

Breastfeeding Advocacy

Breastfeeding Laws in Minnesota

I. State Breastfeeding Laws – An Overview

For a comprehensive look at state breastfeeding laws, visit the National Conference of State Legislatures website, specifically the page on breastfeeding state laws. <http://www.ncsl.org/default.aspx?tabid=14389>.

II. Breastfeeding in Public in Minnesota

- A. Minnesota Statute 617.23 protects a woman from being criminally charged with indecent exposure for breastfeeding in public.

Minnesota Statute 617.23 INDECENT EXPOSURE; PENALTIES (in relevant part).

Subd. 4. Breast-feeding states:

It is not a violation of this section for a woman to breast-feed.

<https://www.revisor.mn.gov/statutes/?id=617.23>.

- B. Minnesota Statute 145.905 gives women the right to breastfeed in any public or private location.

Minnesota Statute 145.905 LOCATION FOR BREAST-FEEDING states:

A mother may breast-feed in any location, public or private, where the mother and child are otherwise authorized to be, irrespective of whether the nipple of the mother's breast is uncovered during or incidental to the breast-feeding. <https://www.revisor.mn.gov/statutes/?id=145.905>.

- C. Advocacy and Education

III. Workplace Pumping

- A. Recently amended Federal law requires employers to provide a break time for nursing mothers.

The Patient Protection and Affordable Care Act, H.R. 3590 and the Reconciliation Act of 2010, H.R. 4872, Section 4207 amends the Fair Labor Standards Act (FLSA), and requires an employer to provide a place, other than a bathroom, and reasonable break time for an employee to express breast milk every time she needs to for her nursing child for one year after the birth. The employer is not required to compensate an employee for the break time taken. If these requirements impose an undue hardship, an employer that employs fewer than 50 employees is not subject to these requirements. The federal requirements do not preempt a state law that provides greater protections to employees. See the combined full text at <http://www.ncsl.org/documents/health/ppaca-consolidated.pdf>.

U.S. Department of Labor, Wage and Hour Division, Fact Sheet # 73, Break Time for Nursing Mothers Under the FLSA, July 2010. <http://www.dol.gov/whd/regs/compliance/whdfs73.pdf>.

- B. Minnesota Statute 181.939 requires employers to provide a break time for nursing mothers.

Minnesota Statute 181.939 NURSING MOTHERS states:

An employer must provide reasonable unpaid break time each day to an employee who needs to express breast milk for her infant child. The break time must, if possible, run concurrently with any break time already provided to the employee. An employer is not required to provide break time under this section if to do so would unduly disrupt the operations of the employer.

The employer must make reasonable efforts to provide a room or other location, in close proximity to the work area, other than a toilet stall, where the employee can express her milk in privacy. The employer would be held harmless if reasonable effort has been made.

For the purposes of this section, "employer" means a person or entity that employs one or more employees and includes the state and its political subdivisions.
<https://www.revisor.mn.gov/statutes/?id=181.939>.

C. Comparison of Federal and Minnesota Laws

1. Applies to any employer with one or more employees
2. No restriction on covered employees
3. Usage of regularly scheduled break time
4. Location of break room

D. Advocacy and Education

1. *HRSA Business Case Toolkit* trainees/materials
2. Contact state office of DOL
3. Read fact sheets and FAQ:
4. Counsel BF workers
5. Work with and contact employers for solutions
6. Continue to lobby for Breastfeeding Promotion Act
7. Document process

Please also see the USBC (United States Breastfeeding Committee) website for important information, resources and links. <http://www.usbreastfeeding.org/>.

A heartfelt thank you to Amelia Psmythe, Director, Breastfeeding Coalition of Oregon and Mendy Mattingly, Attorney at Law, Littler Mendelson for access to and use of their handouts for their recent teleconference: *Reasonable Breaks for Nursing Mothers and Reasonable Steps for Breastfeeding Advocates: Insights into Section 4207 of Federal Wage and Hour Law*.

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