

# SENATE NO. 78

## **AN ACT** RELATIVE TO THE PUBLIC HEALTH BENEFITS OF BREASTFEEDING

*Be it enacted by the Senate and House of Representatives in General Court assembled,  
And by the authority of the same, as follows:*

1 SECTION 1. The general court finds that:

2 (a) breastfeeding provides better nutrition for infants and greater protection against  
3 infection and illness, and reduces hospital visits and infant mortality;

4 (b) nursing mothers receive greater protection against various cancers and have better  
5 physical and emotional health; and

6 (c) breastfeeding benefits families, employers and the economy of the commonwealth by  
7 helping to lower health care expenses.

8 SECTION 2. Chapter 111 of the General Laws is hereby amended by inserting after section  
9 220, as added by chapter 194 of the acts of 2006, the following section:-

10 Section 221. (a) A mother may breastfeed her child in any public place, or place or  
11 establishment which is open to and accepts or solicits the patronage of the general public; and  
12 where the mother and her child may otherwise be there lawfully.

13 (b) The act of a mother breastfeeding her child in any public or private location shall not  
14 be construed as lewd or indecent unlawful conduct, notwithstanding any other law to the

15 contrary.

16 (c) It shall be unlawful for any person to, intentionally and without lawful justification,  
17 intimidate or interfere with, or attempt to intimidate or interfere with, a mother breastfeeding  
18 her child.

19 (d) The attorney general may bring a civil action for injunctive or other equitable relief  
20 to protect any right granted under this section.

21 (e) Notwithstanding subsection (a), a place of religious instruction or worship may  
22 disallow breastfeeding on any of its premises.

23 SECTION 3. Chapter 149 of the General Laws, as appearing in the 2004 Official Edition, is  
24 hereby amended by inserting after section 105D, the following section:-

25 Section 105E. (a) For purposes of this section, the following words shall have the  
26 following meanings:-

27 “Employee”, an employee as defined in section 1 of chapter 151B.

28 “Employer”, an employer as defined in section 1 of chapter 151B.

29 “Labor organization”, a labor organization as defined in section 1 of chapter 151B.

30 (b) No employer or labor organization shall prohibit an employee from expressing breast  
31 milk during any meal period or other break period required by law to be provided by the  
32 employer or required by a collective bargaining agreement. Employers and labor organizations  
33 shall also provide reasonable unpaid break time each day to an employee who needs to express  
34 breast milk for her child. If possible, the break time for breastfeeding shall run concurrently  
35 with any break time already provided to the employee. The employer or labor organization  
36 shall make reasonable efforts to provide a room or other location in close proximity to the work  
37 area, other than a toilet stall, where the employee can express her breast milk in privacy. An

38 employer or labor organization is not required to provide break time for breastfeeding by an  
39 employee under this section if to do so would unduly disrupt the operations of the employer or  
40 labor organization.

41 (c) It shall be an unlawful discriminatory practice for any employer or labor  
42 organization, because an employee expresses milk at the workplace, to refuse to hire or employ  
43 or to bar or to discharge from employment such employee or to discriminate against such  
44 employee in compensation or in terms, conditions or privileges of employment, unless based  
45 upon a bona fide occupational qualification.

46 (d) Violation of this section shall be subject to the second paragraph of section 150 and  
47 to section 180. An employer or labor organization shall be not liable for a violation of this  
48 section if reasonable efforts have been made to comply with its provisions. Nothing in this  
49 section shall prohibit employers or labor organizations from establishing internal rules and  
50 guidelines for employees who may wish to breastfeed or express breast milk in the workplace.

51 SECTION 4. The Massachusetts Commission Against Discrimination shall annually compile,  
52 analyze and publish data concerning incidences of discrimination involving breastfeeding or  
53 expressing breast milk in the workplace. The commission shall submit a written report on its  
54 findings annually to the clerk of the house of representatives and the clerk of the senate.

55 SECTION 5. (a) The executive office of health and human services shall maintain and make  
56 available for public inspection a list of businesses in the commonwealth and covered by this act  
57 that it designates as promoting breastfeeding in the workplace. A business seeking such  
58 designation may submit its breastfeeding policies to the executive office of health and human  
59 services.

60 (b) The executive office of health and human services shall develop a unique identifying  
61 mark or name to distinguish those designated businesses that promote breastfeeding in the  
62 workplace and a business may use such mark or name in its promotional materials, if the  
63 business develops and implements a written policy supporting the practice of workplace  
64 breastfeeding which includes the following elements:

65 (1) work schedule flexibility, including scheduling breaks and work patterns to provide  
66 time for expression of milk;

67 (2) the provision of accessible locations allowing privacy other than a bathroom stall;

68 (3) access to an electrical outlet; and

69 (4) access near to a clean, safe water source and a sink for washing hands and any  
70 needed breast-pumping equipment; and

71 (5) access to hygienic storage in the workplace for the mother's breast milk.