

Know Your Rights!

Breaks for Nursing Mothers

A *lactation break* is a period of time during the work day for nursing mothers to express/pump breast milk. Both state and federal laws require California employers to provide lactation breaks.

GENERAL REQUIREMENTS

[Section 7 of FLSA, the Fair Labor Standards Act](#), requires employers to provide "reasonable break time for an employee to express breast milk for her nursing child, for 1 year after the child's birth, each time such employee has need to express the milk." Employers are also required to provide "a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk." The break time requirement became effective when the Affordable Care Act was signed into law on March 23, 2010.

California Labor Code sections 1030 to 1033 covers these accommodations.

TIME AND LOCATION OF BREAKS

Employers are required to provide a reasonable amount of break time to express milk **as frequently as needed** by the nursing mother. The frequency and the duration of each break will vary. Labor Code, section 1030 states: "The break time shall, if possible, run concurrently with any break time already provided to the employee.", but if additional time is required, the employee has the right to more breaks.

A bathroom, even if private, is not a permissible location under the Act. The location provided must be functional as a space for expressing breast milk. If the space is not dedicated to the nursing mother's use, it must be available when needed in order to meet the statutory requirement. A space temporarily created or converted into a space for expressing milk or made available when needed by the nursing mother is sufficient provided that the space is shielded from view, and free from any intrusion from co-workers and the public. The room or location may include the place where the employee normally works, if it otherwise meets the requirements of privacy and no intrusion (Labor Code, section 1031).

REQUESTING A LACTATION BREAK

If new mothers desire to express breast milk at work, they should notify their employer/supervisor of the need to do so. It is a good idea to put the request in writing (in an e-mail), using respectful but concise language.

CONSEQUENCES OF LEGAL VIOLATIONS

Employers are legally prohibited from retaliating against employees who request a lactation break. An employee cannot be punished, fired, or treated unfairly for exercising the right to a lactation break. If an employer fails to provide the lactation break, they can be required to pay a civil penalty of \$100.00 *for each violation*. In some cases, part of that penalty can be recovered by the employee.

Similarly, if the employer discriminates against a breastfeeding employee, they can be held liable for substantial compensatory and punitive damages, as well as litigation-related legal expenses.

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