

Amendment to SB 488-FN-LOCAL

1 Amend the title of the bill by replacing it with the following:

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3 AN ACT requiring reasonable accommodations for pregnant workers, relative to
4 breastfeeding, and establishing a committee to study the operation of the state
5 commission for human rights.
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7 Amend the bill by replacing all after the enacting clause with the following:

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9 1 New Paragraph; State Commission for Human Rights; Definition Added. Amend RSA 354-
10 A:2 by inserting after paragraph VII the following new paragraph:

11 VII-a. For the purposes of RSA 354-A:7, VIII, "employer" shall not include any employer
12 with fewer than 15 persons in its employ, an exclusively social club, or a fraternal or religious
13 association or corporation, if such club, association, or corporation is not organized for private profit,
14 as evidenced by declarations filed with the Internal Revenue Service or for those not recognized by
15 the Internal Revenue Service, those organizations recognized by the New Hampshire secretary of
16 state. Entities claiming to be religious organizations, including religious educational entities, may
17 file a good faith declaration with the human rights commission that the organization is an
18 organization affiliated with, or its operations are in accordance with the doctrine and teaching of a
19 recognized and organized religion to provide evidence of their religious status. "Employer" shall
20 include the state and all political subdivisions, boards, departments, and commissions thereof.

21 2 State Commission for Human Rights; Definitions. Amend RSA 354-A:2, XIV-b through XIV-d
22 to read as follows:

23 XIV-b. "Reasonable accommodation" *for the purposes of RSA 354-A:7, VII* may include:

24 (a) Making existing facilities used by employees readily accessible to and usable by
25 individuals with disabilities.

26 (b) Job restructuring, part-time or modified work schedules, reassignment to a vacant
27 position, acquisition or modification of equipment or devices, appropriate adjustment or
28 modifications of examinations, training materials or policies, the provision of qualified readers or
29 interpreters, and other similar accommodations for individuals with disabilities.

30 XIV-c. "Reasonable accommodation," *for the purposes of RSA 354-A:7, VIII* may
31 include, but not be limited to, upon recommendation of a medical provider: more frequent
32 or longer breaks, time off to recover from childbirth, acquisition or modification of
33 equipment, seating, temporary transfer to a less strenuous or hazardous position, light

1 job applicant or employee related to pregnancy, childbirth, or a related medical condition if the
2 employee or applicant so requests, unless the employer can demonstrate that the accommodation
3 would impose an undue hardship on the employer's program, enterprise, or business;

4 (2) For any employer to take adverse action against an employee who requests or
5 uses an accommodation in terms, conditions, or privileges of employment, including, but not limited
6 to, failing to reinstate the employee to her original job or to an equivalent position with equivalent
7 pay and accumulated seniority, retirement, fringe benefits, and other applicable service credits
8 when her need for reasonable accommodations ceases;

9 (3) For any employer to deny employment opportunities to an otherwise qualified
10 job applicant or employee, if such denial is based on the need of the employer to make reasonable
11 accommodations to the known conditions related to the pregnancy, childbirth, or related medical
12 conditions of the applicant or employee;

13 (4) For any employer to require a job applicant or employee affected by pregnancy,
14 childbirth, or related medical conditions to accept an accommodation that such applicant or
15 employee chooses not to accept; or

16 (5) For any employer to require an employee to take leave if another reasonable
17 accommodation can be provided to the known conditions related to the pregnancy, childbirth, or
18 related medical conditions of an employee.

19 (b) The employee shall provide the employer with notice of the requested
20 accommodation and provide proof of medical necessity in writing. Upon receipt of the request for
21 accommodation, the employer shall advise the employee whether it intends to provide all of the
22 accommodation requested, some, but not all, of the accommodation requested, or none of the
23 accommodation requested.

24 (c)(1) An employer shall provide written notice, to be prepared by the commission, of the
25 right to be free from discrimination in relation to pregnancy, childbirth, or a related medical
26 condition, including the right to reasonable accommodations for any condition of an employee
27 related to pregnancy, childbirth, or a related medical condition, pursuant to this paragraph to:

28 (A) New employees at the commencement of employment.

29 (B) Existing employees within 120 days after the effective date of this
30 paragraph.

31 (2) Such notice shall be conspicuously posted at an employer's place of business in
32 an area accessible to employees.

33 (3) The commission working with the department of labor shall provide courses of
34 instruction and conduct ongoing public education efforts as necessary to inform employers,
35 employees, employment agencies, and job applicants about their rights and responsibilities under
36 this paragraph.

37 (d) Nothing in this paragraph shall be construed to preempt, limit, diminish, or

1 275:79 Penalty. Any employer violating this chapter shall be subject to a civil penalty, to be
2 imposed by the labor commissioner in accordance with the procedures established in RSA 273:11-a.
3 An employer aggrieved by the commissioner's assessment of such penalty may appeal in accordance
4 with RSA 273:11-c.

5 275:80 Advisory Council on Breastfeeding.

6 I. There is hereby established an advisory council on breastfeeding. The advisory council
7 shall follow the goals of the United States Surgeon General and the United States Breastfeeding
8 Committee. The advisory council shall be comprised of, but not limited to:

9 (a) One member of the house of representatives, appointed by the speaker of the house
10 of representatives.

11 (b) One member of the senate, appointed by the senate president.

12 (c) The commissioner of the department of labor, or designee.

13 (d) A representative from the women, infants, and children program (WIC), appointed
14 by the commissioner of the department of health and human services.

15 (e) A certified midwife, appointed by the midwifery council established in RSA 326-D:3.

16 (f) A member of the New Hampshire Business and Industry Association, appointed by
17 the association.

18 (g) The president of the New Hampshire Breastfeeding Rights Coalition, or designee.

19 (h) The chair of the New Hampshire Breastfeeding Task Force, or designee.

20 (i) A hospital administrator from a certified baby-friendly hospital, appointed by the
21 governor.

22 (j) A transportation representative, appointed by the governor.

23 (k) A currently breastfeeding mother, appointed by the governor.

24 (l) An attorney with experience in human rights issues, appointed by the New
25 Hampshire commission on human rights.

26 II. The advisory council shall examine best practices in New Hampshire, including but not
27 limited to the Baby Friendly Hospital Initiative, Family and Sick Leave, Childcare Trainings on
28 Breastfeeding, Milk Banks, Lactation Spaces in Public Accommodations, and the World Health
29 Organization's International Code of Marketing of Breastmilk Substitutes.

30 III. Legislative members shall receive mileage at the legislative rate while attending to the
31 duties of the commission.

32 IV. The advisory council may meet as often as necessary to effectuate its goals and
33 meetings may be held by conference call. A minimum of 3 meetings per year shall be open to the
34 public.

35 V. The advisory council shall make an interim report commencing on November 1, 2016
36 and a final report on December 1, 2017 on its activities and findings, together with any
37 recommendations for proposed legislation, to the president of the senate, the speaker of the house of

- 1 I. Section 8 of this act shall take effect December 1, 2017.
- 2 II. Section 9 of this act shall take effect upon its passage.
- 3 III. The remainder of this act shall take effect January 1, 2017.