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### **New “Pregnant Workers Fairness Act” and “Providing Urgent Maternal Protections for Nursing Mothers Act” Require Employers to Provide Certain Accommodations for Pregnant Workers**

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Under the new Pregnant Workers Fairness Act (PWFA), which took effect on June 27, 2023, employers are now required to provide “reasonable accommodations” to nursing and pregnant employees.

Before passage of the PWFA, the Pregnancy Discrimination Act (PDA) had, for decades, prohibited employers from firing or discriminating against workers on the basis of childbirth, pregnancy, or related medical conditions. While the PDA prohibited employers from discriminating against such employees, it did not require employers to take specific affirmative measures.

The PWFA is modeled after the Americans with Disabilities Act of 1990 (ADA). Like the ADA, the PWFA requires employers with 15 or more employees to provide temporary and reasonable accommodations to employees unless doing so would create an “undue hardship” for the employer. While pregnancy is not a “disability” under the ADA, the PWFA requires accommodation and provides those protections to pregnant employees and applicants with limitations related to childbirth, pregnancy, or related conditions. The PWFA definition of “reasonable accommodation” and “undue hardship” are the same as under the ADA, but with one key distinction - the PWFA, unlike the ADA, requires employers to accommodate pregnant workers by eliminating an essential function of the position for a temporary period of time.

Employers should also take note that the PWFA was signed into law with the Providing Urgent Maternal Protections for Nursing Mothers Act (the “PUMP Act”). The PUMP Act amended the Fair Labor Standards Act to require employers to provide a private location and reasonable break time for employees to express breast milk for two years following childbirth. The private location should not be a restroom and the location should be shielded from view and free from intrusion. The PUMP Act does have an exemption for employers with fewer than 50 employees if complying with the Act’s 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.” Under the new PWFA, employers must engage in an interactive process in determining reasonable accommodations, including potentially eliminating an essential function of the position for a temporary period of time. Employers should review and, if necessary, amend existing policies and practices to ensure pregnant and nursing workers can request and receive appropriate accommodations. Additionally, employers should confirm PUMP Act compliance.

**[Bodman’s Workplace Law Group](#)** is available to assist employers with their labor relations strategy, collective bargaining, and defense of unfair labor practice claims. Bodman may not be able to respond to your questions or receive information from you without first clearing potential conflicts with other clients. Thank you for your patience and understanding.

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