



EMPLOYMENT

FACT SHEET

The WV Pregnant Workers' Fairness Act: Making Room for Pregnancy on the Job

January 2014

Pregnant and Pushed Out of Work

Although many women can continue working safely throughout their pregnancies, some women find at some point during a pregnancy that their job activities – such as lifting, standing, or repetitive motions – begin to pose a challenge. Many of these women could continue to work without risk to themselves or their pregnancies with slight job modifications. But in the absence of such a modification, they may face an impossible choice between the health of their pregnancies and their jobs.

For example, Peggy Young worked for UPS in Maryland as an early morning air driver. When she became pregnant her health care provider advised her to avoid lifting more than twenty pounds. UPS made light duty available to employees injured on the job, employees protected by the Americans with Disabilities Act, and employees who had lost their commercial driver licenses for health reasons or even for D.U.I. convictions--but it refused to give Peggy Young light duty or let her continue to work in her regular job. She was told not to come back to work until she was no longer pregnant, and so she lost her income and her health benefits for the last six and half months of her pregnancy. Young tried to challenge UPS's actions in court, but the court ruled that the law did not protect her.¹ The same federal Court of Appeals that decided against Young is also responsible for deciding cases that arise in West Virginia.

More women are continuing to work while they are

pregnant, and through later stages of pregnancy. For example, two-thirds of women who had their first child between 2006 and 2008 worked during pregnancy, and 88 percent of these first-time mothers worked into their last trimester.² And women's wages are critical to the wellbeing of their families: in 2010, 41 percent of working mothers were their family's primary breadwinner.³

Because a new baby means increased expenses, a woman's wages will often be particularly important to her family when she is pregnant and immediately after she has given birth. But too many employers refuse to provide even simple, temporary accommodations, like a stool that would allow a pregnant cashier to sit instead of stand, or an exception from a rule against drinking water while working. As a result, pregnant women's health is put at risk, or they are forced out of their jobs at the moment they can least afford it.

The West Virginia Pregnant Workers' Fairness Act (HB 4284)

The West Virginia Pregnant Workers' Fairness Act, HB 4284, would allow pregnant women to continue to do their jobs and support their families by explicitly requiring employers to make the same sorts of accommodations for pregnancy, childbirth, and related medical conditions that employers already must make for temporary disabilities not related to pregnancy. The bill would:

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- Require employers to make reasonable accommodations for employees who have limitations in their ability to work documented by a health care provider that stem from pregnancy, childbirth, or related medical conditions unless the accommodation would impose an undue hardship on the employer. These accommodations might include:
 - o Providing a stool to a pregnant employee experiencing swelling of the legs as a result of standing for an entire shift;
 - o Modifying a no-food-or-drink policy so that an employee can drink water to prevent painful and potentially dangerous uterine contractions;
 - o Reassigning occasional heavy lifting duties for a pregnant employee who has been advised not to lift more than 20 pounds by her health care provider; or
 - o Allowing a pregnant worker to fill an alternative, available position for which she is qualified.
- Prohibit employers from firing or otherwise denying employment opportunities to a pregnant employee because she needs this sort of reasonable accommodation.
- Prohibit employers from requiring a pregnant employee to accept changes to her work when the pregnant employee does not need any modification.
- Prohibit employers from forcing a pregnant employee to take paid or unpaid leave when another reasonable accommodation would allow her to continue to work.

Good for Workers, Good for Business

Only a little more than one percent of employed West Virginians give birth each year, and only a fraction of those workers would require accommodations.⁴ Employer experience with disability accommodations and workplace flexibility policies show that the costs of accommodating pregnant workers are likely to be

minimal.⁵ Providing accommodations can be expected to reduce workforce turnover, increase employee satisfaction and productivity, and save workers' compensation and other insurance costs.

A Commonsense Solution

The Pregnant Workers' Fairness Act provides a commonsense solution for a pregnant worker who is being asked to choose between her health and her livelihood.

Endorsed by:

American Civil Liberties Union of WV
 AFL-CIO
 AFSCME
 AFT - West Virginia
 American Friends Service Committee WV
 Communications Workers of America WV
 National Association of Social Workers - WV Chapter
 National Women's Law Center
 Our Children, Our Future Campaign to End Child Poverty
 Planned Parenthood Health Systems
 Prevent Child Abuse WV
 WV Center on Budget & Policy
 WV Citizen Action Group
 WV Coalition Against Domestic Violence
 WV Council of Churches
 WV FREE
 WV Nurses Association
 WV Perinatal Partnership
 WV Secular Coalition
 WV Young Democrats

1 *Young v. UPS*, 707 F.3d 437 (4th Cir. 2013); see also National Women's Law Center and A Better Balance, *It Shouldn't Be a Heavy Lift: Fair Treatment for Pregnant Workers* 15 (2013), http://www.nwlc.org/sites/default/files/pdfs/pregnant_workers.pdf.
 2 U.S. Census Bureau, *Maternity Leave and Employment Patterns of First-Time Mothers 1961-2008*, 4, 6 (Oct. 2011).
 3 Center for American Progress, *The New Breadwinners: 2010 Update* (April 2012), http://www.americanprogress.org/issues/2012/04/epd_breadwinners.html.
 4 See National Women's Law Center, *Pregnant Workers Make Up a Small Share of the Workforce and Can Be Readily Accommodated: A State-by-State Analysis* (2013), http://www.nwlc.org/sites/default/files/pdfs/state_by_state_analysis.pdf.
 5 See National Women's Law Center, *The Business Case for Accommodating Pregnant Workers* (2012), http://www.nwlc.org/sites/default/files/pdfs/pregnant_workers_business_case_12.04.12.pdf.

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- 1 *Young v. UPS*, 707 F.3d 437 (4th Cir. 2013); see also National Women's Law Center and A Better Balance, *It Shouldn't Be a Heavy Lift: Fair Treatment for Pregnant Workers* 15 (2013), http://www.nwlc.org/sites/default/files/pdfs/pregnant_workers.pdf.
- 2 U.S. Census Bureau, *Maternity Leave and Employment Patterns of First-Time Mothers 1961-2008*, 4, 6 (Oct. 2011).
- 3 Center for American Progress, *The New Breadwinners: 2010 Update* (April 2012), http://www.americanprogress.org/issues/2012/04/epd_breadwinners.html.
- 4 See National Women's Law Center, *Pregnant Workers Make Up a Small Share of the Workforce and Can Be Readily Accommodated: A State-by-State Analysis* (2013), http://www.nwlc.org/sites/default/files/pdfs/state_by_state_analysis.pdf.
- 5 See National Women's Law Center, *The Business Case for Accommodating Pregnant Workers* (2012), http://www.nwlc.org/sites/default/files/pdfs/pregnant_workers_business_case_12.04.12.pdf.

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