



EEOC Releases New Poster

The Equal Employment Opportunity Commission (EEOC) recently released a revised "*Equal Employment Opportunity is the Law*" poster. This new poster incorporates the federal [Americans with Disabilities Act Amendments Act of 2008](#) and the federal [Genetic Information Nondiscrimination Act of 2008](#) which becomes effective on November 21, 2009. In addition, the new poster provides updates from the federal Department of Labor.

Employers who have a minimum of 15 or more employees for 20 or more weeks in a calendar year are covered by federal nondiscrimination laws, such as Title VII of the Civil Rights Act of 1964, and *must* display this poster in conspicuous places at the workplace where notices to employees and applicants typically are posted.

A download of this new poster is available from the TSG website.

OSHA Offers Free Safety Training Video for Temporary Workers

Your temporary workforce could benefit from a new video that provides occupational safety and health training. The video includes a general safety orientation and six modules focusing on indentifying hazards at construction, landscaping, manufacturing and food distribution sites, warehouses and offices. The videos can be accessed at the following web address: <http://www.ohiobwc.com/basics/videos/SafetyVideoArchive.asp>.



Lawmakers Introduce *Protecting Older Workers Against Discrimination Act*

On October 6, 2009, the House and Senate both introduced bills (S. 1756, H.R. 3721) to clarify the standard of proof in age discrimination cases. The legislation was introduced in direct response to the recent U.S. Supreme Court decision in *Gross v. FBL Fin. Services, Inc.*, a case in which the Court held that employees bringing disparate treatment claims under the Age Discrimination in Employment Act must prove that age was the "but-for" cause of an adverse employment action, not just a motivating factor, and that the burden of persuasion does not shift to the employer in mixed-motive ADEA cases. Essentially, this decision requires the employee to prove that age was the factor that tipped the scales in the termination decision.



The bills, if passed, seek to amend the ADEA to clarify that a plaintiff establishes an unlawful employment practice by demonstrating by a preponderance of the evidence that age “was a motivating factor for the practice complained of, even if other factors also motivated that practice” or that “the practice complained of would not have occurred in the absence of [the plaintiff’s age].”

Hearings in the Senate and the House on the proposed legislation occurred in early October.

401(k) Contribution Limits Remain Unchanged for 2010

On October 15, 2009, the Internal Revenue Service announced that retirement plan contribution limits for tax year 2010 will remain unchanged because of a decline in the cost-of-living index. Tax-free elective deferrals to Section 401(k) plans will again be \$16,500 and catch-up contributions by employees age 50 or older remain will be \$5,500.

State Updates

Wisconsin – Potential Ban on Texting While Driving:

Wisconsin Senate Bill 103 proposes to prohibit the use of text messaging devices while driving on Wisconsin roads and highways. An “electronic text messaging device” is defined as an electronic device, including a cellular telephone, personal digital assistant, or portable or mobile computer while being used for purposes of text communications, that is capable of transmitting or receiving text communications to or from one or more persons.

The only exception to the prohibition is for persons operating authorized emergency vehicles. Otherwise, persons who violate the prohibition face a fine of not less than \$20 or more than \$400.

This Bill was approved by the Senate on October 20, 2009, and has been referred to the Committee on Transportation.

Wisconsin – Unemployment Insurance: In 2010, the employer tax rates will range from 0.27% to 9.8% for employers whose taxable payrolls are less than \$500,000. The tax rate for employers whose taxable payrolls are greater than \$500,000 will be from 0.7% to 9.8%. The tax rate is 3.6% percent for new employers with payrolls less than \$500,000, while new construction employers will pay 6.6%. New employers whose taxable payroll is \$500,000 or more pay 4.1 percent, 6.6 percent for those in construction.

California – Marital Status: Effective January 1, 2010, California law will recognize the marital status of employees and applicants who entered into valid same-sex marriages in other jurisdictions prior to November 5, 2008, and will allow employees and applicants entering into valid same-sex marriages in other jurisdictions on or after November 5, 2008, the same rights, protections, and benefits as are granted to employees and applicants who are married but does not designate such relationships as “marriages.” (Calif. Chap. 625 (S.B. 54), L. 2009).



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Award (Attorney Stuart
Schroeder) by *United Way of Waukesha County*

Bravo! Entrepreneur Award
(Attorney Stuart Schroeder)
by *BizTimes Milwaukee*

California – Income Tax Withholding: Effective January 1, 2010, payers who are required to withhold and remit backup withholding to the IRS must also withhold and remit to the Franchise Tax Board at a rate of 7 percent.

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