

MAINE STATE LEGISLATURE

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JANET T. MILLS
GOVERNOR

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

LAURA A. FORTMAN
COMMISSIONER

2019 ANNUAL REPORT ON WAGE & HOUR VIOLATIONS

The Honorable Shenna Bellows, Senate Chair
The Honorable Michael Sylvester, House Chair
Members of the Joint Standing Committee on Labor and Housing
129th Maine Legislature
100 State House Station
Augusta, ME 04333-0100

Dear Senator Bellows, Representative Sylvester, and Members of the Joint Standing Committee on Labor and Housing:

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

The Wage & Hour Division consists of seven individuals which include a Director, Chief Inspector, four Labor & Safety Inspectors, and a non-enforcement Consumer Assistance Specialist that is responsible for processing all child labor work permits. The Chief Inspector and four Labor & Safety Inspectors are responsible for enforcing Maine's wage & hour laws with approximately 54,000 businesses in a state that covers approximately 35,000 square miles. Compliance is accomplished through various means such as inspections, complaint investigations and outreach and education.

For the 2018 calendar year, the Wage & Hour Division received 334 complaints and conducted an additional 820 inspections. Out of the 334 complaints, thirty-two were determined to be outside the jurisdiction of this division. Of the remaining 302 complaints, the department took final action on 100 cases where violations of Maine's wage & hour laws occurred, involving sixty-four separate industries. Out of the sixty-four separate industries identified in these complaints, 33% of the violations occurred in the service industry which include full-service restaurants, limited-service restaurants, drinking places, and snack and nonalcoholic beverage bars (i.e., coffee shops, donut shops, ice cream shops).

From the one hundred complaints taken to final action where violations were found, the department assessed penalties totaling \$44,967.50 of which \$10,972.50 has been collected to date. At least two of the businesses that were assessed penalties are no longer in operation. The Division recovered approximately \$261,243 in unpaid wages owed to approximately 347 Maine workers. This equates to more than \$752 per person, on average.

Out of the 334 total complaints filed in 2018, twenty-five cases are still open investigations and 177 cases did not involve a bon a fide violation of Maine's wage & hour laws. The amount of time taken for a complaint to reach final resolution ranged between 1 day and 317 days during this report period.

Attached to this report is a breakdown of the 100 complaints that the department has taken to final action where violations were found, 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.

There are many factors to consider when determining if penalties will be assessed such as the nature of the violation, has the employer demonstrated a pattern of behavior where they continue to violate the law or is the violation an isolated incident or error.



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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 fifteen 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 after the appeal period expires, a notice of final order is mailed to the employer. If the penalty still remains outstanding, the department consults with the Attorney General Office for potential court action.

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

Respectfully,

A handwritten signature in cursive script, appearing to read 'S. H. R. Cotnoir'.

Scott Cotnoir
Director, Wage & Hour Division

Annual Report on 2018 Wage & Hour Violations

<u>NAICS</u>	<u>INDUSTRY</u>	<u>Fines</u> <u>Assessed</u>	<u>Fines</u> <u>Collected</u>	<u>Number of</u> <u>Days to Final</u> <u>Resolution</u>	
** 113310	Logging	\$1,400.00	\$892.50	41	
114112	Shellfish Fishing			63	
221117	Biomass Electric Power Generation			37	
236115	New Single-Family Housing Construction (except For-Sale Builders)			27	
236115	New Single-Family Housing Construction (except For-Sale Builders)			14	
236115	New Single-Family Housing Construction (except For-Sale Builders)			12	
238111	Residential Poured Foundation Contractors			133	
238131	Residential Framing Contractors			93	
238161	Residential Roofing Contractors			162	
238171	Residential Siding Contractors			38	
238220	Plumbing, Heating, and Air-Conditioning Contractors			52	
238311	Residential Drywall Contractors			49	
238321	Residential Painting Contractors			24	
238351	Residential Finish Carpentry Contractors			22	
238992	All Other Nonresidential Trade Contractors			50	
332312	Fabricated Structural Metal Manufacturing			52	
423140	Motor Vehicle Parts (Used) Merchant Wholesalers			72	
423310	Lumber, Plywood, Millwork, and Wood Panel Merchant Wholesalers			6	
441120	Used Car Dealers	\$3,900.00		291	FINAL ORDER
445110	Supermarkets and Other Grocery (except Convenience) Stores			12	
445120	Convenience Stores			232	
447110	Gasoline Stations with Convenience Stores	\$250.00	\$250.00	163	
447110	Gasoline Stations with Convenience Stores			1	
452112	Discount Department Stores			140	
452112	Discount Department Stores			54	
484121	General Freight Trucking, Long-Distance, Truckload			53	
484122	General Freight Trucking, Long-Distance, Less Than Truckload			70	
484210	Used Household and Office Goods Moving			27	
484210	Used Household and Office Goods Moving			134	
485310	Taxi Service			34	
524210	Insurance Agencies and Brokerages			48	
531110	Lessors of Residential Buildings and Dwellings			177	
531311	Residential Property Managers			9	
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing			24	
541219	Other Accounting Services			22	
541380	Testing Laboratories			42	
541690	Other Scientific and Technical Consulting Services			36	
541940	Veterinary Services			100	
561422	Telemarketing Bureaus and Other Contact Centers			43	
** 561612	Security Guards and Patrol Services	\$250.00	\$150.00	122	
561612	Security Guards and Patrol Services			55	
561621	Security Systems Services (except Locksmiths)	\$18,600.00		167	FINAL ORDER
561720	Janitorial Services	\$225.00	\$225.00	17	
561720	Janitorial Services			44	
561720	Janitorial Services			35	
561730	Landscaping Services	\$150.00		317	FINAL ORDER
561730	Landscaping Services			6	
561730	Landscaping Services			54	
611610	Fine Arts Schools			36	
621111	Offices of Physicians (except Mental Health Specialists)			140	
621420	Outpatient Mental Health and Substance Abuse Centers			40	
621610	Home Health Care Services			60	
623220	Residential Mental Health and Substance Abuse Facilities			13	
623312	Assisted Living Facilities for the Elderly			49	
623990	Other Residential Care Facilities	\$150.00	\$150.00	184	

<u>NAICS</u>	<u>INDUSTRY</u>	<u>Fines Assessed</u>	<u>Fines Collected</u>	<u>Number of Days to Final Resolution</u>	
624120	Services for the Elderly and Persons with Disabilities			4	
624120	Services for the Elderly and Persons with Disabilities			6	
624120	Services for the Elderly and Persons with Disabilities			70	
624190	Other Individual and Family Services			148	
624310	Vocational Rehabilitation Services			93	
624410	Child Day Care Services			69	
624410	Child Day Care Services			237	
624410	Child Day Care Services			0	
624410	Child Day Care Services			65	
711110	Theater Companies and Dinner Theaters			180	
** 713110	Amusement and Theme Parks	\$14,400.00	\$7,350.00	53	
721110	Hotels (except Casino Hotels) and Motels			25	
721110	Hotels (except Casino Hotels) and Motels			31	
721110	Hotels (except Casino Hotels) and Motels			150	
721214	Recreational and Vacation Camps (except Campgrounds)			83	
722310	Food Service Contractors			78	
722410	Drinking Places (Alcoholic Beverages)			10	
* 722511	Full-Service Restaurants	\$1,187.50		99	Business Closed
722511	Full-Service Restaurants			22	
722511	Full-Service Restaurants			9	
722511	Full-Service Restaurants	\$275.00	\$275.00	94	
722511	Full-Service Restaurants			143	
722511	Full-Service Restaurants			115	
722511	Full-Service Restaurants			35	
722511	Full-Service Restaurants	\$2,050.00		191	FINAL ORDER
722511	Full-Service Restaurants			50	
722511	Full-Service Restaurants			51	
722511	Full-Service Restaurants			137	
722511	Full-Service Restaurants	\$650.00	\$650.00	70	
722511	Full-Service Restaurants			65	
722511	Full-Service Restaurants	\$250.00	\$250.00	15	
722511	Full-Service Restaurants			39	
722511	Full-Service Restaurants			63	
722511	Full-Service Restaurants			16	
722513	Limited-Service Restaurants			62	
722515	Snack and Nonalcoholic Beverage Bars			21	
722515	Snack and Nonalcoholic Beverage Bars			15	
811111	General Automotive Repair			28	
811192	Car Washes	\$50.00	\$50.00	34	
812199	Other Personal Care Services	\$250.00	\$250.00	314	
* 812199	Other Personal Care Services	\$450.00		151	Business Closed
812199	Other Personal Care Services	\$150.00	\$150.00	36	
812320	Drycleaning and Laundry Services (except Coin-Operated)			64	
813930	Labor Unions and Similar Labor Organizations			10	
923130	Administration of Human Resource Programs	\$330.00	\$330.00	57	
	total	\$44,967.50	\$10,972.50		

* Business Closed

** Penalty adjusted after holding a penalty discussion