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Employers Now Need to Provide Breaks to Breastfeeding Mothers

The recently enacted Patient Protection Affordable Care Act (the health care reform bill) includes an amendment to the Fair Labor Standards Act (FLSA) that requires employers to provide “reasonable” break times to breastfeeding mothers when they need to express their milk. The breaks can be unpaid, but they need to be provided “each time the employee has to express her milk.” Mothers are entitled to these breaks through the baby’s first year. Additionally, employers are required to provide a private lactation area (other than a restroom) that is shielded from view and free from intrusion from coworkers and the public. Employers with 50 or fewer employees are not required to comply with these requirements if doing so would impose an undue hardship by causing significant expense or difficulty.

The FLSA amendment requires that employers comply with either its new standard or state law requirements in states that already have lactation rules in place, whichever is more favorable to the employee. The amendment does not define reasonable or undue hardship, nor does it contain an effective date. Thus, until regulations are issued, employers will need to rely on counsel’s advice on how to best comply.

FOR MORE INFORMATION

For more information, contact any Thompson Hine **Labor & Employment** lawyer.

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