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AB-1976 Employment: lactation accommodation. (2017-2018)

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Assembly Bill No. 1976

CHAPTER 940

An act to amend Section 1031 of the Labor Code, relating to employment.

[Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1976, Limón. Employment: lactation accommodation.

Existing law requires every employer to provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child and requires an employer to 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. Existing law makes a violation of these provisions subject to a civil penalty and makes the Labor Commissioner responsible for enforcement.

This bill would instead require an employer to make reasonable efforts to provide an employee with use of a room or other location, other than a bathroom, for these purposes. The bill would deem an employer to be in compliance with the requirement of providing a lactation location if the employer makes available a temporary lactation location that meets specified conditions, including that the temporary lactation location be used only for lactation purposes while an employee expresses milk. The bill would deem an agricultural employer to be in compliance with the requirement of providing a lactation location if the agricultural employer provides an employee with a private, enclosed, and shaded space, as specified. If the employer can demonstrate to the Department of Industrial Relations that this requirement would impose an undue hardship, the bill would require that employer to make reasonable efforts to provide a room or location for expressing milk that is not a toilet stall.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1031 of the Labor Code is amended to read:

1031. (a) An employer shall make reasonable efforts to provide an employee with the use of a room or other location, other than a bathroom, 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.

(b) An employer who makes a temporary lactation location available to an employee shall be deemed to be in compliance with this section if all of the following conditions are met:

- (1) The employer is unable to provide a permanent lactation location because of operational, financial, or space limitations.

(2) The temporary lactation location is private and free from intrusion while an employee expresses milk.

(3) The temporary lactation location is used only for lactation purposes while an employee expresses milk.

(4) The temporary lactation location otherwise meets the requirements of state law concerning lactation accommodation.

(c) An agricultural employer, as defined in Section 1140.4, shall be deemed to be in compliance with this section if the agricultural employer provides an employee wanting to express milk with a private, enclosed, and shaded space, including, but not limited to, an air-conditioned cab of a truck or tractor.

(d) If an employer can demonstrate to the department that the requirement to provide the employee with the use of a room or other location, other than a bathroom would impose an undue hardship when considered in relation to the size, nature, or structure of the employer's business, an employer shall make reasonable efforts to provide an 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.