

**Effective 5/12/2015**

## **Chapter 49 Nursing Mothers in the Workplace**

### **Part 1 General Provisions**

#### **34-49-101 Title.**

- (1) This chapter is known as "Nursing Mothers in the Workplace."
- (2) This part is known as "General Provisions."

Enacted by Chapter 156, 2015 General Session

#### **34-49-102 Definitions.**

As used in this chapter:

- (1) "Public employee" means a person:
  - (a) employed by a public employer; and
  - (b) who is breastfeeding.
- (2) "Public employer" means the following entities:
  - (a) a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government;
  - (b) a municipality;
  - (c) a county;
  - (d) a school district; or
  - (e) an institution of higher education as described in Section 53B-2-101.

Enacted by Chapter 156, 2015 General Session

### **Part 2 Breastfeeding in the Workplace**

#### **34-49-201 Title.**

This part is known as "Breastfeeding in the Workplace."

Enacted by Chapter 156, 2015 General Session

#### **34-49-202 Reasonable breaks and private room required.**

- (1)
  - (a) A public employer shall:
    - (i) provide for at least one year after the birth of a public employee's child reasonable breaks for each time the public employee needs to breast feed or express milk; and
    - (ii) consult with the public employee to determine the frequency and duration of the breaks.
  - (b) A break required under Subsection (1)(a) shall, to the extent possible, run concurrent with any other break period otherwise provided to the public employee.
- (2)

- (a) A public employer shall provide for a public employee a room or other location in close proximity to the public employee's work area.
- (b) The room described in Subsection (2)(a):
  - (i) may not be a bathroom or toilet stall; and
  - (ii) shall:
    - (A) be maintained in a clean and sanitary condition;
    - (B) provide privacy shielded from the view of and intrusion from coworkers or the public;
    - (C) be available at the times and for a duration required by the public employee as determined in consultation with the public employee under Subsection (1)(a)(ii); and
    - (D) have an electrical outlet.
- (c)
  - (i) Notwithstanding Subsection (2)(a), an employer is not required to comply with the requirements of Subsections (2)(a) and (b) if compliance would create an undue hardship on the operations of the employer.
  - (ii) For purposes of Subsection (2)(c)(i), an undue hardship is a requirement that would cause the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's operations.
- (3)
  - (a) A public employer shall provide access to a clean and well-maintained refrigerator or freezer for the temporary storage of the public employee's breast milk.
  - (b) Notwithstanding Subsection (3)(a), a public employer with a public employee not working in an office building may, in the alternative, provide a nonelectric insulated container for storage of the public employee's breast milk.

Amended by Chapter 330, 2016 General Session

**34-49-203 Policies.**

A public employer shall adopt written policies that:

- (1) support breastfeeding; and
- (2) identify the means by which the public employer will comply with Section 34-49-202.

Enacted by Chapter 156, 2015 General Session

**34-49-204 Discrimination prohibited.**

A public employer may not refuse to hire, promote, discharge, demote, or terminate a person, or may not retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against a person otherwise qualified because the person breastfeeds or expresses milk in the workplace.

Enacted by Chapter 156, 2015 General Session