

Employers Must Accommodate Breastfeeding Mothers

Federal legislation is not always limited to covering the subject matter reflected in its popular name. This is borne out by the recently enacted Patient Protection and Affordable Care Act (PPACA), which amended Section 7 of the Fair Labor Standards Act (FLSA). PPACA require an employer to provide a reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth each time such employee has need to express the milk. It also requires the employer to provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, for use by an employee to express breast milk.

It should be noted that this amendment to the FLSA pertains to work breaks and appropriate facilities being provided for the expression of breast milk, not for breast feeding of a child. Employers are required to provide reasonable work breaks to permit the expression of breast milk for a nursing child. They are not, however, required to compensate an employee receiving a reasonable break period, unless the employer's employees receive *compensated* break time and the nursing mother uses her compensated break time to express milk.

The Wage and Hour Division of the Department of Labor has provided a fact sheet regarding break time for nursing mothers under this amendment. That fact sheet points out that only employees who are not exempt from FLSA overtime pay requirements are entitled to breaks to express milk. It also stresses that a bathroom, even if private, does not meet the requirements of the Act.

Supervisors should consider how these requirements can be met in their work areas in advance of the need arising. Advice in this regard may be obtained from Human Relations and this office.