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## New York State Expands Accommodations for Nursing Mothers in the Workplace

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Private sector employers throughout New York must meet new time, space and notice requirements for accommodating employees who pump breast milk in the workplace by June 7, 2023, under a [new law](#) signed by Gov. Kathy Hochul on December 9, 2022.

Currently, Section 206-c of the New York Labor Law (Labor Law) requires private sector employers to provide reasonable unpaid (or paid) break times “each day” to allow nursing employees to pump breast milk for a period of up to three years following the birth of the nursing child. The Labor Law also requires employers to make reasonable efforts to provide nursing employees with a physical location where they can express milk in privacy.

### New Requirements Arriving June 2023

Bill S.4844-B, which takes effect on June 7, 2023, amends the Labor Law to both expand and clarify these requirements. The bill specifies that employers shall provide a nursing employee with a reasonable break “each *time* such employee has a reasonable need” to express breast milk. Further, the bill makes it clear that the room or private location *cannot* be a restroom and must be close to the employee’s work area, shielded from other individuals’ view and free from intrusion from other employees or the public. The location must also, at a minimum:

- Contain sufficient lighting
- Have a chair

- Have an open surface
- Be close to clean running water
- Contain at least one electrical outlet

Employers with refrigerators will also be required to allow employees to use them for storing breast milk.

If an employer does not have a permanent area, the bill states that the employer must make available a particular room or other private location on a temporary basis when the need arises for an employee to express breast milk. The employer must then notify all employees when the room or location is being used for such purposes.

For employers that are unable to provide even a temporary location for nursing employees that meets the requirements—whether that be due to the size or physical layout of the workplace—the bill exempts most of the above requirements. However, such employers must still make “reasonable efforts” to provide a private area that is not a restroom in close proximity to the employee’s work area.

### Required Notice

The law also states that the New York State Department of Labor (NYSDOL) will develop a model policy setting forth the rights of nursing employees, and employers will be required to provide the policy (or their own that complies with the law) to each employee upon hiring,

and annually thereafter. Employees who return to work following the birth of a child must also be given a copy of the NYSDOL's written policy.

**Any Changes for New York City Employers?**

New York City employers are already quite familiar with these requirements, as the city imposed identical requirements that took effect in March 2019. Under New York City law ([here](#) and [here](#)), employers in the city are required to provide a permanent or temporary lactation room (that is not a restroom) that meets the same requirements as the new state law. Employers are also required to provide a written policy to their employees that provides the process by which employees can request a lactation room.

New York City employers must now, however, satisfy the notice requirements under the state's Labor Law. Therefore, employers must provide their written policy to employees upon hire, provide it annually thereafter as well as

when an employee returns to work following the birth of a child.

**Next Steps**

Before the law takes effect on June 7, 2023, employers outside of New York City should assess where in the workplace nursing employees can express breast milk in compliance with the above requirements. Employers should also be on the lookout for the NYSDOL's model policy, which is likely to be published as we get closer to the June 7, 2023 effective date. Employers in New York City should focus on implementing a plan to provide the written notice as required by the new law.

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