

## [BREAKS FOR BREASTFEEDING PART OF HEALTH CARE REFORM?](#)

May 3, 2010 by [Adam Santucci](#)

Yes, that is right, the [Patient Protection and Affordable Care Act \(H.R. 3590\) \(pdf\)](#), signed into law on March 23, 2010, amended the Fair Labor Standards Act (FLSA) to require employers to provide reasonable unpaid breaks to nursing mothers. Previously, the FLSA did not require that employers provide breaks, but now employers must provide reasonable, unpaid break time and a private space for mothers to express breast milk.

This requirement applies to all employers covered by the FLSA; however, there is an exception for small employers. Small employers are those covered by the FLSA, but with less than 50 employees. These employers need not comply with the new requirements if doing so would impose an undue hardship.

The breaks must be provided for nursing mothers for up to one year after a child's birth. While it appears that employers need not provide such breaks for exempt "white collar" employees under the FLSA, employers that do provide such breaks must be sure not to lose the exemption for such employees by improperly docking such employees' salary.

In addition to providing "reasonable break time," covered employers must also provide space, "other than a restroom, that is shielded from view and free from intrusion from coworkers and the public." Employers should begin to proactively identify possible private locations for nursing mothers.

The reasonable unpaid break provision of the Patient Protection and Affordable Care Act (the Act) was effective immediately, and it is anticipated that the [Department of Labor](#) will issue regulations in the future to provide additional guidance on the Act's requirements. Pennsylvania employers should modify policies and ensure that supervisors and managers are aware of the reasonable break time provision of the Act. In addition, employers should stay tuned for further guidance from the [Department of Labor](#).

The Act contains many provisions that will impact employers, but the breaks for nursing mothers provision was a surprise for many of us. In fact, employers have been inundated with new laws and regulations over the past year. The requirements of the Act, and other critical legal updates, will be covered in depth at the [McNees Wallace & Nurick LLC 20th Annual Labor and Employment Seminar](#) on May 21, 2010 in Hershey, Pennsylvania. For more information and to register for the Seminar, [click here \(pdf\)](#).

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