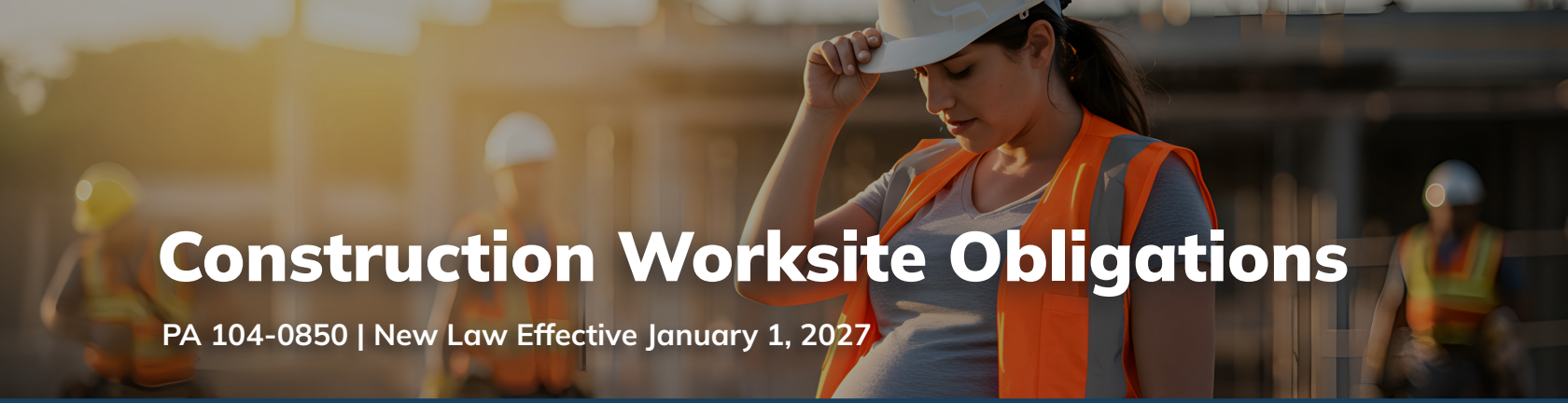




Construction Worksite Obligations

PA 104-0850 | New Law Effective January 1, 2027

Menstrual and lactation standards for Illinois contractors and project owners

Which construction operations must comply?

The requirement to provide free menstrual products applies to all Illinois construction projects with women or individuals who menstruate present where work is performed at the same location for five or more consecutive days, with the exception of landscaping services not performed in connection with a construction project and custom fabrication or manufacturing performed at a fixed facility. A separate, designated restroom is only required on sites with 10 or more workers.

When do separate bathrooms need to be provided?

On worksites with 10 or more workers, if a woman or individual who menstruates is employed for construction purposes, a project owner must provide a bathroom for use by women and individuals who menstruate with designated exterior signage unless it prevents compliance with the Equitable Restrooms Act. For smaller worksites, gender-neutral facilities may be used consistent with existing sanitation standards.

What exactly do we need to provide for menstrual equity?

A minimum of 10 menstrual hygiene products, such as pads or tampons, should be available for free if women or workers who menstruate are employed on site. Employers are immune from liability if products are in sealed packaging. Restroom break policies also need to account for the time it takes workers to remove and reapply protective gear.

What counts as a compliant lactation accommodation?

Accommodations are provided upon request, and the level of accommodation is determined through conversation with the worker requesting them based on their needs. They may include a private, lockable space for milk expression (not a restroom) provided within seven days of a worker's request. The space must have access to water for handwashing and equipment cleaning, and on-site refrigeration or a comparable way to keep milk cold, such as a cooler, a mini fridge, or space in the job site refrigerator. An employer may not be required to provide specific accommodations if doing so causes an undue hardship, but may be required to provide alternative accommodations in compliance with the Nursing Mothers in the Workplace Act and the Illinois Human Rights Act.

What constitutes an undue hardship?

If accommodations are prohibitively expensive or disruptive, consider the nature and cost of the accommodation, the employer's financial resources, the number of people they employ, the type of operation, and whether meeting the accommodation could create dangerous or disruptive conditions.

We have subcontractors on site. Who's responsible for providing accommodations?

A project owner shall provide the toilet facilities. Each employer is responsible for their own workers' menstruation and lactation accommodations — either by providing those accommodations directly, or through an agreement with the project owner or prime contractor if they're a subcontractor.

What is the compliance timeline?

The law takes effect January 1, 2027, and employers and owners must comply within six months of that date. An owner or employer who receives notice that it has failed to provide toileting facilities, menstrual hygiene products or required accommodations will have a 7-day grace period to comply before they will be subject to a penalty.

How does this intersect with existing employer obligations?

This law reinforces existing obligations required of employers under state and federal law, including:

Illinois Human Rights Act requires all employers to provide reasonable accommodations for pregnancy, childbirth, and related conditions such as lactation and menopause. It also prohibits workplace harassment and discrimination based on sex, pregnancy, and related conditions among other protected categories. This includes employer liability for policies that impose an unjustified disparate impact based on sex or another protected characteristic, even if the policy appears neutral on its face. Employers must provide notice on the worksite of requirements under the Illinois Human Rights Act for employees to see. They must also provide annual sexual harassment training. Learn more at: dhr.illinois.gov.

The Illinois Nursing Mothers in the Workplace Act requires employers with more than five employees to make reasonable efforts to provide a private, non-restroom space for pumping breast milk that is near the work area. It also requires employers to provide reasonable break time for pumping breast milk, and that these breaks be paid unless doing so creates undue hardship.

The Federal Pregnant Workers Fairness Act requires covered employers to provide reasonable accommodations for a worker's pregnancy, childbirth, or related medical conditions, unless doing so creates undue hardship. Learn more at eeoc.gov/pregnancy-discrimination.

The new law also requires the Illinois Department of Public Health to provide employers with guidance on lactation accommodations on or before January 1, 2027.

Questions? Contact policy@cwit.org