



Client Law Update

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COMPANIES BEWARE: FAILURE TO ACCOMMODATE BREAST-FEEDING EMPLOYEES COULD RESULT IN SIGNIFICANT FINES

In the first fine of its kind ever levied by the California Labor Commission, International Security Services, Inc., a Santa Clara-based company, received a citation in the amount of \$4,000.00 for failing to provide accommodations to an employee to express breast milk for her newborn baby. The employee complained to the Commissioner after International Security Services failed to grant her time to express the milk and forced her to express breast milk in a computer server room monitored by security cameras. The Labor Commission found that the accommodations offered an inadequate level of privacy.

In 2001, California Labor Code sections 1030-1033 became law and mandate that every employer, regardless of size, provide a reasonable amount of time to accommodate the expressing of breast milk and make reasonable efforts to provide the employee with the use of a room, other than a bathroom, in close proximity to the employee's work area to express milk in private. Failure to comply with this law may result in significant fines, as demonstrated by the decision against International Security Services. In the Labor Commissioner's decision, she publicly urged women who are not provided the appropriate accommodation to file a complaint with the Commissioner's office. Therefore, it is essential that all California employers come into immediate compliance with the law.

Although this lactation law is over six years old, it is clear that many employers still need to take steps to comply. We recommend that employers commence with the following:

- **Develop a written policy that informs employees of their rights under the law.** Even though an employer may not be subject to the Family Medical Leave Act and/or other pregnancy discrimination laws, all California employers, regardless of size, must comply with the lactation laws.
- **Train managers on their obligations under the law.** It is essential that your managers understand that breast-feeding employees are entitled to breaks and a clean, private room to express breast milk. Their failure to comply with the law could result in a citation and penalties.
- **Accommodate an employee who is breast-feeding her baby.** Understand that employees may need more time than their meal and rest breaks to express milk and that this time must be provided.
- **Consult with an attorney if you have any questions regarding the lactation laws.** Burnham Brown's employment attorneys are available to assist in advising employers on the intricacies of the lactation laws and other pregnancy-related laws.

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