

A-Engrossed
House Bill 2593

Ordered by the House April 15
Including House Amendments dated April 15

Sponsored by Representatives POWER, SMITH WARNER, WILLIAMSON; Representatives NERON, PRUSAK, SALINAS, WILDE (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Conforms Oregon law related to expression of milk in workplace to federal law. *[Eliminates]* **Limits to employers with 10 or fewer employees** exemption from providing rest periods for expression of milk in workplace if granting rest period imposes undue hardship.

[Declares emergency, effective on passage.]

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to expression of milk in the workplace; amending ORS 653.077; and prescribing an effective
3 date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 653.077 is amended to read:

6 653.077. (1) As used in this section:

7 (a) "Reasonable efforts" means efforts that do not impose an undue hardship on the operation
8 of an employer's business.

9 (b) "Undue hardship" means significant difficulty or expense when considered in relation to the
10 size, financial resources, nature or structure of the employer's business.

11 (2)(a) An employer shall provide reasonable unpaid rest periods to accommodate an employee
12 who needs to express milk for *[her]* **the employee's** child.

13 (b) *[The]* **When possible, an** employee shall provide reasonable notice to the employer that the
14 employee intends to express milk upon returning to work **after the child's birth. Failure to give**
15 **notice under this subsection is not grounds for discipline.**

16 *[(c) Unless otherwise agreed to by the employer and the employee, the employer shall provide the*
17 *employee a 30-minute rest period to express milk during each four-hour work period, or the major part*
18 *of a four-hour work period, to be taken by the employee approximately in the middle of the work*
19 *period.]*

20 **(c) The employer shall provide the employee a reasonable rest period to express milk**
21 **each time the employee has a need to express milk.**

22 (d) The employee shall, if feasible, take the rest periods to express milk at the same time as the
23 rest periods or meal periods that are otherwise provided to the employee.

24 (e) If the employer is required by law or contract to provide the employee with paid rest periods,
25 the employer shall treat the rest periods used by the employee for expressing milk as paid rest pe-
26 riods, up to the amount of time the employer is required to provide as paid rest periods. If an em-

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 ployee takes unpaid rest periods, the employer may allow the employee to work before or after
2 [her] **the employee's** normal shift to make up the amount of time used during the unpaid rest peri-
3 ods. If the employee does not work to make up the amount of time used during the unpaid rest pe-
4 riods, the employer is not required to compensate the employee for that time.

5 (3) When an employer's contribution to an employee's health insurance is influenced by the
6 number of hours the employee works, the employer shall treat any unpaid rest periods used by the
7 employee to express milk as paid work time for the purpose of measuring the number of hours the
8 employee works.

9 (4) An employer **with 10 or fewer employees** is not required to provide rest periods under this
10 section if to do so would impose an undue hardship on the operation of the employer's business.

11 (5)(a) An employer shall make reasonable efforts to provide a location, other than a public
12 restroom or toilet stall, in close proximity to the employee's work area for the employee to express
13 milk in private.

14 (b) The location may include, but is not limited to:

15 (A) The employee's work area if the work area meets the requirements of paragraph (a) of this
16 subsection;

17 (B) A room connected to a public restroom, such as a lounge, if the room allows the employee
18 to express milk in private; or

19 (C) A child care facility in close proximity to the employee's work location where the employee
20 can express milk in private.

21 (6) An employer may allow an employee to temporarily change job duties if the employee's reg-
22 ular job duties do not allow [her] **the employee** to express milk.

23 (7) This section applies only to an employer whose employee is expressing milk for [her] **the**
24 **employee's** child 18 months of age or younger.

25 *[(8) This section applies only to employers who employ 25 or more employees in the State of Oregon*
26 *for each working day during each of 20 or more calendar workweeks in the year in which the rest*
27 *periods are to be taken or in the year immediately preceding the year in which the rest periods are to*
28 *be taken.]*

29 [(9)] (8) Notwithstanding ORS 653.020 (3), this section applies to individuals engaged in admin-
30 istrative, executive or professional work as described in ORS 653.020 (3).

31 [(10)(a)] (9)(a) In addition to, and not in lieu of, any other requirement under this section, each
32 school district board shall adopt a policy regarding breast-feeding in the workplace to accommodate
33 an employee who needs to express milk for [her] **the employee's** child.

34 (b) Each policy must, at a minimum, designate a location at the school facility, other than a
35 public restroom or toilet stall, in close proximity to the employee's work area for the employee to
36 express milk in private.

37 (c) A policy adopted under this subsection, including the designated locations where an em-
38 ployee may express milk, must be published in an employee handbook. In addition, a list of the
39 designated locations must be readily available, upon request, in the central office of each school
40 facility and in the central administrative office for each school district.

41 [(11)] (10) The Commissioner of the Bureau of Labor and Industries shall adopt rules to imple-
42 ment and enforce this section.

43 **SECTION 2. This 2019 Act takes effect on the 91st day after the date on which the 2019**
44 **regular session of the Eightieth Legislative Assembly adjourns sine die.**