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VETERANS BENEFITS IMPROVEMENT ACT OF 2004 IMPOSES NEW OBLIGATIONS ON EMPLOYERS

By: Susan K. Chambers

The purpose of this E*Zine is to notify employers of the need to post a new USERRA notice right away. The Veterans Benefits Improvement Act of 2004 (“Act”), Pub. Law No. 108-454 (Dec. 10, 2004), amended several provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”), 38 U.S.C. 4301-4333. The Act imposed a new requirement, that “Each employer shall provide to persons entitled to rights and benefits under [USERRA] a notice of the rights, benefits, and obligations of such persons and such employers under [USERRA].” Employers may provide the notice by posting it where employee notices are customarily placed. However, employers are free to provide the notice to employees in other ways that will minimize costs while ensuring that the full text of the notice is provided (e.g., by handing or mailing out the notice or distributing the notice via electronic mail). The Act requires the Secretary of Labor to make available to employers the text of the required notice not later than March 10, 2005, ninety days after the enactment of the Act. Effective March 10, the Act requires employers to provide the notice “to persons entitled to rights and benefits” under USERRA.

The Secretary of Labor issued the required form of the notice on the veterans’ website on March 10, 2005. Therefore, if you have not posted the notice, you must post it as soon as possible – it is available at the following site: <http://www.dol.gov/opa/media/press/opa/OPA20050338.htm>. Click on the PDF link for the poster.

The Act also extended the period of time that health benefits (e.g., medical, dental, flexible spending accounts, and vision) must be offered to employees who take leave for military service. Under the new law, continuation health coverage must be offered during a period of qualifying military service to the employee, spouse, and dependents for a period of 24 months. Prior to the Act the maximum coverage was 18 months. The 24-month period can be reduced to 18 months if the veteran is discharged and fails to return to or apply for work as required by USERRA. The new law applies to elections of continuation health coverage made on or after December 10, 2004.

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Remember that these legal principles may change and vary widely in their application to specific factual circumstances. You should consult with counsel about your individual circumstances. In addition, the author of this summary will be happy to field your questions, at the following telephone number:

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