

2007 ASSEMBLY BILL 160

March 12, 2007 – Introduced by Representatives CULLEN, ZEPNICK, SHERIDAN, BOYLE, BLACK, YOUNG, TURNER, BERCEAU, MASON and SINICKI, cosponsored by Senators LASSA, LEHMAN, RISSER and PLALE. Referred to Committee on Labor and Industry.

1 **AN ACT** *to create* 103.12 and 106.54 (8) of the statutes; **relating to:** requiring
2 an employer to reasonably accommodate an employee who is pregnant or who
3 is breast-feeding her child.

Analysis by the Legislative Reference Bureau

Current law prohibits certain bases of employment discrimination including discrimination based on an employee's sex or handicap. Under current law, discrimination based on sex includes discriminating against any woman on the basis of pregnancy, childbirth, or related medical conditions and discrimination based on handicap includes refusing to reasonably accommodate an employee's handicap unless the employer can demonstrate that the accommodation would pose a hardship on the employer's program, enterprise, or business. Currently, the Department of Workforce Development (DWD) may order an employer that has discriminated against an employee to take such action as will effectuate the purpose of the fair employment law, including the payment of back pay, reinstatement of the employee, or the payment of compensation in lieu of reinstatement.

This bill permits an employee who is pregnant or who is breast-feeding her child to request her employer to reasonably accommodate her condition, if the employee believes that the duties or environment of her employment pose a substantial hazard to the present or future health of the employee or of her child or unborn child. The bill requires an employer that receives such a request to reasonably accommodate the employee's condition unless the employer can demonstrate that the accommodation would pose an undue hardship on the

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employer's program, enterprise, or business. Under the bill, an employer may not discharge or otherwise discriminate against an employee who requests a reasonable accommodation under the bill, opposes a practice prohibited under the bill, files a complaint or attempts to enforce any right granted under the bill, or testifies or assists in any action or proceeding to enforce any right under the bill. Finally, under the bill, an employee whose request for a reasonable accommodation under the bill is denied (unless the employer can demonstrate that the accommodation would pose an undue hardship) or who is discharged or discriminated against in violation of the bill may file a complaint with DWD and DWD must process the complaint in the same manner as employment discrimination complaints are processed under current law, which processing may include the ordering of back pay, reinstatement, or compensation in lieu of reinstatement.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 103.12 of the statutes is created to read:

2 **103.12 Reasonable accommodation of pregnant or breast-feeding**
3 **employees. (1)** Any employee who is pregnant or who is breast-feeding her child
4 may request her employer to reasonably accommodate her condition, if the employee
5 believes that the duties or environment of her employment pose a substantial hazard
6 to the present or future health of the employee or of her child or unborn child.

7 **(2)** An employer that receives a request under sub. (1) shall reasonably
8 accommodate the employee's condition unless the employer can demonstrate that
9 the accommodation would pose an undue hardship on the employer's program,
10 enterprise, or business.

11 **(3)** No employer may discharge or otherwise discriminate against any person
12 for requesting a reasonable accommodation under sub. (1), opposing a practice
13 prohibited under this section, filing a complaint or attempting to enforce any right

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1 under this section, or testifying or assisting in any action or proceeding to enforce any
2 right under this section.

3 (4) An employee whose request for a reasonable accommodation under sub. (1)
4 is denied in violation of sub. (2) or who is discharged or otherwise discriminated
5 against in violation of sub. (3) may file a complaint with the department, and the
6 department shall process the complaint in the same manner as employment
7 discrimination complaints are processed under s. 111.39.

8 **SECTION 2.** 106.54 (8) of the statutes is created to read:

9 106.54 (8) The division shall receive complaints under s. 103.12 (4) and shall
10 process the complaints in the same manner as employment discrimination
11 complaints are processed under s. 111.39.

12 **SECTION 3. Initial applicability.**

13 (1) This act first applies to an employee who, on the day before the effective date
14 of this subsection, is covered by a collective bargaining agreement that contains
15 provisions inconsistent with section 103.12 of the statutes, as created by this act, on
16 the day on which the collective bargaining agreement expires or is extended,
17 modified, or renewed, whichever occurs first.

18

(END)