Cullen | Dykman

New York Guarantees Right of Employees to take Time Off to Donate Blood

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Effective immediately, New York State Law requires employers with more than twenty employees to provide employees with time off to donate blood. *See* N.Y. Labor Law § 202-j.

Employers must notify their employees of the right to take blood donation leave immediately, and annually, no later than January 15, beginning in 2009.

Employers have two options: they can allow employees to go off premises to donate blood, or, employees may donate blood at a blood drive at the employer's place of business or scheduled by the employer at another convenient time and place. There are different requirements for each type of donation.

When blood donation is off-premises, employees must be permitted at least one, three-hour leave period per calendar year during the employee's regular work schedule. Leave for off-premises blood donation is not required to be paid leave. This leave, if unused in any one year, does not accrue. The employee must provide the employer with at least three days' notice that he or she requires time off to donate blood. If the employee is deemed to be critical to the employer's operations, the employee will be required to provide 10 days' notice. However, if the employee experiences an emergency requiring blood donation for his or her own surgery or that of a family member, employers must provide reasonable accommodations for a shorter notice period.

When blood donation is made on premises, employers should provide the opportunity to donate blood twice per year, with each drive occurring at least sixty days apart. This time is paid time, and should be given without using the employee's vacation, personal, sick time or any other existing leave. The donation time should occur during regularly paid working hours and should not occur when a significant number of employees are scheduled to be out of the office. The duration of such leave must be sufficient to allow the employee to recover, including having something to eat after donation and to return to work. The employer must provide notification of the opportunity to donate blood on premises two weeks prior to the blood drive date.

If you have any question about this post, or any labor or employment related issue, please contact us at 516-357-3700.

Practices

- Labor and Employment

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