



Surprise FLSA provision in Health Care Reform legislation

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Unbeknownst to most employers and employees, the recently signed Health Care Reform bill includes new requirements under the Fair Labor Standards Act (FLSA), which are effective immediately. Specifically, employers are required to provide reasonable unpaid breaks for nursing mothers/employees. The statute does not place any limitation on the number of breaks to be provided nor their length. However, the provisions for a nursing mother are only applicable for one year after the child's birth.

Moreover, employers must provide a private location, other than a restroom, for use by mothers to express breast milk. The location must be "shielded from view and free from intrusion from co-workers and the public." Employers with less than 50 employees are not subject to these provisions if they would cause an undue hardship on them.

Employers should be cognizant of the fact that 24 states, including California, New York and Illinois, already have state laws on breastfeeding in the workplace. If one of these applicable state laws is more protective of employees than the new federal law, an employer should continue to comply with state law.

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