

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

846Z0651

HOUSE BILL NO. 1153

Introduced by: Representatives Ahlers, Bartling, Hawley, Lesmeister, McCleerey, Ring, Smith, and Wismer and Senators Sutton, Frerichs, and Heinert

1 FOR AN ACT ENTITLED, An Act to create certain protections and accommodations for
2 pregnant and breastfeeding mothers in their places of employment.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That the code be amended by adding a NEW SECTION to read:

5 Any employer with fifty or more employees shall make reasonable accommodations for any
6 employee related to pregnancy, childbirth, or a related condition. The term, reasonable
7 accommodations, includes more frequent or longer breaks, time off to recover from childbirth,
8 adjustment of seating, temporary transfer to a less strenuous or hazardous position, job
9 restructuring, private nonbathroom space for breastfeeding, assistance with manual labor,
10 modified work schedules, or any other reasonable request directly related to pregnancy,
11 childbirth, or a related condition. The employer shall engage in a timely and good faith process
12 with the employee to determine effective accommodations. However, no employer is required
13 by this Act to create additional employment, unless the employer does so for other classes of
14 employees that need accommodation. No employer is required to discharge any employee,
15 transfer any employee with more seniority, or promote an unqualified employee for purposes



1 of the accommodation.

2 Section 2. That the code be amended by adding a NEW SECTION to read:

3 No employer may take adverse action against an employee who requests or uses a reasonable
4 accommodation related to pregnancy, childbirth, or a related condition, or deny employment
5 opportunities to an otherwise qualified employee if the denial is based on the need of the
6 employer to make reasonable accommodations for the employee. If another reasonable
7 accommodation can be provided, no employer may force an employee to take vacation or unpaid
8 leave or to accept an accommodation if the employee chooses not to accept it. For the purposes
9 of this Act, a reasonable accommodation by an employer is an action that does not unduly
10 disrupt or interfere with the employer's normal operations; threaten the health or safety of the
11 employee with a disability or others; contradict a business necessity of the employer; or impose
12 undue hardship on the employer, based on the size of the employer's business, the type of
13 business, the financial resources of the employer, and the estimated cost and extent of the
14 accommodation.