

L a b o r & E m p l o y m e n t
A L E R T

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ARE YOUR POLICIES IN COMPLIANCE WITH NEW JERSEY'S CIVIL UNION LAW?

On February 19, 2007, New Jersey's law recognizing civil unions between same-sex partners went into effect. The law provides for "equal treatment under New Jersey law" to legally formed civil union partners, and requires that civil union partners receive "the same benefits, protections and responsibilities" that married individuals have including insurance, health and pension benefits. Therefore, employers should revise and implement their policies to ensure compliance with the new law.

The Civil Union law extends New Jersey laws to civil union partners, and by operation of law, extends non-preempted employer benefits provided to married couples to civil union partners. These laws and policies include, but are not limited to:

- All state laws relating to insurance, health and pension benefits, such as New Jersey's "mini-COBRA";

- Workers' compensation benefits, including survivor's benefits and payment of back wages;
- New Jersey tax laws;
- Laws relating to emergency and non-emergency medical care and treatment, hospital visitation and notification, and any rights guaranteed to a hospital patient or a nursing home resident;
- Advance directives for health care and designation as a health care representative;
- Family leave benefits under New Jersey's Family Leave Act (but not the federal Family and Medical Leave Act);
- New Jersey's Law Against Discrimination;
- Legal requirements for assignment of wages;

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- Employer policies and/or practices extending leave time to care for a spouse;
- Employer policies related to severance benefits (not governed by federal law) payable to a spouse upon the death or incapacity of an employee;
- Bereavement leave; and
- Non-ERISA benefits such as life insurance.

Recommendations.

New Jersey employers should audit, amend and implement their policies and practices to ensure they apply equally to civil union partners and married couples where applicable. However, policies and practices that provide benefits that are governed by federal law may not have to be extended under New Jersey's civil union law. Employers should determine the legal status of their benefits to avoid unnecessarily extending them under New Jersey's law.

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This document is a basic summary of legal issues. It should not be relied upon as an authoritative statement of the law. You should obtain detailed legal advice before taking legal action.