

112TH CONGRESS  
1ST SESSION

# S. 1463

To amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers and to provide for reasonable break time for nursing mothers.

---

## IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2011

Mr. MERKLEY (for himself, Mr. HARKIN, and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

---

## A BILL

To amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers and to provide for reasonable break time for nursing mothers.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Breastfeeding Promotion Act of 2011”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE CIVIL RIGHTS ACT OF 1964

Sec. 101. Findings; purposes.

Sec. 102. Amendments to title VII of the Civil Rights Act of 1964.

TITLE II—REASONABLE BREAK TIME

Sec. 201. Reasonable break time for nursing mothers.

1 **TITLE I—AMENDMENTS TO THE**  
 2 **CIVIL RIGHTS ACT OF 1964**

3 **SEC. 101. FINDINGS; PURPOSES.**

4 (a) FINDINGS.—Congress finds the following:

5 (1) Women with infants and toddlers are a rap-  
 6 idly growing segment of the labor force today.

7 (2) Statistical surveys of families show that  
 8 over 50 percent of mothers with children less than  
 9 1 year of age are in the labor force.

10 (3) All major medical authorities recommend  
 11 that mothers breastfeed exclusively for 6 months and  
 12 continue breastfeeding for at least the first year of  
 13 a child's life, and that arrangements be made to  
 14 allow a mother's expressing of milk if mother and  
 15 child must separate.

16 (4) Research studies show that children who are  
 17 not breastfed have an increased risk of common  
 18 childhood illnesses, such as ear infections, eczema,  
 19 and diarrhea and vomiting, and of more serious dis-  
 20 eases including severe lower respiratory infections,  
 21 leukemia, and sudden infant death syndrome  
 22 (SIDS).

1           (5) Research studies have also shown that chil-  
2           dren who are not breastfed have an increased risk  
3           of a number of chronic diseases, including type 2 di-  
4           abetes, asthma, and childhood obesity.

5           (6) Exclusive breastfeeding and longer dura-  
6           tions of breastfeeding are also associated with better  
7           maternal health outcomes, including a reduced risk  
8           of ovarian cancer and breast cancer.

9           (7) The health benefits to children from  
10          breastfeeding translate into a decrease in parental  
11          absenteeism due to infant illness. One-day absences  
12          to care for sick children occur more than twice as  
13          often for mothers of formula feeding infants.

14          (8) Congress intended to include breastfeeding  
15          and expressing breast milk as protected conduct  
16          under the amendment made to title VII of the Civil  
17          Rights Act of 1964 by the Act entitled “An Act to  
18          amend title VII of the Civil Rights Act of 1964 to  
19          prohibit sex discrimination on the basis of preg-  
20          nancy”, approved October 31, 1978 (commonly  
21          known as the “Pregnancy Discrimination Act”).

22          (9) Although title VII of the Civil Rights Act of  
23          1964, as so amended, applies with respect to “preg-  
24          nancy, childbirth, or related medical conditions”, a  
25          few courts have failed to reach the conclusion that

1 breastfeeding and expressing breast milk in the  
2 workplace are covered by such title.

3 (b) PURPOSES.—The purposes of this title are—

4 (1) to promote the health and well-being of in-  
5 fants whose mothers return to the workplace after  
6 childbirth; and

7 (2) to clarify that breastfeeding and expressing  
8 breast milk in the workplace are protected conduct  
9 under the amendment made by the Act commonly  
10 known as the “Pregnancy Discrimination Act” to  
11 title VII of the Civil Rights Act of 1964.

12 **SEC. 102. AMENDMENTS TO TITLE VII OF THE CIVIL RIGHTS**

13 **ACT OF 1964.**

14 Section 701(k) of the Civil Rights Act of 1964 (42  
15 U.S.C. 2000e(k)) is amended—

16 (1) by inserting “(including lactation)” after  
17 “childbirth”; and

18 (2) by adding at the end the following: “For  
19 purposes of this subsection, the term ‘lactation’  
20 means a condition that may result in the feeding of  
21 a child directly from the breast or the expressing of  
22 milk from the breast.”.

1 **TITLE II—REASONABLE BREAK**  
2 **TIME**

3 **SEC. 201. REASONABLE BREAK TIME FOR NURSING MOTH-**  
4 **ERS.**

5 Section 13 of the Fair Labor Standards Act of 1938  
6 (29 U.S.C. 213) is amended in subsection (a), by inserting  
7 “(except section 7(r) in the case of paragraph (1) of this  
8 subsection)” after “and 7”.

○