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New Federal Health Care Law Provides Mothers the Right to Express Breast Milk in the Workplace

The newly enacted Patient Protection and Affordable Care Act signed into law by President Obama on March 23, 2010 has established new responsibilities for employers beyond the Act's health insurance coverage requirements. Specifically, the Act amends Section 7 of the Fair Labor Standards to provide working mothers the right to express breast milk in the workplace during "reasonable break time". The law requires employers to provide this reasonable break time to nursing mothers for one year after their child's birth, "each time such employee has a need to express the milk." Moreover, employers must provide a private location, other than a bathroom, that is shielded from view and intrusion in which nursing employees may express breast milk. The law does not specify how many times a day is considered a reasonable number or how long each break should last. Employers are not required to compensate employees during these breaks.

Notably, this new federal law does not apply to employers with fewer than 50 employees if its requirements impose an undue hardship causing the employer significant difficulty or expense relative to the employer's size, financial resources, nature, or business structure. However, New York State's law requires *all* employers, regardless of size, to make "reasonable efforts" to provide a private location within "close proximity to the work area" where an employee can express break milk. Thus, New York employers should comply accordingly. (For more information regarding New York State's law regarding expressing breast milk in the workplace see the Firm's memorandum published on October 29, 2007 which is posted on the Firm's website.) If you have any questions or need further guidance to ensure your business complies with this new law, please contact [Rebecca Fischer](#) at (212) 758-7793.

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