**Nursing Mother Act of FLSA**

The Nursing Mother Amendment to the Fair Labor Standards Act (FLSA) became effective in 2010. It requires employers covered by the FLSA to provide for unpaid breaks to nursing mothers so they can express breast milk. While employers are not required to provide such breaks to exempt employees, it is recommended to do so in keeping with positive employer-employee relations. Covered employers with less than 50 employees are exempted from this provision if they can prove that these breaks would impose an “undue hardship” on the employer meaning that it would cause the employer significant difficulty or expense, however we would caution that claiming undue hardship in this area would be a difficult case to make, thus all efforts should be made to comply with the amendment.

Covered employers have two major obligations under this amendment:

1) Employers must allow a “reasonable break time” for the employee to express milk for the child during the first year of the child’s life. Although the law gives no guidance as to how many breaks must be given during the day, breaks must be given upon request for such purposes.

2) Employers must provide a room other than a bathroom. The nursing mother must be shielded from view and be assured of privacy, no interruptions by other employees or the public.

The FLSA requires employees be paid for breaks or rest periods 20 minutes or less. The Nursing Mother Amendment is an exception to this requirement in that the breaks need not be paid.  Not paying for these breaks, however, could create problems if frequent paid breaks are provided to employees for other reasons (i.e. smoking breaks). Since this a FLSA amendment, employees who believe their rights have been violated can file their complaints with the United States Department of Labor’s Wage and Hour Division.

Catapult recommends including language in your Employee Handbook regarding your company's commitment to the Nursing Mother Amendment. Handbook: Special Items - Lactation Accommodation

For more information about the Nursing Mothers Amendment or to get help drafting a policy for your company, contact Catapult’s Advice Team at 919-878-9222.

Written by a Catapult Advisor