

SENATE BILL 758

By Yarbro

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 50, relative to the Tennessee Pregnant Workers Fairness Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Tennessee Pregnant Workers Fairness Act."

SECTION 2. Tennessee Code Annotated, Title 4, Chapter 21, Part 4, is amended by adding the following new section:

(a) For purposes of this section:

(1) "Reasonable accommodation" may include:

(A) Making existing facilities used by employees readily accessible to and usable by individuals with medical needs arising from pregnancy, childbirth, or related medical conditions; except, that the employer is not required to construct a permanent, dedicated space for expressing milk. Nothing in this section exempts an employer from providing other reasonable accommodations; and

(B) For individuals with medical needs arising from pregnancy, childbirth, or related medical conditions, providing more frequent or longer break periods; providing more frequent bathroom breaks; providing a private place, other than a bathroom stall, for the purpose of expressing milk; modifying food or drink policy; providing seating or allowing the employee to sit more frequently if the job requires the employee to stand; providing assistance with manual labor and limits on lifting; temporarily

transferring the employee to a less strenuous or hazardous vacant position, if qualified; providing job restructuring or light duty, if available; acquiring or modifying equipment or devices necessary for performing essential job functions; and modifying work schedules; and

(2) "Undue hardship" means an action requiring significant difficulty or expense.

(b) For purposes of this section, an employer is not required to do the following unless the employer does or would do so for other employees or classes of employees that need a reasonable accommodation:

(1) Hire new employees that the employer would not have otherwise hired;

(2) Discharge an employee, transfer another employee with more seniority, or promote another employee who is not qualified to perform the new job;

(3) Create a new position, including a light duty position for the employee, unless a light duty position would be provided for another equivalent employee; or

(4) Compensate an employee for more frequent or longer break periods, unless the employee uses a break period that would otherwise be compensated.

(c) It is a discriminatory practice based on sex for an employer to:

(1) Fail or refuse to make reasonable accommodations for medical needs arising from pregnancy, childbirth, or related medical conditions of an applicant for employment or an employee, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the employer;

(2) Require an employee to take leave under any leave law or policy of the employer if another reasonable accommodation can be provided to the

known limitations for medical needs arising from pregnancy, childbirth, or related medical conditions; or

(3) Take adverse action against an employee in the terms, conditions, or privileges of employment for requesting or using a reasonable accommodation to the known limitations for medical needs arising from pregnancy, childbirth, or related medical conditions, including, but not limited to, counting an absence related to pregnancy under no fault attendance policies.

SECTION 3. This act shall take effect July 1, 2019, the public welfare requiring it.