

Know Your Rights: Pregnancy and Work

Washington's Healthy Starts Act



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The Healthy Starts Act is a new Washington State law that gives many pregnant workers the right to accommodations at work related to bathroom breaks, food and drink, heavy lifting, sitting/standing, and other accommodations as needed. “Accommodation” here means a change to your workday *that you have asked for* to allow for physical needs while you are pregnant.

Am I Covered by the Healthy Starts Act?

If you work in Washington State for an employer with 15 or more employees, you are covered by the Healthy Starts Act, no exceptions.

If you work for an employer with less than 15 employees, you may still have rights to certain accommodations. See “Are there Other Laws that Protect Pregnant Workers?” at the end of this publication.

Employment discrimination cases can be complex. If you think that your rights have been violated but you are not sure if you are protected by the Healthy Starts Act or other employment laws, talk to an employment lawyer about your particular situation. See listings under “Legal Help” in Resources at the end of this publication.

What If I Am an Undocumented Immigrant?

You are covered by the Healthy Starts Act the same as citizens and documented immigrants. Undocumented immigrants are also protected by the state and federal anti-discrimination laws described below.

What Does the Healthy Starts Act Require Employers to Do?

If your employer has 15 or more employees, they must at least:

- Provide more frequent, longer, or flexible restroom breaks;
- Change a no-food-or-drink policy;
- Provide seating or allow you to sit more frequently; and
- Limit lifting to 17 pounds or less.

Depending on your job, these accommodations may or may not be difficult to provide. Even if they are difficult to provide, your employer must make these accommodations if you ask for them.

Your employer also must consider other accommodations you request. See “What Other Accommodations Can I Request?” below.

Do I Need a Note From My Healthcare Provider?

You do not need a note from your healthcare provider for the accommodations listed above. But if you are asking for other accommodations, your employer can ask you for a note from your provider to support that request.

What Other Accommodations Can I Request?

You can also ask for:

- Job restructuring, including a part-time or adjusted work schedule, job reassignment to an empty position, or providing or changing equipment, devices, or your work station;
- A temporary transfer to a less active or less dangerous position;
- Help with manual labor;
- Scheduling flexibility for prenatal visits; and
- Any other accommodations you may need.

Your employer must consider your request and review medical documents that you provide.

Your employer can deny your request only if it is an “undue hardship.” See the next Q&A for more information about undue hardship.

What Is an “Undue Hardship”?

The Healthy Starts Act defines “undue hardship” as “an action requiring significant difficulty or expense.” Your employer is allowed to decline your request if it would be very difficult or expensive for them.

Remember, your employer must allow your request for accommodations related to food and drink, breaks, lifting, and sitting/standing, as described earlier in this publication. Your employer is not allowed to say these accommodations are an undue hardship.

What If I Get Fired or Demoted for This?

Your employer MAY NOT discriminate against you because you are pregnant or because you have asked for an accommodation. Your employer may not:

- Retaliate or punish you for requesting an accommodation;
- Deny you employment opportunities because you requested an accommodation;
- Make you to take time off instead of allowing a reasonable accommodation; nor
- Deny your request for other accommodations (unless they can show undue hardship).

See the Legal Voice publication *Employment Discrimination* listed in the Resources section below for information about retaliation and discrimination at work.

Do I Have To Take These Accommodations?

No. Your employer cannot make changes to your job because you are pregnant unless you ask for them.

What Do I Do If My Rights Are Violated?

- You may be able to fix the situation with help from a lawyer or the Attorney General's office. See the Resources section.
- You can sue your employer for violating the Healthy Starts Act. See the Legal Voice publication *Employment Discrimination* listed in the Resources section.
- You may also file a complaint with the Attorney General's office. You can send an email, leave a voicemail, or file a complaint online. See the Resources section below.

Employment discrimination cases are complex. We strongly encourage you to get help from an employment lawyer. See the Legal Voice publications *How to Find a Lawyer and Other Legal Resources in Washington State* as well as *Working with a Lawyer*, listed in the Resources section below.

Are There Other Laws That Protect Pregnant Workers?

Yes. The Washington Law Against Discrimination (WLAD), the Americans with Disabilities Act (ADA), and the Pregnancy Discrimination Act (PDA) of 1978 also protect pregnant workers.

Under the Washington Law Against Discrimination, employers with eight or more employees must make reasonable accommodations for known disabilities, including pregnancy-related medical conditions (like gestational diabetes, mood disorders, etc.).

Under the Americans with Disabilities Act, employers with 15 or more employees must make reasonable accommodations for disabilities, including some pregnancy-related medical conditions.

Under the WLAD (which applies to employers with eight or more employees) and under the PDA (which applies to employers with 15 or more employees), employers must accommodate a pregnant worker if it accommodates workers who are not pregnant and have similar work restrictions.

The Healthy Starts Act adds to your rights and does not conflict with these other laws. The Healthy Starts Act was passed to make it easier for pregnant workers to get basic accommodations at work.

For more information about these and other employment discrimination laws, see the Legal Voice publication *Employment Discrimination* listed in Resources below.

Resources

Related Publications

- Legal Voice publications:
Online: www.legalvoice.org/tools
 - *Breastfeeding in Washington State*
 - *Employment Discrimination*
 - *Family Leave Laws*
 - *How to Find a Lawyer and Other Legal Services in Washington State*
 - *Sexual Harassment at Work*
 - *Working with a Lawyer*

More Information

- *Washington's New Healthy Starts Act Requires Employers to Provide Reasonable Accommodations to Pregnant Workers Absent the Showing of a Disability*, by Kellie Tabor and Emily Cardenas: This is an in-depth review of the law, which may be helpful for both employees and employers.
Online: www.littler.com; enter "Healthy Starts Act" into the search bar and click on this title in the search results
- Washington Department of Labor and Industries: For more information about the Healthy Starts Act.
Online:
www.lni.wa.gov/WorkplaceRights/LeaveBenefits/PregnancyAccommodations/

Complaints

- Washington State Office of the Attorney General
By phone: 1-833-389-2427 (toll-free)
By email: pregnancy@atg.wa.gov
Online complaint form:
<https://fortress.wa.gov/atg/formhandler/ago/PregnancyAccommodationsComplaintForm.aspx>

Legal Help

- Legal Voice publications:
Online: www.legalvoice.org/tools
 - *Employment Discrimination*
 - *How to Find a Lawyer and Other Legal Services in Washington State*
 - *Working with a Lawyer*

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of January 2018.

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