COMMITTEE REPORT

February 28, 2019

**H. 3200**

Introduced by Reps. Henderson‑Myers, Allison, Bernstein, Govan, Ridgeway, Clyburn, Brawley, McDaniel and Cogswell

S. Printed 2/28/19--H.

Read the first time January 8, 2019.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 3200) to amend the Code of Laws of South Carolina, 1976, to enact the “South Carolina Lactation Support Act” by adding Section 41‑1‑130, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. This act must be known and may be cited as the “South Carolina Lactation Support Act”.

SECTION 2. It is the intent of the General Assembly, by this act, to promote public health and to support those who wish to express breast milk at work by requiring employers to make reasonable efforts to provide workers with reasonable unpaid break time and space to express milk at work. This act will not require employers to compensate employees for breaks taken to express breast milk unless the employer already provides compensated breaks and does not require employers to create a permanent or dedicated space for use by pumping employees. South Carolina ranks far lower than the national average of breastfed infants. Providing workers reasonable support to express milk on the job is a crucial health measure and will benefit South Carolina’s economy by keeping nursing employees in the workforce.

SECTION 3. Chapter 1, Title 41, of the 1976 Code is amended by adding:

“Section 41‑1‑130. (A) As used in this section, ‘employer’ means a person or entity that employs one or more employees and includes the State and its political subdivisions.

(B) An employer shall provide an employee with reasonable unpaid break time or shall permit an employee to use paid break time or meal time each day to express breast milk. The employer shall make reasonable efforts to provide a room or other location, other than a toilet stall, in close proximity to the work area, where an employee may express milk in privacy. An employer may not discriminate against an employee for choosing to express breast milk in the work place in compliance with the provisions of this section. The break time must, if possible, run concurrently with any break time already provided to the employee. The employee shall make reasonable efforts to minimize disruption to the employer’s operations. The employer must be held harmless if it makes reasonable efforts to comply with this subsection. This section does not require an employer to provide break time if doing so would create an undue hardship on the operations of the employer.

(C) The procedures for seeking redress for violations of this chapter are provided in Section 1‑13‑90.”

SECTION 4. Within thirty days after approval by the Governor of this act, the South Carolina Human Affairs Commission shall post on its website information to educate employers, employees, and employment agencies about their rights and responsibilities under this act. The website must include a phone number for employers to call to receive information about this act and assistance in complying with the provisions of this act, and a link to additional information on this act on the commission’s website.

SECTION 5. Employers have thirty days after the South Carolina Human Affairs Commission posts the required information in SECTION 4 to its website before they must comply with the provisions of this act.

SECTION 6. Nothing in this act may be construed to preempt, limit, diminish, or otherwise affect another provision of federal, state, or local law, or to invalidate or limit the remedies, rights, and procedures of a federal, state, or local law that provides greater or equal protection for an employee affected by pregnancy, childbirth, or a related condition.

SECTION 7. This act takes effect thirty days after approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

WILLIAM E. SANDIFER III for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “SOUTH CAROLINA LACTATION SUPPORT ACT” BY ADDING SECTION 41‑1‑130 SO AS TO DEFINE NECESSARY DEFINITIONS, TO PROVIDE EMPLOYERS DAILY SHALL PROVIDE EMPLOYEES WITH REASONABLE UNPAID BREAK TIME OR SHALL PERMIT EMPLOYEES TO USE PAID BREAK TIME OR MEAL TIME TO EXPRESS BREAST MILK, TO PROVIDE EMPLOYERS SHALL MAKE REASONABLE EFFORTS TO PROVIDE CERTAIN AREAS WHERE EMPLOYEES MAY EXPRESS BREAST MILK, TO PROVIDE EMPLOYERS MAY NOT DISCRIMINATE AGAINST EMPLOYEES FOR CHOOSING TO EXPRESS BREAST MILK IN THE WORKPLACE IN COMPLIANCE WITH THE PROVISIONS OF THIS ACT, AND TO PROVIDE REMEDIES FOR VIOLATIONS; AND TO PROVIDE RELATED FINDINGS AND EXPRESS RELATED POLICIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act must be known and may be cited as the “South Carolina Lactation Support Act”.

SECTION 2. It is the intent of the General Assembly, by this act, to promote public health and to support those who wish to express breast milk at work by requiring employers to make reasonable efforts to provide workers with reasonable unpaid break time and space to express milk at work. This act will not require employers to compensate employees for breaks taken to express breast milk unless the employer already provides compensated breaks and does not require employers to create a permanent or dedicated space for use by pumping employees. South Carolina ranks far lower than the national average of breastfed infants. Providing workers reasonable support to express milk on the job is a crucial health measure and will benefit South Carolina’s economy by keeping nursing employees in the workforce.

SECTION 3. Chapter 1, Title 41, of the 1976 Code is amended by adding:

“Section 41‑1‑130. (A) As used in this section, ‘employer’ means a person or entity that employs one or more employees and includes the State and its political subdivisions.

(B) An employer shall provide an employee with reasonable unpaid break time or shall permit an employee to use paid break time or meal time each day to express breast milk. The employer shall make reasonable efforts to provide a room or other location, other than a restroom, in close proximity to the work area, where an employee may express milk in privacy. An employer may not discriminate against an employee for choosing to express breast milk in the work place in compliance with the provisions of this section.

(C) The procedures for seeking redress for violations of this chapter are provided in Section 1‑13‑90.”

SECTION 4. Nothing in this act may be construed to preempt, limit, diminish, or otherwise affect another provision of federal, state, or local law, or to invalidate or limit the remedies, rights, and procedures of a federal, state, or local law that provides greater or equal protection for an employee affected by pregnancy, childbirth, or a related condition.

SECTION 5. This act takes effect upon approval by the Governor.

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