

Fair Labor Standards Act Amended to Require Breaks for Nursing Mothers

April 1, 2010

The Patient Protection and Affordable Care Act, the landmark health care reform law, includes an amendment to the Fair Labor Standards Act regarding breaks for nursing mothers. Under the new law, employers must provide “reasonable” unpaid breaks for nursing employees to express breast milk. Employers also must furnish a private location, other than a bathroom, for these breaks. The law does not specify how many breaks must be provided each work day or the length of the breaks. However, employers must provide lactation breaks for up to one year after the child’s birth. Employers with fewer than 50 employees may be exempt from the statute’s requirements if the breaks would cause “undue hardship” by subjecting the employer to “significant difficulty or expense.”

In recent years, several states have enacted laws relating to nursing mothers in the workplace, and, going forward, employers in those states will have to adhere to whichever standard is more favorable to the employee. Massachusetts has no such existing legislation, so many employers in the Commonwealth may need to revise or expand their current break policies to reflect this change to the FLSA. Finally, unlike other provisions contained in the Patient Protection and Affordable Care Act, this amendment to the FLSA is effective immediately.

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