

House Bill 650

By: Representatives Cannon of the 58<sup>th</sup>, Lim of the 99<sup>th</sup>, McClain of the 100<sup>th</sup>, Schofield of the 60<sup>th</sup>, Thomas of the 39<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial  
2 relations, so as to enact the "Working for Two Act"; to require certain accommodations in  
3 the workplace for pregnancy, childbirth, and related conditions; to provide for the specific  
4 powers and duties of the Commissioner of Labor related to such act; to provide for a short  
5 title; to provide for definitions; to provide for notice of rights; to provide for reasonable  
6 accommodations to job applicants and employees for circumstances related to pregnancy;  
7 to provide for a civil cause of action; to require the Department of Labor to provide certain  
8 instruction and public education; to provide for the Commissioner of Labor to promulgate  
9 certain rules and regulations; to provide for construction; to provide for related matters; to  
10 repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,  
14 is amended in subsection (a) of Code Section 34-2-6, relating to specific powers and duties  
15 of the Commissioner of Labor, by revising paragraph (5) of and by adding a new paragraph  
16 to read as follows:

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17 "(3.1) To make investigations, collect and compile statistical information, and report  
 18 upon the conditions and matters relating to the enforcement and effect of Chapter 5A of  
 19 this title and of the rules issued thereunder and to receive and resolve complaints related  
 20 to such chapter in accordance with the rules and regulations issued thereunder;"

21 "(5) To do all in his or her power to promote the voluntary arbitration, mediation, and  
 22 conciliation of disputes between employers and employees and to avoid strikes,  
 23 picketing, lockouts, boycotts, blacklisting, discriminations, and legal proceedings in  
 24 matters of employment. In pursuance of this duty, the Commissioner may appoint  
 25 temporary boards of arbitration, provide necessary expenses of such boards, order  
 26 reasonable compensation not exceeding \$15.00 per day for each member engaged in such  
 27 arbitration, prescribe rules for such arbitration boards, conduct investigations and  
 28 hearings, publish in print or electronically reports and advertisements, and do all things  
 29 convenient and necessary to accomplish the purpose of this chapter and Chapter 5A of  
 30 this title. The Commissioner may designate a mediator and may, from time to time, detail  
 31 employees or persons not in the department to act as his or her assistants for the purpose  
 32 of executing such provisions. Employees of the Department of Labor shall act on  
 33 temporary boards without extra compensation. Nothing in this Code section or in this  
 34 chapter shall be construed to prohibit or limit in any way employees' rights to bargain  
 35 collectively;"

36 **SECTION 2.**

37 Said title is further amended by adding a new chapter to read as follows:

38 "CHAPTER 5A

39 34-5A-1.

40 This chapter shall be known and may be cited as the 'Working for Two Act.'

41 34-5A-2.42 As used in this chapter, the term:43 (1) 'Employer' means any person or entity that employs one or more employees and shall  
44 include the state and its political subdivisions.45 (2) 'Pregnancy' means medical needs arising from pregnancy, childbirth, or related  
46 conditions, including, but not limited to, lactation.47 (3) 'Reasonable accommodations' shall include, but not be limited to, more frequent or  
48 longer breaks, time off to recover from childbirth, acquisition or modification of  
49 equipment, seating, temporary transfer to a less strenuous or hazardous position, job  
50 restructuring, light duty, break time and private nonbathroom space for expressing breast  
51 milk, assistance with manual labor, or modified work schedules.52 (4) 'Undue hardship' means an action requiring significant difficulty or expense, when  
53 considered in light of the factors set forth in Code Section 34-5A-4.54 34-5A-3.55 (a) It shall constitute an unfair employment practice for an employer, unless such employer  
56 can demonstrate that an undue hardship on such employer's program, enterprise, or  
57 business would result, to:58 (1) Fail or refuse to make a reasonable accommodation to a job applicant or employee  
59 for circumstances related to pregnancy, if such job applicant or employee so requests;60 (2) Take adverse action against a job applicant or an employee who requests or uses an  
61 accommodation;62 (3) Deny employment opportunities to a job applicant or employee, if such denial is  
63 based on the need of the employer to make reasonable accommodations to such job  
64 applicant or employee for circumstances related to pregnancy;65 (4) Require a job applicant or employee affected by pregnancy to accept an  
66 accommodation that such job applicant or employee chooses not to accept;

67 (5) Require an employee to take leave if another reasonable accommodation can be  
68 provided to such employee for circumstances related to pregnancy;

69 (6) Count an absence related to pregnancy against an employee under a no fault  
70 attendance policy; or

71 (7) Fail to reinstate such employee to such employee's original job or to an equivalent  
72 position with equivalent pay and accumulated seniority, retirement, fringe benefits, and  
73 other applicable service credits when such employee's need for reasonable  
74 accommodations ceases.

75 (b) The employer shall in good faith engage in a timely and interactive process with the  
76 job applicant or employee to determine effective reasonable accommodations.

77 (c)(1) An employer shall provide written notice of the right to be free from  
78 discrimination in relation to pregnancy to:

79 (A) New employees at the commencement of employment;

80 (B) Existing employees within 120 days after the effective date of this chapter; and

81 (C) Any employee who notifies such employer of her pregnancy within ten days of  
82 such notification.

83 (2) Such notice shall be conspicuously posted at an employer's place of business in an  
84 area accessible to employees and shall be available in English and other languages  
85 commonly spoken in such employer's place of business.

86 34-5A-4.

87 The employer shall have the burden of proving undue hardship. In making a determination  
88 of undue hardship, the factors that may be considered include, but shall not be limited to:

89 (1) The nature and cost of the accommodation;

90 (2) The overall financial resources of the employer, the overall size of the business of the  
91 employer with respect to the number of employees, and the number, type, and location  
92 of its facilities; and

93 (3) The effect on expenses and resources or the impact otherwise of such accommodation  
94 upon the operation of the employer.

95 34-5A-5.

96 (a) Any individual who is aggrieved by an unfair employment practice against such  
97 individual in violation of this chapter may institute a civil action against the persons  
98 engaged in such prohibited conduct. Such action may be maintained in any court of  
99 competent jurisdiction and shall be commenced no later than one year after the alleged  
100 prohibited conduct occurred.

101 (b) The court may grant as relief, as it deems appropriate, any permanent or temporary  
102 injunction, temporary restraining order, or other order, including, but not limited to, the  
103 hiring or reinstatement of the plaintiff to such individual's original position or an equivalent  
104 position. The court may award to the plaintiff back pay. The court may award court costs  
105 and reasonable attorneys' fees to the prevailing party.

106 34-5A-6.

107 The Department of Labor shall develop courses of instruction and conduct ongoing public  
108 education efforts as necessary to inform employers, employees, employment agencies, and  
109 job applicants about their rights and responsibilities under this chapter.

110 34-5A-7.

111 The Commissioner of Labor shall promulgate rules and regulations as are necessary to  
112 implement and effectuate the provisions of this chapter.

113 34-5A-8.

114 This chapter shall not be construed to preempt, limit, diminish, or otherwise affect any  
115 other provision of law relating to sex discrimination or pregnancy or in any way to  
116 diminish the coverage for pregnancy under any other provision of this title."

117 **SECTION 3.**

118 All laws and parts of laws in conflict with this Act are repealed.