

Pole Position

Amendments to Lactating Mother's Act

November 2006

NOVEMBER 2006 -- AMENDMENTS TO LACTATING MOTHER'S ACT

Act No. 427 of December 16, 2000 ("Act No. 427") was recently amended by Act No. 239 of November 6, 2006 in order to increase the time employers are required to grant their full time employees to facilitate breast feeding or the extraction of maternal milk. The amendment increased the time granted from a half hour to a one hour period with pay per workday. The leave may be divided into two (2) thirty (30) minute periods or into three (3) periods of twenty (20) minutes each. Small businesses are only required to provide a half hour period that may be divided into two (2) fifteen (15) minute breaks.

The amendment reiterates that the employee may proceed to the employer's child care center in order to breast feed, provided the employer has set up those facilities, or extract maternal milk in an area furnished by the employer for such purpose. Although not incorporated as part of the amendment, the Statement of Motives states that the employer should ensure that the area provided for the extraction of maternal milk is discrete, secure and clean. Further, the amendment provides that once the time and extent of the leave is agreed upon by the breast feeding mother and the employer, the same may not be altered without the express consent of both parties.

Breast feeding mothers are entitled to this leave up to twelve (12) months from their return from maternity leave, provided that the employee presents the employer a medical certificate during the baby's fourth and eighth months, certifying that the employee has been breast feeding the baby. This certificate must be presented not later than five (5) days after the baby's fourth and eighth month.

Employers that provide this benefit may claim a tax exemption equivalent to one (1) month of the employee's salary. Employers that violate the law by not providing the required leave may face a penalty equivalent to three times the daily salary earned by the employee for each day of violation.

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