

NEW YORK ENACTS LAW RESTRICTING USE OF SOCIAL SECURITY NUMBER

New York is now among at least thirty states that have passed laws designed to protect an individual's personal information. Effective January 3, 2009, Section 203-d of the New York Labor Law and Section 399-dd of the New York General Business Law were amended. Unlike other states that have primarily sought to protect only Social Security Numbers ("SSNs"), the New York law casts a wide net by restricting employers' use of employee SSNs and also protecting employees' "personal identifying information."

Under the new law, employers are prohibited from publicly displaying an employee's SSN, printing an employee's SSN on identification badges or time cards, placing a SSN in files with unrestricted access, communicating an employee's personal identifying information to the general public, or using an employee's SSN as an ID number for occupational licensing purposes. An important feature of this new law is that it prohibits employers from encoding or embedding individual SSNs into documents instead of removing them. It also prohibits filing a document containing SSNs that will be available to the general public.

New York law defines employee "personal identifying information" to include: SSN numbers, home address or telephone numbers, personal e-mail addresses, internet user IDs and passwords, driver's license numbers, and parents' last names prior to marriage.

Employers who fail to comply with the new law face penalties of \$500 for "knowing violations." It is unclear whether penalties apply per violation, or per violating event. It is important to understand that a "knowing" violation includes an employer's failure to develop and implement policies and procedures to protect against prohibited uses of employee SSNs and communication of employee personal identifying information.

The enactment of this law essentially requires a review of internal procedures regarding disclosure of SSNs and the creation of employment policies to safeguard personal identifying information. We are available to assist you in the creation and implementation of these new policies.

This *Labor & Employment Law Alert* was written by **David T. Harmon** and **Rachel A. Wingerter**. If you have any questions regarding the information in this Alert, including the classification of your workers, or any other labor and employment matters, please do not hesitate to contact the authors, **dtharmon@nmmlaw.com** and **rawingerter@nmmlaw.com**, respectively.

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