



e-Alert: Action Required

MA Pregnant Workers Fairness Act Takes Effect April 1, 2018

Background

The Massachusetts Pregnant Workers Fairness Act (PWFA), which we initially summarized [here](#), takes effect April 1, 2018. This new legislation amends the state's discrimination statute to expressly prohibit discrimination based on pregnancy or pregnancy-related conditions, expanding protections to pregnant workers and new mothers. The law pertains to Massachusetts employers with six or more employees.

What employers need to know

In addition to adding another protected category under Massachusetts discrimination laws, the PWFA explicitly requires employers to provide reasonable accommodations to employees and applicants with needs related to pregnancy, childbirth, or related conditions (including lactation). Employers must engage in an "interactive process" with the employee to identify and determine what job accommodations will help them perform the essential functions of their job, provided the accommodations would not impose undue hardship. The PWFA differs from the Americans with Disabilities Act (ADA), in that the ADA does not expressly require reasonable accommodations for pregnancy, since pregnancy is not defined as a disability under federal law. Another difference is that the PWFA elaborates on employer obligations when it comes to offering reasonable job accommodations.

Examples of reasonable accommodations include:

- More frequent or longer paid or unpaid breaks;
- Modification of equipment or seating;
- Temporary transfer to a less strenuous or hazardous position;
- Job restructuring, light duty, modified work schedules; and
- Private non-bathroom space for expressing breast milk.

An employer may generally request documentation to support the need for an accommodation; however, under the PWFA, they may not request documentation for the following:

- More frequent restroom, food, or water breaks;
- Seating;
- Limitations on lifting objects over 20 pounds; and
- Private non-bathroom space for expressing breast milk.

Next steps for employers

- Important notice requirements:
 - You must provide written notice to all employees and newly hired employees of their rights and protection under the PWFA. This notice can be provided in a handbook, pamphlet, or other means.
 - You must provide notice to any employee who notifies you of her pregnancy within ten (10) days.



- You should review and update your company's current handbook or policies to ensure they comply with these obligations.
- You should train your managers on the law's requirements.

How HR Knowledge can keep you compliant

If you are one of our full-service clients or a Virtual HR Client, we have a template Pregnancy Accommodation policy that satisfies the law's notice requirements. We are happy to update your current policy and handbook if you [email us](#). If you are not currently a client but are interested in learning more about our services, please [contact us](#).

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