

WORKPLACE PROTECTION FOR PREGNANT, BREASTFEEDING/CHESTFEEDING PARENTS

	WHAT WAS COVERED (BEFORE 2023)	WHAT IS NOW COVERED (2023 ONWARDS)	
	Affordable Care Act Signed into law in 2010	Pregnant Workers Fairness Act Effective June 2023	PUMP for Nursing Mothers Act Effective December 2022
WHO IS COVERED?	Included only workers who were eligible for overtime ("non-exempt" employees) and workers expressing milk "for her nursing child." This excluded over 200,000 Michigan employees, such as teachers and registered nurses.	Includes all workers who are pregnant or have conditions relating to pregnancy (including lactation) if their employer has at least 15 employees.	Includes nearly all workers and size of employers. <u>Special rules</u> apply to certain transportation workers.
LEAVE	Did not address	Employers may be required to provide leave as a reasonable accommodation in certain circumstances. This applies even if the worker isn't eligible for FMLA or has already used up their time off.	Does not address
STAFF TRAINING ON BREASTFEEDING SUPPORT	Did not address	Does not address, though the EEOC has released <u>information for employers</u> .	Does not address, though the Department of Labor has released <u>information for employers</u> and requires use of an <u>updated poster</u> advertising the law.
TIME	Breaks must have been provided as often as needed, and could last a "reasonable" period of time. The Dept. of Labor had noted that the length of reasonable breaks under this law would vary and included time spent pumping, traveling to lactation space, set up and clean up.	Breaks must be provided as-needed as a reasonable accommodation. Specifics of the break will vary based on the person's needs.	Breaks must be provided as often as needed by the employee and can last a "reasonable" period of time. The Dept. of Labor has noted that the length of reasonable breaks under this law will vary and includes time spent pumping, traveling to lactation space, set up and clean up.
SPACE	Space free from intrusion and shielded from view that is not a bathroom. The space must have had a place to sit and a flat surface to hold the pump.	As-needed as a reasonable accommodation. Specifics of the space will vary based on the person's needs.	Space must not be a bathroom, and it must be shielded from view and free from intrusion. The space must have a place to sit and a flat surface to hold the pump.

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	Affordable Care Act	Pregnant Workers Fairness Act	PUMP for Nursing Mothers Act
AGE OF CHILD	Up to 1 year	Not restricted	Up to 1 year
COMPENSATION DURING MILK BREAKS	Breaks could be unpaid, but there may have been exceptions in the case of employees who worked while pumping or when the breaks would normally be paid.	Lactation breaks for workers who have accommodations may be unpaid, or may be paid in the case of employees who work while pumping, or if these breaks would normally be paid (e.g. salaried workers or pumping during paid lunch). Workers should have productivity metrics adjusted to account for their lactation breaks.	Breaks for hourly workers may be unpaid, unless the employee is working while pumping, or the employee is pumping using a break that would normally be paid (e.g. pumping during paid lunch.) Workers should have productivity metrics adjusted to account for their lactation breaks.
ANY EXEMPTION QUALIFICATIONS	Employers with more than 50 employees could not be exempt. Employers with fewer than 50 employees might be exempt only if it could prove it would cause an undue hardship on the employer to provide the break time or space in that particular circumstance. Exemptions were rare.	Does not apply to workplaces with fewer than 15 employees. Employers covered by this law do not need to provide an accommodation if it would cause them an undue hardship. However, they are still required to engage in a good faith interactive process to determine if there is an accommodation available which would not cause an undue hardship.	Employers with more than 50 employees can not be exempt. Employers with fewer than 50 employees may be exempt only if it can prove it would cause an undue hardship on the employer to provide the break time or space in that particular circumstance. Exemptions are rare.
REPORTING & PURSUING PENALTIES FOR NON-COMPLIANCE	Enforced by the Department of Labor. Extremely limited ability to get justice in court.	Enforced by the EEOC and courts.	Enforced by the Department of Labor and courts.



Expanding rights for human milk feeding workers is a win for everyone - children, parents, communities, industry, and our planet. Michigan Breastfeeding Network has fought hard for these crucial pieces of legislation, as they are essential steps forward in the movement for breastfeeding equity and justice. And, we will continue to advocate for stronger protections for breastfeeding and chestfeeding families.

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HUMAN MILK FEEDING BENEFITS EVERYONE.

Human milk feeding benefits parents, children, families, society, and the environment.



HUMAN MILK FEEDING BENEFITS EMPLOYERS.

Investing in workplace lactation support services in the workplace results in a 3-to-1 return on investment.



HUMAN MILK FEEDING IS GOOD FOR BUSINESS.

Businesses with workplace lactation support have higher retention rates and employees with higher job satisfaction, morale, and company loyalty.

MIBFN IS WORKING TOWARDS A BREASTFEEDING SUPPORTIVE CULTURE WHERE:

In an explicit effort to normalize extended human milk feeding and natural weaning, all workplace lactation support policies are written without limitations for the age of the child

All personnel are provided with training on why and how to support breastfeeding, bodyfeeding, and milk expression, and on all lactation policies/accommodations available to employees

Employment policies that are inclusive of the needs of lactating folks are established. Policies can include, but are not limited to:

- Baby-at-work where employees have access to baby for direct breastfeeding/bodyfeeding in the workplace whenever possible
- Virtual/remote work for the duration of milk expression and human milk feeding
- On-site lactation support that includes providing employees with employee-determined time and space to express human milk regardless of legal status and employment classification without penalty

Employment policies regarding milk expression are inclusive of lactating folks who express milk for a child who is not in their custody (e.g. for milk donation, milk sharing, surrogacy, etc.)

Universal basic income is guaranteed for all

Federal minimum wage is guaranteed for all workers

Two years of paid family leave is provided to both the breastfeeding/bodyfeeding and non breastfeeding/bodyfeeding parent

ADDITIONAL RESOURCES

MIBFN Tools: mibreastfeeding.org/tools

MIBFN Policy Priorities: mibreastfeeding.org/policy-priorities

Center for WorkLife Law: 415-703-8276 or hotline@worklifelaw.org

Thanks to the Center for WorkLife Law for assistance interpreting the law for this resource.