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**LABOR AND EMPLOYMENT LAW SPECIAL ALERT #3**

**March 26, 2020**

**Special Alert on Coronavirus in the Workplace**

**We realize the amount of information that is being shared on Federal, State and Local government efforts to address the COVID-19 pandemic can be overwhelming. Accordingly, our Firm has made the decision to aggregate and forward information to clients on a periodic basis rather than daily. We believe proceeding in this manner will reduce confusion, the dissemination of inaccurate or premature reporting on the pandemic and “information overload.”**

**1. United States Department of Labor Issues Key Guidance – March 24, 2020**

The Wage and Hour Division (WHD) of the U.S. Department of Labor has announced its first round of published guidance to provide information to employees and employers about how each will be able to take advantage of the protections and relief offered by the Families First Coronavirus Response Act (FFCRA) when it takes effect on April 1, 2020.

The guidance – provided in a [Fact Sheet for Employees](https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave), a [Fact Sheet for Employers](https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave) and a [Questions and Answers](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions) document – addresses critical questions, such as how an employer must count the number of their employees to determine coverage; how small businesses can obtain an exemption; how to count hours for part-time employees; and how to calculate the wages employees are entitled to under this law.

WHD has published the workplace [poster](https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf) required for most employers, which should be posted in the workplace as required by the FFCRA. Additional information will be provided by the WHD within the coming weeks.

**2. United States Department of Labor Provides Information on Impact on Existing Laws**

The WHD has also provided additional information on common issues employers and employees face when responding to COVID-19, and its effects on wages and hours worked under the Fair Labor Standards Act and job-protected leave under the Family and Medical Leave Act at <https://www.dol.gov/agencies/whd/pandemic>.

**3. The Internal Revenue Service Provides Information on Tax Credits Created in the Families First Coronavirus Response Act**

The IRS has announced that it is taking immediate steps to implement the FFCRA. It has established a special section focused on steps to help taxpayers, businesses and others affected by the coronavirus. In an effort to provide as much information as possible, the IRS has compiled all of its news releases, statements, and guidance in [one place](https://www.irs.gov/coronavirus) which will be updated as new information becomes available.

Additionally, small and midsize employers can begin taking advantage of the payroll tax credits that were established in the FFCRA. The new tax credits created in the FFCRA were designed to fully and promptly reimburse employers, dollar-for-dollar, for the costs of providing COVID-19 related leave to their employees. The IRS has provided information on these new tax credits on their [website](https://www.irs.gov/newsroom/treasury-irs-and-labor-announce-plan-to-implement-coronavirus-related-paid-leave-for-workers-and-tax-credits-for-small-and-midsize-businesses-to-swiftly-recover-the-cost-of-providing-coronavirus).

**4. The United States Department of Transportation Has Issued Guidance Regarding License Waivers and Drug-and-Alcohol Testing Compliance**

The Federal Motor Carrier Safety Administration has issued a temporary waiver for expiring Commercial Learners’ Permits (CLP) and Commercial Drivers’ Licenses (CDL). The waiver provides flexibility to CDL and CLP holders who held valid licenses and medical certification on February 29, 2020 which expired on or after March 1, 2020. This waiver extends the expiration dates for these licenses and medical certification to June 30, 2020. However, the waiver does not apply to all medical certifications. Medical certificates originally issued for less than 90 days are not included in this waiver. For more information, please click [here](https://www.trucking.org/news-insights/ata-thanks-department-transportation-acting-ease-burdens-drivers).

The United States Department of Transportation has issued [guidance](https://www.transportation.gov/odapc/compliance-with-dot-drug-and-alcohol-testing-regulations) regarding complying with drug-and-alcohol testing. DOT recognizes that compliance may not always be possible under the circumstances due to unavailability of resources. However, they do want DOT-regulated employers to make a reasonable effort to remain compliant. If employers are unable to conduct drug or alcohol training or testing they must document why a test was not completed. If the reason for the inability to conduct testing is due to the unavailability of resources, DOT makes it clear that the underlying modal regulations still apply. DOT-regulated employers should check their back-up plans to ensure that they are current and effective for the current outbreak conditions.

**5. Governor Ron DeSantis Issued a COVID-19 Emergency Management Executive Order on March 24, 2020**

On March 24, 2020, Governor DeSantis issued an Executive Order regarding protective measures for vulnerable populations, gatherings of private citizens and density of the workforce. In his Order he directed the Surgeon General and State Health Officer to issue public health advisories to all person over the age of 65 and all persons with underlying medical conditions that place them at a high risk of severe illness from COVID-19 to stay at home. His executive order does not constitute a rule. To read his Order, click [here](https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-83.pdf).

***A Special Note to our Clients and Friends***

Sniffen and Spellman prides itself on being accessible to our clients. Our core principles are, and always have been: Strength; Experience; Commitment and Agility.

It is in this spirit that we will continue to provide timely and responsive advice to our clients. We commit to our clients to provide continuous service to our clients during the COVID-19 pandemic. We recognize that this pandemic and the amount of information on new laws, reforms, and compliance measures may create more questions than answers. Our Firm will remain accessible to its clients to provide complete, up to date, and timely advice and guidance by phone and through electronic means, and has taken steps to ensure that we will available 24/7 to assist our clients.