

## Updates from the Office of the Commissioner Representing Employers

# Texas BusinessToday

Aaron S. Demerson  
Commissioner Representing Employers

June 2023

Texas Employers,

Welcome to the June issue of *Texas Business Today*! The Texas economy continues to boom! In our latest labor market release, Texas broke three records in three major areas: labor force size, number employed, and job count. The labor force added more than 62,000 people in April making it 14.9 million people strong! Plus, Texas added more jobs than any other state over the year with 534,000 positions added since April 2022. These accolades are a direct result of our dedicated Texas employers, large and small, across the state! Thank you for choosing Texas as your place of business to grow, thrive, and succeed.

In other news, we recognized Bakery Express of Central Texas as a We Hire Ability employer for their talented group of 76 employees, including individuals with disabilities. During the ceremony, we highlighted the work the Lewisville employer does with TWC's vocational rehabilitation services to recruit and hire employees. The company also hosts summer work experiences for students with disabilities through the Summer Earn and Learn program. If you are a business that has 10% or more of your workforce comprised of people with disabilities, we want to recognize you! For more information, go to:  
<https://twc.texas.gov/partners/WeHireAbility>



As you go throughout the summer, don't forget that Texas is a destination state with many state parks, attractions & family fun, beaches, shopping, and history! If you are looking for some Texas adventures this summer, be sure to check out [Let's Texas](#) and the [Texas State Parks website](#). Enjoy and stay safe!



Aaron Demerson  
Commissioner Representing Employers  
Texas Workforce Commission

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## Pregnancy in the Workplace

By: Elsa Ramos  
Legal Counsel to Commissioner Aaron Demerson

On June 27, 2023, the Pregnant Workers Fairness Act (PWFA) goes into effect. This is a new federal law that requires employers with at least 15 employees to provide “reasonable accommodations” to pregnant employees unless the accommodation would cause an “undue hardship.” According to the Equal Employment Opportunity Commission (EEOC), employers should reasonably accommodate, “a worker’s known limitations related to pregnancy, childbirth, or related medical conditions.” For more information about the PWFA, please review the EEOC infographic below and visit: <https://www.eeoc.gov/wysk/what-you-should-know-about-pregnant-workers-fairness-act>



In addition to the PWFA, other federal laws provide protection to pregnant employees. Whether employers are covered by these laws depends on their number of employees: less than 15 employees, 15 or more employees, and 50 or more employees.

**Less than 15 employees:** Employers with fewer than 15 employees are not covered by any federal anti-discrimination laws related to pregnancy or disability. Employers are free to handle these situations as they see fit. Please note that although not required by law to provide sick or medical leave to pregnant employees, if an employer’s policy contains provisions regarding sick leave or medical leave that apply to all employees, employers should treat all employees consistently under the policy.

**15 or more employees:** If an employer has at least 15 employees, it is covered by the Pregnancy Discrimination Act of 1978 (PDA), which amended Title VII of the Civil Rights Act of 1964: <https://www.eeoc.gov/statutes/pregnancy-discrimination-act-1978>

The PDA prohibits discrimination on the basis of pregnancy, childbirth, or related medical conditions. Employers are not allowed to treat pregnant employees less favorably than other employees regarding their terms and conditions of employment, including (but not limited to) hiring, firing, pay, job assignments, promotions, lay-offs, benefits, etc. For more information, please review: <https://www.eeoc.gov/laws/guidance/fact-sheet-small-businesses-pregnancy-discrimination>

Employers with at least 15 employees are also covered by the Americans with Disabilities Act of 1990, as amended (ADA): <https://www.ada.gov/law-and-regs/ada/>



The ADA prohibits discrimination against individuals with disabilities. The EEOC explains that, “While pregnancy itself is not a disability under the ADA, some pregnant workers may have one or more impairments related to their pregnancy that qualify as a ‘disability’ under the ADA. An employer may have to provide that worker with a reasonable accommodation for the pregnancy related disability.”

Neither the PWFA, the PDA, nor the ADA require employers to provide a specific amount of leave related to pregnancy. However, a certain amount of leave for a medical reason related to pregnancy may be considered a reasonable accommodation depending on the circumstances.

**50 or more employees:** Employers with at least 50 employees are covered by the Family and Medical Leave Act (FMLA): <https://www.dol.gov/agencies/whd/fmla>

Unlike the laws noted above, the FMLA **does** require employers to provide a minimum amount of leave to employees who meet the FMLA eligibility requirements. Covered employers must provide up to 12 weeks of job-protected leave for absences due to pregnancy, other qualifying medical conditions, or for certain specified family reasons, such as parent-baby bonding time after the birth of a baby. The US Department of Labor offers a great resource to employers wanting to learn more about the FMLA: <https://www.dol.gov/agencies/whd/fmla/employer-guide>

For even more information about pregnancy rights in the workplace, visit our *Texas Guidebook for Employers*: [https://efte.twc.texas.gov/pregnancy\\_rights.html](https://efte.twc.texas.gov/pregnancy_rights.html)

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# THE PREGNANT WORKERS FAIRNESS ACT (PWFA)

Prepare for this new law before it goes into effect on June 27, 2023.

## WHAT IS IT?

The PWFA requires covered employers to provide “reasonable accommodations” to a worker’s known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an “undue hardship.”



# 72%



of working women will become pregnant while employed at some time in their lives.

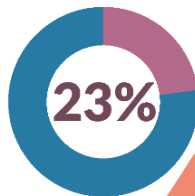
SOURCE: US Census Bureau, Maternity Leave and Employment Patterns: 1961-2008, 2011

## 8 IN 10



first-time pregnant women work until their final month of pregnancy.

SOURCE: U.S. Congress, Pregnant Workers Fairness Act, 2021. [www.congress.gov/117/crpt/hrpt27/CRPT-117hrpt27.pdf](http://www.congress.gov/117/crpt/hrpt27/CRPT-117hrpt27.pdf)



of moms have thought about leaving a job due to a lack of reasonable accommodation or fear of discrimination from an employer during pregnancy, according to one survey.

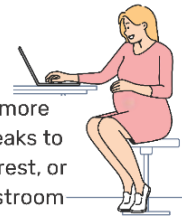
SOURCE: Bipartisan Policy Center: Morning Consult Poll, February 11, 2022

## TIP FOR EMPLOYERS:

Train supervisors about the PWFA so they are ready when they get reasonable accommodation requests.

## Examples of reasonable accommodations that may be available to workers:

- Offering additional, longer, or more flexible breaks to eat, drink, rest, or use the restroom
- Changing a work schedule, such as having shorter hours, part-time work, or a later start time



- Changing food or drink policies to allow a worker to have a water bottle or food



- Providing leave for medical appointments or to recover from childbirth

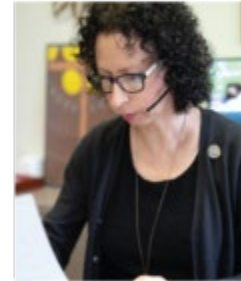
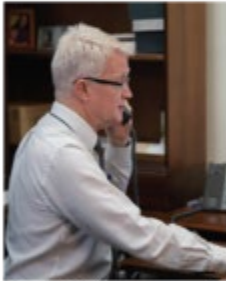


Learn more at [EEOC.gov](http://EEOC.gov)

# TEXAS EMPLOYER HOTLINE

## 1-800-832-9394

Hiring Issues · Medical Leave-Related Laws · Personnel Policies and Handbooks · Independent Contractors and Unemployment Tax Issues · The Unemployment Claims and Appeals Process · Texas and Federal Wage and Hour Laws



**Employer Hotline Hours: M-F, 8am-5pm**

*Information provided by employment law attorneys in the Office of the Commissioner Representing Employers at the Texas Workforce Commission*

### **Texas Business Today is provided to employers free of charge**

Texas Business Today is a monthly update devoted to a variety of topics of interest to Texas employers. The views and analyses presented herein do not necessarily represent the policies or the endorsement of the Texas Workforce Commission. Articles containing legal analyses or opinions are intended only as a discussion and overview of the topics presented. Such articles are not intended to be comprehensive legal analyses of every aspect of the topics discussed. Due to the general nature of the discussions provided, this information may not apply in each and every fact situation and should not be acted upon without specific legal advice based on the facts in a particular case.

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