THE PREGNANT WORKERS FAIRNESS ACT (H.R. 1065)

Bill Explainer

The Pregnant Workers Fairness Act (H.R. 1065) will ensure pregnant workers receive fair treatment at work and are not forced off the job unnecessarily or denied reasonable job accommodations that would allow them to maintain financial security and a healthy pregnancy. This legislation guarantees pregnant workers the right to receive reasonable accommodations for limitations related to pregnancy, childbirth, or a related medical condition unless such accommodation would cause an undue hardship on the employer.

What would the bill actually do?

Section 1. Short Title – The "Pregnant Workers Fairness Act"

Section 2. Non-Discrimination with Regard to Reasonable Accommodations Related to Pregnancy

Covered entities, including private employers with 15 or more employees, must adhere to the following provisions and not doing so constitutes an unlawful employment practice:

- An employer must provide reasonable accommodation to a qualified employee (including applicants) with known limitations related to pregnancy, childbirth, or related medical conditions, unless providing the accommodation would cause an undue hardship on the employer's business.
- An employer cannot force a qualified employee (including an applicant) to accept an accommodation other than an accommodation arrived at through the interactive process that takes place between employer and employee.
- An employer cannot deny employment opportunities to a qualified employee (including an applicant) who needs a reasonable accommodation.
- An employer cannot require an employee to take leave if another reasonable accommodation can be provided to the employee.
- An employer cannot take adverse action in the "terms, privileges, or conditions of employment" if an employee or applicant requests or uses a reasonable accommodation related to an employee's known limitations related to pregnancy, childbirth, or related medical conditions.

Section 3. Remedies and Enforcement

- This section details the remedies and enforcement scheme for each category of employee to which the applies, including private sector employees covered by Title VII of the Civil Rights Act of 1964, legislative branch employees covered by the Congressional Accountability Act of 1995, executive branch employees covered by Chapter 5 of Title 3 U.S.C. and Section 717 of the Civil Rights Act of 1964, and staff and advisors to state and local elected and appointed officials covered under the Government Employee Rights Act of 1991.
- This section also prohibits retaliation against any employee who opposes unlawful behavior that has taken place under the Act or participates in a proceeding related to the Act. It is also unlawful under this section to coerce, intimidate, threaten, or interfere with any individual's exercising of their rights under this chapter.
- This section indicates that if an employer makes a good faith effort to engage in the interactive process with an employee to identify an accommodation, they may be exempt from certain liability.

Section 4. Rulemaking
The Equal Employment Opportunity Commission must promulgate regulations within 2 years of enactment and must include examples of reasonable accommodations.

Section 5. Definitions
The Act includes definitions of the following terms: "commission," "covered entity," "employee," "known limitation," "qualified employee," "reasonable accommodations," and "undue hardship."

Section 6. Waiver of State Immunity
States must adhere to this Act and state employees may seek the same type of relief as is available to employees of non-State public or private entities.

Section 7. Relationship to Other Laws
The Pregnant Workers Fairness Act does not invalidate or limit any other law, including federal, state, or local law, that provides greater or equal protections than the Act.

Section 8. Severability
If any provision of the Act is found to be invalid or unconstitutional, the remainder of the Act will remain valid.

What changes were made to the bill that led to the U.S. Chamber of Commerce supporting the bill?

The bill, as approved by the House Education and Labor Committee, reflects extensive negotiations between the U.S. Chamber of Commerce and advocates that ensures the bill remains strong for employees and clear for employers. The main changes provided clarity to the bill by:

- **Adding a definition of "known limitations":** Inserting a definition of known limitations ensures a pregnant worker need not have a pregnancy-related disability in order to receive an accommodation but rather can get an accommodation for a physical or mental condition related to pregnancy, childbirth, and related medical conditions
- **Adding in "qualified employee" language:** The definition ensures that a pregnant worker is still qualified even if they cannot perform an essential function of their position, so long as the inability to perform that function is 1) temporary; 2) could be performed in the near future; and 3) can be reasonably accommodated.
- **Inserting a provision making enforcement more consistent with the Americans with Disabilities Amendments Act:** The amended bill added in a provision that if employers engage in a good faith effort, in consultation with the employee who needs the accommodation, to identify and provide a reasonable accommodation for the employee they will be relieved of certain types of liability to the employee.
- **Inserting clarifying language regarding unwanted accommodations:** The amended bill will add clarifying language that employers cannot force someone to accept an accommodation other than an accommodation arrived at through the interactive process, i.e. a mutual discussion.

Additional Resources

- A Better Balance's Congressional Testimony from the Pregnant Workers Fairness Act hearing
- A Better Balance's Report *Long Overdue: It Is Time for the Pregnant Workers Fairness Act*
- A Better Balance Pregnant Workers Fairness Resources page
- A Better Balance Legal Backgrounder on the Pregnant Workers Fairness Act

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