

MAINE STATE LEGISLATURE

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PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF LABOR
BUREAU OF LABOR STANDARDS
45 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0045

JOHN BUTERA
COMMISSIONER

2018 ANNUAL REPORT ON WAGE & HOUR VIOLATIONS

The Honorable Amy Volk, Senate Chair
The Honorable Ryan Fecteau, House Chair
Members of the Joint Committee on Labor, Commerce, Research and Economic Development
128th Maine Legislature
100 State House Station
Augusta, ME 04333-0100

Dear Senator Volk, Representative Fecteau, and Members of the Joint Committee on Labor, Commerce, Research and Economic Development:

I herein present to the Committee, the Department of Labor's annual report on Wage & Hour Violations in accordance with 26 MRS §673.

The department moved to a new case management system in June 2016. The new system does not provide us the ability to run ad-hoc reports at this time. Since this law's inception, the department has been working diligently to resolve this issue and is attempting to purchase a program that will allow us the ability to run ad-hoc reports and extract the specific information necessary for this report.

For the 2017 calendar year, the Wage & Hour Division received 346 complaints. Thirty-eight (38) of these complaints were determined not within the jurisdiction of this division. Of the remaining 308 complaints, the department took final action on 184 cases involving 71 separate industries where violations of Maine's wage & hour laws occurred. Out of the cases with violations, 42% (78 cases) involved service industries such as full service restaurants, limited service restaurants, drinking places, and snack and nonalcoholic beverage bars (i.e., coffee shops, donut shops, ice cream shops).

Within the 346 total complaints filed in 2017, eleven cases are still open investigations. The department did not take final action on 113 cases due to various factors such as:

- Investigation completed but no violations found
- Unable to determine if a violation occurred
- Investigation initiated, but complainant decides to pursue a private right of action
- The business closed and is no longer in operation
- The employer corrected the issue immediately

The department assessed a total of \$24,532.50 in penalties of which \$14,000.00 has been collected to date. At least four of the businesses that were assessed penalties are no longer in operation. The amount of time it takes for a complaint to reach final resolution varies depending on a number of factors (i.e., is the employer local; how accessible are the records; the number of records to be audited; are the records complete, true and accurate; has the employer retained counsel; etc.). For this reporting period, the number of days between the time the complaint is filed and final resolution by the department range between 1 day and 184 days.

Attached to this report is a breakdown of the 184 complaints that the department has taken to final action which includes the following information:

- A. Industry;
- B. Fines Sought by the department;
- C. Fines Collected by the department; and
- D. Length of time between the filing of the complaint and final resolution.



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The department takes all facts into consideration when determining if penalties will be assessed, including but not limited to:

- The nature of the violation;
- Is the issue an isolated incident; or
- Has the employer demonstrated a pattern of behavior where they continue to violate the law?

The penalty amount is calculated according to the specific law violation and the department's rules regarding the severity of the law and history of previous violations. The department's rules allow for a penalty adjustment to be made when an employer demonstrates a good faith effort to correct the violation by instituting procedural changes to reduce the likelihood of future violations as well as considering the size of the employer. At no time, can the penalty be adjusted below the statutory minimum.

Not all violations warrant the assessment of a penalty. Ideally, the goal is to achieve voluntary compliance with wage & hour laws. Often that can be accomplished through educating the employer when an issue arises. In other cases, the only way to achieve compliance is progressing through the penalty process.

When a penalty is assessed, the employer receives a citation letter via certified mail and first class mail. The employer has 15 days to file an appeal of any violation or request a penalty discussion to reduce the penalty amount. If no appeal or request for a penalty discussion is received, the decision becomes final. If a penalty remains outstanding, a notice of final order is mailed to the employer, ideally, at 30, 60, and 90 day intervals. If the penalty is still outstanding after 90 days the department consults with the Attorney General Office for potential court action.

I hope this report demonstrates that the department is taking a proactive approach in its effort to enforce Maine's wage & hour laws. The department tries to follow up with all businesses where violations have occurred, by conducting an inspection the following year to ensure they are in compliance with all wage & hour laws.

Respectfully,

Scott Cotnoir
Director, Wage & Hour Division

Annual Report in Accordance with Title 26 sec. 673

February 15, 2018

<u>Industry</u>	<u>Fines Assessed</u>	<u>Fines Collected</u>	<u>Number of Days to Final Resolution</u>
111219.Other Vegetable (except Potato) and Melon Farming	\$1,800.00		23
113310.Logging	\$525.00	\$525.00	6
113310.Logging	\$1,400.00		15
236115.New Single-Family Housing Construction (except For-Sale Bldrs)			1
236115.New Single-Family Housing Construction (except For-Sale Bldrs)			34
237130.Power and Comm. Line and Related Structures Const.			23
238111.Residential Poured Foundation Contractors			43
238311.Residential Drywall Contractors			39
238321.Residential Painting Contractors	\$150.00	\$150.00	3
311611.Animal (except Poultry) Slaughtering			1
312120.Breweries			11
323111.Commercial Printing (except Screen and Books)			7
* 326199.All Other Plastics Product Manufacturing	\$2,700.00		97
339950.Sign Manufacturing			72
423930.Recyclable Material Merchant Wholesalers			13
424910.Farm Supplies Merchant Wholesalers			8
425120.Wholesale Trade Agents and Brokers			19
441110.New Car Dealers			14
441120.Used Car Dealers			20
445110.Supermarkets and Other Grocery (except Convenience) Stores			6
445110.Supermarkets and Other Grocery (except Convenience) Stores			4
445110.Supermarkets and Other Grocery (except Convenience) Stores			6
445110.Supermarkets and Other Grocery (except Convenience) Stores			16
445120.Convenience Stores			2
445120.Convenience Stores	\$75.00	\$75.00	4
445120.Convenience Stores			7
445120.Convenience Stores	\$225.00		13
445120.Convenience Stores			13
445120.Convenience Stores			16
445230.Fruit and Vegetable Markets			90
445230.Fruit and Vegetable Markets			140
445310.Beer, Wine, and Liquor Stores	\$550.00	\$550.00	28
447110.Gasoline Stations with Convenience Stores	\$250.00	\$250.00	11
447110.Gasoline Stations with Convenience Stores			3
451130.Sewing, Needlework, and Piece Goods Stores			5
452990.All Other General Merchandise Stores			1
453220.Gift, Novelty, and Souvenir Stores	\$200.00		57
* 453991.Tobacco Stores	\$187.50		11
453998.All Other Miscellaneous Store Retailers (except Tobacco Stores)	\$150.00	\$150.00	116
453998.All Other Miscellaneous Store Retailers (except Tobacco Stores)	\$75.00	\$75.00	8
481111.Scheduled Passenger Air Transportation			6
484121.General Freight Trucking, Long-Distance, Truckload	\$450.00	\$450.00	7
484220.Specialized Freight (except Used Goods) Trucking, Local			6
488490.Other Support Activities for Road Transportation			24
493110.General Warehousing and Storage			2
512131.Motion Picture Theaters (except Drive-Ins)			5
531311.Residential Property Managers			21
531311.Residential Property Managers			39
541110.Offices of Lawyers			5
541199.All Other Legal Services			12

Annual Report in Accordance with Title 26 sec. 673

February 15, 2018

<u>Industry</u>	<u>Fines Assessed</u>	<u>Fines Collected</u>	<u>Number of Days to Final Resolution</u>
* 541219.Other Accounting Services	\$975.00		139
541320.Landscape Architectural Services			27
541511.Custom Computer Programming Services			34
541512.Computer Systems Design Services			16
541611.Admin. Mngmt and General Mngmt Consulting Services	\$250.00	\$250.00	13
561110.Office Administrative Services			42
561110.Office Administrative Services			23
561410.Document Preparation Services			14
** 561421.Telephone Answering Services	\$110.00	\$100.00	27
561422.Telemarketing Bureaus and Other Contact Centers			5
561612.Security Guards and Patrol Services			124
561612.Security Guards and Patrol Services			124
561720.Janitorial Services	\$200.00		78
** 561730.Landscaping Services	\$500.00	\$350.00	30
561730.Landscaping Services	\$150.00	\$150.00	50
561990.All Other Support Services			7
562213.Solid Waste Combustors and Incinerators			27
562910.Remediation Services			153
611110.Elementary and Secondary Schools	\$110.00		27
611110.Elementary and Secondary Schools			30
611310.Colleges, Universities, and Professional Schools			102
611620.Sports and Recreation Instruction	\$250.00	\$250.00	33
621610.Home Health Care Services			18
621610.Home Health Care Services	\$550.00	\$550.00	13
622110.General Medical and Surgical Hospitals			22
622110.General Medical and Surgical Hospitals	\$125.00	\$125.00	4
622110.General Medical and Surgical Hospitals			13
623110.Nursing Care Facilities (Skilled Nursing Facilities)			6
623990.Other Residential Care Facilities			184
624110.Child and Youth Services			33
624190.Other Individual and Family Services	\$900.00	\$900.00	39
624221.Temporary Shelters	\$150.00	\$150.00	73
624310.Vocational Rehabilitation Services	\$165.00	\$165.00	7
624410.Child Day Care Services			7
713910.Golf Courses and Country Clubs			7
713910.Golf Courses and Country Clubs	\$100.00	\$100.00	27
713940.Fitness and Recreational Sports Centers	\$110.00	\$110.00	34
713940.Fitness and Recreational Sports Centers			57
713990.All Other Amusement and Recreation Industries	\$150.00	\$150.00	26
721110.Hotels (except Casino Hotels) and Motels			15
721110.Hotels (except Casino Hotels) and Motels			18
721110.Hotels (except Casino Hotels) and Motels	\$150.00	\$150.00	36
721110.Hotels (except Casino Hotels) and Motels	\$125.00		42
721211.RV (Recreational Vehicle) Parks and Campgrounds	\$50.00	\$50.00	25
721211.RV (Recreational Vehicle) Parks and Campgrounds			10
721211.RV (Recreational Vehicle) Parks and Campgrounds			6
721214.Recreational and Vacation Camps (except Campgrounds)			87
722410.Drinking Places (Alcoholic Beverages)			8
722410.Drinking Places (Alcoholic Beverages)	\$1,050.00		103

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February 15, 2018

<u>Industry</u>	<u>Fines Assessed</u>	<u>Fines Collected</u>	<u>Number of Days to Final Resolution</u>
722511.Full-Service Restaurants			5
722511.Full-Service Restaurants			6
722511.Full-Service Restaurants			6
722511.Full-Service Restaurants			7
722511.Full-Service Restaurants			8
722511.Full-Service Restaurants			9
722511.Full-Service Restaurants			9
722511.Full-Service Restaurants			13
722511.Full-Service Restaurants			28
722511.Full-Service Restaurants			1
722511.Full-Service Restaurants	\$50.00	\$50.00	3
722511.Full-Service Restaurants	\$50.00		4
722511.Full-Service Restaurants			5
722511.Full-Service Restaurants			6
722511.Full-Service Restaurants			6
722511.Full-Service Restaurants			7
722511.Full-Service Restaurants			7
722511.Full-Service Restaurants			9
722511.Full-Service Restaurants	\$50.00	\$50.00	9
722511.Full-Service Restaurants	\$250.00	\$250.00	10
722511.Full-Service Restaurants			11
722511.Full-Service Restaurants			11
722511.Full-Service Restaurants	\$375.00		11
722511.Full-Service Restaurants			12
722511.Full-Service Restaurants			13
722511.Full-Service Restaurants	\$100.00	\$100.00	13
722511.Full-Service Restaurants			14
722511.Full-Service Restaurants			16
722511.Full-Service Restaurants	\$600.00	\$600.00	20
722511.Full-Service Restaurants			21
722511.Full-Service Restaurants	\$50.00	\$50.00	21
722511.Full-Service Restaurants			22
722511.Full-Service Restaurants	\$50.00	\$50.00	26
722511.Full-Service Restaurants	\$75.00		26
722511.Full-Service Restaurants	\$125.00	\$125.00	29
722511.Full-Service Restaurants			29
722511.Full-Service Restaurants	\$250.00	\$250.00	29
722511.Full-Service Restaurants			30
722511.Full-Service Restaurants	\$150.00	\$150.00	31
722511.Full-Service Restaurants	\$150.00		31
722511.Full-Service Restaurants	\$75.00	\$75.00	33
722511.Full-Service Restaurants	\$150.00	\$150.00	35
722511.Full-Service Restaurants	\$100.00		38
722511.Full-Service Restaurants	\$300.00	\$300.00	39
722511.Full-Service Restaurants			39
722511.Full-Service Restaurants	\$150.00		54
722511.Full-Service Restaurants	\$50.00	\$50.00	57
722511.Full-Service Restaurants			76
722511.Full-Service Restaurants	\$200.00	\$200.00	76
722511.Full-Service Restaurants			101

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February 15, 2018

<u>Industry</u>	<u>Fines Assessed</u>	<u>Fines Collected</u>	<u>Number of Days to Final Resolution</u>
722511.Full-Service Restaurants	\$50.00	\$50.00	109
722513.Limited-Service Restaurants			7
722513.Limited-Service Restaurants			1
722513.Limited-Service Restaurants			1
722513.Limited-Service Restaurants			4
722513.Limited-Service Restaurants			1
722513.Limited-Service Restaurants			1
722513.Limited-Service Restaurants			2
722513.Limited-Service Restaurants			3
722513.Limited-Service Restaurants	\$525.00	\$525.00	4
722513.Limited-Service Restaurants	\$50.00	\$50.00	7
722513.Limited-Service Restaurants	\$1,500.00	\$1,500.00	8
722513.Limited-Service Restaurants			11
722513.Limited-Service Restaurants			13
722513.Limited-Service Restaurants			25
*** 722513.Limited-Service Restaurants	\$500.00	\$50.00	39
722513.Limited-Service Restaurants	\$2,750.00	\$2,750.00	91
722513.Limited-Service Restaurants			106
722514.Cafeterias, Grill Buffets, and Buffets			5
722515.Snack and Nonalcoholic Beverage Bars			3
722515.Snack and Nonalcoholic Beverage Bars			2
722515.Snack and Nonalcoholic Beverage Bars			17
722515.Snack and Nonalcoholic Beverage Bars	\$375.00	\$375.00	7
722515.Snack and Nonalcoholic Beverage Bars			14
722515.Snack and Nonalcoholic Beverage Bars	\$425.00	\$425.00	4
811192.Car Washes			10
* 811192.Car Washes	\$50.00		20
812199.Other Personal Care Services			15
812310.Coin-Operated Laundries and Drycleaners			21
812310.Coin-Operated Laundries and Drycleaners			13
812990.All Other Personal Services			4
813410.Civic and Social Organizations			7
813990.Other Similar Orgs. (except Bus., Prof., Labor, and Political Orgs.)			1
814110.Private Households			50
814110.Private Households	\$50.00	\$50.00	9
Total	\$24,532.50	\$14,000.00	

- * Business no longer in operation
- ** Penalty adjusted after holding a penalty discussion
- *** Employer requested a payment plan