

S. 1658, PUMP for Nursing Mothers Act

As reported by the Senate Committee on Health, Education, Labor, and Pensions on May 27, 2021

By Fiscal Year, Millions of Dollars	2021	2021-2026	2021-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	*
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	Yes, Under Threshold
		Contains private-sector mandate?	Yes, Under Threshold
* = between zero and \$500,000.			

Bill Summary

S. 1658 would amend the Fair Labor Standards Act (FLSA) to require more employers to offer employees who are nursing reasonable break times and to provide them with private lactation areas, other than restrooms. The bill would extend those accommodations to groups of workers who are not now covered and would require the Department of Labor (DOL) to issue new guidance for compliance.

Section 207 of the FLSA requires employers to provide eligible employees (mostly hourly workers who are covered by the overtime rules contained in that section) unpaid break time and private lactation areas, other than restrooms, for one year after the birth of a child. Employers of fewer than 50 employees can receive an exemption if they demonstrate that compliance imposes a hardship. All federal agencies must meet similar standards.

S. 1658 would expand the current requirements to cover all workers who are nursing: managers and executives; professional, seasonal, and agricultural workers; and any others not currently eligible for accommodations. The rest of the requirements in the bill are consistent with current law.

Federal Costs

CBO estimates that the requirement for DOL to issue guidance would have an insignificant cost; any spending would be subject to the availability of appropriated funds.

Mandates

S. 1658 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). By expanding requirements related to lactation accommodations in the workplace, the bill would impose a mandate on all employers under FLSA jurisdiction. However, CBO estimates, the aggregate cost of complying with the mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$85 million and \$170 million in 2021, respectively, adjusted annually for inflation).

Currently, 23 states and the District of Columbia have laws that require the same or higher level of accommodations to nursing employees. Thus, only employers in 27 states with no or more relaxed laws would need to invest additional resources to comply with the bill. The cost of the mandates would be for employers in the private and public sector to provide accommodations to more employees.

Using census data and information from the Bureau of Labor Statistics, the Department of Health and Human Services (HHS), and the National Institutes of Health, CBO estimates that approximately 12,000 private employers would either need to provide additional accommodations or to request an exemption under the bill. CBO estimates that about 1,900 employers would be required to provide accommodations because they have 50 or more employees.

Guidance from HHS lists several inexpensive methods to provide lactation areas, including sharing spaces among employers; using existing offices, closets, or storage areas; screening off areas in larger spaces; and providing single-person, pop-up tents.

CBO estimates that for the aggregate cost of the mandates to exceed the threshold for the private-sector mandate, the cost per private-sector employer, on average, would need to be between about \$14,000 (if all covered employers provided accommodations) and \$90,000 (if all employers with fewer than 50 employees were exempt). Given the costs of the methods listed by HHS, CBO estimates that the aggregate cost would fall below the threshold for private-sector mandates.

Because federal law already requires public-sector employers to provide lactation facilities, CBO estimates that the aggregate cost of compliance with the incremental changes in S. 1658 would be small. In addition, because public-sector employees accounted for just 12 percent of the U.S. workforce in 2020, CBO estimates that the aggregate cost would fall below the threshold for intergovernmental mandates.

Previous Estimate

On July 1, 2021, CBO transmitted a [cost estimate for H.R. 3110](#), the PUMP for Nursing Mothers Act, as ordered reported by the House Committee on Education and Labor on May 26, 2021, which is similar to S. 1658. Both bills would expand accommodations to groups of workers not currently covered. H.R. 3110 would require accommodations for eligible employees for two years and exempt employers with less than 25 employees, whereas S. 1658, consistent with current law, would require accommodations for one year and would exempt employers with less than 50 employees. CBO's estimate of the budgetary effects and our mandate determinations are the same for both pieces of legislation.

The CBO staff contacts for this estimate are Meredith Decker (for federal costs) and Lilia Ledezma (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.