

(Senate Substitute
for H.B. 127)
(Conference)

(No. 427)

(Approved December 16, 2000)

AN ACT

To regulate the Period to Breastfeed or to Express Breast Milk in order to grant a half (1/2) hour or two (2) fifteen (15)-minute sessions in each working day to full-time working mothers to breastfeed or to express breast milk for a term of twelve (12) months after being reinstated to their work.

STATEMENT OF MOTIVES

The Department of Health, in representation of the Government of Puerto Rico, adopted as its public policy the promotion of breastfeeding in Puerto Rico on February 21, 1995, so as to foster this method as the most suitable for the nourishment of infants.

The Legislature recognized this same public policy through the approval of Senate Bill 739, which created the Coalition to Promote Breastfeeding in Puerto Rico.

The Coalition, constituted by professionals from all health and public interest-related fields, shall be responsible for the coordination, planning and communication of activities that promote breastfeeding in our country.

There is no legal impediment to prevent a mother from nursing her child after returning to work, and after having benefited from maternity leave. However, this Legislature deems it imperative to regulate the exercise of this right when the mother is reinstated to her work.

Since Puerto Rico is a country with a competitive economy, it must also strive to remain on the forefront when granting employees the benefits and mechanisms that allow them to exercise specific privileges and rights.

This legislative piece is an example of this effort, which is founded upon previous collective bargaining experiences.

This legislative measure also grants a tax incentive to employers of the private sector for complying with the public policy of the Government to allow nursing mothers working for their companies to exercise their right to breastfeed or to express breast milk.

This Act seeks to enable the public policy on breastfeeding by granting employees a period to breastfeed or to express breast milk in the private sector, as well as in the Government, its instrumentalities and public corporations.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.—This Act shall be known as an “Act to Regulate the Period to Breastfeed or to Express Breast Milk.”

Section 2.—Definitions.—

- a) “Central Government Agency”.—Any subdivision of the Executive Branch of the Government of Puerto Rico, such as those Departments, Boards, Commissions, Administrations, Offices, Banks and Public Corporations that do not operate as private businesses; or any of its respective heads, directors, executives or persons who act as their representatives.
- b) “Public Corporation”.—Means the following corporations that hold assets controlled by the Government of Puerto Rico: The Land Authority, the Electric Power Authority, the Government Development Bank, the Ports Authority, the Industrial

Development Company and subsidiaries, and those other Government Agencies engaged in or that may in the future engage in profitable businesses or in activities that seek financial benefits.

- c) “Nursling”.—Means any infant under the age of one (1) year who is nourished with breast milk.
- d) “To Express Breast Milk”.—Process whereby the mother expresses breast milk from her body with the proper equipment.
- e) “Working Day”.—Means, for the purposes of the application of this Act, the full-time working day of the working mother consisting of seven (7) and a half (1/2) hours.
- f) “To Breastfeed”.—The act of nursing an infant with breast milk.
- g) “Nursing Mother”.—Any woman working in the public or private sector who has given birth to a child, be it through natural methods or surgery, who is breastfeeding her baby; as well as any woman who has adopted a child, and who by the intervention of scientific methods is able to breastfeed the child.
- h) “Municipality”.—Means a geographical demarcation with all its *Barrios*, that has a particular name and is governed by a local government constituted by a Legislative Power and an Executive Power.
- i) “Employer”.—Any natural or juridical person for whom a mother works. This includes the public sector, the central government agencies, public corporations and municipalities, and the private sector.

Section 3.—The period granted to breastfeed or to express breast milk is hereby regulated by granting working mothers who return to work after enjoying maternity leave the opportunity to nurse their children for a half (1/2) hour during each full-time working day, a period which may be divided into two fifteen (15)-minute sessions, to go to where the child to be breastfed is being cared for, should the Company or Employer have a Child Care Center in its facilities, or to express breast milk at the place provided for such purposes in the workplace.

Section 4.—The term to nurse or to express breast milk shall have a maximum duration of twelve (12) months within the workplace, from the time the working mother returns to her duties.

Section 5.—Any working mother who wishes to take advantage of the opportunity to breastfeed her child, pursuant to the provisions of this Act, shall submit to her employer a medical certificate to that effect during the term corresponding to the fourth (4th) and eighth (8th) months of the infant. Said certificate, to be submitted not later than the fifth (5th) day of each term, shall vouch for and certify that said mother has been nursing her baby.

Section 6.—The period to breastfeed or to express breast milk granted by this Act, may be subject to negotiation between the employer and employee represented by its exclusive representative in every autonomous and independent body of the Government of Puerto Rico as well as in every public corporation governed by the Puerto Rico Labor Relations Act, Act No. 130 of May 8, 1945, as amended.

The period to breastfeed or to express breast milk may also be subject to negotiation in any collective bargaining agreement executed as of January 1, 2000, pursuant to Act No. 45 of February 25, 1998, known as the “Puerto Rico Public Service Labor Relations Act.”

Section 7.—Municipalities — The municipalities of the Commonwealth of Puerto Rico shall decide by approving the pertinent Regulations in accordance with the Autonomous Municipalities Act, Act No. 81 of August 30, 1991, as amended, as to the granting of the right to breastfeed to nursing working mothers who are municipal employees.

Section 8.—Any employer shall guarantee to all working mothers who so request, the right to breastfeed their children or to express breast milk.

Section 9.—Any employer of a private company who grants its employees the right to nurse their babies or to express breast milk during the daily half (1/2)-hour session or the two (2) fifteen (15)-minute sessions, shall be exempted from the payment of annual taxes equal to one (1) month of the salary of the employees exercising said right. The tax incentive shall only apply to the employer and not to the employee who uses the period to breastfeed or to express breast milk.

Section 10.—Any nursing mother denied by her employer the period granted by this Act to breastfeed or to express breast milk may resort to the pertinent forum to demand that her rights be upheld. The forum with jurisdiction may impose a fine to the employer who refuses to uphold the right herein established for the damages suffered by the employee. Said fine may be equal to three times the salary paid to said employee for each day she was denied the period to nurse or express breast milk.

Section 11.—This Act shall take effect ninety (90) days after its approval.

May 17, 2001

Dynorah R. Requena-Gallego, Esq., Acting Director of the Office of Legislative Services of the Legislature of Puerto Rico, hereby certifies to the Secretary of State that she has duly compared the English and Spanish texts of Act No. 427 ((Senate Substitute for H.B. 127) (Conference)) of the 6th Special Session of the 13th Legislature of Puerto Rico, entitled:

AN ACT to regulate the Period to Breastfeed or to Express Breast Milk in order to grant a half (1/2) hour or two (2) fifteen (15)-minute sessions in each working day to full-time working mothers to breastfeed or to express breast milk for a term of twelve (12) months after being reinstated to their work,

and finds the same are complete, true and correct versions of each other.

Dynorah R. Requena-Gallego