



WOODEN & McLAUGHLIN^{LLP}

Attorneys At Law

HR Alert

March 26, 2010

Clients and Friends:

Recently the Indiana General Assembly wrapped up its 2010 Winter session, and President Obama signed into law the Hiring Incentives to Restore Employment Act, so we thought it was an appropriate time to update you on these new laws that may impact you.

Governor Daniels Signs “Bring Your Gun to Work” Bill

On March 18, 2010, Governor Daniels signed the Emergency Powers and Parking Lots Bill, otherwise known as the “Bring Your Gun to Work” Law.

Effective July 1, 2010, new Indiana Code § 34-28-7 will preclude an employer from enforcing a policy that prohibits an employee who legally possesses a firearm from bringing the weapon and ammunition into their employer’s parking area so long as the weapons are locked in the trunk or glove box of their vehicles or stored out of plain sight in a locked vehicle. This new law is in response to employers that have instituted policies that prohibit bringing firearms anywhere on the employer’s property. Such policies now carry risk of legal liability. The Act provides for a civil cause of action for employees who have been injured by a violation of this Act.

The Act specifically exempts a number of employers from coverage, including schools, universities, prisons, child care centers, domestic violence shelters, investor-owned utilities, and any facility regulated by the federal Department of Homeland Security’s chemical facility anti-terrorism standards or the U.S. Nuclear Regulatory Commission. It also exempts workers who transport the developmentally disabled in their personal vehicles.

Employers should review their existing workplace violence policies and other rules to make sure that they are in compliance with this new law.

Hiring Incentives to Restore Employment Act

In a further effort to stimulate the economy and to create jobs, on March 18, 2010, President Obama signed into law the Hiring Incentives to Restore Employment Act (“HIRE Act”). The HIRE Act provides a payroll tax holiday for much of 2010 for employers hiring new workers that have generally been unemployed for the prior sixty (60) days and business tax credits to such employers for retaining those workers.

The HIRE Act applies to “Qualified Employers,” which includes most for-profit and non-profit (private sector) employers, and public higher education institutions. Qualified Employers are covered unless they opt out.

The Act only applies to Qualified Individuals who:

- begin employment with a Qualified Employer after February 3, 2010 and before January 1, 2011;



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- certify by signed affidavit, under penalty of perjury, that the individual has not been employed more than 40 hours during the previous 60-day period ending when employment with the Qualified Employer starts;
- are not employed by the Qualified Employer to replace another employee, unless such employee resigned voluntarily or was terminated for cause; and
- are not a family member as described in Internal Revenue Code § 51(i)(1).

For Qualified Individuals, Qualified Employers will be relieved of the obligation to match the Social Security portion of FICA. Normally employers are required to pay 6.2% of an employee's wages for the calendar year (up to a cap). There is a special rule for obtaining a credit for wages paid during the first calendar quarter of 2010.

In addition, the HIRE Act provides for a credit to reward Qualified Employers for retention of Qualified Individuals:

- who are employed on any date during the tax year;
- who continue to be employed by the employer for at least 52 consecutive weeks; and
- whose wages (as defined in Internal Revenue Code § 3401(a)) for employment during the last 26 weeks of the 52 week period were at least 80 percent of his/her wages for the first 26 weeks of the 52 week period.

The tax credit is equal to the lesser of \$1,000 or 6.2% of wages for the year in question.

Please do not hesitate to contact either one of us, or your preferred Wooden & McLaughlin contact, with questions. We appreciate the opportunity to be of service to you.

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***Because different fact scenarios may create different legal obligations, this HR Alert does not constitute legal advice. Please consult an attorney for advice about any specific matter.**

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