DEPARTMENT OF LABOR OFFERS GUIDANCE ON FFCRA

The Department of Labor issued guidance to assist employers in navigating the new Families First Coronavirus Response Act (FFCRA), which will go into effect April 1, 2020. That’s right, you read that correctly. The DOL stated that the FFCRA will go into effect on April 1, 2020, not April 2, 2020 as the bill states. Here are some other updates:

1. Emergency Paid Sick Leave will not apply retroactively;
2. Expanded Family and Medical Leave Act will not apply retroactively;
3. Employers should determine whether they meet the 500-employee ceiling at the time leave is requested;
4. 500-employee ceiling includes:
   a. Part-time employees
   b. Full-time employees
   c. Employees on leave
   d. Temporary employees who are jointly employed by you and another employer
   e. Day laborers supplied by a temporary agency;
5. Independent contractors do not apply to the 500-employee threshold;
6. Overtime hours are included in the Expanded FMLA but not in the Emergency PSL;
7. DOL will have a 30-day temporary period of non-enforcement after the Act takes effect, during this time, reasonable good-faith compliance is sufficient;
8. DOL will issue more regulations in the future about the small business exemption.

We will keep you up-to-date as the DOL continues to issue guidance and regulations concerning the FFCRA. If you have questions about what to do with your business or company during the COVID-19 pandemic, call Capell & Howard at 334-241-8000 and ask for one of our employment lawyers: Christopher Weller, Barbara Wells, Brooke Lawson, Carla Gilmore, Mai Lan Isler, Faith Twiggs, or Blake Brookshire.

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