



## January 2009

620 Peachtree St NE  
Suite 311  
Atlanta, GA 30308  
**FourPointHR.com**  
Phone: 404.898.0788  
Fax: 404.898.0388



### **FAIR AND ACCURATE CREDIT TRANSACTION ACT**

The Fair and Accurate Credit Transaction Act of 2003 added several provisions to the Fair Credit Reporting Act of 1970. Two of these provisions require compliance starting this month.

### **Did You Know**



The IRS issued the 2009 optional standard mileage rates used to calculate deductible costs of operating an automobile for business, charitable, medical or moving purposes.



Beginning on Jan. 1, 2009, the standard mileage rates for the use of a car, van, panel truck or pickup will be:  
-55 cents per mile for business miles driven  
-24 cents per mile driven for medical or moving purposes  
-14 cents per mile driven in service of charitable organizations

Effective November 1, 2008, financial institutions and creditors offering "covered accounts," as defined in the FACTA, are required to implement Identity Theft Prevention Programs designed to detect, prevent and mitigate identity theft in connection with the opening of a covered account or any existing covered account, and to have policies and procedures for reconciling address disputes. The Federal Trade Commission will oversee enforcement, and penalties will vary depending on the circumstances surrounding the infractions.

NOTE: The FTC recently released a statement notifying financial institutions and creditors that it would suspend its *enforcement* of these new regulations until May 1, 2009, to allow extra time for compliance. However, other federal agencies such as Office of the Comptroller of the Currency Treasury may still choose to use the original compliance date with respect to any entity subject to their authority.



# FEDERAL LAW UPDATE: Family Medical Leave Act

On November 17, 2008, the Department of Labor issued its final revision to the Family and Medical Leave Act. These regulations take effect on January 16, 2009.

The new regulations, reportedly 750 pages long, will address the new military provisions enacted in January 2008 and fine-tune the old FMLA regulations, issued in 1995. According to Victoria A. Lipnic, Assistant Secretary of Labor, and other news sources, the following are some highlights of the new regulations:

If you have any  
questions,  
please call our  
office at (404)  
898-0788.

### **Military Leave**

Military leave for a "serious injury or illness" will be 26 weeks per 12-month period, not once in a career. The 12-month period will commence when the employee begins his or her leave. In other words, the employer will not be allowed to use a "fixed-year" method of calculating the 12-month period.

### **The "New/Old" FMLA**

\*The new regulations will allow an employer to contact an employee's health care provider, as long as the employer contact is either a health care provider, human resources professional, leave administrator, or "management official." The employee's direct supervisor is not permitted to contact the health care provider.

\*If a medical certification lacks critical information, the employer must give the employee written notice, specifying the additional information needed, and seven days to provide more complete information.

\*It appears that the new regulations will significantly change employees' and employers' FMLA notice obligations.

\*Waivers of FMLA claims in severance agreements and settlements will be valid without approval of the courts or the U.S. Department of Labor.

\*Time spent on light-duty assignments may no longer be counted toward the employee's 12-week FMLA leave total. Instead, the employee's right to restoration will be on "hold" until the light duty is completed or the 12-month leave year ends.



# Safety in the New Year

## TRAVEL

- Winterize your vehicle
- Carry a winter survival kit, including warm gear, nonperishable foods, and first-aid items
- Schedule rest stops into your trip
- Leave an itinerary with a trusted individual
- Get plenty of rest before driving
- Buckle your safety belt and use child safety seats

## HOME MAINTENANCE

- Check your smoke detector to ensure proper operation
- Change the batteries in your smoke detector
- Test your carbon monoxide detector and replace batteries
- Check your home alarm system to ensure proper operation

## BUSINESS ENTERTAINING

- Designate a driver or volunteer to be the nondrinker
- If you drink alcohol, don't drink more than one drink per hour
- Don't drink alcohol on an empty stomach or while taking medication

## FIREPLACES

- Don't forget to have the chimney swept out yearly
- Always use a fire screen
- Don't burn trash in the fireplace because it can create toxic fumes or uncontrollable fires
- Don't wear loose clothing or synthetic materials prone to melting when tending a fire
- Keep flue open until all embers have burned out
- Dispose of ashes in a metal container
- Make sure the fire is out before leaving the area

Four Point HR urges our clients to remind their employees to practice safety on and off the job during the New Year.

Here are a few tips for enjoying a safe and happy New Year.



# Surviving Staff Reduction

Whether due to the tough economic times or disciplinary issues, it is never easy to terminate an employee. Having specific guidelines in place will protect both employee and employer and assist sound decision-making. Determining which employees to terminate should not be based on a single factor but a holistic analysis. Examples of layoff actions due to decreasing workload include, but are not limited to:

- Termination of a project or special employment
- Availability of fewer positions than there are employees entitled to such positions
- Employee's ineligibility to continue in a position following a reallocation to a class with a higher salary range maximum
- Employee's ineligibility to continue, or option not to continue, in a position following its reallocation to a class with a lower salary range maximum

A layoff should not include:

- Separations that occur as a result of a disciplinary action. Supervisors should receive training to appropriately address these issues.
- Probationary separation, resignation or unauthorized absence
- Disability separation or other non-disciplinary separations, such as failure to comply with conditions of employment or failure to authorize or pass a background check.

Employers may consider legitimate business requirements in determining layoff options. Legitimate business requirements are circumstances or characteristics that render a position uniquely sensitive to disruption and critical to the organization.

In the event of a termination due to disciplinary issues, having specific progressive steps, clearly outlined to all employees, will greatly assist and protect all involved. It is imperative that these steps are followed for a positive outcome should you want to appeal an unemployment claim. These steps include but are not limited to:

- Multiple verbal warnings – usually 2-3
- Written warning(s) – This can differ depending on the severity of the infraction. At the very least, the verbiage in the written warning should include “failure to improve or any further infraction will lead to further disciplinary action up to and including termination”. If the infraction is severe, the decision may be to immediately terminate the employee. Discuss with Four Point HR prior to making this determination so that we may assist in ensuring compliance.

Please note:

- Document all verbal and written warnings at the time that they are given and record the meeting dialogue
- Remain professional, not emotional
- Ensure that you have gathered the facts
- Make sure that the employee understands the directives and has read and signed the documentation
- Do not use the word “unable” on any document. This suggests that the employee *could not* perform the duties instead of *would not* perform the duties
- Limit what is stated on the warnings. Provide only an overview.