

*There is a reason behind
everything in nature.*

Aristotle (384-322 BC)

- Insurers pay at least \$3.6 billion each year to treat diseases and conditions preventable by breastfeeding.

US Breastfeeding Committee

- Lactation programs benefit employers through decreased employee absenteeism, reduced health care costs and increased employee loyalty and productivity.

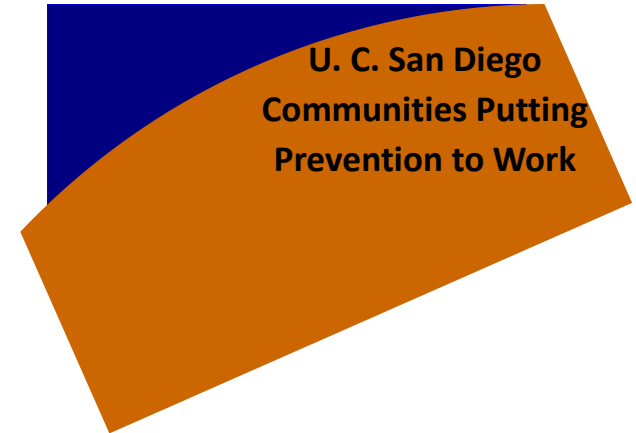
Corporate Voices for Working Families

- Mothers are the fastest-growing segment of the U.S. workforce.

US Breastfeeding Committee



UNIVERSITY of CALIFORNIA
SAN DIEGO
SCHOOL OF MEDICINE



The Legal Case for Breastfeeding

Anne Kashiwa
Workplace Lactation Policy Coordinator

U. C. San Diego/PPW
4305 University Avenue, Suite 510
San Diego, CA 92105
Phone: 619.241.8482
Fax: 619.681.0666
E-mail: adkashiwa@ucsd.edu

Made possible by funding from the U.S.
Department of Health and Human Services,
through the County of San Diego.



California and Federal Lactation Laws

California Labor Code Sections 1030-1033

1030. Every employer, including the state and any political subdivision, shall provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee. Break time for an employee that does not run concurrently with the rest time authorized for the employee by the applicable wage order of the Industrial Welfare Commission shall be unpaid.

1031. The employer shall make reasonable efforts to provide the employee with the use of a room or other location, other than a toilet stall, in close proximity to the employee's work area, for the employee to express milk in private. The room or location may include the place where the employee normally works if it otherwise meets the requirements of this section.

1032. An employer is not required to provide break time under this chapter if to do so would seriously disrupt the operations of the employer.

1033. (a) An employer who violates any provision of this chapter shall be subject to a civil penalty in the amount of one hundred dollars (\$100) for each violation. (b) If, upon inspection or investigation, the Labor Commissioner determines that a violation of this chapter has occurred, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for violations of this chapter shall be the same as those set forth in Section **1197.1**. (c) Notwithstanding any other provision of this code, violations of this chapter shall not be misdemeanors under this code.

The text of the state and federal laws regarding lactation accommodation is provided for convenience. Employers subject to both laws must comply with requirements for both laws. Employers needing more information should consult their employment attorney or additional resources below:

· **California Department of Labor,
Division of Labor Standards Enforcement:**
http://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm
(Lactation Accommodation)

· **U.S. Department of Labor, Wage and Hour
Division, Fact Sheet #73: Break Time for Nursing
Mothers under the FLSA:**
<http://www.dol.gov/whd/regs/compliance/whdfs73.htm>

· **National Conference of State Legislatures for
other state laws:**
[http://www.ncsl.org/IssuesResearch/Health/
BreastfeedingLaws/tabid/14389/Default.aspx](http://www.ncsl.org/IssuesResearch/Health/BreastfeedingLaws/tabid/14389/Default.aspx)

Federal Fair Labor Standards Act Reasonable Break Time for Nursing Mothers

- 29 U.S.C. §207(r)(1) An employer shall provide—**
- (A) a reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth each time such employee has need to express the milk; and
 - (B) a place, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public, which may be used by an employee to express breast milk.
- (2) An employer shall not be required to compensate an employee receiving reasonable break time under paragraph (1) for any work time spent for such purpose.
- (3) An employer that employs less than 50 employees shall not be subject to the requirements of this subsection, if such requirements would impose an 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.
- (4) Nothing in this subsection shall preempt a State law that provides greater protections to employees than the protections provided for under this subsection.

While every employer is encouraged to provide breaks for all nursing mothers in the workplace for as long as she chooses, there may be some small exception that applies to a particular industry or employee where an employer may not be required to do so. Employers should contact legal counsel for any specific analysis.