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HOUSE BILL NO. 1080

Offered January 10, 2018

Prefiled January 10, 2018

A *BILL to amend the Code of Virginia by adding a section numbered 40.1-28.6:1, relating to break time and location for employees to express breast milk.*

Patrons—Yancey and McQuinn

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 40.1-28.6:1 as follows:
§ 40.1-28.6:1. Employers to allow breaks and location for expressing breast milk.

A. *As used in this section:*

"Employee" means any person who (i) in consideration of wages, salaries, or commissions, may be permitted, required, or directed by any employer to engage in any employment directly or indirectly and (ii) is exempt from the provisions of § 7 of the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 207).

"Employer" means any person that employs an employee and includes, in addition to those persons encompassed by the definition of "employer" in § 40.1-2, the Commonwealth; any of its agencies, institutions, or political subdivisions; and any public body.

"Reasonable," with regard to break time provided for nursing mothers to express breast milk, means a break time that complies with the guidance for employers in assessing the frequency and timing of breaks to express breast milk set forth in the U.S. Department of Labor's Request for Information RIN 1235-ZA00, 75 Federal Register 80073 (December 21, 2010).

B. An employer shall provide:

1. A reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth each time such employee has need to express the milk; and

2. A place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public and that may be used by an employee to express breast milk.

C. Break time provided under subdivision B 1 shall, if possible, run concurrently with any break time already provided to the employee.

D. An employer shall not be required to compensate an employee receiving reasonable break time under subdivision B 1 for any work time spent for such purpose.

E. An employer shall not be held to have violated this section if the employer has made reasonable efforts to comply with the requirements of subsection B. An effort shall be deemed to be reasonable if it would not impose an undue hardship on the operation of the employer's business by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's business.

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