I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
297-36 (LS) As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning.	Tina Rose Muña Barnes Mary Camacho Torres Amanda L. Shelton Jose "Pedo" Terlaje	AN ACT TO *ADD* A NEW ARTICLE 8 TO CHAPTER 3 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO ELIMINATING DISCRIMINATION AND PROMOTING WOMEN'S HEALTH AND ECONOMIC SECURITY BY ENSURING REASONABLE WORKPLACE ACCOMMODATIONS FOR WORKERS WHOSE ABILITY TO PERFORM THE FUNCTIONS OF A JOB ARE LIMITED BY PREGNANCY, CHILDBIRTH, OR A RELATED MEDICAL CONDITION AND TO CITE THIS ACT AS "THE PREGNANT WORKERS FAIRNESS ACT."	4/25/22 2:38 p.m.	4/26/22	Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning	5/11/22 9:00 a.m.	6/10/22 3:58 p.m. As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning.	Request: 4/26/22 5/4/22	

SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES
10/21/22	AN ACT TO *ADD* A NEW ARTICLE 8 TO CHAPTER 3 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO ELIMINATING DISCRIMINATION AND PROMOTING WOMEN'S HEALTH AND ECONOMIC SECURITY BY ENSURING REASONABLE WORKPLACE ACCOMMODATIONS FOR WORKERS WHOSE ABILITY TO PERFORM THE FUNCTIONS OF A JOB ARE LIMITED BY PREGNANCY, CHILDBIRTH, OR A RELATED MEDICAL CONDITION; AND TO CITE THIS ACT AS "*THE PREGNANT WORKERS FAIRNESS ACT*."	10/28/22	10/28/22	11/9/22	36-118	11/9/22	Received: 11/10/22 Mess and Comm. Doc. No. 36GL-22-2795

LOURDES A. LEON GUERRERO
GOVERNOR

JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

Transmitted via email to: speaker@guamlegislature.org

Doc Type: 36GL-22-2795
OFFICE OF THE SPEAKER
THERESE M. TERLAJE
-11- 09 2022
Time: 4:19pm
Received:

November 9, 2022

HONORABLE THERESE M. TERLAJE, *Speaker*
I Mina'trentai Sais Na Liheslaturan Guåhan
36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: **BILL NO. 297-36 (LS) – AN ACT TO *ADD* A NEW ARTICLE 8 TO CHAPTER 3 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO ELIMINATING DISCRIMINATION AND PROMOTING WOMEN'S HEALTH AND ECONOMIC SECURITY BY ENSURING REASONABLE WORKPLACE ACCOMMODATIONS FOR WORKERS WHOSE ABILITY TO PERFORM THE FUNCTIONS OF A JOB ARE LIMITED BY PREGNANCY, CHILDBIRTH, OR A RELATED MEDICAL CONDITION; AND TO CITE THIS ACT AS "*THE PREGNANT WORKERS FAIRNESS ACT*"**

Hafa Adai Madame Speaker,

It has been said that the measure of any society is how it treats its women and girls. Lt. Governor Josh Tenorio and I have long championed the right of women to participate fully in society, whether in public discourse, in leadership or in the workplace. This priority was recently reflected in the launch of Prugråman i Pinilan i Famagu'on Guåhan, by which we distributed millions of dollars to help provide and fund childcare for our working families. Along with providing additional funds to grow our childcare industry, this effort has enabled our people, especially our women, to return to work and help our economy recover from the effects of the COVID-19 pandemic.

Bill No. 297-36, known as the Pregnant Workers Fairness Act, is a bipartisan effort to supplement existing federal protections for Guam employees requiring reasonable accommodations related to childbirth and pregnancy. It recognizes that pregnancy and childbirth should not serve as barriers to full participation of our women in the workplace. It ensures that employers may not discriminate against employees on the basis of pregnancy or childbirth, whether through denial of opportunities or through adverse action, and it enables the Department of Labor to implement stringent enforcement measures to safeguard these rights.

I believe this measure will bring parity between affected workers and their colleagues, support the continued professional growth of women experiencing these natural events, recognize their importance to our island's economic advancement and prosperity, and reaffirm our commitment as a community to the dignity of women in their persons. To this end, I sign Bill No. 297-36 into law as ***Public Law No. 36-118***.

Senseremente,

LOURDES A. LEON GUERRERO
Maga'hågan Guåhan
Governor of Guam

RECEIVED
NOV 10 2022
8:00 A.M.
COMMITTEE ON RULES

Enclosure: Bill No. 297-36 (LS) - nka *P.L. No. 36-118*

cc via email: *Honorable* Lourdes A. Leon Guerrero, *Governor of Guam*
Compiler of Laws

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Bill No. 297-36 (LS), "AN ACT TO *ADD* A NEW ARTICLE 8 TO CHAPTER 3 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO ELIMINATING DISCRIMINATION AND PROMOTING WOMEN'S HEALTH AND ECONOMIC SECURITY BY ENSURING REASONABLE WORKPLACE ACCOMMODATIONS FOR WORKERS WHOSE ABILITY TO PERFORM THE FUNCTIONS OF A JOB ARE LIMITED BY PREGNANCY, CHILDBIRTH, OR A RELATED MEDICAL CONDITION; AND TO CITE THIS ACT AS "*THE PREGNANT WORKERS FAIRNESS ACT*,"** was on the 28th day of October 2022, duly and regularly passed.

Therese M. Terlaje

Therese M. Terlaje
Speaker

Attested:

Amanda L. Shelton

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 28th day of Oct., 2022, at 6:19 o'clock P.M.

C.C. Camacho

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lou Leon Guerrero

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 11/09/2022

Public Law No. 36-118

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

Bill No. 297-36 (LS)
As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning.

Introduced by:

Tina Rose Muña Barnes
Mary Camacho Torres
Amanda L. Shelton
Jose "Pedo" Terlaje
V. Anthony Ada
Frank Blas Jr.
Joanne Brown
Christopher M. Dueñas
James C. Moylan
Telena Cruz Nelson
Sabina Flores Perez
Clynton E. Ridgell
Joe S. San Agustin
Telo T. Taitague
Therese M. Terlaje

AN ACT TO *ADD* A NEW ARTICLE 8 TO CHAPTER 3 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO ELIMINATING DISCRIMINATION AND PROMOTING WOMEN'S HEALTH AND ECONOMIC SECURITY BY ENSURING REASONABLE WORKPLACE ACCOMMODATIONS FOR WORKERS WHOSE ABILITY TO PERFORM THE FUNCTIONS OF A JOB ARE LIMITED BY PREGNANCY, CHILDBIRTH, OR A RELATED MEDICAL CONDITION; AND TO CITE THIS ACT AS "*THE PREGNANT WORKERS FAIRNESS ACT.*"

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. This Act shall be known as "*The Pregnant Workers Fairness Act.*"

Section 2. A new Article 8 is hereby *added* to Chapter 3 of Title 22, Guam Code Annotated, to read as follows:

"**ARTICLE 8**

THE PREGNANT WORKERS FAIRNESS ACT

§ 3801. Definitions.
§ 3802. Nondiscrimination with Regard to Reasonable Accommodations Related to Pregnancy or Childbirth.
§ 3803. General Enforcement.
§ 3804. Administrative Process and Penalties.
§ 3805. Civil Process.
§ 3806. Rules and Regulations.

§ 3801. Definitions.

(a) *Employee* means any individual employed by an employer.

(b) *Employer* means either of the following:

(1) any person (including any individual, association, partnership, corporation, company, entity, or organized group of persons acting directly or indirectly in the interest of an employer in relation to an employee) who directly employs fifteen (15) or more persons to perform services for a wage or salary; or

(2) the government of Guam, and any governmental entity, department, agency, commission, instrumentality, or public corporation, but excluding the United States government.

(c) *Reasonable accommodations* means:

(1) making existing facilities used by employees readily accessible to and usable by individuals with any type of disability; and

(2) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment

or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with any type of disability.

(d) *Known limitation* means a physical or mental condition arising out of pregnancy or childbirth that the employee or employee's representative has communicated through a certified document provided by a healthcare provider to the employer whether or not such condition meets the definition of disability specified in Section 3 of the Americans with Disabilities Act of 1990.

§ 3802. Nondiscrimination with Regard to Reasonable Accommodations Related to Pregnancy or Childbirth.

(a) It shall be unlawful for any employer to not make reasonable accommodations to the known limitations related to the pregnancy or childbirth of an employee, unless such employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such employer.

(b) It shall be unlawful for any employer to require an employee affected by pregnancy or childbirth to accept an accommodation other than any reasonable accommodation.

(c) It shall be unlawful for any employer to deny employment opportunities to an employee if such denial is based on the need of the employer to make reasonable accommodations to the known limitations related to the pregnancy or childbirth of a qualified employee.

(d) It shall be unlawful for any employer to require an employee to take leave, whether paid or unpaid, if another reasonable accommodation can be provided to the known limitations related to the pregnancy or childbirth of an employee.

(e) It shall be unlawful for any employer to take adverse action in terms, conditions, or privileges of employment against an employee on account of the

employee requesting or using a reasonable accommodation to the known limitations related to the pregnancy or childbirth of the employee.

§ 3803. General Enforcement.

The Fair Employment Practice Division shall have all necessary enforcement and investigative powers to enforce the provisions of this Act, and the Director of the Department of Labor shall establish due process policies and be the Hearing Officer in any appeals relative to the enforcement actions or fines initiated under this Act by the Fair Employment Practice Division.

§ 3804. Administrative Process and Penalties.

(a) A person claiming to be aggrieved by a violation of this Act may file an administrative complaint with the Guam Department of Labor (Department), in accordance with rules and regulations promulgated by the Department.

(b) Any administrative complaint made under the provisions of this Act must be made within ninety (90) days of the denial of accommodations towards the employee.

(c) The Director of Labor shall be the Hearing Officer in any appeals relative to enforcement actions initiated by the Fair Employment Practice Office.

(d) The Department may refer any unpaid penalties to the Department of Revenue and Taxation, or other appropriate licensing entities, who shall require that all penalties under this Act be paid in full before renewing a business license.

(e) Any administrative complaints made directly with the U.S. Department of Labor will automatically supersede local filing.

(f) The Guam Department of Labor is hereby authorized to issue the following fines for violations of this Act:

(1) a fine of up to One Thousand Dollars ($1,000.00) for the first offense; and

(2) a fine not less than One Thousand Dollars ($1,000.00) but not greater than Two Thousand Dollars ($2,000.00) for subsequent offenses.

(g) The Department is hereby authorized to take into consideration penalties ranging from written warning, training, retraining, and subsequent fines mentioned in Subsection (f)(2) of this Section.

(h) Any penalty fines for violations of this Act shall be collected by the Department of Labor. Fines collected by the Department under the provisions of this Section shall be deposited in the Manpower Development Fund to be employed exclusively for the training programs and enforcement operations within the Fair Employment Practice Office.

(i) The Guam Department of Labor may develop a training program and/or a plan for providing training resources for employers and their representatives, such as the hiring authorities or human resource officers. The program may include a mandatory posting in each employer's premises, developed by the Department, which notifies employees of this Act and other labor laws.

§ 3805. Civil Process.

(a) Any person alleging a violation of this Act may bring a civil action in the Superior Court for such legal or equitable relief as will effectuate the purpose of this Act.

(b) In any action brought to enforce this Act, the court shall have jurisdiction to grant such legal or equitable relief as may be appropriate to effectuate the purposes of this Act, including, without limitation, judgements compelling employment, recovery of attorney fees, reinstatement or promotion, or enforcing the liability for amounts deemed to be unpaid wages.

§ 3806. Rules and Regulations.

The Guam Department of Labor shall promulgate rules and regulations in accordance with outlining the procedures by which it will accept, investigate, and

adjudicate complaints of "Pregnant Workers Fairness Act" violations, and the enforcement of the provisions of this Act. All rules and regulations shall comply with the Administrative Adjudication Law, as required under Article 3 Chapter 9 of Title 5, Guam Code Annotated."

Section 3. Effective Date. This Act shall be effective one (1) year after enactment.