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FEDERAL CONTRACTORS/SUBCONTRACTORS AND LABOR RIGHTS NOTICE: The United States Department of Labor (DOL) has finalized its regulations dealing with federal contractor/subcontractor obligations to notify employees of their rights under federal labor law. The new requirement is based on an executive order (No. 13496) that requires such postings by federal contractors and subcontractors. The new regulations require covered entities to post notices (provided by DOL . . . see http://www.dol.gov/olms/regs/compliance/EmployeeRightsPoster11x17_Final.pdf) in conspicuous places, similar to the existing poster requirements with which you are familiar. If an employer customarily posts notices electronically, this new notice must be posted that way too. If a significant portion of the workforce is not proficient in English, appropriate translations must be obtained from DOL and posted. You can read the full regulations and get lots more information about this issue here: <http://www.dol.gov/olms/regs/compliance/EO13496.htm>. The regulations take effect on June 19, 2010, but a covered company does not have to begin posting the notices until it signs a new federal contract or subcontract mandating compliance with this executive order.

NEW CHILD LABOR RULES PUBLISHED: DOL also recently published new rules for child labor (i.e. employment of persons under age 18). You are read them at: <http://www.dol.gov/federalregister/HtmlDisplay.aspx?DocId=23891&AgencyId=14&DocumentType=2>. Here is a good, quick summary of them from national SHRM: <http://www.shrm.org/hrdisciplines/safetysecurity/articles/Pages/ChildLaborProtections.aspx>. DOL also has published a couple of side-by-side comparisons of the old rules and the new rules, available at: <http://www.dol.gov/whd/cl/SidebySideHOSFinalRule.htm#> and also at <http://www.dol.gov/whd/cl/SidebySideReg3FinalRule.htm>. The new rules take effect on July 19, 2010. If you employ persons under age 18, make sure you know these new rules.

SEXUAL ORIENTATION LAW NOW APPLIES IN MANY UTAH CITIES/COUNTIES Local Utah governments for Salt Lake City, Logan City, West Valley City, Park City, unincorporated Salt Lake County and (most recently) unincorporated Summit County now all have enacted ordinances prohibiting employers (15 or more employees) doing business in those locations from employment discrimination based on sexual orientation or gender identity. These ordinances are all based on the one Salt Lake City enacted first. See past updates for details about the requirements of these ordinances.

EMPLOYMENT LAW NEWS BRIEFS: Here are some quick news briefs from the employment law world. First, the COBRA subsidy ended as of May 31, 2010. Congress has suggested it might extend it again, but has not yet done so. Second, national SHRM reports that “On May 1, 2010, revisions to the U.S. Department of Health and Human Services' (HHS) *Mandatory Guidelines for Federal Workplace Drug Testing Programs* take effect, including reduced cutoff levels for amphetamine and cocaine. Although the *Guidelines* apply to federal employer drug testing, many private-sector employers opt to follow the *Guidelines*' procedures for how testing is conducted and for the cutoff levels. The revised *Guidelines* also change other administrative aspects of the procedures.”

ANOTHER INDEPENDENT CONTRACTOR ALERT: More so than at any time during my 25 years of practicing employment law, businesses today are getting hit hard with audits by state unemployment compensation agencies and by the Internal Revenue Service (IRS) regarding misclassification of workers as independent contractors instead of as employees. If you classify your workers as independent contractors, you need to make darn sure your classification is appropriate under the applicable law. IRS guidelines on the employee/contractor distinction on this issue can be found at: <http://www.irs.gov/businesses/small/article/0,,id=99921,00.html> State unemployment compensation rules on who is a contractor (and not an employee) can be found at: <http://www.rules.utah.gov/publicat/code/r994/r994-204.htm#T6> (specifically see rule no. 994-204-303). Note that these are the Utah state rules and the rules may vary from state-to-state depending on where the worker lives and does his/her work.

HUGE VERDICT IN FEDERAL GENDER DISCRIMINATION LAWSUIT: In May of 2010, a jury in a gender discrimination case pending in a New York City federal court awarded a class of 5,600 female plaintiffs over \$250 million in punitive damages and almost \$4 million in compensatory damages. A back pay award is also expected. The plaintiffs are current and former sales employees of a drug maker who alleged they suffered bias in pay, promotional opportunities and pregnancy-related matters. Here is a news article with some more details about the lawsuit and the plaintiffs' verdict: <http://www.nytimes.com/2010/05/20/business/20drug.html> Some news accounts have said this is the largest gender discrimination lawsuit ever to go to a jury verdict in the United States. Once again, these kinds of cases remind us all of the value a good HR compliance program brings to any organization. When other management calls HR a cost center instead of a profit center for the business, you can simply respond as follows: “I know how to save you \$250 million...”

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Legal-mail is a legal and legislative update service sent out about twice a month to various Utah SHRM members and chapters. As a courtesy to SHRM, the Utah law firm of Jones Waldo Holbrook & McDonough P.C. underwrites the costs of the service. If you have any questions or comments, please contact Michael Patrick O'Brien.

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