STATE OF NEW YORK

1236--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 7, 2021

Introduced by M. of A. PAULIN, JOYNER, GOTTFRIED, CRUZ, SIMON, EPSTEIN, HYNDMAN, McMAHON, NIOU, SAYEGH, MORINELLO, ASHBY, McDONOUGH -- Multi-Sponsored by -- M. of A. TAGUE -- read once and referred to the Committee on Labor -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to expanding the rights of nursing employees to express breast milk

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 206-c of the labor law, as added by chapter 574 of the laws of 2007, is amended to read as follows:

§ 206-c. Right of nursing [~~mothers~~] **employees** to express breast milk. **1.** An employer shall provide reasonable unpaid break time or permit an employee to use paid break time or meal time [~~each day~~] to allow an employee to express breast milk for her nursing child **each time such employee has reasonable need to express breast milk** for up to three years following child birth. [~~The employer shall make reasonable efforts to provide a room or other location, in close proximity to the work area, where an employee can express milk in privacy.~~] No employer shall discriminate in any way against an employee who chooses to express breast milk in the work place.

2. (a) Upon request of an employee who chooses to express breast milk in the workplace, an employer shall designate a room or other location which shall be made available for use by such employee to express breast milk. Such room or other location shall be a place that is: (i) in close proximity to the work area; (ii) well lit; (iii) shielded from view; and (iv) free from intrusion from other persons in the workplace or the public. Such room or other location shall provide, at minimum, a chair, a working surface, nearby access to clean running water and, if the

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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workplace is supplied with electricity, an electrical outlet. The room or location provided by the employer for this purpose shall not be a restroom or toilet stall.

(b) If the sole purpose or function of such room or other location is not dedicated for use by employees to express breast milk, such room or other location shall be made available to such an employee when needed and shall not be used for any other purpose or function while in use by such employee. Employers shall provide notice to all employees as soon as practicable when such room or other location has been designated for use by employees to express breast milk.

(c) Where compliance with the requirements of paragraphs (a) or (b) of this subdivision is impracticable because it would impose an undue hardship on the employer by causing significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's business, such employer shall make reasonable efforts to provide a room or other location, other than a restroom or toilet stall, that is in close proximity to the work area where an employee can express breast milk in privacy. Provided, however, nothing in this subdivision shall otherwise exempt an employer from the requirements of subdivision one of this section.

(d) If the workplace has access to refrigeration, the employer shall extend such access to refrigeration for the purposes of storing the expressed milk.

3. The commissioner shall develop and implement a written policy regarding the rights of nursing employees to express breast milk in the workplace pursuant to the provisions of this section. Employers shall provide such written policy to each employee upon hire and annually thereafter, and to employees upon returning to work following the birth of a child. Such policy shall:

(a) Inform employees of their rights pursuant to this section;

(b) Specify the means by which a request may be submitted to the employer for a room or other location for use by employees to express breast milk; and

(c) Require the employer to respond to such request within a reasonable timeframe, but not to exceed five business days.

4. No employer or their agent, or the officer or agent of any corporation, partnership, or limited liability company, or any other person, shall discharge, threaten, penalize, or in any other manner discriminate or retaliate against any employee because such employee has exercised their rights afforded under this section.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.