

An Employer's Guide to Navigating New York State's Nursing Mothers in the Workplace Act



By [Laura L. Spring](#)

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On June 7, 2023, amendments to [New York State's Nursing Mothers in the Workplace Act](#) (the "Act") took effect. In short, the amendments required employers to provide designated areas for employees to express breast milk that met certain requirements for privacy, location, and cleanliness. The amendments also required employers to provide breaks for employees to express breast milk. The Act was amended again and took effect on June 19, 2024. The most recent amendments require employers to provide **paid** breaks for employees to express breast milk. This act applies to all employees, including remote workers, and all employers regardless of size or industry.

Designated Areas

At a minimum, an employer must provide nursing employees expressing breast milk with a designated area that includes:

- A chair,
- A working surface (i.e. A desk, table, counter, or other flat surface),
- Nearby access to clean running water,
- An electrical outlet (if the workplace has electricity),
- Curtains, blinds, or other covering over any window in the space, and
- A door equipped with a functional lock and if that is not possible, a sign advising the space is in use and not accessible to others.

Further, the designated area must be:

- Near the employees' work area (within walking distance and not far enough to extend an employee's break time),
- Well lit,
- Shielded from view,
- Free from intrusion from other people in the workplace or the public, and
- Be clean and always maintained.

Each nursing employee does not need a separate space and if multiple employers share the same designated space, each employer is individually responsible for making sure the space meets the Act's requirements.

In workspaces with a refrigerator, employers must allow it to be used for storing breast milk but are not responsible for ensuring the breast milk's safekeeping.

If an employer can demonstrate undue hardship in providing a space within the requirements, it must still provide a space, other than a restroom or toilet stall, that meets as many of the requirements as possible. Undue hardship is defined by the policy as "causing significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's business."

Paid Breaks

As of June 19, 2024, employers must provide thirty (30) minutes of paid break time for their employees to express breast milk when their employees have a **reasonable** need to express it. The number of paid breaks required is unique to each employee and should meet their individual needs. This break time must be provided up to three years following childbirth.

Employees must be permitted to use existing paid breaks or mealtimes if they need **additional** time for breast milk expression beyond their paid thirty minutes. Employees may opt to take shorter breaks and may also choose to take their breast milk expression breaks right before or after their regularly scheduled paid breaks. Employees are also not required to work during their breast milk expression breaks but may opt to do so.

Employers are prohibited from requiring employees to make up the time from their breast milk expression breaks and employers must continue to follow existing federal and state laws regarding mealtimes and paid breaks regardless of whether employees use such time to express breast milk.

Notice Requirements

If an employee wants to express breast milk at work, the employee must give the employer **reasonable advance notice**, generally before returning to work following maternity leave. This notice should include details about how many breaks the employee anticipates needing and the preferred times the employee wishes to take them.

An employee wishing to request a location to express breast milk at work should submit a written request to the employee's direct supervisor or individual designated by the employer for processing those requests. This written request can be sent by email, text, chat software that allows the retention of messages, or other writing. Employers must respond to this request within **five days** and notify **all employees** in writing through email or printed memo when a location has been designated for breast milk expression.

Other Considerations

Employers are required to have a written policy regarding breast milk expression in the workplace which must be provided to employees when they are hired, yearly thereafter, and after they return to work following the birth of a child.

Employers in New York State should note that this Act is more stringent than the Federal PUMP Act, which only requires employers to provide employees unpaid breaks for the expression of breast milk up to one year after childbirth.

If you have any questions about the Act, please contact one of the members of our [Employment Practice Team](#).

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