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Breaks for Nursing Mothers

On March 23, 2010, President Barack Obama signed the Health Care Reform Bill, which added a new provision to the Fair Labor Standards Act (FLSA). Effective immediately, the FLSA now requires employers to provide “reasonable” unpaid breaks for a mother who expresses breast milk for her nursing child. Such breaks may be taken for up to one year after the child’s birth. Employers must also provide a private place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, where such breaks may be taken.

An exemption is provided if an employer has less than 50 employees and the above requirements would impose an undue hardship by causing the employer “significant difficulty or expense.” Significant difficulty or expense is considered in relation to the size, financial resources, nature and structure of the employer’s business. Otherwise, the statute provides no guidance on how an employer is suppose to interpret this exemption.

Although several states have already enacted breastfeeding laws, employers must comply with the law that is more favorable to the employee. Therefore, employers need to be aware of both the FLSA and applicable state law which apply to nursing mothers.

If you have any questions regarding the information in this alert or would like to receive further information regarding our labor and employment services, please contact a member of our labor and employment law department.