

By Ms. Fargo, a petition (accompanied by bill, Senate, No. 75) of Susan C. Fargo, Robert A. O'Leary, Benjamin Swan, Cory Atkins and other members of the General Court for legislation to protect the rights of nursing mothers. Children and Families.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT PROTECTING THE RIGHTS OF NURSING MOTHERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. The general court finds that:
- 2 (a) women with infants and toddlers are the fastest growing
3 segment of today's labor force, with at least 50 per cent of preg-
4 nant women who are employed returning to work by the time their
5 children are 3 months old;
- 6 (b) breastfeeding is the best form of nutrition for infants;
- 7 (c) there are benefits to the child, the mother and society by
8 encouraging and enabling mothers to breastfeed their children;
- 9 (d) infants who are breastfed receive protection against infec-
10 tion, illness and allergies and long-term positive effects on their
11 development, intelligence and health;
- 12 (e) a protective effect against various types of cancer and
13 greater emotional and physical health are found in mothers who
14 breastfeed;
- 15 (f) breastfeeding promotes sufficient birth spacing, improved
16 vaccine effectiveness and decreased food and medical expenses,
17 which all have positive societal effects;
- 18 (g) a mother has a responsibility to both her job and her child
19 when she returns to work;
- 20 (h) a woman's choice to breastfeed benefits the family, the
21 employer and society;
- 22 (i) women who wish to continue breastfeeding after returning
23 to work have relatively few needs, such as the availability of a

24 clean, safe, private and comfortable location to express milk at the
25 worksite; the opportunity to pump their breasts frequently enough
26 to maintain their milk supply; and an adequate place to tem-
27 porarily store their expressed milk; and

28 (j) legislation to clarify the right to breastfeed is necessary to
29 promote breastfeeding by mothers and remove any obstacles from
30 influencing a mother's decision to breastfeed or continue breast-
31 feeding out of fear of reprisal.

1 SECTION 2. Chapter 111 of the General Laws is hereby
2 amended by inserting after section 217, as inserted by section 3 of
3 chapter 141 of the acts of 2000, the following section:—

4 Section 218. Notwithstanding any general or special law to the
5 contrary, a mother may breastfeed her baby in any location, public
6 or private, where the mother is otherwise authorized to be, irre-
7 spective of whether or not the nipple of the mother's breast is cov-
8 ered during or incidental to the breastfeeding.

1 SECTION 3. Chapter 149 of the General Laws, as appearing in
2 the 2000 Official Edition, is hereby amended by inserting after
3 section 105D, the following section:—

4 Section 105E. (a) For purposes of this section, the following
5 words shall have the following meanings:—

6 "Employee", an employee as defined in section 1 of
7 chapter 151B.

8 "Employer", an employer as defined in section 1 of
9 chapter 151B.

10 "Labor organization", a labor organization as defined in
11 section 1 of chapter 151B.

12 (b) No employer or labor organization shall prohibit an
13 employee from expressing breast milk during any meal period or
14 other break period required by law to be provided by the employer
15 or required by a collective bargaining agreement. Employers and
16 labor organizations shall also provide reasonable unpaid break
17 time each day to an employee who needs to express breast milk
18 for her child. If possible, the break time for breastfeeding shall
19 run concurrently with any break time already provided to the
20 employee. The employer or labor organization shall make reason-
21 able efforts to provide a room or other location in close proximity

22 to the work area, other than a toilet stall, where the employee can
23 express her breast milk in privacy. An employer or labor organi-
24 zation is not required to provide break time for breastfeeding by
25 an employee under this section if to do so would unduly disrupt
26 the operations of the employer or labor organization.

27 (c) It shall be an unlawful discriminatory practice for any
28 employer or labor organization, because an employee expresses
29 milk at the workplace, to refuse to hire or employ or to bar or to
30 discharge from employment such employee or to discriminate
31 against such employee in compensation or in terms, conditions or
32 privileges of employment, unless based upon a bona fide occupa-
33 tional qualification.

34 (d) Violation of this section shall be subject to the second para-
35 graph of section 150 and to section 180. An employer or labor
36 organization shall be not liable for a violation of this section if
37 reasonable efforts have been made to comply with its provisions.
38 Nothing in this section shall prohibit employers or labor organiza-
39 tions from establishing internal rules and guidelines for
40 employees who may wish to breastfeed or express breast milk in
41 the workplace.

1 SECTION 4. The Massachusetts Commission Against Dis-
2 crimination shall annually compile, analyze and publish data con-
3 cerning incidences of discrimination involving breastfeeding or
4 expressing breast milk in the workplace. The commission shall
5 submit a written report on its findings annually to the clerk of the
6 house of representatives and the clerk of the senate.

1 SECTION 5. (a) The executive office of health and human
2 services shall maintain and make available for public inspection a
3 list of businesses in the commonwealth and covered by this act
4 that it designates as "Mother-Friendly." Such businesses may
5 submit their breastfeeding policies to the executive office of
6 health and human services.

7 (b) The executive office may designate a business as "Mother-
8 Friendly", and a business may use the designation "Mother-
9 Friendly" in its promotional materials, if the business develops
10 and implements a written policy supporting the practice of work-
11 site breastfeeding which includes the following elements:

- 12 (1) work schedule flexibility, including scheduling breaks and
13 work patterns to provide time for expression of milk;
- 14 (2) the provision of accessible locations allowing privacy other
15 than a bathroom stall;
- 16 (3) access to an electrical outlet; and
- 17 (4) access near to a clean, safe water source and a sink for
18 washing hands and any needed breast-pumping equipment; and
- 19 (5) access to hygienic storage in the workplace for the mother's
20 breast milk.

1 SECTION 6. Any state office, department, division or agency
2 that administers a program providing maternal or child health
3 services shall provide information that encourages breastfeeding
4 to program participants who are pregnant women or mothers with
5 infants.