

As Introduced

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S. B. No. 301

Senators Jones, Cafaro

**Cosponsors: Senators Manning, Lehner, Tavares, Brown, Williams, Yuko,
Schiavoni, Hite, Hackett, Patton**

A BILL

To enact section 4113.12 of the Revised Code to 1
enact the "Pregnancy Reasonable Accommodation 2
Act" to generally require employers to make 3
reasonable accommodations for employees who are 4
pregnant or breastfeeding. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4113.12 of the Revised Code be 6
enacted to read as follows: 7

Sec. 4113.12. (A) As used in this section: 8

(1) "Employer" and "employee" have the same meanings as in 9
section 4112.01 of the Revised Code. 10

(2) "Pregnancy" has the same meaning as described in 11
division (B) of section 4112.01 of the Revised Code, except that 12
it also includes lactation or the need to express breast milk 13
for a nursing infant. 14

(3) "Reasonable accommodation" includes, but is not 15
limited to, more frequent or longer breaks; acquisition or 16

modification of equipment, seating, or uniforms; assistance with 17
manual labor; light duty; modified employment schedules; job 18
restructuring; temporary transfer to a less strenuous or 19
hazardous position; break time and a private, nonbathroom space 20
to express breast milk; and time off to recover from childbirth. 21

(4) "Undue hardship" means any requirement that would 22
require an employer to take an action with significant 23
difficulty or expense when considered in light of factors, 24
including all of the following: 25

(a) The nature and cost of the accommodation; 26

(b) The overall financial resources of the employer; 27

(c) The overall size of the employer's business with 28
respect to the number of employees; 29

(d) The number, type, and location of the employer's 30
facilities; 31

(e) The effect on the employer's expenses and resources or 32
the impact otherwise of the accommodation on the employer's 33
operation. 34

(B) No employer shall knowingly do any of the following: 35

(1) Fail or refuse to make a reasonable accommodation to 36
the known conditions related to an employee's pregnancy if the 37
employee so requests, unless the employer can demonstrate that 38
such an accommodation would impose an undue hardship on the 39
operation of the employer's business; 40

(2) Deny employment opportunities to an employee, on the 41
basis of pregnancy, if the refusal or denial is based on the 42
employer's need to make a reasonable accommodation to the known 43
conditions related to the employee's pregnancy; 44

(3) Require an employee affected by pregnancy to accept an accommodation that the employee chooses not to accept; 45
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(4) Require an employee to take leave under any law providing for leave from employment or under the employer's leave policy if the employer can make another reasonable accommodation to the known conditions related to the employee's pregnancy; 47
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(5) Take adverse action against an employee in the terms, conditions, or privileges of employment for requesting or using a reasonable accommodation to the known conditions related to the employee's pregnancy, including failure to reinstate the employee to the employee's original position or an equivalent position with equivalent pay and terms, conditions, and privileges of employment, including accumulated seniority and retirement credit. 52
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(C) An employer shall engage in a timely, good faith, and interactive process with an employee to determine an effective reasonable accommodation to the known conditions related to the employee's pregnancy. 60
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(D) (1) An employer shall have the burden of proving that the employer's failure or refusal to make a reasonable accommodation to the known conditions related to an employee's pregnancy would result in an undue hardship on the operation of the employer's business. 64
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(2) No employer shall be required by this section to do either of the following: 69
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(a) Create additional employment that the employer would not otherwise have created, unless the employer does so or would do so to make reasonable accommodations for other employees; 71
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(b) Discharge any employee, transfer any employee with 74
more seniority, or promote any employee who is not qualified to 75
perform the duties of the position, unless the employer does so 76
or would do so to make reasonable accommodations for other 77
employees. 78

(3) For purposes of this section, the fact that an 79
employer makes or would be required to make a similar 80
accommodation to another employee creates a rebuttable 81
presumption that the accommodation does not impose an undue 82
hardship on the employer. 83

(E) Nothing in this section pertaining to an employer's 84
failure or refusal to make a reasonable accommodation to the 85
known conditions related to an employee's pregnancy shall be 86
construed to preempt, limit, diminish, or otherwise affect any 87
other provision of law relating to discrimination on the basis 88
of pregnancy or sex, or in any way diminish or invalidate the 89
remedies, rights, and procedures that provide greater or equal 90
protection for employees affected by pregnancy under any other 91
provision of law. 92

(F) If an employee believes that an employer violated this 93
section, the employee may bring a civil action against an 94
employer in a court of competent jurisdiction in accordance with 95
the Rules of Civil Procedure. 96

Section 2. This act shall be referred to as the "Pregnancy 97
Reasonable Accommodation Act." 98