



June 2008

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June Meeting

TOPIC: Mythbusters and Urban Legends: HR in a Modern World
WHEN: June 5, 2008 11:30am - 1pm
WHERE: College Station Conference Center
COST: 10/members, \$10/first time guest, \$15/non-RSVP guest
SPEAKER: Lisa Autry
RSVP: www.bvhrma.org

SHRM Upcoming Events...

SHRM 60th Annual Conference and Exposition

June 22-25, 2008

Chicago, IL | Sheraton Chicago (HQ)

Strategy Conference

September 24-26

Palm Springs, CA | Westin Mission Hills Resort & Spa

SHRM Diversity Conference & Exposition

October 27-29

Atlanta, GA | Atlanta Marriott Marquis

Legal Briefs for HR

Welcome to Legal Briefs for HR! You know the drill . . . this update on issues that matter to employers is sent to over 3600 HR professionals, in-house counsel, business owners and others who like to be educated (and entertained) when catching up on employment issues. Anyone is welcome to join . . . just email me to be added (or removed) from the list. Missed one? Past issues are posted on my firm's website at www.munckbutrus.com under E-Newsletter.

It's summertime and things are heating up:

1. Say Hello to GINA – As expected, Pres. Bush signed the Genetic Information Nondiscrimination Act (GINA) into law on May 21. A few of the key features are: (1) employment discrimination based on employee's or employee's family member's genetic info is prohibited; (2) procedure for and limits on workplace monitoring of employees for effects of exposure to toxic substances; (3) limits on employer access and use of genetic info; (4) genetic info cannot be used to deny health insurance coverage or modify premiums; and (5) damages available for violations, including individual liability for plan administrators. Unless you're already subject to a similar state law, you've got some time to get ready . . . the employment provisions take effect in Nov. 2009 and parts that relate to health plans take effect in May 2009. Also take note that GINA increased the penalties for employer violations the child labor laws under the FLSA. For the full story, you can pull up a copy of the statute at <http://thomas.loc.gov> by typing in the name of the statute. For the rest of the story, we'll have to wait until the regulations come out.

2. Private Sector Comp Time? – Yes, if Rep. McMorris Rodgers (R-Wash) has her way. The Family Friendly Workplace Act (H.R. 6025) would amend the FLSA by allowing employees to bank and use "family time" (aka comp time) in lieu of overtime pay. In order to get through Congress, it will need to be very employee-friendly, so this version [1] is 100% voluntary; [2] the ee can withdraw from the program and start receiving OT at any point in time; and [3] the ee can asked to be "cashed out" of their accrued family time at any time. Again, go to <http://thomas.loc.gov> to see full text of this bill and who's supporting it.

3. Heads' Up Federal Contractors – A new form is coming your way. One of the changes to the Vietnam Era Veterans Readjustment and Assistance Act (VEVRAA) via the JVA amendments was to increase the contract amount that would trigger affirmative action requirements and another change was to the protected categories (See LB4HR #8-2007). So, contracts for \$25,000 or more that were entered into or modified before 12-1-03 will trigger reporting requirements using the Form VETS-100, while contracts for \$100,000 or more entered into on or after 12-1-03 also trigger reporting requirements, using the new Form VETS-100A. Recognizing that this creates the duty to file dual forms for employers who have "old" and "new" contracts, the VETS-100A form won't be used until September 2009 (but you need to be collecting the data, using the new categories, for the entire year before the report is due). For a copy of the new final rule, go to www.gpoaccess.gov/fr/ and type "page 28710" in the Quick Search box for Volume 73 (2008).

4. New Jersey News – NJ joins CA and WA, as the third state to offer paid family leave to workers. The NJ version, which takes effect 7-1-09, offers up to six weeks off per year at 2/3 the ee's normal pay, up to a max of \$524 per week. It will be funded through payroll deductions and administered via the NJ temporary disability program. Qualifying reasons for paid leave include the ee's newborn child, newly adopted child or to care for the ee's ill child, spouse, parent or domestic or civil union partner and the leave can run concurrently with FMLA or analogous state leave.
5. Feds Say "Me Too?" – The Family Leave Insurance Act (H.R. 5873), if passed, would provide ees with up to 12 weeks of paid time off in a 12-month period, to deal with situations currently covered by the FMLA, although the definitions for "family member" are stretched to include domestic partners, siblings, grandchildren and grandparents who have serious health conditions. Where does the money come from? Both employers and employees, and amounts paid are tied to earnings. Low wage earners get nearly full pay, those with annual wages between \$30,000 and \$60,000 get 55% of normal wages and those who earn more than \$60,000 per year would be paid between 40 and 45% of normal pay. Go to <http://thomas.loc.gov> to see full text of the bill (and the companion bill, S. 1681).
6. And While You're at It – How about expanding FMLA to allow victims of crime and their immediate family to take job-protected leave to attend court proceedings? That has been proposed via The Crime Victims Employment Leave Act (H.R. 5845).
7. Contractor Conundrum – The latest salvo in the war on employers who misclassify employees as independent contractors is the Taxpayer Responsibility, Accountability and Consistency Act (H.R. 5804) which, if passed, will [1] scrap the current "safe harbor" that stops the IRS from collecting back taxes from employers where the misclassification was "reasonable"; [2] provide a clearer definition of who's a contractor; and [3] beef up the penalties for failing to file correct tax returns with the IRS.

State governments are taking notice, too, after realizing they are losing millions of dollars in unpaid UI, income and (in some states) disability taxes. Check your classifications and clean them up, soon!
8. Right On – Colorado may become the 23rd state to become "right to work" if voters say so this November. An amendment has been certified, to be placed on the ballot. Interested in learning more? Check out www.nrtw.org for a map of RTW states and an explanation of what it means (and it's not the same as employment at will).
9. Smoke Signals – Add IA to the list of states that prohibit smoking in most places of employment, including bars and restaurants, effective July 1, 2008. For a complete list of U.S. state and local smoking limitations, go to www.no-smoke.org/goingsmokefree.php?id=519. The list was last updated April 2008, so it does not include the change in IA law, yet.
10. Running Gun Battle – Effective July 1, FL has a new law that prevents employers from banning guns in the locked vehicles of employees (except company owned or leased vehicles) who are licensed to carry concealed weapons, while they are at work. Employers may not search the vehicles or even inquire about the presence of a firearm in an employee vehicle, and an

employee who feels his or her rights were violated can sue the employer. A lawsuit designed to prevent enforcement of the law has been filed, similar to the one litigated (successfully) by a coalition of employers in OK. There, the judge said that OSHA preempts the state law and gives employers the right to ban guns on the entire premises, as part of their duty to provide a safe workplace. GA has a similar law that is to take effect on July 1, although it has an exception that allows an employer to search an employee's vehicle if it has determined that there is a serious threat to human life. No challenge to the GA law has been filed, yet.

11. What's On Your Mind? – Yours truly will be attending a Texas Association of Business board of directors meeting, which will be held in Washington D.C., to afford us the opportunity to visit with the Texas legislative delegation and tell them what's on the minds of businesses. If you have a burning issue, let me know and I'll try to see that it's heard by those who can make a difference! Just reply via email and tell me, what's on your mind?

Stay cool (or at least try),
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SHRM Foundation Scholarship – Get your application in now

The SHRM Foundation will award a total of \$100,000 in scholarships to national SHRM members, chapters and state councils in 2008.

Applications are now being accepted for the following scholarships. Deadline to apply: July 15, 2008.

- 60 Certification Scholarships of \$750 each
- 40 Academic Scholarships of \$1375 each

The scholarships are awarded through the local SHRM regions. Applications will be judged in the following five groups:

- Northeast Region
- Southeast Region (and former Caribbean Atlantic Region)
- North Central Region
- Southwest Central Region
- Pacific West Region (and former Asia Pacific Region)

Each group has a total of \$20,000 to distribute in scholarships annually which guarantees that there will be scholarship winners in every region. Twelve certification scholarships of \$750 each and eight academic scholarships of \$1375 each will be presented in each group.

Eligibility

All national SHRM members pursuing a college degree in human resources or working towards SPHR, GPHR or PHR certification are eligible to apply. (Note: SHRM professional, general or associate members may apply; however student members and local-only members of chapters are not eligible for this scholarship program.) In addition, chapters and state councils are eligible to compete for the scholarship money to fund programs that promote SPHR, GPHR or PHR certification locally.

SHRM members outside the U.S. are eligible to apply. In place of a SHRM region, they should write 'international' on their applications. International applications will be distributed among the five regions for judging.

Timeline

- July 15, 2008: Postmark deadline for applications.
- Sept. 30, 2008: Scholarship recipients selected.
- Oct. 10, 2008: All applicants advised of scholarship decisions.
- Oct. 15, 2008: State councils and chapters provided with list of winners.
- Oct. 30, 2008: Scholarship checks distributed to all winners.

For forms and more information, visit http://www.shrm.org/foundation/2002_scholguidelines.asp.

BVHRMA Upcoming Events...

Unless otherwise noted, monthly meetings/luncheons are held on the first Thursday of every month from 11:30AM to 1:00PM at the College Station Conference Center, 1300 George Bush Drive, College Station, TX

July 3, 2008

August 7, 2008

September 4, 2008

Use Your Cell Phone to Send a Student to HR SOUTHWEST

According to the EPA 130 million cellular phones will go out of use this year. That creates an estimated 65,000 tons of electronic garbage which can linger in the environment for a long time and have adverse effects on human health. So Go Green and donate your old cell phones to the Dallas HR Association's recycling fundraiser! When you send us your used cell phones, we will recycle them and receive a payment. We are paid for every phone we collect and 100% of the money raised will go towards student sponsorships to the HR Southwest Conference and Exposition.

Phones can be mailed to:

Dallas HR Cell Phone Drive
Attn: Stephanie Smith
4100 Spring Valley Road Suite 300
Dallas, TX 75244.

If you have any questions, please contact Stephanie Smith, College Relations Chair at (214) 496-4924 or sasmith@essilorusa.com.