

Patient Protection and Affordable Care Act Requires Employers to Provide Breaks For Breastfeeding

Under the new health care legislation signed into law last week, employers covered by the FLSA are now required to allow nursing mothers reasonable breaks to express milk for their infants.

The health care law amends the Fair Labor Standards Act, and requires employers to provide a private room, other than a restroom, for mothers to express milk until their nursing infant is one year of age. According to the legislation, employers do not have to pay employees for these break periods unless required by state law.

Employers with less than 50 employees will be exempt if the requirement would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's business. Please note however, that many states already have laws in place concerning nursing mothers in the workplace.

While the bill does not specify when this provision becomes effective, according to Sen. Jeff Merkley's (D-Or.) office, the new requirement will be effective once the Department of Labor issues regulations implementing the new legislation. Sen. Merkley was a key supporter of this provision. The Department of Labor has yet to issue any regulations or guidance. We will notify you as soon as we are aware of any further information.

For additional information, please contact a member of our Labor and Employment practice group.

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