
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 40 Session of
2015

INTRODUCED BY SMITH, BLAKE, WOZNIAK, TEPLITZ, BREWSTER, FONTANA,
HUGHES, YUDICHAK, COSTA AND FARNESE, JANUARY 27, 2015

REFERRED TO LABOR AND INDUSTRY, JANUARY 27, 2015

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
20 persons within this Commonwealth.

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

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

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

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

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

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

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

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

30 (iii) The factors to be considered in determining

1 whether a requested reasonable accommodation presents an
2 undue hardship to the covered entity include, but are not
3 limited to, the following:

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

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

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

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

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

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

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

5 Section 4. Remedies and enforcement.

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

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

23 Section 5. Notice.

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

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

30 Section 6. Rulemaking.

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

4 Section 7. Effective date.

5 This act shall take effect in 60 days.