

1 H.136

2 Introduced by Representatives Till of Jericho, Brumsted of Shelburne,  
3 Buckholz of Hartford, Burke of Brattleboro, Christie of  
4 Hartford, Colburn of Burlington, Connor of Fairfield, Donovan  
5 of Burlington, Dunn of Essex, Howard of Rutland City, Joseph  
6 of North Hero, Macaig of Williston, Miller of Shaftsbury,  
7 Poirier of Barre City, Stevens of Waterbury, Sullivan of  
8 Burlington, Walz of Barre City, Weed of Enosburgh, and  
9 Yantachka of Charlotte

10 Referred to Committee on

11 Date:

12 Subject: Labor; employment practices; unfair employment practices;  
13 pregnancy; accommodations

14 Statement of purpose of bill as introduced: This bill proposes to require  
15 employers to provide an accommodation to a pregnant employee unless the  
16 accommodation would impose undue hardship on the employer.

17 An act relating to accommodations for pregnant employees

18 It is hereby enacted by the General Assembly of the State of Vermont:

19 Sec. 1. 21 V.S.A. § 495k is added to read:

1     § 495k. ACCOMMODATIONS FOR PREGNANCY-RELATED

2             CONDITIONS

3             (a) It shall be an unlawful employment practice for an employer to:

4                 (1) fail or refuse to reasonably accommodate an employee's condition  
5                 related to pregnancy, childbirth, or a related medical condition unless the  
6                 employer can demonstrate that the accommodation would impose an undue  
7                 hardship on the employer;

8                 (2) require an employee to take leave if another reasonable  
9                 accommodation can be provided for an employee's condition related to  
10                pregnancy, childbirth, or a related medical condition;

11                (3) deny employment opportunities to an employee if the denial is based  
12                on the refusal of the employer to reasonably accommodate an employee's  
13                condition related to pregnancy, childbirth, or a related medical condition;

14                (4) fail or refuse to treat, for an employment-related purpose, an  
15                employee who the employer knows, ~~or should know,~~ is pregnant as well as the  
16                employer treats or would treat any other employee who is not pregnant but is  
17                similar in his or her ability or inability to work;

18                (5) require an employee to accept an accommodation that the employee  
19                chooses not to accept, if the employee does not have a known limitation  
20                related to pregnancy, childbirth, or a related medical condition, or if the  
21                accommodation is unnecessary for the employee to perform the essential

1 duties of her job; or

2 (6) take adverse employment action against an employee for requesting  
3 or using a reasonable accommodation for a condition related to pregnancy,  
4 childbirth, or a related medical condition.

5 (b) As used in this section:

6 (1) "Reasonable accommodation" means the changes and modifications  
7 which can be made in the structure of a job or in the manner in which a job is  
8 performed. Reasonable accommodation may include more frequent or longer  
9 breaks, time off to recover from childbirth, acquisition or modification of  
10 equipment, seating, temporary transfer to a less strenuous or hazardous  
11 position, job restructuring, light duty, assistance with manual labor, modified  
12 work schedules, or the provision of unpaid leave in addition to any leave  
13 provided pursuant to federal law or sections 472 and 472a of this title.

14 (2) "Undue hardship" means an action requiring significant difficulty or  
15 expense to the employer. Factors to be considered in determining whether an  
16 undue hardship is imposed by the requirement that reasonable accommodation  
17 be made for a condition related to pregnancy, childbirth, or a related medical  
18 condition include:

19 (A) the overall size of the employer's operation with respect to the  
20 number of employees, number and type of facilities, and size of budget; and

21 (B) the cost for the accommodation needed.

1        (c) Nothing in this section shall be construed to affect any other law  
2        providing protections against sex or pregnancy discrimination, pregnancy, or  
3        any law that provides greater protection or benefits with respect to pregnancy,  
4        childbirth, or a medical condition related to childbirth.

*(d) An employer shall post notice of the provisions of this section in a form*  
*provided by the Commissioner in a place conspicuous to employees at the*  
*employer's place of business.*

5        ~~Sec. 2. EFFECTIVE DATE~~

6        ~~This act shall take effect on July 1, 2017.~~

*Sec. 2. EFFECTIVE DATES*

*(a) This section and in Sec. 1, 21 V.S.A. § 495k subsections (a)–(c) shall*  
*take effect on July 1, 2017.*

*(b) In Sec. 1, 21 V.S.A. § 495k subsection (d) shall take effect on January 1,*  
*2018.*