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THE WORKPLACE REPORT

**What Does the New Breastfeeding Law
Mean for U.S. Employers?**



THOMAS R. LECHLEITER/THE WALL STREET JOURNAL

Welcome back! I'm Joann S. Lublin, a regular Wall Street Journal contributor and its former career columnist. I've written two leadership books about female executives.



Human-resources leaders should get pumped about heeding the new PUMP Act.

The U.S. law, enacted in December 2022, extends breast-milk pumping rights to as many as nine million employees of childbearing age who weren't previously covered. They include teachers, nurses and nearly all other salaried individuals—even those working remotely.

The Providing Urgent Maternal Protections for Nursing Mothers Act guarantees nursing mothers the right to a reasonable break time and a

private space to pump for up to one year after the birth of their child. It also offers wider access to legal remedies.

Since April 28, nursing mothers denied pumping breaks and/or space under the statute have had the ability to file a lawsuit against their employer or a complaint with the U.S. Labor Department over a violation of the law. Women may seek punitive damages, lost wages and other relief. A narrower 2010 law allowed those remedies only after an employer retaliated against a woman for exercising her breastfeeding rights.

“There will be a huge uptick in these cases” and possibly huge payouts, predicts attorney Daphne Delvaux, the founder of law firm Delvaux Law who handles workplace-bias cases brought by mothers. She urges HR managers to give the requirements of the PUMP Act “the same level of attention as other serious workplace issues such as sexual harassment.”

Yet few businesses grasp their expanded obligations because “it’s not really on their radar,” says Abbey Donnell, founder and chief executive of Work & Mother, a Houston startup that designs and manages lactation suites in office buildings.

For instance, certain school administrators are telling teachers that they must spend their own money for a substitute during breastfeeding breaks, says Liz Morris, deputy director of advocacy and research group Center for WorkLife Law at University of California College of the Law. “That’s clearly not acceptable and [is] illegal.”

Here are several do’s and don’ts for you and your HR colleagues to consider to keep your employer out of legal hot water under the PUMP Act:

Do train a variety of managers about how to deal with workers who need to pump. Merely educating HR colleagues about this law isn’t

sufficient.

Train front-line supervisors and others involved in administering breaks, recommends Mishell Parreno Taylor, a senior partner at law firm Akerman who advises management about employment issues. Otherwise, she continues, risky situations may arise if employees who are breastfeeding feel they aren't being treated properly.

Delvaux, the plaintiffs' attorney, says it's equally risky for managers to watch a training video without follow-up. She prefers in-person programs where instructors explain the legislation in lay language.

PUMP Act training is starting to catch on—slowly. Philadelphia's school system, for instance, will train leaders "as soon as possible," though it hasn't chosen the format, a spokesperson says.

Do relieve women of work during pumping breaks while respecting their related rights. The law guarantees employees the right to reasonable breaks each time they need to pump. On the job, such women typically spend at least 15 minutes pumping milk every few hours.

What's more, mothers who need to pump shouldn't be asked to wait for a break or follow a rigid schedule.

Some bosses insist that employees postpone pumping until an important meeting ends—even though delays may cause serious infection and such demands are unlawful, Delvaux says. Doing so "is like telling someone who really has to pee that they can't go to the bathroom," she adds.

Employers also can't require a fixed break schedule that fails to meet pumping needs, according to a [May 17 Labor Department bulletin about the law](#). "The frequency, duration and timing of breaks needed will vary

depending on factors related to the nursing employee and the child.”

Do plan for potential lactation space and extra staff before they’re needed. The PUMP Act compels management to provide nursing employees with lactation space—other than a bathroom—that’s shielded from view and free from intrusion. This location must be a functional pumping space, with room to sit and a flat surface besides the floor, the Labor Department bulletin said.

Current workplace venues range from simple partitions and temporary pop-up tents to elaborate office suites like Work & Mother’s with private changing rooms and hospital-grade pumps. It’s unclear whether converted closets suffice, however.

By alerting co-workers about your expected supportive actions, future new moms likely won’t sue you, Work & Mother’s Donnell says.

Don’t overlook special arrangements for remote workers. Anyone working from home must be permitted to turn off her video camera if she chooses to pump milk during virtual meetings. Her superior must arrange lactation space and breaks ahead of any offsite assignments.

You shouldn’t be fixated on one solution—especially for employees with mobile work environments,” says Ben Ho, a partner and employment specialist at law firm Baker & McKenzie who represents management. Company-supplied windshield covers, for example, enable taxicab and truck drivers to pump privately from their vehicles.

Don’t fail to quickly fix your compliance shortcomings. The PUMP Act requires employees to notify their employer of the failure to adequately comply with the law and to give the employer 10 days to rectify the problem.

That cure period disappears if bosses refuse to obey the law or fire a staffer for requesting reasonable breastfeeding breaks and space.

The Labor Department will make sure employers comply, so individuals don't have "to choose between their job and the best way to protect their infant's health," says Kristin Garcia, chief of staff for its wage and hour division, which enforces the statute.

Don't overlook the importance of a strong lactation policy. Though the PUMP Act doesn't mandate lactation policies, you should craft one that includes your process for lactation break requests and complaints plus anti-harassment protections, employment specialists suggest. A comprehensive lactation policy may persuade more new mothers to resume work following their maternity leave and not soon jump ship.