

# WORKSITE LACTATION SUPPORT - IT'S NOT JUST NICE TO DO, **IT'S THE LAW!**



## Federal Law

Many businesses working to meet the requirements of the law may already meet the criteria to become recognized as a **Texas Mother-Friendly Worksite**.

Since 2010, the Breaktime for Nursing Mothers Provision of the Fair Labor Standards Act (FLSA) requires employers covered by the Fair Labor Standards Act (FLSA) to provide lactating employees a reasonable amount of break time and a private space, other than a bathroom, to express milk as frequently as needed by the nursing mother, for up to one year following the birth of the employee's child.

On December 29, 2022, the Consolidated Appropriations Act, 2023 was signed into law. This law includes the **PUMP for Nursing Mothers Act ("PUMP Act")**. The PUMP Act extends the rights to receive break time and a private space to pump at work to nearly all employees, including FLSA exempt employees, who were previously not covered by the Break Time for Nursing Mothers provision of the FLSA. More information about the law is available from the U.S. Department of Labor at [dol.gov/agencies/whd/pump-at-work](https://dol.gov/agencies/whd/pump-at-work).

## Texas Law

### **Texas Health and Safety Code Section 165.001.**

The legislature finds that breastfeeding a baby is an important and basic act of nurture that must be encouraged in the interests of maternal and child health and family values. In compliance with the breastfeeding promotion program established under the federal Child Nutrition Act of 1966 (42 U.S.C. Section 1771 et seq.), the legislature recognizes breastfeeding as the best method of infant nutrition. Added by Acts 1995, 74th Leg., Ch. 600, SS1, eff. Aug. 28, 1995.

### **Sec. 165.002. Right To Breastfeed.**

A mother is entitled to breastfeed her baby or express breast milk in any location in which the mother is otherwise allowed to be.

### **Sec. 165.003. Business Designation As "Mother-Friendly."**

**a.** A business may use the designation "mother-friendly" in its promotional materials if the business develops a policy supporting the practice of worksite breast-feeding that addresses the following:

1. Work schedule flexibility, including scheduling breaks and work patterns to provide time for expression of milk;
2. The provision of accessible locations allowing privacy;
3. Access nearby to a clean, safe water source and a sink for washing hands and rinsing out any needed breast-pumping equipment;
4. Access to hygienic storage alternatives in the workplace for the mother's breast milk.

**b.** The business shall submit its breast-feeding policy to the department. The department shall maintain a list of "mother-friendly" businesses covered under this section and shall make the list available for public inspection.

### **Sec. 165.004. Services Provided By State Agencies.**

Any state agency that administers a program providing maternal or child health services shall provide information that encourages breast-feeding to program participants who are pregnant women or mothers with infants.

### Sec. 619.002. Right To Express Breast Milk.

An employee of a public employer is entitled to express breast milk at the employee's workplace.

### Sec. 619.003. Policy On Expressing Breast Milk.

(a) A public employer shall develop a written policy on the expression of breast milk by employees under this chapter.

(b) A policy developed under Subsection (a) must state that the public employer shall:

- (1) support the practice of expressing breast milk; and
- (2) make reasonable accommodations for the needs of employees who express breast milk.

### Sec. 619.004. Public Employer Responsibilities.

A public employer shall:

- (1) provide a reasonable amount of break time for an employee to express breast milk each time the employee has need to express the milk; and
- (2) provide a place, other than a multiple user bathroom, that is shielded from view and free from intrusion from other employees and the public where the employee can express breast milk.

**Texas Administrative Code, Chapter 31, Subchapter A, Rule 31.1, defines a mother friendly business as a worksite that:**

- Actively promotes and supports breastfeeding by its employees
- Maintains a written lactation support policy that is regularly communicated to employees

### Additional Resources

- **Kansas:** <https://ctb.ku.edu/en/table-of-contents/structure/strategic-planning/develop-action-plans/main>
- **United State Breastfeeding Committee (USBC):** <https://www.breastfeedingcontinuityofcare.org/blueprint>
- **Let's Talk-Safe Infant Sleep - Sustainability:** [https://www.dshs.texas.gov/sites/default/files/healthytxasbabies/SIS/LetsTalk/Lets-Talk-PlanningforSustainability-FINAL\\_A.pdf](https://www.dshs.texas.gov/sites/default/files/healthytxasbabies/SIS/LetsTalk/Lets-Talk-PlanningforSustainability-FINAL_A.pdf)
- **Let's Talk- Safe Infant Sleep- SMARTIE Goals handout:** [https://www.dshs.texas.gov/sites/default/files/healthytxasbabies/SIS/LetsTalk/Lets-Talk-SmartGoals-FINAL\\_A.pdf](https://www.dshs.texas.gov/sites/default/files/healthytxasbabies/SIS/LetsTalk/Lets-Talk-SmartGoals-FINAL_A.pdf)

**Need Help? Want Guidance? If you have any questions or need more information about the Texas Mother-Friendly Worksite Program designation, contact us at: [TexasMotherFriendlyWorksite@dshs.texas.gov](mailto:TexasMotherFriendlyWorksite@dshs.texas.gov)**



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