



Dear Employer,

I am writing to you on behalf of your employee who wishes to continue Breastfeeding/chestfeeding and providing their own human milk to their infant after they return to work. They will need to pump during their work hours in order to do so. Many employers may be unaware that both Federal and California law protect a parent's right to express human milk for their infant at the workplace. You may read the text of these laws on the reverse side of this letter.

Breastfeeding/chestfeeding is critical for the health of infants, and parents too. The unnecessary use of infant formula puts them both at risk in many critical ways. For instance, infants who are breastfed/chestfed are healthier, have a decreased risk of SIDS (sudden infant death syndrome), and protection against diabetes. Parents who breastfeed/chestfeed have a reduced risk of breast cancer and diabetes as well. Supporting your employee to enable them to continue providing their own human milk to their infant may benefit you as well.

- Because breastfed/chestfed infants are healthier than formula-fed babies, breastfeeding/chestfeeding employees miss fewer days of work than if they were formula feeding their infants.
- When infants are healthy, their parents can focus better on their work responsibilities.
- Companies that self-insure their employees save money on medical expenses for the children of employees who were breastfed/chestfed.
- Employers save on recruiting and training costs as supporting breastfeeding/chestfeeding builds company loyalty.

It's easy to support your breastfeeding/chestfeeding employee. The legal requirements are:

- Provide a reasonable amount of break time for the employee to pump their human milk for their infant. If possible, the break time should coincide with their paid rest time. If not, the extra break time need not be paid.
- Provide the employee with the use of a room or other location, other than a toilet stall, near their work area so that they may express their human milk in private.

If you would like more information on how you can comply with the Federal and California laws to support your breastfeeding employees, please visit www.womenshealth.gov and search for *supporting nursing moms at work/ employer solutions*.

Sincerely,

Sharon Moore MS, RDN
Breastfeeding Services Manager

The WIC Program is an equal opportunity provider and employer.

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Federal Wage and Hour Division (WHD)

Section 7(r) of the Fair Labor Standards Act – Break Time for Nursing Mothers Provision

Effective March 23, 2010, the Patient Protection and Affordable Care Act amended the FLSA to require employers to provide a nursing mother reasonable break time to express breast milk after the birth of her child. The amendment also requires that employers provide a place for an employee to express breast milk.

Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

- (r)(1) An employer shall provide—
- A. a reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth each time such employee has need to express the milk; and
 - B. a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.
- (2) An employer shall not be required to compensate an employee receiving reasonable break time under paragraph (1) for any work time spent for such purpose.
- (3) An employer that employs less than 50 employees shall not be subject to the requirements of this subsection, if such requirements would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's business
- (4) *Nothing in this subsection shall preempt a State law that provides greater protections to employees than the protections provided for under this subsection. (see CA law below)*

California Labor Code Section 1030-1033:

1030. Every employer, including the state and any political subdivision, shall 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 shall be unpaid.

1031. 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.

1032. An employer is not required to provide break time under this chapter if to do so would seriously disrupt the operations of the employer.

1033. (a) An employer who violates any provision of this chapter shall be subject to a civil penalty in the amount of one hundred dollars (\$100) for each violation.

(b) If, upon inspection or investigation, the Labor Commissioner determines that a violation of this chapter has occurred, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for violations of this chapter shall be the same as those set forth in Section 1197.1.

(c) Notwithstanding any other provision of this code, violations of this chapter shall not be misdemeanors under this code.