

The FLSA Also Requires Employers To Provide Private Lactation Break Rooms

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Most employers know that the Fair Labor Standards Act (the FLSA) requires them to pay a minimum wage of \$7.25 per hour. Most employers know, too, that the FLSA requires them to pay overtime at one-and-a-half times an employee's regular rate of pay. But many employers may not be aware that the FLSA, as amended by the Affordable Care Act, *also* requires that they provide break time and private spaces – other than bathrooms – for nursing mothers to express breast milk. The FLSA amendment applies to *all employers* – regardless of size. However, employers with less than 50 employees can be exempted provided that they demonstrate compliance would impose an “undue hardship.”

These facts are significant because the Department of Labor has been cracking down on employers recently who fail to accommodate nursing mothers as the FLSA now requires. Indeed, since the lactation amendments to the FLSA went into effect in 2010, the Department has conducted more than 50 investigations and has found violations – no break time, no private space, or an inadequate space – in the majority of the investigations. As a result, all employers need to make sure they are in compliance with the current FLSA amendments (and their comparable state standards) or that they can meet the requirements of the exemption.

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