

Floor Amendment to SB 488-FN-LOCAL

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT relative to breastfeeding.
4

5 Amend the bill by replacing all after the enacting clause with the following:

6
7 1 New Subdivision; Breastfeeding; Employer Responsibilities. Amend RSA 275 by inserting
8 after section 75 the following new subdivision:

9 Breastfeeding; Employer Responsibilities

10 275:76 Definitions. In this subdivision:

11 I. "Department" means the department of labor.

12 II. "Express milk" means the act of extracting human milk which can be accomplished by
13 hand or pump.

14 III. "Employer" means an individual, partnership, association, corporation, legal
15 representative, trustee, receiver, trustee in bankruptcy, governmental entity, and any common
16 carrier who employs any person. "Employer" shall also include any person acting in the interest of
17 an employer directly or indirectly.

18 275:77 Time and Space to Express Milk.

19 I. An employer shall provide:

20 (a) A reasonable break time for an employee to express breast milk for her nursing child
21 each time such employee has need to express the milk; and

22 (b) A sanitary indoor place, other than a bathroom or toilet stall, that is shielded from
23 view and free from intrusion from co-workers and the public, which may be used by an employee to
24 express breast milk.

25 II. An employer shall not be required to compensate an employee receiving reasonable
26 break time under paragraph I for any work time spent for such purpose, providing such break shall
27 be documented as a break for the purpose of expressing milk.

28 III. Where employers already provide compensated breaks, an employee who uses that
29 break time to express milk shall be compensated in the same way that other employees are
30 compensated for break time. In addition, the employee shall be completely relieved from duty or
31 else the time shall be compensated as work time.

32 IV. An employer that employs less than 50 employees shall not be subject to the
33 requirements of this chapter, if such requirements would impose an undue hardship by causing the

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1 employer significant difficulty or expense when considered in relation to the size, financial
2 resources, nature, or structure of the employer's business.

3 275:78 Retaliation. An employer shall not discharge or in any other manner discriminate
4 against any employee because he or she makes a charge, files any complaint, or institutes or causes
5 to be instituted any investigation, proceeding, hearing, or action under or related to this chapter,
6 including an investigation conducted by the employer, or has testified or is planning to testify or
7 has assisted or participated in any manner in any such investigation, proceeding, hearing, or action.

8 275:79 Penalty. Any employer violating this chapter shall be subject to a civil penalty, to be
9 imposed by the labor commissioner in accordance with the procedures established in RSA 273:11-a.
10 An employer aggrieved by the commissioner's assessment of such penalty may appeal in accordance
11 with RSA 273:11-c.

12 275:80 Advisory Council on Breastfeeding.

13 I. There is hereby established an advisory council on breastfeeding. The advisory council
14 shall follow the goals of the United States Surgeon General and the United States Breastfeeding
15 Committee. The advisory council shall be comprised of, but not limited to:

16 (a) One member of the house of representatives, appointed by the speaker of the house
17 of representatives.

18 (b) One member of the senate, appointed by the senate president.

19 (c) The commissioner of the department of labor, or designee.

20 (d) A representative from the women, infants, and children program (WIC), appointed
21 by the commissioner of the department of health and human services.

22 (e) A certified midwife, appointed by the midwifery council established in RSA 326-D:3.

23 (f) A member of the New Hampshire Business and Industry Association, appointed by
24 the association.

25 (g) The president of the New Hampshire Breastfeeding Rights Coalition, or designee.

26 (h) The chair of the New Hampshire Breastfeeding Task Force, or designee.

27 (i) A hospital administrator from a certified baby-friendly hospital, appointed by the
28 governor.

29 (j) A transportation representative, appointed by the governor.

30 (k) A currently breastfeeding mother, appointed by the governor.

31 (l) An attorney with experience in human rights issues, appointed by the
32 New Hampshire commission on human rights.

33 II. The advisory council shall examine best practices in New Hampshire, including but not
34 limited to the Baby Friendly Hospital Initiative, Family and Sick Leave, Childcare Trainings on
35 Breastfeeding, Milk Banks, Lactation Spaces in Public Accommodations, and the World Health
36 Organization's International Code of Marketing of Breastmilk Substitutes.

37 III. Legislative members shall receive mileage at the legislative rate while attending to the

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1 duties of the commission.

2 IV. The advisory council may meet as often as necessary to effectuate its goals and
3 meetings may be held by conference call. A minimum of 3 meetings per year shall be open to the
4 public.

5 V. The advisory council shall make an interim report commencing on November 1, 2016
6 and a final report on December 1, 2017 on its activities and findings, together with any
7 recommendations for proposed legislation, to the president of the senate, the speaker of the house of
8 representatives, and the governor.

9 2 New Paragraph; Notification, Posting, and Records. Amend RSA 275:49 by inserting after
10 paragraph VII the following new paragraph:

11 VIII. Keep posted in a place accessible by his or her employees such notices as prescribed by
12 the commissioner on the protections under RSA 275:76 – 275:80. The commissioner shall adopt
13 rules, under RSA 541-A, relative to the form, content, and placement of such notices.

14 3 Nursing Mothers; Exemption from Jury Duty. Amend RSA 500-A:11 to read as follows:

15 500-A:11 Excuse From Jury Service. A person who is not disqualified for jury service may be
16 excused from jury service by the court only upon a showing of undue hardship, extreme
17 inconvenience, public necessity, ***nursing mothers***, or for any other cause that the court deems
18 appropriate. The person may be excused for the time deemed necessary by the court and shall
19 report again for jury service, as directed by the court.

20 4 Repeal. RSA 275:80, relative to an advisory council on breastfeeding, is repealed.

21 5 Effective Date.

22 I. Section 4 of this act shall take effect December 1, 2017.

23 II. The remainder of this act shall take effect January 1, 2017.

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2016-1176s

AMENDED ANALYSIS

This bill requires employers to provide reasonable accommodations to women who are breastfeeding and exempts a nursing mother from jury duty.