



California Breastfeeding Laws & Regulations

Recognizing their responsibility to new mothers and their babies, policy makers in California have authored legislation to remove barriers to breastfeeding for all mothers. The following is a chronological list of California laws and regulations related to breastfeeding.

Hospital Breastfeeding Consultation or Information (1995) - [AB 977](#)

[Health and Safety Code Sections 123360 and 123365](#)

123360. (a) The State Department of Public Health shall include in its public service campaign the promotion of mothers breast-feeding their infants.

123365. (a) All general acute care hospitals, as defined in subdivision (a) of Section 1250, and all special hospitals providing maternity care, as defined in subdivision (f) of Section 1250, shall make available a breast feeding consultant or alternatively, provide information to the mother on where to receive breast feeding information.

(b) The consultant may be a registered nurse with maternal and newborn care experience, if available.

(c) The consultation shall be made available during the hospitalization associated with the delivery, or alternatively, the hospital shall provide information to the mother on where to receive breast feeding information.

(d) The patient may decline this consultation or information.

Right to Breastfeed in Public (1997) - [AB 157](#)

[Civil Code Section 43.3](#)

Notwithstanding any other provision of law, a mother may breastfeed her child in any location, public or private, except the private home or residence of another, where the mother and the child are otherwise authorized to be present.

Breastfeeding at Work (1998)

[Assembly Concurrent Resolution No. 155](#)

"Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature encourages the State of California and all California employers to strongly support and encourage the practice of breastfeeding by striving to accommodate the needs of employees, and by ensuring that

employees are provided with adequate facilities for breastfeeding, or the expressing of milk for their children; and be it further

Resolved, That the Legislature respectfully memorializes the Governor to declare by executive order that all State of California employees shall be provided with adequate facilities for breastfeeding, or the expressing of milk"

Human Milk (1999) - [AB 532](#)

[Health and Safety Code Section 1647](#)

1647. The procurement, processing, distribution, or use of human milk for the purpose of human consumption shall be construed to be, and is declared to be for all purposes, the rendition of a service by each and every nonprofit organization and its employees participating therein, and shall not be construed to be, and is declared not to be, a sale of the human milk for any purpose or purposes.

Jury Duty - Breastfeeding Mothers (2000) - [AB 1814](#)

[Code of Civil Procedure Section 210.5](#)

The Judicial Council shall adopt a standardized jury summons for use, with appropriate modifications, around the state, that is understandable and has consumer appeal. The standardized jury summons shall include a specific reference to the rules for breast-feeding mothers.

Lactation Accommodation (2001) - [AB 1025](#)

[Labor Code Chapter 3.8 Sections 1030-1033](#)

1030. Every employer, including the state and any political subdivision, shall provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee.

Break time for an employee that does not run concurrently with the rest time authorized for the employee by the applicable wage order of the Industrial Welfare Commission shall be unpaid.

1031. The employer shall make reasonable efforts to provide the employee with the use of a room or other location, other than a toilet stall, in close proximity to the employee's work area, for the employee to express milk in private. The room or location may include the place where the employee normally works if it otherwise meets the requirements of this section.

1032. An employer is not required to provide break time under this chapter if to do so would seriously disrupt the operations of the employer.

1033. (a) An employer who violates any provision of this chapter shall be subject to a civil penalty in the amount of one hundred dollars (\$100) for each violation.

(b) If, upon inspection or investigation, the Labor Commissioner determines that a violation of this chapter has occurred, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for violations of this chapter shall be the same as those set forth in Section 1197.1.

(c) Notwithstanding any other provision of this code, violations of this chapter shall not be misdemeanors under this code.

Human Milk (2006) - [SB 246](#)

[Health and Safety Code Section 1648](#)

1648. (a) A hospital that collects, processes, stores, or distributes human milk collected from a mother exclusively for her own child shall comply with the most current standards established for the collection, processing, storage, or distribution of human milk by the Human Milk Banking Association of North America until or unless the department approves alternative standards.

(b) A hospital shall be exempt from the requirements of Chapter 4.1 (commencing with Section 1635) for the purpose of collecting, processing, storing, or distributing human milk collected from a mother exclusively for her own child.

(c) Notwithstanding any other provision of law, no screening tests shall be required to be performed on human milk collected from a mother exclusively for her own child.

(d) The department shall assess hospital processes for collecting, processing, storing, or distributing human milk pursuant to its current practice, as required by Chapter 2 (commencing with Section 1250).

(e) This section does not apply to any hospital that collects, processes, stores, or distributes milk from human milk banks or other outside sources.

Breastfeeding Education and Support (2007) - [SB 22](#)

[Health and Safety Code Section 1257.9](#)

1257.9. (a) (1) The department shall recommend training for general acute care hospitals, as defined in subdivision (a) of Section 1250, and special hospitals, as defined in subdivision (f) of Section 1250, that is intended to improve breast-feeding rates among mothers and infants. This recommended training should be designed for general acute care hospitals that provide maternity care and have exclusive patient breast-feeding rates in the lowest 25 percent, according to the data published yearly by the State Department of Public Health, when ranked from highest to lowest rates. The training offered shall include a minimum of eight hours of training provided to appropriate administrative and supervisory staff on hospital policies and recommendations that promote exclusive breast-feeding. Hospitals that meet the minimum criteria

for exclusive breast-feeding rates prescribed in the most current Healthy People Guidelines of the United States Department of Health and Human Services shall be excluded from the training requirements recommended by this paragraph.

(2) The department shall notify the hospital director or other person in charge of a hospital to which paragraph (1) applies, that the eight-hour model training course developed pursuant to subdivision (b) of Section 123360, is available, upon request, to the hospital.

(b) The recommendations provided for in this section are advisory only. Nothing in this section shall require a hospital to comply with the training recommended by this section. Section 1290 shall not apply to this section, nor shall meeting the recommendations of this section be a condition of licensure.

Health and Safety Codes Sections 123360-123361

123360. (a) The State Department of Public Health shall include in its public service campaign the promotion of mothers breast-feeding their infants.

(b) The department shall develop a model eight-hour training course of hospital policies and recommendations that promote exclusive breast-feeding, incorporating available materials already developed by the department, and shall specify hospital staff for whom this model training is appropriate. The department shall also provide the model training materials to hospitals, upon request.

123361. To the extent that non-United States Department of Agriculture (USDA) federal funds and private grants or donations are made available for this purpose, the State Department of Public Health shall, no later than July 1, 2008, begin expansion of the breast-feeding peer counseling program at local agency California Special Supplemental Food Program for Women, Infants, and Children (WIC) sites. Plans for the expansion of the program shall take into account local WIC agency program models that have demonstrated the greatest improvement in breast-feeding rates, including exclusive breast-feeding rates. Program expansion shall be contingent upon the availability of non-USDA federal funds and private grants or donations being made available for this purpose. Nothing in this section shall impact USDA federal funding for the WIC Supplemental Food Program or the breast-feeding peer counseling program at local agency WIC sites.

Welfare and Institutions Code 14134.55

14134.55. The department shall streamline and simplify existing Medi-Cal program procedures in order to improve access to lactation supports and breast pumps among Medi-Cal recipients.

Hospital Infant Feeding Act (2011) - SB 502

Healthy and Safety Code Section 123366

123366. (a) This section shall be known, and may be cited, as the Hospital Infant Feeding Act.

(b) For the purposes of this section, the following definitions shall apply:

(1) “Perinatal unit” means a maternity and newborn service of the hospital for the provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods with appropriate staff, space, equipment, and supplies.

(2) “Baby-Friendly Hospital Initiative” means the program sponsored by the World Health Organization (WHO) and the United Nations Children’s Fund (UNICEF) that recognizes hospitals that offer an optimal level of care for infant feeding.

(3) “Model Hospital Policy Recommendations” means the most recently updated guidelines approved and published by the State Department of Public Health entitled, “Providing Breastfeeding Support: Model Hospital Policy Recommendations.”

(c) All general acute care hospitals and special hospitals, as defined in subdivisions (a) and (f) of Section 1250, that have a perinatal unit shall have an infant-feeding policy. The infant-feeding policy shall promote breastfeeding, utilizing guidance provided by the Baby-Friendly Hospital Initiative or the State Department of Public Health Model Hospital Policy Recommendations. The infant-feeding policy may include guidance on formula supplementation or bottlefeeding, if preferred by the mother or when exclusive breastfeeding is contraindicated for the mother or infant.

(d) The infant-feeding policy shall be routinely communicated to perinatal unit staff, beginning with hospital orientation, and shall be clearly posted in the perinatal unit or on the hospital or health system Internet Web site.

(e) The infant-feeding policy shall apply to all infants in a perinatal unit.

(f) This section shall become operative January 1, 2014.

Unlawful Discrimination: Breastfeeding Included in Definition of Sex (2012) - [AB 2386](#)

[Government Code Section 12926](#)

(q) (1) “Sex” includes, but is not limited to, the following:

(A) Pregnancy or medical conditions related to pregnancy.

(B) Childbirth or medical conditions related to childbirth.

(C) Breastfeeding or medical conditions related to breastfeeding.

Pregnancy Regulations: Lactation included as an Related Medical Condition of Pregnancy (2012)

[Pregnancy Regulations Revised](#)

Key changes related to lactation:

Page 1

(d) A “condition related to pregnancy, childbirth, or a related medical condition,” as set forth in Government Code section 12945, means a physical or mental condition intrinsic to pregnancy or

childbirth that includes, but is not limited to, lactation. Generally lactation without medical complications is not a disabling “related medical condition” requiring pregnancy disability leave, although it may require transfer to a less strenuous or hazardous position or other reasonable accommodation.

Page 4

(5) providing a reasonable amount of break time and use of a room or other location in close proximity to the employee’s work area to express breast milk in private as set forth in Labor Code section 1030, et seq.

(u) A “related medical condition” is any medically recognized physical or mental condition related to pregnancy, childbirth or recovery from pregnancy or childbirth. This term includes, but is not limited to, lactation-related medical conditions such as mastitis; gestational diabetes; pregnancy-induced hypertension; preeclampsia; post-partum depression; loss or end of pregnancy; or recovery from loss or end of pregnancy.

[California's Department of Fair Employment and Housing \(DFEH\)](#) enforces the Pregnancy Regulations, which were revised to include lactation as an "other related medical condition." The regulations become effective on December 30, 2012.

[Pregnancy Regulations](#)

Employers with less than 50 employees required to post [Notice "A": Your Rights and Obligations as a Pregnant Employee](#)

[California Code of Regulations](#) related to Title 2. Administration, Division 4. Fair Employment and Housing Commission, Chapter 2. Discrimination in Employment, Subchapter 6A. Sex Discrimination: Pregnancy, Childbirth or Related Medical Conditions, § 7291.2. Definitions.

CalWORKS: Welfare-to-Work Requirements (2013) - [SB 252](#)

[Welfare and Institutions Code Section 11218](#)

11218. Pursuant to Section 43.3 of the Civil Code, an applicant or recipient of aid under this chapter is entitled to breastfeed her child in any public area, or area where the mother and the child are authorized to be present, in a county welfare department or other county office.

Breastfeeding: Baby-Friendly Hospitals (2013) - [SB 402](#)

[Health and Safety Code Section 123367](#)

123367. (a) For the purposes of this section, the following definitions shall apply:

(1) “Perinatal unit” means a maternity and newborn service of the hospital for the provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods with appropriate staff, space, equipment, and supplies.

(2) “Baby-Friendly Hospital Initiative” means the program sponsored by the World Health Organization (WHO) and the United Nations Children’s Fund (UNICEF) that recognizes hospitals that offer an optimal level of care for infant feeding.

(b) All general acute care hospitals and special hospitals, as defined in subdivisions (a) and (f) of Section 1250, that have a perinatal unit shall, by January 1, 2025, adopt the “Ten Steps to Successful Breastfeeding,” as adopted by Baby-Friendly USA, per the Baby-Friendly Hospital Initiative, or an alternate process adopted by a health care service plan that includes evidenced-based policies and practices and targeted outcomes, or the Model Hospital Policy Recommendations as defined in paragraph (3) of subdivision (b) of Section 123366.