

Date of Hearing: April 22, 2019

ASSEMBLY COMMITTEE ON TRANSPORTATION
Jim Frazier, Chair
AB 752 (Gabriel) – As Amended April 11, 2019

SUBJECT: Public transit: transit stations: lactation rooms

SUMMARY: Requires multimodal transit stations, as specified, that commence operations or a renovation on or after January 1, 2021, to include a lactation room. Specifically, **this bill:**

- 1) Defines a “lactation room” as a room or other location open to members of the public to express breast milk in private and that meets both of the following conditions:
 - a) Includes, at a minimum, a chair and an electrical outlet; and
 - b) Is located outside of the confines of a public restroom.
- 2) Defines “renovation” to mean the repurposing of more than 25% of the space in the transit station.
- 3) Defines “multimodal transit station” to mean a rail station that meets all of the following criteria:
 - a) Supports the operation of an intercity rail service, as defined;
 - b) Serves as a stop or transfer point for a bus, light-rail, or commuter rail service; and
 - c) Has an enclosed waiting room of no less than ____ square feet and includes a public restroom.
- 4) Requires a multimodal transit station, as defined, or a transit station that is proposed to serve California’s high-speed rail system, that commences operations or a renovation, as defined, on or after January 1, 2021, to include a lactation room.
- 5) Declares that the bill may connote a reimbursable mandate as determined by the Commission on State Mandates.

EXISTING LAW:

- 1) Generally defines commuter rail service, intercity rail, rail transit, and the high-speed rail project.
- 2) Requires large commercial airports, as defined, in California to provide a room separate from a public restroom behind security at each terminal where women can express breast milk in private.
- 3) Requires an employer to provide a reasonable period to accommodate an employee desiring to express breast milk for her infant child.

- 4) Requires an employer to provide an employee with the use of a room or other location, other than a bathroom, in close proximity to the employee's work area, for an employee to express milk in private.
- 5) Federal law requires medium and large hub commercial airports, by federal Fiscal Year 2021, to provide lactation rooms at each passenger terminal that are accessible to the public.

FISCAL EFFECT: Unknown

COMMENTS: According to the U.S. Breastfeeding Committee, women with infants and children are the fastest growing segment of the workforce. Among employed women with children under age three, approximately 70% work full-time. One-third of mothers return to work within three months after giving birth, and two-thirds return within six months.

The American Academy of Pediatrics recommends that babies be exclusively breastfed for the first six months of life, and should continue to be breastfed for a year or for as long as is mutually desired by the mother and the baby. The Centers for Disease Control and Prevention (CDC) report that the percentage of new mothers in California who exclusively breastfed at three months is 53%, dropping dramatically to 26% at six months.

While breastfeeding is recommended, workplace and other facility constraints often create obstacles for mothers trying to continue to breastfeed after returning to work. California law clearly establishes a woman's right to breastfeed her child in any location where she is otherwise authorized to be. The law also requires employers to make reasonable efforts to provide employees with a private room and break time to express breastmilk. These legal protections, while critical, do not help in situations where a working mother must travel long distances to and from work or travel for work without her child and must express breast milk.

In 2014, the Legislature passed and Governor Brown signed into law, AB 1787 (Lowenthal), Chapter 634, Statutes of 2014, requires California's large commercial airports with more than one million enplanements per year to provide a room separate from a public restroom behind security at each terminal where women can express breast milk in private. Subsequently, the federal government followed suit with the passage of the Federal Aviation Administration Reauthorization Act of 2018 (P. L. 115-254), which requires medium and large hub commercial airports, by federal Fiscal Year 2021, to provide lactation rooms at each passenger terminal that are accessible to the public.

This bill would require multimodal transit stations that commence operations or a renovation, defined as more than 25% of the transit station, on or after January 1, 2021 include a lactation room. Similar to the airports, the room would be required to be separate from a public restroom. Additionally, the room would have to include a chair and an electrical outlet.

According to the author, "women are using public transit centers to travel and get to work. If a woman returns to work before her child is six months old, the mother needs to express milk approximately every three hours when separated. The reality for working women at or near poverty is that they commute to work via a network of buses, commuter trains, metro, or light rail and need a safe place to pump between connections."

There are roughly 100 public transit and bus districts in California which serve communities with a variety of transportation services. Many of these transit systems do not have full service stations at all or have stations that may not be able to accommodate the safe and secure deployment of lactation rooms. Currently, it is unclear exactly which multimodal transit stations this bill would impact. The bill's definition of multimodal transit station was narrowed with recent amendments to specify a rail station that supports the operation of an intercity rail service (state-supported Amtrak routes); serves as a stop or transfer point for a bus, light-rail, or commuter rail service; has an enclosed waiting room of no less than _____ square feet, and includes a public restroom. Additionally, any transit station that is proposed to serve California's high-speed rail system would also qualify. Working with the state's transit agencies to better define the parameters, the bill should affect larger transit stations, serving thousands of passengers a day with wait times between trips of more than 30 minutes to an hour, and have public restroom facilities available. These stations also likely have full time staff and security to help facilitate the safe use of the lactation room.

The amount of square footage for the enclosed waiting room requirement remains undefined as it was unclear at the time of this committee's consideration specifically which transit stations would qualify under the criteria. For example, Los Angeles Union Station meets all of the criteria, and verified its waiting room is over 5,000 square feet. However, other stations, such as Sacramento Valley Station, Diridon Station in San Jose, and Cabral Station in Stockton, have a much smaller waiting room footprint, but meet all of the other factors including being a future home to the high-speed rail system. These stations are multimodal serving commuters with bus, light-rail, commuter rail, and longer distance intercity rail as well.

One of the main criteria in the bill is that the multimodal transit station supports intercity rail, which in California are the state-supported Amtrak routes, the Capitol Corridor in Northern California, the Los Angeles – San Diego – San Luis Obispo Rail Corridor (LOSSAN) in Southern California, and the San Joaquins in the Central Valley. Nationally, Amtrak has deployed lactation "pods" in many of their largest stations, including in Washington D.C., Philadelphia, Chicago, and Baltimore. Currently, they are working on renovations at New York Penn Station and also plan to include the lactation pods. The Mamava pods being deployed by Amtrak are roughly 26 square feet and are accessed through a smart phone app. They contain two benches, outlets and a USB port, occupancy-activated lighting, ceiling vents and an exhaust fan. According to Amtrak, the pods are located in the main waiting rooms at the stations. They are accessed through a key code which is revealed through a smart phone app. There is an emergency code that the station personnel have so they may provide access to customers without the smart phone app or for use in an emergency. The pods are overseen by the Amtrak station managers for daily routine maintenance and cleaning. Any major repairs would be handled by Mamava. The pods roughly cost \$20,000 to \$25,000.

Writing in support of the bill, the American College of Obstetricians and Gynecologists states, "breast milk is well established as the best source of nutrition for newborns and infants. Breastfeeding has many maternal, infant, and societal benefits. Although national rates of breastfeeding initiation are acceptable, the United States still falls short of goals for continuation of breastfeeding. To encourage the continuation of breastfeeding, women should be provided with reasonable accommodations to express their milk or breast. AB 752 helps to accomplish this goal by ensuring such accommodations exist at public transit stations."

Committee Comments: As noted, it is unclear which multimodal transit stations the bill would affect. Concerns have been raised about how the lactation rooms could be operated in a safe and secure manner for customers. Would additional staffing at the stations be required? Would the rooms pose a security risk? What would be the costs for implementation and ongoing maintenance? The Amtrak experience indicates that the deployment of lactation rooms can be feasible and cost effective; however, some of these questions will only be answered as California's transit agencies begin to implement the requirements of this legislation.

Previous legislation: AB 1976 (Limon), Chapter 940, Statutes of 2018, requires employers to make reasonable efforts to provide an employee wishing to express breast milk in private with an area in close proximity to their workspace that is not a bathroom.

SB 937 (Wiener) of 2018, would have required that all employers provide a space with certain technical specifications for employees with a desire to express breast milk in private. This bill was vetoed by Governor Brown.

AB 1787 (Lowenthal), Chapter 634, Statutes of 2014, requires large commercial airports in California to provide a room separate from a public restroom behind security at each terminal where women can express breast milk in private.

REGISTERED SUPPORT / OPPOSITION:

Support

American Academy Of Pediatrics, California
American Civil Liberties Union Of California
American Congress of Obstetricians and Gynecologists - District IX
California Breastfeeding Coalition
California Conference Board Of The Amalgamated Transit Union
California Teamsters Public Affairs Council
Child Care Law Center

Opposition

None on file

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