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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 357

01/28/2021 Authored by Koegel, Edelson, Jordan and Keeler
The bill was read for the first time and referred to the Committee on Labor, Industry, Veterans and Military Affairs Finance and Policy

1.1 A bill for an act
1.2 relating to employment; expanding applicability of pregnancy accommodations;
1.3 amending Minnesota Statutes 2020, section 181.939; repealing Minnesota Statutes
1.4 2020, section 181.9414.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2020, section 181.939, is amended to read:

1.7 181.939 NURSING MOTHERS, LACTATING EMPLOYEES, AND PREGNANCY
1.8 ACCOMMODATIONS.

1.9 Subdivision 1. Nursing mothers. (a) An employer must provide reasonable unpaid
1.10 break time times each day to an employee who needs to express breast milk for her infant
1.11 child. The break time must, if possible, times may run concurrently with any break time
1.12 times already provided to the employee. An employer is not required to provide break time
1.13 under this section if to do so would unduly disrupt the operations of the employer. An
1.14 employer shall not reduce an employee's compensation for time used for the purpose of
1.15 expressing milk.

1.16 (b) The employer must make reasonable efforts to provide a room or other location, in
1.17 close proximity to the work area, other than a bathroom or a toilet stall, that is shielded from
1.18 view and free from intrusion from coworkers and the public and that includes access to an
1.19 electrical outlet, where the employee can express her milk in privacy. The employer would
1.20 be held harmless if reasonable effort has been made.

1.21 Subd. 2. Pregnancy accommodations. (a) An employer must provide reasonable
1.22 accommodations to an employee for health conditions related to pregnancy or childbirth
1.23 upon request, with the advice of a licensed health care provider or certified doula, unless

2.1 the employer demonstrates that the accommodation would impose an undue hardship on  
2.2 the operation of the employer's business. A pregnant employee shall not be required to  
2.3 obtain the advice of a licensed health care provider or certified doula, nor may an employer  
2.4 claim undue hardship for the following accommodations: (1) more frequent restroom, food,  
2.5 and water breaks; (2) seating; and (3) limits on lifting over 20 pounds. The employee and  
2.6 employer shall engage in an interactive process with respect to an employee's request for a  
2.7 reasonable accommodation. "Reasonable accommodation" may include but is not limited  
2.8 to temporary transfer to a less strenuous or hazardous position, seating, frequent restroom  
2.9 breaks, and limits to heavy lifting. Notwithstanding any other provision of this subdivision,  
2.10 an employer shall not be required to create a new or additional position in order to  
2.11 accommodate an employee pursuant to this subdivision and shall not be required to discharge  
2.12 an employee, transfer another employee with greater seniority, or promote an employee.

2.13 (b) Nothing in this subdivision shall be construed to affect any other provision of law  
2.14 relating to sex discrimination or pregnancy or in any way diminish the coverage of pregnancy,  
2.15 childbirth, or health conditions related to pregnancy or childbirth under any other provisions  
2.16 of any other law.

2.17 (c) An employer shall not require an employee to take a leave or accept an  
2.18 accommodation.

2.19 Subd. 3. **Employer.** ~~(e)~~ For the purposes of this section, "employer" means a person or  
2.20 entity that employs one or more employees and includes the state and its political  
2.21 subdivisions.

2.22 Subd. 4. **No employer retribution.** ~~(d)~~ An employer ~~may~~ shall not retaliate against an  
2.23 employee for asserting rights or remedies under this section.

2.24 Sec. 2. **REPEALER.**

2.25 Minnesota Statutes 2020, section 181.9414, is repealed.

**181.9414 PREGNANCY ACCOMMODATIONS.**

Subdivision 1. **Accommodation.** An employer must provide reasonable accommodations to an employee for health conditions related to pregnancy or childbirth if she so requests, with the advice of her licensed health care provider or certified doula, unless the employer demonstrates that the accommodation would impose an undue hardship on the operation of the employer's business. A pregnant employee shall not be required to obtain the advice of her licensed health care provider or certified doula, nor may an employer claim undue hardship for the following accommodations: (1) more frequent restroom, food, and water breaks; (2) seating; and (3) limits on lifting over 20 pounds. The employee and employer shall engage in an interactive process with respect to an employee's request for a reasonable accommodation. "Reasonable accommodation" may include, but is not limited to, temporary transfer to a less strenuous or hazardous position, seating, frequent restroom breaks, and limits to heavy lifting. Notwithstanding any other provision of this section, an employer shall not be required to create a new or additional position in order to accommodate an employee pursuant to this section, and shall not be required to discharge any employee, transfer any other employee with greater seniority, or promote any employee.

Subd. 2. **Interaction with other laws.** Nothing in this section shall be construed to affect any other provision of law relating to sex discrimination or pregnancy, or in any way to diminish the coverage of pregnancy, childbirth, or health conditions related to pregnancy or childbirth under any other provisions of any other law.

Subd. 3. **No employer retribution.** An employer shall not retaliate against an employee for requesting or obtaining accommodation under this section.

Subd. 4. **Employee not required to take leave.** An employer shall not require an employee to take a leave or accept an accommodation.