

75TH ANNIVERSARY



BETTER WORKPLACES
BETTER WORLD™

PUMP & PWFA

Key Facts and Differences

The **Providing Urgent Maternal Protections (PUMP) for Nursing Mothers** and the **Pregnant Workers Fairness Act (PWFA)** were passed in the 2022 Omnibus bill and went into effect in 2023. Both laws grant federal workplace protections to expecting or recent mothers in the workplace.



| PUMP: Key Facts for HR Professionals

- Amends the **Fair Labor Standard Act (FLSA)**.
- Is enforced by the **Wage and Hour Division (WHD)** of the Department of Labor (DOL).
- Applies to **all employers**, with an exemption only for small employers (fewer than 50 employees) who may experience “undue hardship 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.”

What duties did PUMP create for employers and HR professionals? The requirements of PUMP are twofold: (1) an employer must provide “reasonable break time” for an employee for one year after birth to express milk for the employee’s nursing child and (2) must provide a room “other than a bathroom, that is shielded from view and free from intrusion from coworkers.” The employer is not required to compensate the employee for this time if they are not working and are not interrupted with work during the break.

When must an employer take action to comply? Under the law, eligible employers should already have a room that meets the standards of PUMP available for use when needed. If an employer is not in compliance, they have 10 days after being notified by an employee who seeks to utilize this room before the affected employee can file suit for noncompliance.

| PWFA: Key Facts for HR Professionals

- Amends **Title VII of the Civil Rights Act (Title VII)**.
- Is enforced by the **Equal Employment Opportunity Commission (EEOC)**.
- Applies to employers with **15 or more employees**.

What duties did PWFA create for employers and HR professionals? The PWFA grants pregnant workers the right at the federal level to have access to reasonable accommodations to address “known limitations related to the pregnancy, childbirth, or related medical conditions.” The PWFA purposefully borrowed language and concepts from other laws within Title VII and the Americans with Disabilities Act (ADA) to allow employers to build on existing accommodation policies and processes.

Like the ADA, the PWFA seeks to create a system wherein pregnant workers have access to reasonable accommodations. Additionally, like the ADA, an employer may say no to such accommodation if granting

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it would cause an “undue hardship.” However, under the PWFA, the employer must accommodate a pregnant worker’s inability to perform an essential function of the position (with or without the reasonable accommodation) if the employer can reasonably accommodate that inability, the inability is “temporary” and the essential function could be performed “in the near future.”

When must an employer take action to comply? Much like the ADA, it is first incumbent on the eligible employee to put their employer on notice that a reasonable accommodation is being requested. The PWFA states that an eligible employee must “communicate” their “known limitation” to their employer. The law itself is silent on what that entails exactly; however, the EEOC’s proposed regulations point to this being construed broadly.

In the August 2023 Proposed Regulations, the EEOC stated that employees and applicants have the responsibility of asking for an accommodation. However, “they do not need to mention the PWFA, say any specific phrases or use medical terms, and the request does not have to be in writing.” Additionally, “[b]ecause the statute and the regulations emphasize employee notice that is simple and straightforward, and need not be in writing, covered entities should train first-line supervisors to recognize such requests as requests for accommodations and to act on them accordingly.”

Creating Compliant Workplaces

Prudent organizations should conduct reviews of their intra-office communication policies, job descriptions, best practices regarding accommodations and people manager training to ensure compliance with any and all federal, state and local laws that affect the workplace — now including PUMP and PFWA.

Additionally, while PUMP and PWFA provide a federal baseline, employers are encouraged to shape benefits and create a culture of inclusivity that promote voluntarily compliance with these laws. While differences in organizational size, industry and profit-level will affect the level of benefits a company can voluntarily offer, creating a culture of inclusivity that seeks to support workers and destigmatize caregiving will foster a positive workplace culture.

In order to support our members in promoting this culture of inclusivity, SHRM has partnered with MamaZen®, a cost-effective, award-winning tool with a 92% success rate, setting a new benchmark for maternal support. Specifically tailored to foster motherhood & family well-being, MamaZen provides 500+ sessions addressing challenges like anxiety, burnout and stress. SHRM recognizes and encourages this effective solution that offers an affordable strategy, going beyond mere compliance to bolster workplace inclusion.

By integrating MamaZen®, you not only demonstrate a deep commitment to employee well-being but also position yourself and your organization as champions for working parents, ensuring talent retention and nurturing a culture that genuinely supports and values their unique journey.



To learn more, contact MamaZen at irin@mamazen.com