



RECENT AMENDMENTS TO NEW YORK STATE'S LAWS GOVERNING EMPLOYERS

New York State Governor Elliot Spitzer recently signed new laws expanding the rights of employees in New York. These revisions include two additions to the state Labor Law, and one amendment to the Human Rights Law.

BREAKS FOR NURSING MOTHERS

Effective August 15, 2007 section 206-c of the Labor Law requires employers to provide reasonable unpaid break time each day to allow an employee to express breast milk for her nursing child. Alternatively, the employer may permit an employee to use paid break or meal time for this purpose. An employee is entitled to these breaks for up to three years following the birth of a child. The law also imposes an obligation on employers to make "reasonable efforts" to provide a room or other location, in close proximity to the work area, where an employee can express breast milk in privacy. The law additionally contains an anti-discrimination provision which prohibits employers from discriminating in any manner against an employee for exercising her rights under the law.

LEAVE OF ABSENCE FOR BLOOD DONATION

On December 13, 2007 section 202-j of the Labor Law will go into effect, requiring that employers must grant employees three hours of leave, every twelve months, for the purpose of donating blood. An employer is subject to the law if it employs at least 20 employees at a single work site. Employees are covered if they work an average of at least 20 hours per week. Employees are required to notify their employers in advance of their intention to take time off to give blood. The period of absence may not exceed three hours, unless agreed upon by the employer. The legislation also contains an anti-retaliation provision that prohibits employers from retaliating against employees who request or obtain a leave of absence for the purpose of donating blood.



PROTECTION FOR SEALED NON-CRIMINAL AND YOUTHFUL OFFENDER ADJUDICATIONS

Effective November 1, 2007, individuals with adjudications as youthful offenders or sealed convictions for non-criminal offenses are protected from discrimination in employment under the state Human Rights Law. Prior to this amendment, Executive Law § 296(16) prohibited employers from inquiring about or taking an adverse action based upon an arrest or criminal accusation that was resolved in the individual's favor. However, the law now extends to include arrests or criminal accusations that resulted in a youthful offender adjudication or a sealed non-criminal disposition. The amendment does *not* apply to individuals applying for employment or membership in any law enforcement agency. Therefore, the amended law does not prohibit law enforcement employers from inquiring about and making decisions based on youthful offender adjudications or sealed non-criminal convictions with respect to applicants or employees.

WHAT SHOULD EMPLOYERS DO?

All employers should take steps to ensure that their managers and supervisors are properly educated about these new amendments and their responsibilities related to compliance. Policy and procedures manual and other relevant documents should also be updated to include these important amendments. If you have any questions regarding the amendments, please contact Sean P. Beiter at 716.843.3805 or sbeiter@jaeckle.com or one of the labor and employment attorneys listed in the left column of this page.

Thank you to Elizabeth Fox-Solomon and Scott P. Horton for their assistance in preparing this Alert.

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ADMISSIONS INFORMATION

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