

THE GENERAL ASSEMBLY OF PENNSYLVANIA

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## SENATE BILL

No. 1209 Session of  
2014

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INTRODUCED BY SMITH, TEPLITZ, WOZNIAK, STACK, WAUGH, FONTANA,  
COSTA, FARNESE, WILLIAMS, SOLOBAY, YUDICHAK AND BREWSTER,  
MARCH 31, 2014

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REFERRED TO LABOR AND INDUSTRY, MARCH 31, 2014

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## AN ACT

1 Eliminating discrimination and ensuring reasonable workplace  
2 accommodations for workers whose ability to perform the  
3 functions of a job are limited by pregnancy, childbirth or a  
4 related medical condition; establishing a private right of  
5 action; and imposing duties on the Pennsylvania Human  
6 Relations Commission.

7 The General Assembly of the Commonwealth of Pennsylvania

8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Pennsylvania  
11 Pregnant Workers Fairness Act.

12 Section 2. Definitions.

13 The following words and phrases when used in this act shall  
14 have the meanings given to them in this section unless the  
15 context clearly indicates otherwise:

16 "Commission." The Pennsylvania Human Relations Commission.

17 "Covered entity." Includes the Commonwealth or any political  
18 subdivision or authority, board, department, commission or  
19 school district thereof and any person employing four or more

1 persons within this Commonwealth.

2 "Person." An individual, partnership, association,  
3 organization, corporation, legal representative, trustee in  
4 bankruptcy or receiver. The term includes, but is not limited  
5 to, an owner, lessor, assignor, builder, manager, broker,  
6 salesman, agent, employee, independent contractor and lending  
7 institution.

8 "Reasonable accommodation." An accommodation for as long as  
9 necessary to enable an employee to continue working despite  
10 limitations due to pregnancy, childbirth or related medical  
11 conditions that does not present an undue hardship on the  
12 covered entity. The term may include, but is not limited to:

13 (1) Providing a chair, assistance with heavy lifting,  
14 access to water for drinking or uncompensated break time.

15 (2) Temporary job restructuring, part-time or modified  
16 work schedule, reassignment to a vacant position, acquisition  
17 or modification of equipment or device, appropriate  
18 adjustment or modification of examination and other similar  
19 accommodation.

20 Section 3. Nondiscrimination with regard to reasonable  
21 accommodations related to pregnancy, childbirth or  
22 related medical conditions.

23 (a) General rule.--It shall be an unlawful employment  
24 practice for a covered entity to:

25 (1) (i) Refuse an employee's or prospective employee's  
26 request for reasonable accommodations unless the covered  
27 entity demonstrates that the accommodation would impose  
28 an undue hardship on the covered entity's operations.

29 (ii) The covered entity shall have the burden of  
30 proving undue hardship.

(iii) The factors to be considered in determining whether a requested reasonable accommodation presents an undue hardship to the covered entity include, but are not limited to, the following:

(A) The overall size and nature of the covered entity, its structure, the composition of its workforce and the number and type of facilities.

(B) The extent, nature and cost of the requested reasonable accommodation.

(2) Deny employment opportunities to an employee or prospective employee, if such denial is based on the employee's or prospective employee's need for a reasonable accommodation.

(3) Require an employee or a prospective employee to accept a reasonable accommodation that changes the terms, privileges or conditions of the employee's or prospective employee's employment, including, but not limited to, reductions in pay or hours or changes in shifts or location, unless requested or agreed to by the employee or prospective employee.

(4) Require an employee to take leave under any policy of the covered entity or law if other reasonable accommodations can be provided to address the employee's limitations related to pregnancy, childbirth or related medical conditions that would enable the employee to continue working.

27 (b) Prohibition against retaliation.--No person shall bar or  
28 discharge from employment or in any other manner discriminate  
29 against any employee or prospective employee who has made a  
30 charge or filed any complaint or instituted or caused to be

1 instituted any proceeding under or related to this act,  
2 including an investigation conducted by the employer, has  
3 testified or is planning to testify or has assisted or  
4 participated in any manner in any such investigation,  
5 proceeding, hearing or action.

6 Section 4. Remedies and enforcement.

7 (a) Preliminary injunctive relief.--Notwithstanding the  
8 provisions of the act of October 27, 1955 (P.L.744, No.222),  
9 known as the Pennsylvania Human Relations Act, a person  
10 claiming to be aggrieved by an alleged unlawful discriminatory  
11 practice in violation of section 3 may bring, in an appropriate  
12 court of this Commonwealth, an action for preliminary injunctive  
13 relief in accordance with Rule 1531 of the Pennsylvania Rules of  
14 Civil Procedure.

15 (b) Complaint with Pennsylvania Human Relations  
16 Commission.--Either in addition to or in conjunction with  
17 subsection (a), a person claiming to be aggrieved by an alleged  
18 unlawful discriminatory practice in violation of section 3 may  
19 make, sign and file with the commission a verified complaint in  
20 writing pursuant to the procedures set forth in the Pennsylvania  
21 Human Relations Act, with all available appeals, enforcement  
22 mechanisms, judicial review and remedies, including damages and  
23 attorney fees, available under that act.

24 Section 5. Notice.

25 (a) Duty of commission to develop.--The commission shall  
26 develop a written fair practice notice regarding employees'  
27 rights under this act.

28 (b) Duty of covered entities to display.--A covered entity  
29 shall display the written fair practice notice developed under  
30 this section in plain view in the workplace.

1 Section 6. Rulemaking.

2 Not later than one year after the effective date of this  
3 section the commission shall promulgate regulations to  
4 administer this act.

5 Section 7. Effective date.

6 This act shall take effect in 60 days.