

By: Van de Putte

S.B. No. 1724

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the promotion of breast-feeding and the prohibition
3 against interference with or restriction of the right to
4 breast-feed; providing a civil penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Sections 165.001 and 165.002, Health and Safety
7 Code, are amended to read as follows:

8 Sec. 165.001. LEGISLATIVE FINDING. The legislature finds
9 that breast-feeding a baby is an important and basic act of nurture
10 that must be encouraged in the interests of maternal and child
11 health and family values. In compliance with the breast-feeding
12 promotion program established under the federal Child Nutrition Act
13 of 1966 (42 U.S.C. Section 1771 et seq.), the legislature
14 recognizes breast-feeding as the best method of infant nutrition.
15 The legislature intends that all persons be informed of the rights
16 of a breast-feeding mother and child and be prohibited from
17 interfering with those rights.

18 Sec. 165.002. RIGHT TO BREAST-FEED. (a) A mother is
19 entitled to breast-feed her baby in any location in which the mother
20 is otherwise authorized to be. A mother's authority to be in a
21 location may not be revoked for the sole reason that she begins to
22 breast-feed.

23 (b) A person may not interfere with or restrict the right of
24 a mother to breast-feed in accordance with this section.

1 SECTION 2. Subchapter A, Chapter 165, Health and Safety
2 Code, is amended by adding Section 165.005 to read as follows:

3 Sec. 165.005. STATE AGENCY "MOTHER-FRIENDLY" WORKSITE. To
4 the extent reasonably practicable, each state agency shall develop
5 a policy supporting the practice of worksite breast-feeding under
6 Section 165.003.

7 SECTION 3. Chapter 165, Health and Safety Code, is amended
8 by adding Subchapter C to read as follows:

9 SUBCHAPTER C. NOTIFICATION AND PENALTY

10 Sec. 165.101. NOTIFICATION BY COMPTROLLER. (a) The
11 comptroller at least annually shall include in the comptroller's
12 tax policy e-newsletter notification of the right of a mother to
13 breast-feed and the prohibition against interference with or
14 restriction of that right as provided by Section 165.002.

15 (b) The comptroller shall make the notice required by
16 Subsection (a) available at each taxpayer seminar offered by the
17 office of the comptroller.

18 (c) The comptroller may also provide the notification
19 required by this section with any other notice or document mailed to
20 an entity described by this section.

21 Sec. 165.102. CIVIL PENALTY. (a) The district or county
22 attorney for the county in which a violation of Section 165.002 is
23 alleged to have occurred may issue a letter to the person alleged to
24 have violated that section. The letter must advise the person of
25 the requirements of Section 165.002 and state that the person may be
26 liable for a civil penalty under this section for a subsequent
27 violation.

1 (b) A person who violates Section 165.002 after receiving a
2 warning letter under Subsection (a) is liable to the state for a
3 civil penalty of \$250 for each violation that occurs after the
4 letter is received.

5 (c) The district or county attorney for the county in which
6 a violation of this section is alleged to have occurred, or the
7 attorney general, if requested by the district or county attorney
8 for that county, may file suit for the collection of the penalty.

9 (d) A civil penalty recovered under this section shall be
10 deposited:

11 (1) in the state treasury if the attorney general
12 brings the suit; or

13 (2) in the general fund of the county in which the
14 violation occurred if a district or county attorney brings the
15 suit.

16 Sec. 165.103. PRIVATE CAUSE OF ACTION. (a) An interested
17 person alleging that a violation of Section 165.002 occurred may
18 send a certified letter described by Section 165.102(a) to the
19 person alleged to have violated that section if:

20 (1) the district or county attorney for the county in
21 which the violation is alleged to have occurred did not send a
22 letter authorized by Section 165.102; and

23 (2) at least 60 days have passed since the date the
24 district or county attorney was notified of the alleged violation.

25 (b) A person who violates Section 165.002 after receiving a
26 warning letter under Subsection (a) is liable to the interested
27 person who sent the letter for civil damages of \$250 for each

1 violation that occurs after the letter is received.

2 (c) In this section, "interested person" means a parent,
3 foster parent, or other person related by blood or marriage to a
4 child who was breast-feeding at the time the mother's rights were
5 alleged to have been violated.

6 SECTION 4. As soon as practicable after the effective date
7 of this Act, but not later than September 1, 2010, the comptroller
8 shall provide the notification required by Section 165.101, Health
9 and Safety Code, as added by this Act, to each business entity with
10 which the comptroller communicates in existence on the effective
11 date of this Act.

12 SECTION 5. This Act takes effect September 1, 2009.