STATE OF NEW YORK

4844--A

2021-2022 Regular Sessions

IN SENATE

February 16, 2021

Introduced by Sen. BIAGGI -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- 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 mothers 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 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) An employer shall designate a room or other location which shall be made available for use by such employee to express breast milk in privacy and establish a schedule to accommodate the needs of multiple employees needing access thereto. The room or location provided by the employer for this purpose shall not be a restroom or toilet stall. 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.

(b) An employer who is unable to provide a dedicated lactation room or other location may allow the use of a vacant office or other available room on a temporary basis for the expression of breast milk, provided

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

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the room is not accessible to the public or other employees while the nursing employee is using the room for expression purposes.

(c) Such room or other location shall be a place, other than a restroom that is: (i) in close proximity to the work area; (ii) well lit either through natural or artificial light, provided that if the room has a window it shall be covered with a curtain, blind, or other covering to ensure privacy and that the nursing mother is shielded from view; and (iii) free from intrusion from other persons in the workplace or the public. Such room or other location shall contain, at minimum, a chair and a small table, a desk, counter, or other flat service, nearby access to clean, running water and, if the workplace is supplied with electricity, an electrical outlet. If the workplace has access to refrigeration, the employer shall extend such access to refrigeration for the purposes of storing the expressed milk, provided that an employer is not responsible for ensuring the safekeeping of expressed milk stored in any refrigerator on its premises.

(d) An employer shall maintain the cleanliness of the room or location set aside for the use of employees expressing breast milk at work.

3. Where compliance with the requirements of subdivision two of this section 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, 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.

4. The commissioner shall develop and implement a written policy regarding the rights of nursing mothers to express breast milk in the workplace pursuant to the provisions of this section. Employers shall provide such written policy to employees returning to work following the birth of a child. Such policy shall be provided individually to affected employees and the information contained in such policy shall also be available through publication of such policy in an employee handbook, if applicable, or otherwise through the posting of the policy in a clear and conspicuous location.

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