

Calendar No. 155

117TH CONGRESS
1ST SESSION

H. R. 3110

IN THE SENATE OF THE UNITED STATES

OCTOBER 25, 2021

Received

OCTOBER 26, 2021

Read twice and placed on the calendar

AN ACT

To amend the Fair Labor Standards Act of 1938 to expand access to breastfeeding accommodations in the workplace, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Providing Urgent Ma-
5 ternal Protections for Nursing Mothers Act” or the
6 “PUMP for Nursing Mothers Act”.

1 **SEC. 2. BREASTFEEDING ACCOMMODATIONS IN THE WORK-**
2 **PLACE.**

3 (a) EXPANDING EMPLOYEE ACCESS TO BREAK TIME
4 AND PLACE.—The Fair Labor Standards Act of 1938 (29
5 U.S.C. 201 et seq.) is amended—

6 (1) in section 7, by striking subsection (r);

7 (2) in section 15(a)—

8 (A) by striking the period at the end of
9 paragraph (5) and inserting “; and”; and

10 (B) by adding at the end the following:

11 “(6) to violate any of the provisions of section
12 18D.”;

13 (3) in section 16(b), by striking “7(r) or
14 15(a)(3)” each place the term appears and inserting
15 “15(a)(3) or 18D”; and

16 (4) by inserting after section 18C the following:

17 **“SEC. 18D. BREASTFEEDING ACCOMMODATIONS IN THE**
18 **WORKPLACE.**

19 “(a) An employer shall provide—

20 “(1) a reasonable break time for an employee to
21 express breast milk each time such employee has
22 need to express breast milk for the 2-year period be-
23 ginning on the date on which the circumstances re-
24 lated to such need arise; and

25 “(2) a place, other than a bathroom, that is
26 shielded from view and free from intrusion from co-

1 workers and the public, which may be used by an
2 employee to express breast milk.

3 “(b)(1) Subject to paragraph (2), an employer shall
4 not be required to compensate an employee receiving break
5 time under subsection (a)(1) for any time spent during
6 the workday for such purpose unless otherwise required
7 by Federal or State law or municipal ordinance.

8 “(2) Break time provided under subsection (a)(1)
9 shall be considered hours worked if the employee is not
10 completely relieved from duty during the entirety of such
11 break.

12 “(c) An employer that employs fewer than 50 employ-
13 ees shall not be subject to the requirements of this section,
14 if such requirements would impose an undue hardship by
15 causing the employer significant difficulty or expense
16 when considered in relation to the size, financial resources,
17 nature, or structure of the employer’s business.

18 “(d) No provision of this section or of any order
19 thereunder shall excuse noncompliance with any Federal
20 or State law or municipal ordinance that provides greater
21 protections to employees than the protections provided for
22 under this section.

23 “(e)(1) Subject to paragraph (2), before an employee
24 commences an action to recover liability under section
25 16(b) for a violation of paragraph (a)(2), the employee

1 shall inform the employer of the failure to provide ade-
2 quate place and provide the employer with 10 calendar
3 days after such notice is provided to come into compliance
4 with subsection (a)(2) with respect to such employee.

5 “(2) Paragraph (1) shall not apply in the case that—

6 “(A) the employee has been discharged because
7 the employee has made a request for break time or
8 place under this section or has opposed any em-
9 ployer conduct related to this section; or

10 “(B) the employer has indicated that the em-
11 ployer has no intention of complying with subsection
12 (a)(2).

13 “(f) The circumstances described in subsection (a)(1)
14 arise if an employee—

15 “(1) begins providing breast milk for a nursing
16 child; or

17 “(2) gives birth, including to—

18 “(A) a stillborn child; or

19 “(B) a child over whom the employee does
20 not retain legal custody.

21 “(g)(1) This section shall apply to an air carrier, as
22 defined in section 40102 of title 49, United States Code,
23 subject to the following requirements:

1 “(A) In providing a break described in sub-
2 section (a)(1) to a crewmember, an employer shall
3 not be required to—

4 “(i) completely relieve such crewmember
5 from duty during break time taken during
6 flight time; or

7 “(ii) provide such a break during critical
8 phases of flight.

9 “(B) Nothing in this subsection shall require an
10 employer to incur significant expense, when consid-
11 ered in relation to the size, financial resources, na-
12 ture, or structure of the employer’s business, to ret-
13 rofit an aircraft.

14 “(2) In this subsection—

15 “(A) the terms ‘flight time’ and ‘crewmember’
16 have the meaning given such terms in section 1.1 of
17 title 14, Code of Federal Regulations; and

18 “(B) the term ‘critical phases of flight’ has the
19 meaning given the term in 121.542 of title 14, Code
20 of Federal Regulations.”.

21 (b) CLARIFYING REMEDIES.—Section 16(b) of the
22 Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)) is
23 amended by striking “15(a)(3)” each place the term ap-
24 pears and inserting “7(r) or 15(a)(3)”.

1 (c) GUIDANCE.—Not later than 60 days after the
2 date of enactment of this Act, the Secretary of Labor shall
3 issue guidance with respect to employer compliance with
4 section 18D of the Fair Labor Standards Act of 1938,
5 as amended by this Act, which shall be similar, with re-
6 spect to specific examples of compliance, to the guidance
7 relating to “Supporting Nursing Moms at Work” pub-
8 lished on the website of the Office on Women’s Health
9 of the Department of Health and Human Services as of
10 such date of enactment.

11 (d) CONFORMING COVERAGE OF CERTAIN OTHER
12 EMPLOYEES.—Section 203(a)(1) of the Congressional Ac-
13 countability Act of 1995 (2 U.S.C. 1313(a)(1)) is amend-
14 ed—

15 (1) by striking “and section 12(c)” and insert-
16 ing “section 12(c), and section 18D”; and

17 (2) by inserting “, 218D” after “212(c)”.

18 **SEC. 3. EFFECTIVE DATE.**

19 (a) EXPANDING ACCESS.—Except as provided in sub-
20 section (c), the amendments made under sections 2(a) and
21 2(d) shall take effect on the date that is 120 days after
22 the date of enactment of this Act.

23 (b) REMEDIES AND CLARIFICATION.—The amend-
24 ments made under section 2(b) shall take effect on the
25 date of enactment of this Act.

1 (c) APPLICATION OF LAW.—Section 18D of the Fair
2 Labor Standards Act of 1938 (as added by section 2) shall
3 not apply to crewmembers of an air carrier, as defined
4 in section 40102 of title 49, United States Code, until the
5 date that is 1 year after the date of enactment of this
6 Act.

7 **SEC. 4. REGULATIONS REQUIRED.**

8 Not later than 180 days after the date of enactment
9 of this Act, the Administrator of the Federal Aviation Ad-
10 ministration, in consultation with the Secretary of Labor,
11 shall propose regulations, as appropriate, to—

12 (1) identify appropriate means for air carriers,
13 as defined in section 40102 of title 49, United
14 States Code, to comply with subsection (b)(1) of sec-
15 tion 18D of the Fair Labor Standards Act of 1938
16 during flight time; and

17 (2) update title 14, Code of Federal Regula-
18 tions, to ensure that expressing breast milk is con-
19 sidered a physiological need.

20 **SEC. 5. REPORT.**

21 Not later than 24 months after the date of the enact-
22 ment of this Act, the Comptroller General of the United
23 States shall submit a report to the Committee on Edu-
24 cation and Labor of the House of Representatives and the
25 Committee on Health, Education, Labor, and Pensions of

1 the Senate that contains recommendations as appropriate
2 to improve compliance among covered employers, includ-
3 ing what is known about employee awareness of the rights
4 afforded to them by the amendments made by this Act.

5 **SEC. 6. REPORT ON RACIAL DISPARITIES.**

6 The Comptroller General shall—

- 7 (1) conduct a study on what is known about the
8 racial disparities that exist with respect to access to
9 pumping breastmilk in the workplace; and
10 (2) submit to Congress a report on the results
11 of such study containing such recommendations as
12 the Comptroller General determines appropriate to
13 address those disparities.

Passed the House of Representatives October 22,
2021.

Attest:

CHERYL L. JOHNSON,

Clerk.

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