



Breastfeeding Laws Changing in NJ

New Jersey Governor Chris Christie just signed 40 bills into law this past week; one of which would bar any type of discrimination against breastfeeding employees. The new law now requires employers to have provide reasonable accommodations for their nursing mothers.

This new law went into effect January 8 in New Jersey, making it so employers can no longer refuse to hire someone because they are nursing. They are also not able to fire employees because of breastfeeding either or “discriminate against them in compensation and other terms, conditions, or privileges of employment on the ground that they are breastfeeding. You are likewise prohibited from treating women employees you know or should know are ‘affected by breastfeeding’ less favorably—for example, with respect to workplace accommodation and leave policies—than employees not so affected but similar in their ability or inability to work” per Fisher Phillips.

What’s Considered a Reasonable Accommodation?

Unless you can prove that providing one of the following as an undue hardship on your business, a reasonable must include a reasonable break time each day and a private location near the work area (but not a toilet stall) for the employee to express breast milk for her child.

What’s Considered an Undue Hardship for this New Law?

Fisher Phillips defines an undue hardship pertaining to this law as:

- the overall size of your business with respect to the number of employees, number and type of facilities, and size of the budget;
- the type of your operations, including the composition and structure of your workforce;
- the nature and cost of the accommodation, taking into consideration the availability of tax credits, tax deductions, and outside funding; and
- the extent to which the accommodation would involve waiver of an essential requirement of a job as opposed to a tangential or non-business necessity requirement.

You may be thinking that laws like this were already in place under, however that law was under the FLSA provision. This new law is broader and applies to all employers and employees in the state, not just FLSA employee and non-exempt workers. The FLSA provision requires breastfeeding breaks only through the child’s first year, but the New Jersey law has no such limitation. And while the FLSA provision’s undue hardship exception applies only to employers with fewer than 50 employees, the New Jersey law excuses any

employer who can demonstrate undue hardship. Much like with other employment laws, you are obligated to comply with whichever law, federal or state, provides greater protection to an employee in a particular case.

But I Don't Live in New Jersey, How Does This Apply to Me?

Most states are still abiding by the FLSA standard; however, I think this change in New Jersey is going to become the new standard in upcoming years. As an employer it's important to stay up to date on new laws and changes to keep your business compliant. Our team at HR Partners is staffed with HR experts to help keep you up to date on employment law, record keeping compliance, and even breastfeeding accommodations. You can reach our friendly team at 770-248-0401.

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Sources:

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