

## ACT 249

S.B. NO. 532

A Bill for an Act Relating to Breastfeeding in the Workplace.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that breastfeeding provides important health benefits to both mother and child. However, only one in five children in Hawaii receive the minimum six months of exclusive breastfeeding recommended by the American Academy of Pediatrics and the World Health Organization to reduce risk of obesity, diabetes, infectious disease, asthma, allergies, and certain childhood cancers. The legislature also finds that mother-child separation due to work presents a serious challenge to breastfeeding when workplaces do not accommodate the needs of breastfeeding employees. According to the Hawaii Pregnancy Risk Assessment Monitoring System, one in five women stop breastfeeding because they need to return to work or school. Without break time or a private location to express milk, mothers may find their milk supply dwindling and give up breastfeeding.

The purpose of this Act is to require employers to provide a reasonable break time and location shielded from view and intrusion by coworkers and the public for breastfeeding employees to express milk in order to maintain milk supply and continue breastfeeding.

SECTION 2. Chapter 378, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . OPPORTUNITY TO EXPRESS MILK**

**§378- Definitions.** As used in this part:

“Employee” means an individual who performs a service for wages or other remuneration under a contract for hire, written or oral, or expressed or implied. “Employee” includes an individual employed by the State or a political subdivision of the State.

“Employer” means a person who has one or more employees. “Employer” includes an agent of an employer or of the State or a political subdivision thereof, but does not include the United States.

**§378- Opportunity to express milk.** (a) An employer shall provide:

- (1) Reasonable break time for an employee to express milk for the employee’s nursing child for one year after the child’s birth each time the employee has a need to express breast milk; and

(2) A location, other than the restroom, that is shielded from view and free from intrusion from coworkers and the public that may be used by an employee to express breast milk.

(b) Every employer covered by this section shall post a notice in a conspicuous place accessible to employees and use other appropriate means to keep the employer's employees informed of the protections and obligations under this part.

(c) Subsection (a) shall not apply to any employer who has fewer than twenty employees if the employer can show that the requirements under subsection (a) would impose an undue hardship by causing the employer significant difficulty or expense in relation to the size, financial resources, nature, or structure of the employer's business.

**§378- Civil actions for injunctive relief or damages.** (a) An employee who alleges a violation of this part may bring a civil action for appropriate injunctive relief, actual damages, or both within two years after the occurrence of the alleged violation.

(b) A cause of action pursuant to subsection (a) may be brought in the appropriate court in the circuit where the alleged violation occurred, where the plaintiff resides, or where the defendant resides or has a principle place of business.

(c) A defendant who violates this part shall be fined \$500 for each violation. A civil fine that is ordered pursuant to this section shall be deposited with the director of finance to the credit of the state general fund.

(d) For purposes of this section, "damages" means damages for injury or loss caused by each violation of this part, including reasonable attorney's fees."

SECTION 3. Section 378-10, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed and stricken.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved July 1, 2013.)

**Note**

1. Edited pursuant to HRS §23G-16.5.