

# FP SNAPSHOT FOR MANUFACTURERS: PREPARE FOR PREGNANCY ACCOMMODATION REQUESTS

Insights  
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Welcome to FP Snapshot on Manufacturing Industry, where we take a quick snapshot look at the most significant workplace law developments over the past month with an emphasis on how they impact manufacturers. This edition is devoted to a new federal law that just took effect that will significantly increase the burden on employers to accommodate pregnant employees. Manufacturing employers, in particular, should be proactive in thinking about how you will comply with the Pregnant Workers Fairness Act (PWFA).

## Snapshot Look at New Law

The PWFA is a new federal law that requires employers with 15 or more employees to consider employee and job applicant accommodation requests related to pregnancy, childbirth, or related medical conditions similar to the way you consider accommodation requests related to disabilities under the Americans with Disabilities Act (ADA). [You can read our detailed FAQs here.](#)

The new law prohibits employers from placing an employee impacted by pregnancy, childbirth, or related medical conditions on a leave of absence – paid or unpaid – when a different reasonable accommodation option is available. The government has provided some suggestions for potential accommodations in lieu of leave. For instance, depending on the nature of the employee's limitations, you can consider the offering the following accommodations:

- allowing workers to sit or drink water;

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- providing closer parking spaces;
- offering flexible working hours;
- providing appropriately sized uniforms and safety apparel;
- allowing workers additional break time to use the bathroom, eat, and rest;
- excusing workers from strenuous activities or activities that involve exposure to compounds not safe for pregnancy; and
- giving leave or time off to recover from childbirth.

Again, there are many details related to this new law that you should review [in our detailed FAQs](#).

### **What Do Manufacturers Need to Know?**

A significant difference from the ADA, especially for manufacturers, is that the PFWA potentially requires employers to relieve covered employees from essential job duties. As noted above, relieving an employee of “strenuous activities” may be a reasonable accommodation under the PFWA. While this may be relatively easy to do in an office setting, strenuous activities are more likely to be a core component of an employee’s essential job functions in a manufacturing setting.

If you operate a manufacturing business in a state where employers currently are not required to offer reasonable accommodations to employees who are pregnant or recently gave birth, it is time to get to work. If you already offer such protections due to a state or local law, or as part of a more-generous policy, you should still use this as an opportunity to review your policies and practices to ensure they are compliant.

### **What Should Manufacturers Do?**

Here are five steps we recommend manufacturers consider in order to get ahead of this new law.

1. We strongly recommend employers in the manufacturing sector think proactively about the types of accommodations they reasonably can provide in their workplace. In other words, start making a list of potential reasonable accommodations now rather than waiting for

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the first request. For example, cross-training employees to do one another's jobs (rotation) would make it easier for other employees to fill in if a pregnant worker needs more frequent rest or restroom breaks.

2. Writing a policy that provides light duty only for workers who have work-related injuries or illnesses – or who require them as a PFWA reasonable accommodation – is another possibility. Creating a detailed list of potential “light duty” tasks also may help.
3. Marking “up close” parking spaces “reserved” and assigning them to “employee of the month,” special guests, pregnant workers who need them, etc. is something to consider.
4. Consider offering pregnant workers the opportunity, early in the pregnancy, to train on jobs close to restrooms so they'll be ready to do that work if/when they need to transfer.
5. In addition, you should re-train all your managers so they can spot this issue and understand they must engage in the interactive process or refer the employee to HR for proper handling of pregnancy accommodation requests.

### **Want More?**

We will continue monitoring workplace law developments as they apply to manufacturers, so make sure you are subscribed to [Fisher Phillips' Insight system](#) to have the most up-to-date information sent directly to your inbox. If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney on our [Manufacturing Industry Team](#).