leave

# Application Process



Email questions to: [health.bfw@state.mn.us](mailto:health.bfw@state.mn.us).

There is no charge to participate in this program.

- [Use the self-assessment checklist \(PDF\)](#) to review the criteria for Breastfeeding Friendly Workplace recognition and help guide the development of your workplace lactation support program.

- [Complete the Breastfeeding Friendly Workplace application.](#)

NEW! We've changed the application to make it easier to complete online. Note: you can use the Save & Return feature to get a web address so you can work on the application later.

- Applications are due:

- March 15
- June 15
- Sept. 15
- Dec. 15

- Determine if you currently have a policy or guidelines in place
  - If yes, does it need to be updated
  - If no, determine if leadership supportive of implementing a policy
- Use the STEP approach
- Tap into your local breastfeeding coalition if you have one  
*<https://mnbreastfeedingcoalition.org>*
- Apply for recognition





Thank you!



# Pump at Work Protections under the Fair Labor Standards Act



WAGE AND HOUR DIVISION  
UNITED STATES DEPARTMENT OF LABOR

[dol.gov/agencies/whd](https://dol.gov/agencies/whd)  
1-866-4-US-WAGE

# Presentation Topics

- Covered Employees
- Break Time Requirements
- Space Requirements
- Exemptions
- Retaliation
- Enforcement
- Resources

# Disclaimer

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# FLSA Pump at Work Protections

The FLSA requires employers to provide reasonable break time and a private place other than a bathroom for an employee to pump breast milk for their nursing child for one year after the child's birth each time such employee has need to pump at work.



# The PUMP Act

On December 29, 2022, the Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP for Nursing Mothers Act or PUMP Act) became law, extending right to pump protections to millions of workers and allowing for additional remedies for violations.

- Extended coverage effective as of December 29, 2022.
- Additional remedies available for violations occurring on or after April 28, 2023.

# Eligible Employees

- Nearly all employees covered by the FLSA are eligible to pump at work.
- Employees are eligible to pump at work for one year after their child's birth.
- Narrow exemptions may apply for certain employees of small companies and certain transportation employees.

# Enterprise Coverage

All employees of an enterprise are covered under the FLSA if the employer is:

- Engaged in interstate commerce, has at least two employees, and does at least \$500,000 a year in business, or
- Engaged in the operation of a hospital, residential medical or nursing care facilities, schools, preschools, or a public agency.



# Individual Coverage

- Individual employees may be covered and entitled to FLSA protections to pump at work if they are engaged in interstate commerce even if the employer is not a covered enterprise.
- Interstate commerce includes making out-of-state phone calls, receiving or sending interstate mail or electronic communications, ordering or receiving goods from out-of-state suppliers, handling credit card transactions, and performing accounting or bookkeeping for such activities.
- Domestic service workers, such as housekeepers, full-time babysitters, and cooks, are normally covered by the law.



# Reasonable Break Time

The FLSA requires employers to provide nursing employees:

- Reasonable break time
- Each time such employee has need to pump at work
- For one year after the child's birth

The frequency of breaks needed to pump at work, as well as the duration of each break, will likely vary.

# Reasonable Break Time - Examples

- Irina, a shift manager at a fast-food restaurant, takes four 25-minute pump breaks each day when she first returns to work after the birth of her child.
- Leslie, a department store delivery driver with a nine-month-old baby, needs two 30-minute pump breaks each day she works.

# Compensation for Break Time

- As with other breaks under the FLSA, the nursing employee must be completely relieved from duty or the time spent pumping must be counted as hours worked for the purposes of minimum wage and overtime requirements.
- If an employer already provides paid break time and if an employee chooses to use that time to pump, they must be compensated in the same way that other employees are compensated for break time.
- An employer must also pay for pump breaks if required by Federal or State law or municipal ordinance.

# Space Requirements

Nursing employees must be provided a space that is:

- Shielded from view,
- Free from intrusion from coworkers and the public, and
- May be used to pump breast milk.

The space cannot be a bathroom.



# Shielded from View / Free from Intrusion

- Employers must ensure the employee's privacy, for example, by displaying a sign when the space is in use or providing a lock on the door.
- Workers who telework must also be free from observation by any employer-provided or required video system, including computer camera, security camera, or web conferencing platform.
- Employees on passenger trains may temporarily obscure the view of recording devices when the train is not moving.

# Functional Space

- The location must be functional as a space for pumping milk.
- An employer may temporarily designate a space or make a space available when needed by the employee.
- Employers should take into consideration the number of nursing employees and their work schedules to determine whether more than one space should be designated or created.

# Space - Example

- Merin, a logging company employee, pumps in a break room at the company's office. The room is shielded from view and Merin is permitted to lock the door during pump breaks.



# Undue Hardship Exemption

An employer that employs fewer than 50 employees is not required to provide break time and space only if it would impose undue hardship.

- The employer must demonstrate that compliance requires significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's business.
- Not available to employers with 50 or more employees.
- All employees who work for the employer, regardless of work site, are counted.

# Exemptions After Three-Year Delay

- Even once pump at work protections are applicable to these employees on December 29, 2025, an exception to these protections may apply if an employer demonstrate that compliance requires significant expense or results in unsafe conditions.
- Significant expense does not include installing a curtain or other screening protection.



# Interaction with State Laws

- The FLSA's pump at work protections do not preempt a State law or municipal ordinance that provides greater protections to employees than those provided by the FLSA.
- Many states have laws related to pumping milk at work.

# Prohibited Retaliation

- It is also a violation of the FLSA to “discharge or in any other manner discriminate against” any employee because, for instance, they filed a complaint to assert their pump at work rights or cooperated in an investigation regarding these protections.
- Employees are protected regardless of whether the complaint is made orally or in writing.
- Most courts have ruled that internal complaints to an employer are also protected under the FLSA's prohibition on retaliation.

# Example – Prohibited Retaliation

- Leslie is a delivery truck driver for a department store and takes breaks to pump breast milk twice a day. The supervisor complains that the breaks are interfering with the delivery schedule and moves Leslie to a lower-paying job as a result.
- In this example, Leslie has experienced unlawful retaliation under the FLSA.

# Remedies

- Employers are liable for appropriate legal or equitable remedies under the FLSA.
- Effective April 28, 2023, remedies for violations of the reasonable break time and space requirements may include employment, reinstatement, promotion, and the payment of wages lost and an equal amount as liquidated damages, compensatory damages, and make-whole relief, such as economic losses that resulted from violations, and punitive damages where appropriate.
- These legal and equitable remedies are already available for violations of the anti-retaliation prohibition.

# Enforcement

An employee may file a complaint with WHD or may file a private cause of action seeking appropriate remedies.

- An employee or other party can file a complaint with WHD at any time within a two-year statute of limitations.
- Special notification procedures may apply to filing a private action where an employer has failed to provide an employee with an appropriate space to pump.
- These special procedures do not apply before an employer or other party can file a complaint with WHD.

# Special Notification Procedures

Before an employee can file a private suit regarding an employer's failure to provide a space to pump, the employee must notify the employer of the failure and allow 10 days for the employer to come into compliance.

The employee is not required to provide this notice:

- If the worker has been fired for requesting reasonable break time or space,
- If the worker has been fired for opposing employer conduct related to PUMP Act rights, or
- Where the employer has expressed a refusal to comply.



# FAMILY AND MEDICAL LEAVE ACT

## ❖ EMPLOYER COVERAGE

- Employers with 50 or more employees
- Public Agencies
- Public and private elementary and secondary schools

## ❖ EMPLOYEE ELIGIBILITY

- Employed by covered employer
- Worked at least 12 months
- 1,250 hours of service during the 12 months before leave begins
- Employed at a work site with 50 employees within 75 miles

## ❖ ELIGIBLE EMPLOYEES MAY TAKE FMLA LEAVE:

- For the birth or placement of a child for adoption
- To care for a spouse, son, daughter, or parent with a serious health condition
- For their own serious health condition

***See USDOL-Fact Sheet #28***

# FMLA AND THE PUMP ACT

An employee's ability to use FMLA leave during pregnancy or after the birth of a child has not changed. Under the regulations, a mother can use 12 weeks of FMLA leave for the birth of a child, for prenatal care and incapacity related to pregnancy, and for her own serious health condition following the birth of a child.

# WHD Information

The Wage and Hour Division (WHD) of the U.S. Department of Labor administers and enforces the FLSA, including the pumping at work protections.

How to [contact WHD](#):

- Call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE(1-866-487-9243)
- Visit <http://www.dol.gov/agencies/whd/contact>.

# WHD Resources

Additional information about the [FLSA Protections to Pump at Work](https://www.dol.gov/agencies/whd/pump-at-work) can be found at <https://www.dol.gov/agencies/whd/pump-at-work>

- Fact Sheet # 73: FLSA Protections to Pump Breast Milk at Work
- FAQs: FLSA Protections to Pump Breast Milk at Work

[What to Expect from Your Employer When You're Expecting](http://www.dol.gov/agencies/whd/maternal-health)  
<http://www.dol.gov/agencies/whd/maternal-health>

# Additional Resources

- [Supporting Nursing Moms at Work: Employer Solutions](http://www.womenshealth.gov/supporting-nursing-moms-work/what-law-says-about-breastfeeding-and-work/what-employers-need-know)  
<http://www.womenshealth.gov/supporting-nursing-moms-work/what-law-says-about-breastfeeding-and-work/what-employers-need-know>
- [National Conference of State Legislatures Compilation of State Breastfeeding Laws](http://www.ncsl.org/health/breastfeeding-state-laws) <http://www.ncsl.org/health/breastfeeding-state-laws>
- [Surgeon General's Call to Action to Support Breastfeeding](http://www.cdc.gov/breastfeeding/resources/calltoaction.htm)  
<http://www.cdc.gov/breastfeeding/resources/calltoaction.htm>
- [EEOC Enforcement Guidance on Disparate Treatment](http://www.eeoc.gov/laws/guidance/enforcement-guidance-unlawful-disparate-treatment-workers-caregiving-responsibilities)  
<http://www.eeoc.gov/laws/guidance/enforcement-guidance-unlawful-disparate-treatment-workers-caregiving-responsibilities>

# Additional Resources - cont.

- [OPM Guidance on Nursing Mothers in the Federal Workforce](https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/NMothersFederalEmplmnt.pdf)  
<https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/NMothersFederalEmplmnt.pdf>
- [Guide for Establishing a Federal Nursing Mother's Program](https://www.opm.gov/policy-data-oversight/worklife/reference-materials/nursing-mother-guide.pdf)  
<https://www.opm.gov/policy-data-oversight/worklife/reference-materials/nursing-mother-guide.pdf>
- [CDC Workplace Lactation Support Program Toolkit](https://www.cdc.gov/breastfeeding/index.htm)  
<https://www.cdc.gov/breastfeeding/index.htm>

# Connect with Us

- Connect with WHD: <https://www.dol.gov/NEWSROOM/DIGITAL>
- WHD Twitter: [https://twitter.com/whd\\_dol](https://twitter.com/whd_dol)
- DOL Facebook: <https://www.facebook.com/departmentoflabor>
- DOL YouTube: <https://www.youtube.com/user/USDepartmentofLabor>
- DOL Blog: <https://blog.dol.gov/>



**Questions?**