

Wisconsin Senate Introduces Bill Requiring Lactation Breaks for Nursing Mothers

On August 5, 2021, the Wisconsin Senate introduced a bi-partisan bill that would require Wisconsin employers to provide “reasonable” unpaid lactation breaks to nursing mothers. Senate Bill 493 (SB 493) is similar to portions of the Fair Labor Standards Act (FLSA) that require most employers to provide nursing mothers with unpaid lactation breaks in a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public.

SB 493 does not specify what length of break is “reasonable,” but does state that employers are *not* required to compensate employees for “any work time spent” on lactation breaks. Should this change go into effect, Wisconsin employers will no longer have to count lactation breaks as paid working time under state law.

Although SB 493 mostly mirrors the FLSA, there are some important differences that Wisconsin employers must take into account. Unlike the FLSA, the bill requires Wisconsin employers to:

- Provide lactating mothers with access to an electrical outlet, running water and a refrigerator for the storage of breast milk; and
- Treat unpaid lactation breaks as “paid” work time for purposes of determining eligibility for employer contributions to health care coverage (if applicable).

Further, SB 493 would apply to all employers within Wisconsin, but those with fewer than 50 employees would be exempt if compliance would pose an “undue hardship” on the employer.

We are monitoring this matter closely and will publish future alerts if SB 493 is ultimately signed into law. In the meantime, employers should continue to comply with the FLSA’s lactation break requirements. Please contact [Robert S. Driscoll](#) or [Katie D. Triska](#) if you have any questions.

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