

Representative Christine A. Johnson proposes the following substitute bill:

**WORKPLACE ACCOMMODATION OF ~~H~~→ [BREAST
FEEDING] BREASTFEEDING ←~~H~~**

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christine A. Johnson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the provisions related to labor in general to provide for requirements related to an employer accommodating an employee who chooses to ~~H~~→ [breast feed]

breastfeed ←~~H~~ .

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ specifies what accommodations are required to be made;
- ▶ requires posting; and
- ▶ establishes a private right of action.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

34-47-101, Utah Code Annotated 1953

34-47-102, Utah Code Annotated 1953

1st Sub. H.B. 252



- 26 34-47-201, Utah Code Annotated 1953
- 27 34-47-202, Utah Code Annotated 1953
- 28 34-47-301, Utah Code Annotated 1953

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section 34-47-101 is enacted to read:

32 **CHAPTER 47. WORKPLACE ACCOMMODATIONS FOR ~~H~~→ [BREAST FEEDING]**
 32a **A BREASTFEEDING ~~H~~← ACT**

33 **Part 1. General Provisions**

34 **34-47-101. Title.**

35 This chapter is known as the "Workplace Accommodations for ~~H~~→ [Breast Feeding] a
 35a **Breastfeeding Parent ~~H~~← Act."**

36 Section 2. Section 34-47-102 is enacted to read:

37 **34-47-102. Definitions.**

38 As used in this chapter:

39 (1) "Employee's child" means a child:

40 (a) to whom the employee gives birth; or

41 (b) who is adopted by the employee.

42 (2) "Employer" means a person employing ~~H~~→ [15] 50 ~~H~~← or more employees within
 42a the state for
 43 each working day in each of 20 calendar weeks or more in the current or preceding calendar
 44 year.

45 (3) "Express breast milk" means an act intended to extract milk from the breasts of a
46 lactating woman.

47 (4) "Reasonable" means that an accommodation does not impose an undue hardship on
48 the operation of the employer's business.

49 (5) "Undue hardship" means an accommodation that ~~H~~→ :

49a **(a) has a significant detrimental impact on the ability of another employee to perform**
 49b **that employee's work duties; or**

49c **(b) ~~H~~← requires significant difficulty or**
 50 expense when considered in relation to factors such as:

51 ~~H~~→ [(a)] (i) ~~H~~← size of the employer;

52 ~~H~~→ [(b)] (ii) ~~H~~← the financial resources of the employer;

53 ~~H~~→ [(c)] (iii) ~~H~~← the nature and structure of the employer's operations; and

54 ~~H~~→ [(d)] (iv) ~~H~~← special circumstances of public safety.

55 Section 3. Section 34-47-201 is enacted to read:

56 **Part 2. Accommodations Required**

57 34-47-201. Employer to accommodate.

58 (1) Subject to the other requirements of this chapter, if an employee is ~~Ĥ→~~ **[breast feeding]**
 58a **breastfeeding ←Ĥ**
 59 the employee's child, an employer shall:

60 (a) for at least one year after the day on which the employee's child is born, provide
 61 time for the employee to express breast milk for benefit of the employee's child; and

62 (b) make reasonable efforts to provide a location in close proximity to the employee's
 63 work area ~~Ĥ→~~ [~~;, other than a toilet stall,~~] ←Ĥ where the employee can express breast milk in
 63a privacy for
 64 benefit of the employee's child.

65 (2) ~~Ĥ→~~ (a) ~~←Ĥ~~ An employer may comply with Subsection (1)(a) by:

66 ~~Ĥ→~~ [(a)] (i) ~~←Ĥ~~ providing an employee reasonable unpaid break time; or

67 ~~Ĥ→~~ [(b)] (ii) ~~←Ĥ~~ permitting an employee to use paid break time, meal time, or both.

67a ~~Ĥ→~~ (b) An employer is considered to have made reasonable efforts for purposes of
 67b Subsection (1)(b):

67c (i) without providing a separate location from the employee's normal work area, if the
 67d employee's normal work area provides sufficient privacy so that the employee may express
 67e breast milk without being observed while expressing breast milk; or

67f (ii) by providing a separate location from the employee's normal work area, if the
 67g separate location:

67h (A) is within:

67i (I) the same physical structure as is located the employee's normal work area; or

67j (II) a physical structure in which the employer conducts business that is adjacent to
 67k where the employee's normal work area is located;

67l (B) is in sufficient proximity to the employee's normal work area so that the employee
 67m can directly leave the employee's normal work area, express breast milk, and directly return to
 67n the employee's normal work area during the period of time described in Subsection (1)(a);

67o (C) is sanitary, and not a toilet stall; and

67p (D) provides sufficient privacy so that the employee can express breast milk without
 67q being observed while expressing breast milk. ←Ĥ

68 (3) An employer that makes reasonable efforts to accommodate an employee who
 69 chooses to express breast milk at work is considered to be in compliance with this section.

70 Section 4. Section **34-47-202** is enacted to read:

71 **34-47-202. Posting required.**

88 (3) An individual may not bring an action under this section more than two years from
89 the date the child is born for which the individual seeks accommodation under this chapter.

90 (4) An individual may not bring a class action for a violation of this chapter.

91 (5) An action under this chapter does not impair, avoid, or affect any right or cause of
92 action an individual may have under another law.

H.B. 252 1st Sub. (Buff) - Workplace Accommodation of Breast Feeding

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
