

Legislative Blast February 14, 2011

FEDERAL UPDATES

Public Comments on Break Time for Nursing Mothers Law

The DOL is accepting public comments in response to a request for information on its preliminary interpretations until February 22, 2011 — via <http://www.regulations.gov>.

On March 23, 2010, the Break Time for Nursing Mothers Law was passed to require employers to provide 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.

The department has launched a Web page at <http://www.dol.gov/whd/nursingmothers> and employers and employees are encouraged to visit the site. It provides general information and guidance that has been issued by the department on the new break time requirements for nursing mothers in the workplace, as well as a compilation of resources that employers, employees and other interested stakeholders might find useful as they develop workplace lactation programs.

Public Comment on NLRB Proposed Posting

The National Labor Relations Board (NLRB) announced on Dec. 21 that most private employers will soon have to display a new poster in their workplaces that notifies workers of their right to form and join a union. The NLRB proposed rule would require the poster be placed “where other workplace notices are typically posted. If an employer communicates with employees primarily by e-mail or other electronic means, the notice would be posted electronically as well.”

Interested parties have until February 22, 2011 to comment on the NLRB proposal. Comments on the proposed rule are should be identified by 3142-AA07. Comments can be sent electronically to www.regulations.gov, or mailed to Lester A. Heltzer, Executive Secretary, National Labor Relations Board, 1099 14th St. NW, Washington, DC 20570. After February 22, 2011, look for the NLRB to issue final rules, plus a date by which employers must display the poster in their workplaces. Employers will be able to download the poster from the NLRB web site. For more details on the NLRB proposal, visit www.regulations.gov.

2011 Payroll Tax Changes

“Employers should start using the new withholding tables and reducing the amount of Social Security tax withheld as soon as possible in 2011 but not later than Jan. 31, 2011. [Notice 1036](#), released today, contains the percentage method income tax withholding tables, the lower Social Security withholding rate, and related information that most employers need to implement these changes. Publication 15, (Circular E), Employer's

Tax Guide, containing the extensive wage bracket tables that some employers use, will be available on IRS.gov in a few days.

The IRS recognizes that the late enactment of these changes makes it difficult for many employers to quickly update their withholding systems. For that reason, the agency asks employers to adjust their payroll systems as soon as possible, but not later than Jan. 31, 2011. For any Social Security tax over withheld during January, employers should make an offsetting adjustment in workers' pay as soon as possible but not later than March 31, 2011.

Employers and payroll companies will handle the withholding changes, so workers typically won't need to take any additional action, such as filling out a new W-4 withholding form.

As always, however, the IRS urges workers to review their withholding every year and, if necessary, fill out a new W-4 and give it to their employer. For example, individuals and couples with multiple jobs, people who are having children, getting married, getting divorced or buying a home, and those who typically wind up with a balance due or large refund at the end of the year may want to consider submitting revised [W-4 forms](#). [Publication 919](#), How Do I Adjust My Tax Withholding?, provides more information to workers on making changes to their tax withholding" (IR-2010-124, Dec. 17, 2010-www.irs.gov). For additional information on the new withholdings, please visit www.irs.gov.

STATE UPDATES

Wage Theft Prevention Act

On December 21, 2010, former New York Governor David Paterson signed into law the Wage Theft Prevention Act. The law goes into effect April 12, 2011 and under the act, each employee must be given at the time of hire and annually on or before February 1 of each year, written notice of their wage rate, regular pay dates, overtime rate (if applicable), the basis of the employee's wage rate (i.e. per shift, per hour, salary, etc), the existence of any minimum wage allowances, telephone number and their physical and mailing address. This written notice must be provided to an employee at least seven (7) days prior to any change an employer makes unless the change is reflected on the employee's paystub.

In addition, upon receipt employees must sign and date the form which then needs to be retained for at least six (6) years. The new law also requires detailed information on pay stubs about how wages are calculated (including any allowances), the rate and basis of pay and dates worked that are covered by payment. Additional overtime information must be included on each pay stub as well.

MVSHRM will be providing additional guidance on this act courtesy of Michael Sciotti, Esq., of Hancock Estabrook, at the April monthly meeting. For immediate information on the Wage Theft Prevention Act, visit <http://www.labor.ny.gov/home>.

Cell Phone & Texting Law Passed

On November 1, 2009, New York lawmakers passed a bill that prohibits all drivers from using portable electronic devices such as cell phones and smart phones, to send text messages or e-mails while driving. The penalty for a violation of this law shall be a fine of up to \$150.

NEW- Effective February 16, 2011, there will be 2 driver penalty points, in addition to the fine of \$100 for violations of the cell phone law.