

Massachusetts Pregnant Workers Fairness Act Notice of Employee Rights

The Massachusetts Pregnant Workers Fairness Act (the “Act”) is effective April 1, 2018. The Act forbids discrimination against employees due to pregnancy or conditions related to pregnancy. While this Notice provides general information regarding employees’ rights and protections under the Act, please refer to the employee policy book and/or company policies available online for additional information regarding leave and reasonable accommodations.

What does the Act mean for you?

Employees and applicants have a right to be free from employment discrimination on the basis of pregnancy and pregnancy-related conditions, such as: morning sickness, lactation, or the need to express breast milk for a nursing child. Generally, employers may not treat employees or job applicants less favorably than other employees based on pregnancy or pregnancy-related conditions and have an obligation to provide reasonable accommodations to expectant and new mothers in the workplace.

What is a reasonable accommodation under the Act?

Upon request for an accommodation from an employee or applicant capable of performing the essential functions of the position involved, the employer and the employee or applicant shall engage in an interactive process to determine an effective, reasonable accommodation. A reasonable accommodation is a modification or adjustment that allows the employee or applicant to perform the essential functions of the job, while pregnant or experiencing a pregnancy-related condition, without undue hardship to the employer.

Such reasonable accommodations may include, but are not limited to:

- More frequent or longer paid or unpaid breaks;
- Time off to attend to a pregnancy complication or recover from childbirth with or without pay;
- Acquisition or modification of equipment or seating;
- Temporary transfer to a less strenuous or hazardous position;
- Job restructuring;
- Light duty;
- Private non-bathroom space for expressing breast milk;
- Assistance with manual labor; or
- A modified work schedule.

What documentation is allowed under the Act?

An employer may request documentation regarding the need for a reasonable accommodation from a health care or rehabilitation professional. An employer may also require documentation for an extension of the accommodation beyond the originally agreed to accommodation. However, employers are prohibited from seeking documentation for the following accommodations:

- More frequent restroom, food, or water breaks;
- Seating;
- Limits on lifting more than 20 pounds; or
- Private non-bathroom space for expressing breast milk.

What conduct is prohibited?

- An employer cannot require an employee affected by pregnancy or pregnancy related conditions to accept a particular accommodation that the employee chooses not to accept, if that accommodation is unnecessary to enable the employee to perform the essential functions of the job.
- An employer cannot require an employee to take leave if another reasonable accommodation would enable the employee to perform the essential functions of the position with a reasonable accommodation.
- An employer cannot take adverse action against an employee because of the employee's request for or use of a reasonable accommodation for a pregnancy or pregnancy-related condition.
- An employer cannot deny an employment opportunity to an individual if the denial is based on the need of the employer to make a reasonable accommodation to the known conditions related to the individual's pregnancy.
- An employer cannot refuse to hire a person who is pregnant because of the pregnancy or because of a condition related to the pregnancy if an applicant is capable of performing the essential functions of the position with a reasonable accommodation that would not impose an undue hardship on the employer.

How do you report a violation of the Act?

- If an employee believes that she has been discriminated against on the basis of pregnancy or a pregnancy-related condition, an employee may contact the Human Resources Department or file a written complaint with the Massachusetts Commission Against Discrimination within 300 days of the alleged discriminatory act.