

DATE: January 28, 2011

PERSL 1415

TO: Human Resource Directors/Designees  
Labor Relations Directors/Designees

FROM: Carolyn Trevis, Assistant State Negotiator  
Labor Relations Division



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RE: Reasonable Break Time for Nursing Mothers

As part of the recently enacted Health Care Reform Act, Congress has mandated that most employers provide a reasonable break time to nursing mothers. The Department of Labor has published Fact Sheet #73, which can be found on its website at [www.dol.gov/whd/regs/compliance/whdfs73.pdf](http://www.dol.gov/whd/regs/compliance/whdfs73.pdf) to provide general information on this new requirement. In summary, the new federal law provides:

1. This law only applies to employees who are non-exempt from the FLSA overtime requirements.
2. “Reasonable break time” must be allowed for up to one (1) year from the child’s birth “each time” the employee needs to express breast milk.
3. Employers must provide a place “other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public” and functionally suitable.
4. The breaks can be uncompensated, except to the extent the covered employee uses otherwise compensated break time, but only if the employee is completely relieved of duty during the break.

As you are likely aware, Minnesota law also provides for a similar type of break time (Minn. Stat. Sec. 181.939), although the federal law appears to be more generous. For example, the state law requires employers to “*make reasonable efforts* to provide a room or other location” where the employee can express milk. The federal law mandates that a place be provided by the employer. Since the federal law is more generous, it must be followed. We also recommend that all employees, whether exempt or non-exempt, be provided the suitable location required by the federal requirements.

If you have any questions, please contact your Labor Relations Representative.