



Labor Commissioner's Office : Lactation Accommodation

Lactation Accommodation

Pursuant to Labor Code Section 1030 every employer, including the state and any political subdivision, must provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee. Break time for an employee that does not run concurrently with the rest time authorized for the employee by the applicable wage order of the Industrial Welfare Commission need not be paid. The employer shall make reasonable efforts to provide the employee with the use of a room or other location, other than a toilet stall, in close proximity to the employee's work area, for the employee to express milk in private. The room or location may include the place where the employee normally works if it otherwise meets the requirements of this section. An employer is not required to provide an employee break time for purposes of lactating if to do so would seriously disrupt the operations of the employer. Lactation Accommodation-Labor Code translation-Spanish

If an employer fails to provide an employee a rest period in accordance with an applicable IWC Order, the employer shall pay the employee one additional hour of pay at the employee's regular rate of pay for each workday that the rest period is not provided. Labor Code Section 226.7 Thus, if an employer does not provide all of the rest periods required in a workday, the employee is entitled to one additional hour of pay for that workday, not one additional hour of pay for each rest period that was not provided during that workday.

The rest period is defined as a "net" ten minutes, which means that the rest period begins when the employee reaches an area away from the work area that is appropriate for rest. Employers are required to provide suitable resting facilities that shall be available for employees during working hours in an area separate from the toilet rooms.

1.Q. Does an employer have to provide an employee with additional break time to express breast milk?

A. Yes, an employer must provide additional break time to employees who need it.

2.Q. Does an employer have to pay for the additional time to express breast milk?

No. While the employer must allow an employee to leave the work area to pump, the employer does not have to pay for pumping time, beyond the standard break time.

3.Q. Can my employer demand a doctor's note or other medical documentation?

No. Your employer cannot require you to submit any documentation regarding your need to express breast milk.

4.Q. Does my employer have to provide me with a place to express breast milk?

A. Yes, your employer must make a reasonable effort to provide you with the use of a room or other location other than a toilet stall and in close proximity to your work area. This may include the place where the employee normally works if it otherwise meets the requirements.

5.Q. What happens if my employer does not provide me with the opportunity to take a break for lactation purposes?

If you feel your employer is not providing you with adequate break time and/or a place to express milk as provided for in Labor Code section 1030, you may file a report/claim with the Labor Commissioner's Bureau of Field Enforcement (BOFE) at the BOFE office nearest your place of employment. See <http://www.dir.ca.gov/dlse/HowToReportViolationtoBOFE.htm>.

The Labor Commissioner's Office may, after an inspection, issue to an employer who violates any provision of this chapter, a civil citation (\$100.00 for each violation) that may be contested in

A. accordance with the procedure outlined in Labor Code Section 1197.1 (Labor Code Section 1033).

In addition, any employee who is a victim of retaliation for either asserting a right to lactation accommodation or for complaining to the Labor Commissioner about the failure of an employer to provide this accommodation may file a retaliation claim pursuant to Labor Code Section 98.7. An employee must file a retaliation claim with the Labor Commissioner's Office within six months of the retaliation.

6.Q. Who can I call if I have I have questions regarding Lactation Accommodation?

You may contact your local Labor Commissioner's office if you have questions about your rights

A. under the Labor Code.

June 2016