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## **DOL ISSUES INITIAL GUIDANCE AND EMPLOYEE NOTICE REGARDING FAMILIES FIRST CORONAVIRUS RESPONSE ACT**

March 27, 2020

**The U.S. Department of Labor (DOL) issued guidance regarding compliance with the Families First Coronavirus Response Act (FFCRA). The guidance is available at:**

<https://www.dol.gov/agencies/whd/pandemic>

**Effective Date.** Of primary note, the DOL guidance clarifies that the FFCRA’s paid sick leave and expanded family and medical leave provisions are effective on April 1, 2020. The guidance also clarified that the paid sick leave and expanded family and medical leave requirements under FFCRA are not retroactive.

**Small Business Exemptions.** The FFCRA provides for a possible exemption for businesses with fewer than 50 employees if compliance with FFCRA would jeopardize the viability of the small business as a going concern. The DOL guidance states that businesses may take advantage of this small business exemption by documenting why the business meets the criteria set forth by the Department, which criteria will be addressed in forthcoming regulations. The DOL guidance specifically states that small businesses seeking the exemption from FFCRA should not send any materials to the DOL.

**Employee Notice.** The DOL also published a notice summarizing employee rights under the FFCRA that all employers covered by FFCRA must post or distribute to employees regarding FFCRA. Employers with employees who work remotely may satisfy the posting requirement by emailing or direct mailing the notice or posting the notice on an “employee information internal or external website.” The notice is available at: [https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA\\_Poster\\_WH1422\\_Non-Federal.pdf](https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf)

**30 Day Compliance Window.** The DOL guidance also states that for the first 30 days following the FFCRA becoming effective (i.e., until April 30, 2020), the DOL will not enforce the law against employers who are making reasonable good faith efforts to comply with the requirements under the law. The DOL guidance accordingly offers some comfort that employers covered by FFCRA will not face enforcement actions for technical violations early on as long as the employer attempted in good faith to comply.

**More to Follow.** The DOL has indicated that it will issue further guidance on a “rolling basis”, and it continues to take public comments as it prepares to issue its FFCRA regulations, which regulations are expected some time in April, 2020.

If you have questions about the FFCRA or the latest DOL guidance, please contact:

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