

**WORKPLACE ACCOMMODATION OF BREAST
FEEDING**

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 breast feed.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for rulemaking;
- ▶ specifies what accommodations are required to be made;
- ▶ requires posting;
- ▶ provides for investigations by the Antidiscrimination and Labor Division of the

Labor Commission;

- ▶ establishes complaint procedures; and
- ▶ establishes sanctions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



90 near the place of work where the employer posts notices related to employment discrimination
91 or workers' compensation.

92 Section 6. Section **34-47-301** is enacted to read:

93 **Part 3. Enforcement**

94 **34-47-301. Investigations.**

95 (1) The division may investigate an alleged violation of this chapter. Except as
96 provided in Section 34-47-302, the division is not required to audit, monitor, or investigate
97 whether an employer is in compliance with this chapter.

98 (2) As part of an investigation, a representative of the division may enter a place of
99 employment during business hours to inspect:

100 (a) a record; or

101 (b) a location provided by the employer at which an employee may express breast milk
102 at work.

103 (3) An effort of an employer to obstruct the division in the performance of its duties
104 under this section is a violation of this chapter and subject to sanctions under Section
105 34-47-302.

106 Section 7. Section **34-47-302** is enacted to read:

107 **34-47-302. Complaint procedures -- Sanctions.**

108 (1) (a) An individual claiming to be aggrieved by an alleged violation of this chapter by
109 the individual's employer may file with the division a request for agency action subject to Title
110 63G, Chapter 4, Administrative Procedures Act.

111 (b) On receipt of a request for agency action under Subsection (1)(a), the division shall:

112 (i) promptly assign an investigator to attempt a settlement between the parties by
113 conference, conciliation, or persuasion before a hearing is scheduled or held as part of an
114 adjudicative proceeding; and

115 (ii) if no settlement is reached, make a prompt impartial investigation of the allegation
116 made in the request for agency action.

117 (2) (a) If the division determines that a violation has occurred, the division may order
118 that the employer:

119 (i) cease and desist the action;

120 (ii) pay a fine to the division of up to \$500 for a violation; or

121 (iii) comply with a combination of Subsections (2)(a)(i) and (ii).

122 (b) Money received under this section shall be deposited as a dedicated credit to the
123 division to pay for the costs of administering this chapter.

124 (3) (a) An employee or employer who disputes a determination, imposition, or amount
125 of a penalty imposed under this section may request a hearing before an administrative law
126 judge.

127 (b) An employee or employer shall make a request for a hearing under this Subsection
128 (3) within 30 days of the day on which the division imposes a penalty under this section or the
129 administrative action becomes a final order of the commission.

130 (c) A request for a hearing under this Subsection (3) shall specify the facts and grounds
131 that are the basis of the objection to the determination, imposition, or amount of the penalty.

132 (d) An administrative law judge's decision under this Subsection (3) may be reviewed
133 in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Legislative Review Note
as of 1-26-10 2:35 PM

Office of Legislative Research and General Counsel

H.B. 252 - Workplace Accommodation of Breast Feeding

Fiscal Note

2010 General Session
State of Utah

State Impact

Enacting this bill will require a \$25,000 on-going General Fund appropriation for additional staff work and will generate about \$5,000 from enforcement penalties.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
General Fund	\$0	\$25,000	\$25,000	\$0	\$0	\$0
Dedicated Credits	\$0	\$5,000	\$5,000	\$0	\$5,000	\$5,000
Total	\$0	\$30,000	\$30,000	\$0	\$5,000	\$5,000

Individual, Business and/or Local Impact

Enacting this bill will not likely result in direct, measurable costs and/or benefits for local governments. Individuals and businesses may be impacted due to the proposed changes in statute.