

● **PREGNANT WORKERS' FAIRNESS ACT**

STATUTORY CITATION: W. Va. Code §§ 5-11B-1 – 5-11B-7

GENERAL SUMMARY: The Pregnant Workers' Fairness Act declares employment discrimination against workers who are affected by pregnancy, childbirth or related medical conditions unlawful, and requires employers to make reasonable accommodations for such workers. Furthermore, an employer may not require a job applicant or employee affected by pregnancy, childbirth or a related medical condition to accept an accommodation that the applicant or employee chooses not to accept, and may not require an employee to take leave if another reasonable accommodation can be provided.

PROVISIONS APPLICABLE TO AGRICULTURE: With few exceptions, the law applies to all establishments — agricultural and non-agricultural alike — employing 12 or more workers in West Virginia for 20 or more calendar weeks in the current or preceding calendar year.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *West Virginia Human Rights Commission, Charleston, West Virginia 25301 (304-558-2616; toll-free 888-676-5546).* Complaints, investigations and administrative adjudication under the Pregnant Workers' Fairness Act are handled by the Commission in the same manner as prescribed under the West Virginia Human Rights Act (*see previous entry*).

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None.*

PRIVATE CIVIL ACTION — If the Commission fails to take certain action on a complaint within specified timeframes, or if a complaint is not resolved to the complainant's satisfaction, the complainant may request a right-to-sue letter from the Commission, permitting private legal action against the respondent within 90 days of issuance of the letter, or within 2 years after the alleged act occurred, whichever is later. As an alternative to filing a complaint with the Commission, a person who has been subjected to unlawful employment discrimination may take legal action against the employer or other party involved immediately, using a private attorney or public legal service provider.