

## January 18, 2024 - HRAGC Legislative Update

*May this year be filled with joy, love and success!*

### FEDERAL

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)



What You Should Know About the Pregnant Workers Fairness Act: [Link to EEOC Article](#)

#### 1. What is the Pregnant Workers Fairness Act?

The [Pregnant Workers Fairness Act \(PWFA\)](#) is a new law that requires [covered employers](#) to provide “reasonable accommodations” to a worker’s known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an “undue hardship.”

The PWFA applies only to accommodations. [Existing laws](#) that the EEOC enforces make it illegal to fire or otherwise discriminate against workers on the basis of pregnancy, childbirth, or related medical conditions.

The PWFA does not replace federal, state, or local laws that are **more protective** of workers affected by pregnancy, childbirth, or related medical conditions. More than 30 [states](#) and cities have laws that provide accommodations for pregnant workers.

#### 2. When does the PWFA go into effect, and will the public have input on any regulations?

The PWFA went into effect on June 27, 2023. The EEOC is required to issue regulations to carry out the law. The EEOC will issue a proposed version of the PWFA regulations so the public can give their input and offer comments before the regulations become final.

#### 3. Is the EEOC accepting charges under the PWFA?

The EEOC will start accepting charges under the PWFA on June 27, 2023. For the PWFA to apply, the situation complained about in the charge must have happened on June 27, 2023, or later. A pregnant worker who needs an accommodation before June 27th may, however, have a right to receive an accommodation under another federal or state law.

In some situations, workers affected by pregnancy, childbirth, or a related medical condition may be able to get an accommodation under [Title VII of the Civil Rights Act of 1964 or the Americans with Disabilities Act \(ADA\)](#). Therefore, until June 27, 2023, the EEOC will continue to accept and process Title VII and/or ADA charges involving a lack of accommodation regarding pregnancy, childbirth, or related medical conditions.

After June 27, 2023, the EEOC will analyze charges regarding accommodations for workers affected by pregnancy, childbirth, or related medical conditions under the PWFA (if the violation occurred after June 27, 2023) and, where applicable, under the ADA and/or Title VII.

**4. Who does the PWFA protect?**

The PWFA protects employees and applicants of “covered employers” who have known limitations related to pregnancy, childbirth, or related medical conditions.

“Covered employers” include private and public sector employers with at least 15 employees, Congress, Federal agencies, employment agencies, and labor organizations.

**5. What are some examples of reasonable accommodations for pregnant workers?**

“Reasonable accommodations” are changes to the work environment or the way things are usually done at work.

The [House Committee on Education and Labor Report on the PWFA](#) provides several examples of possible reasonable accommodations including the ability to sit or drink water; receive closer parking; have flexible hours; receive appropriately sized uniforms and safety apparel; receive additional break time to use the bathroom, eat, and rest; take leave or time off to recover from childbirth; and be excused from strenuous activities and/or activities that involve exposure to compounds not safe for pregnancy. Employers are required to provide reasonable accommodations unless they would cause an “undue hardship” on the employer’s operations. An “undue hardship” is significant difficulty or expense for the employer.

**6. What else does the PWFA prohibit?**

Covered employers cannot:

- Require an employee to accept an accommodation without a discussion about the accommodation between the worker and the employer;
- Deny a job or other employment opportunities to a qualified employee or applicant based on the person's need for a reasonable accommodation;
- Require an employee to take leave if another reasonable accommodation can be provided that would let the employee keep working;

- Retaliate against an individual for reporting or opposing unlawful discrimination under the PWFA or participating in a PWFA proceeding (such as an investigation); or
- Interfere with any individual’s rights under the PWFA.

**EEOC Lawsuits: [Link to EEOC Newsroom](#)**

Defendant	Claims and/or Settlement
Scripps Clinical Medical Group	\$6.875 million – Age (mandatory retirement age) and Disability
Schuff Steel Company	\$500,000 – Race and National Origin
United Parcel Service	\$150,000 – Disability Discrimination
Children’s Healthcare of Atlanta	\$45,000 – Religious Discrimination
Triple Canopy, Inc.	\$110,759 – Religious Discrimination and Retaliation
Omaha Hospitality Group	\$100,000 – Disability Discrimination
Walmart	\$60,000 – Sex Discrimination

**US DEPARTMENT OF LABOR (USDOL)**



**USDOL Fines: [Link to USDOL Newsroom](#)**

Defendant	Claims and/or Settlement
Atlanta United Interiors	\$87,000 for 32 employees denied overtime, misclassified as independent contractors

Rollup Shutters & Awnings, Inc.	\$252,000 in back wages and damages for unpaid overtime over three-year period
Good Cash LLC	\$1 million and back wages and damages for 165 garment workers for unpaid overtime
My Cielo Taqueria in Epping and Rochester NH	\$184,008 in tips, back wages and liquidated damages for 56 employees
Community Health Center of Richmond, Inc.	\$195,000 OSHA retaliation to former employee who reported concerns of risk on in person staff meetings as pandemic grew

Employers can view their current and prior quarter tax rates on our WEBTAX System ([www2.nhes.nh.gov/webtax](http://www2.nhes.nh.gov/webtax)) Recent enhancements allow up to 10,500 wage entries on a quarterly submission. Tax Rate Chart (<https://www.nhes.nh.gov/services/employers/tax-rate-chart.htm>)

Tax Rates displayed on the Webtax System reflect the tax rate reductions in effect for positive rated employers as well as the inverse minimum rate added to the rates of negative rated employers.

#### NH DEPARTMENT OF LABOR

**Email Alert Sign-Up: [Link to Sign-Up](#)**

From time to time the Department of Labor issues informational alerts of interest to individuals and businesses in New Hampshire. The alerts may announce new laws, changes to existing labor law and rules or announce department-sponsored events or training seminars.

## NEW HAMPSHIRE NEWS

### NH EMPLOYMENT SECURITY

**IMPORTANT: TAX RATE CHANGES: [Link to Source](#)**

Effective 2024-Q1

Tax Rate Reductions for Positive Rated Employers – Pursuant to New Hampshire state law (RSA 282-A:82) the Trust Fund will maintain a balance of at least \$350 million for the entire quarter. As a result, there will continue to be a 1.0% reduction to the tax rates of positive rated employers (Schedule I) on taxable wages paid during the 1st quarter of 2024.

Reduction of the Inverse Minimum Rate for Negative Rated Employers - Pursuant to New Hampshire state law (RSA 282-A:82-a) the Trust Fund will maintain a balance of at least \$350 million for the entire quarter. As a result, the Inverse Minimum Rate added to the tax rates of negative rated employers (Schedule II and Schedule III) will continue to be 0.5% on quarterly taxable wages paid during the 1st quarter of 2024.