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New York Enacts New Law For Nursing Mothers in the Workplace

Effective immediately, New York State has enacted a new law that grants additional rights for nursing mothers in the workplace. In doing so, New York has joined a number of other states that provide accommodations for nursing mothers in the workplace. These states include California, Connecticut, Georgia, Hawaii, Illinois, Minnesota, Mississippi, New Mexico, Oklahoma, Oregon, Rhode Island, Texas and Washington.

Specifically, New York has amended the Labor Law to require employers to provide employees who are nursing mothers reasonable unpaid break time or paid break time or meal time each day to express breast milk. The law grants this protection for up to three years following the birth of the child.

The new law also requires employers to make reasonable efforts to provide a room or other location in close proximity to the work area where an employee can express milk in privacy. Finally, the law prohibits an employer from discriminating against an employee who chooses to express breast milk in the workplace.

Critically, the new law, however, leaves open a number of questions, as it does not define various terms that appear in the statute. For instance, the new law does not define the term “reasonable” as it pertains to unpaid break time, paid break time or meal time. Additionally, the new law does not define what constitutes “reasonable efforts” with respect to providing a room or other location, or what it is meant by “close proximity to the workplace.” The new law also does not set forth what the possible remedies are for an employer’s non-compliance. Finally, the new law does not explicitly provide for a private right of action, so it is unclear as to whether an employee who believes she has experienced discrimination could pursue her claims in court or must file a complaint directly with the New York State Department of Labor. Thus, only time will tell how the statute will be interpreted.

For now, employers should proceed toward compliance with the new law as written. With this new law in place, New York State employers should review and revise all applicable policies and handbooks to ensure they operate according to the new requirements. Employers should also designate a private location in the workplace to be used by nursing mothers.

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If you have any questions about the new New York State law for nursing mothers, please contact Dean L. Silverberg at (212) 351-4642 or dsilverberg@ebglaw.com, or Melissa J. Beekman at (212) 351-4671 or mbeekman@ebglaw.com.

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