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ANNUAL REPORT ON WAGE AND HOUR COMPLAINTS AND VIOLATIONS IN 2022

Maine Department of Labor, Bureau of Labor
Standards, Wage and Hour Division

February 2023

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Introduction

The Maine Department of Labor is pleased to present this report in accordance with 26 MRS § 673. The Department shares the Committee's interest in better understanding the nature and frequency of employment law violations occurring in various industries across the state. The Bureau of Labor Standards' Wage and Hour Division is responsible not only for enforcing, but for assembling information to assess the effectiveness, of labor laws.

Last year was the first full year the Bureau of Labor Standards' Wage and Hour Division was expanded to include a Director, a Chief Inspector, eight Inspectors and one Field Investigator, and an Assistant Attorney General who was committed entirely to the work of the Bureau. We are using these enhanced resources strategically by conducting increased outreach and education, targeting our inspections more effectively, pursuing egregious violators more forcefully, publicizing our efforts more broadly, and most recently by engaging directly in litigation when warranted.

As we focus our resources more intently on those situations where the prospect of mitigating harm to workers is greatest, the investigations we pursue tend to be larger, more complex and more time-consuming. We believe the data show that this approach is beginning to be effective, and that this report demonstrates those early results. Among other things, we have reduced the number of complaints that we fully investigate by filtering out those that can be better addressed by other means, while increasing the number of targeted inspections we conduct (see "Non-Complaint Inspections" beginning on page 4).

At the same time, our Division Director and Chief Inspector are working with our dedicated Assistant Attorney General to train our Inspectors to better recognize and develop information necessary to produce enforceable citations and if necessary successful litigation in the most difficult and impactful cases. As we learn to target and develop these cases more effectively, we expect to achieve better results for more workers in the coming years.

We also believe that more broadly publicizing our enforcement efforts has begun to bear fruit. Interest and attendance at our Wage and Hour Compliance classes has skyrocketed, and inquiries about employment law from both workers and employers have increased. Employers knowing that they may not only be subject to penalties and payment of back wages for noncompliance, but that their violations may appear on our webpage or in the media, seems to lead to more willingness to work with us to settle any complaints that may arise.

In both our education and enforcement efforts, we are also targeting those industries and violations that most need our attention. As in previous years, this report shows that Accommodation and Food Services and Health Care and Social Assistance were the sectors of greatest concern, and some of the most common violations involved recordkeeping, timely payment and overtime. These will be a large part of our focus going forward. While we believe that compliance with employment law is improving, we understand that we must continue to learn from the data and use it to guide our future efforts.

Despite our efforts, wage theft remains a real and serious problem in Maine. Though we know that the vast majority of employers operate in full compliance with employment law, violations frequently do occur. Once notified, most employers correct their practices willingly and quickly. But when violations are systematic, willful or recurring, they harm law-abiding employers and workers alike.

Knowing this, we are committed to detecting and eliminating wage and hour violations in order to protect Maine's residents and bolster its economy. We hope the information contained in this report will enable the Committee to better understand our progress toward achieving those goals.

One more note about child labor: While violations involving the employment of minors are not the most common in the data we report and rarely involve wage claims, the Department considers each such violation to be extremely serious in nature and to require immediate inspection and compliance. Protecting the safety, health and educational opportunities of our children is our first priority. This report shows that a handful of cases involving hundreds of child labor violations resulted in by far last year's largest fines and settlements. As a matter of great concern, we plan to elaborate in separate reports on the subject.

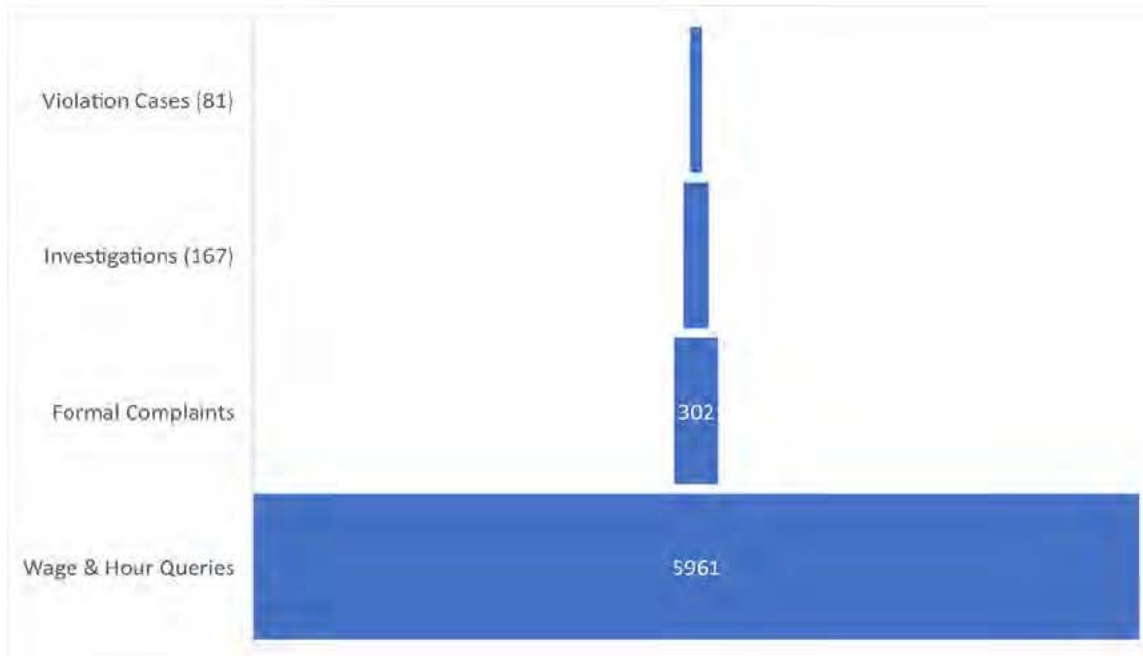
ANNUAL REPORT ON WAGE AND HOUR COMPLAINTS AND VIOLATIONS in 2022

The Complaint Process

As required by the statute, this report focuses mainly on complaints and their resulting violations. Most complaints start as phone calls or emails to the Department of Labor, many of which can be answered by Customer Service Unit staff. Other inquiries are referred to parts of the Department like the Bureau of Unemployment Compensation or to related agencies like the Maine Human Rights Commission, Workers Compensation Board and the federal Occupational Safety and Health Administration.

Of the approximately 13,000 calls and emails received in 2022 from workers and employers 5,961 were directed to the Bureau's Wage and Hour Division. Altogether in 2022, Wage and Hour Inspectors screened 4,896 calls and 1,065 emails. Many were quickly and easily answered then and there. Others were determined not to be covered by our statutes, and some referred to other agencies, as above. The remaining inquiries involved issues requiring further investigation

Figure 1: Complaint Filtering



If a complaint involves unpaid wages, the worker is asked to submit a formal complaint form, detailing the hours and wages to be investigated. The inspector and their supervisor will then decide whether the situation warrants a full investigation or can be resolved more efficiently in another manner. This is usually determined by the scope of the complaint and various factors including the number of workers affected and the value of unpaid wages alleged.

The Wage and Hour Division does not have resources available to investigate every complaint, so we need to prioritize those we investigate. If a complaint appears to be an isolated incident involving a single employee, we educate the employee on the law and remedies available to them through a private right of action. Out of the 302 complaints submitted in 2022, 103 either fell into this category or were eventually determined to be outside our jurisdiction, and thirty-two other cases were still in process at the time this report was written.

For a full investigation, the inspector interviews the complainant and employer separately to clarify the facts and determine whether an enforceable violation exists. Records of time worked and wages paid, often covering months and sometimes years past, are gathered and reviewed for compliance with employment law. This is inherently a very time-consuming and lengthy process, and in some cases may take many months to complete. Records may not be available, or be in an unconventional format; frequently, violations not included in the original complaint are discovered.

After the investigation is complete, a determination is made of the gravity of the violations and whether a penalty should be assessed. Penalties are determined according to bureau rules (included as Appendix A) which weigh factors such as the number and nature of the violations and whether there were previous similar violations by the same employer. Penalties are more likely and larger for a pattern of violations, whereas the size of the business and the cooperation of the employer may mitigate any fines assessed.

Investigations that discover unresolved violations conclude with our findings presented to the employer in a citation letter listing the violations and remedies. The employer then has 15 days to contest the findings or request a penalty discussion before the case becomes “final bureau action.”

Non-Complaint Inspections

In addition to responding to complaints, the Wage and Hour Division performs focused and random inspections. Simply responding to complaints is not an effective method of assuring compliance, nor of detecting and eliminating the most egregious violations of employment law. Among other considerations, some of the most vulnerable workers are also the least likely to report a violation. Research has shown that there are several reasons for this: lack of knowledge about protective laws, misunderstanding of reporting procedures, mistrust of enforcement authorities, disbelief in the effectiveness of complaints and fear of retribution by the employer.

- Focused Inspections are those in which the Wage and Hour Division assigns an inspector to a worksite to assess compliance as part of our strategic enforcement activities.
- Discretionary Inspections are conducted at the discretion of the inspector and are associated primarily with our outreach and education activities.

Focused and discretionary inspections declined considerably during the pandemic years and complaint cases are now more detailed to poise them for possible legal action as an end result should there be non-compliance. With 40,000 plus employers in the state, though, visiting each one systematically would be prohibitive given our resources.

Table 1 is a breakdown of those efforts.

Table 1: Count and Characteristics of 2022 Complaints and Inspections

Item	Complaints	Focused Inspection	Discretionary Inspection	Total
Cases	302	116	84	502
Cases Investigated	167	99	81	347
Cases with Violations	81	3	4	88
Statute Sections Violated	177	10	11	198
Number of Violations	5,811	218	282	6,311
Cases with Wages Owed	84	3	3	90
Workers Owed	657	16	3	676
Wages Due	\$491,850.03	\$12,330.28	\$1,114.27	\$505,294.58
Cases with Wages Paid	70	3	2	75
Workers Paid	429	15	2	446
Wages Paid	\$236,134.74	\$11,404.75	\$900.04	\$248,439.53
Cases with Fines Assessed	11	1	1	13
Initial Fines Assessed	\$360,580.00	\$2,150.00	\$37,000.00	\$399,730.00
Fines Paid	\$22,005.00	\$2,150.00	\$9,000.00	\$33,155.00

Clearly, complaint responses continue to detect the most violations and yield the most recovered wages. Ideally, however, focused and discretionary inspections, when strategically targeted and effective, can help prevent complaints as well as violations by discovering and addressing issues that may otherwise remain undetected. The Division intends to increase its focused and discretionary inspections.

Complaints Received in 2022

The Division received more formal complaints in 2022 than in 2021, but still fewer than immediately before the pandemic. Below is a yearly record of the number of formal complaints received, those that were investigated, those where violations were determined, the number of different statute sections violated, and number of violations. Starting in 2020, Wage and Hour citations included a multiplier for the number of workers and weeks of inadequate or unpaid wages or days of child labor violations. That increased the number of violations significantly.

Table 2: Count of Formal Complaints by Year and Progression

Year	Complaints	Investigated	Cases with Violations	Statute Sections Violated	Number of Violations
2017	324	284	101	209	209
2018	327	295	105	197	197
2019	317	288	147	323	1,350
2020	229	209	106	227	28,182
2021	247	215	114	259	31,831
2022	302	167	81	176	5,811

Complaints Investigated in 2022

This section reviews recent formal complaint cases in more detail.

The Wage and Hour Division completed 302 complaint investigations in 2022, an increase of 22.3% from 2021, likely reflecting the increased business activity from the initial pandemic-related decline in numbers in 2020 continuing into 2021. Of these, 81 cases were found to have enforceable violations. Please note that this information comes from a live case management system and updates are ongoing and the figures very much depend on the specific date when the data is exported for these reports. As such, these numbers are a snapshot in time. Cases are classified by the year the investigation part of our process ended. If there was no investigation process, then the case is counted in the year it was entered into the system which is usually when it is received.

The table below summarizes the progression and results of the Division's complaint cases immediately prior to this report.

Table 3: Summary of Complaint Cases in 2022 and 2021

Description	2022			2021
	Final	In Process	Total	Total
Complaint Cases	269	33	302	247
Cases Investigated	166	1	167	215
Cases with Violations	81	-	81	114
Laws Violated	176	-	176	259
Total Number of Violations	5,811		5,811	31,831
Cases w/Workers Owed	78	6	84	138
Number of Workers Owed	521	136	657	1,159
Wages Owed	\$362,514	\$129,336	\$491,850	\$585,260
Cases w/ Workers Paid	66	4	70	119
Number of Workers Paid	420	9	429	872
Wages Paid	\$230,731	\$5,404	\$236,135	\$437,046
Cases with Penalties Owed	10	1	11	39
Initial Fines Assessed	\$347,030	\$13,550	\$360,580	\$229,208
Penalties Paid	\$22,005		\$22,005	\$27,295

Within the 81 cases with violations discovered last year, 176 sections of the statute were cited 5,811 times as separate violations. Wages totaling \$491,850 were determined to be owed to 657 workers. To date, 429 (or 65%) of those workers have been paid back wages totaling \$236,135 (48%) of the wages owed. As is apparent, these numbers can vary greatly from year to year depending on the circumstances surrounding cases. We are confident that with the recent addition of an Assistant Attorney General the Bureau will more effectively pursue wages and penalties owed by employers.

Statute Sections Violated and Number of Violations

This section provides more detail regarding the 81 cases with violations, including the specific sections of the law violated in 2022 and the number of times that workers were affected by each violation.

Table 4: Cases and Number of Violations, by Violation Category and Statute Section

Statute Category / Statute Section	Cases with This Statute Section*	Number of Violations
Child Labor	12	777
26 MRS §771 Minors Under 14 Years of Age	4	6
26 MRS §774 (1) Restricted Hours - Minors 16 & 17 years of Age	4	67
26 MRS §774 (1)(E) No More Than 6 Days - 16 & 17 years of Age	1	1
26 MRS §774 (2) Restricted Hours -Minors Under 16 years of Age	5	498
26 MRS §774 (2)(E) No More Than 6 Days - Under 16 years of Age	1	1
26 MRS §774 (3) Work During School Hours	1	44
26 MRS §774 (7) Record of work hours of minors.	3	53
26 MRS §775 Work Permit	6	107
Records	32	2,082
26 MRS §622 Records	24	1,482
26 MRS §665 (1) Pay Statement	9	65
26 MRS §665 (1) True and Accurate Records	10	535
Wages	63	2,874
26 MRS §591-A Employee Misclassification	11	59
26 MRS §621-A (2) Regular payment required	1	1
26 MRS §621-A (5) Change in Rate of Pay	1	2
26 MRS §621-A Timely and Full Payment of Wages	53	1,472
26 MRS §626 Cessation of Employment	1	1
26 MRS §663 (K) Salary Exempt	4	77
26 MRS §664 (1) Minimum Wage	6	263
26 MRS §664 (2) Tip Credit	2	18
26 MRS §664 (2) Tips - Property of Employee	3	501
26 MRS §664 (3) Overtime Rate	11	479
26 MRS §664 (4) Compensatory Time Agreements	1	1
Workplace Rights	13	78
26 MRS §598-A Prospective employee's social security number	1	1
26 MRS §599-A Noncomplete agreements (4) Disclosure; notice	1	1
26 MRS §601 Rest Breaks	1	1
26 MRS §628 Equal Pay	1	1
26 MRS §629 Unfair Agreements	7	32
26 MRS §630 Written Reason for Termination	1	18
26 MRS §631 Personnel File	1	23
26 MRS §672 Unfair Contracts	1	1
Total	81*	5,811

*Will not add to the total because some cases had violations in multiple statute sections.

The most common violation in 2022 involved the timely and full payment of wages as required by 26 MRS section 621-A, which was found in 53 of the 81 complaint cases. Each time the employer failed to pay wages to each employee on each established pay date is counted as a separate violation, resulting in 1,472 violations.

While violations involving child labor appear relatively few, the Department considers each such violation to be extremely serious in nature and to require immediate inspection and compliance.

Complaints and Violations by Industry

Table 5 below reports complaints received by major industry group, along with the number of violations, number of employees owed back wages and the back wages owed.

Table 5: Complaint Cases, Violations, Workers and Wages Owed, by Industry Sector

Industry Sector	Complaint Cases Investigated	Cases with Violations	Statute Sections Violated	Number of Violations	Workers Owed	Wages Owed
11.Agriculture, Forestry, Fishing and Hunting	3	3	3	195	6	\$77,008
22.Utilities	2	-	-			
23.Construction	9	7	18	153	15	\$28,510
31-33.Manufacturing	4	3	4	55	10	\$28,948
42.Wholesale Trade	2	1	7	17		
44-45.Retail Trade	25	11	20	435	7	\$9,463
48-49.Transportation and Warehousing	10	2	5	363	3	\$733
51.Information	1	-	-		1	\$147
52.Finance and Insurance		-	-			
53.Real Estate and Rental and Leasing	3	3	5	553	4	\$1,654
54.Professional, Scientific, and Technical Services	3	1	4	66	1	\$6,298
55.Management of Companies and Enterprises	4	2	4	4	7	\$9,761
56.Administrative and Support and Waste Management and Remediation Services	9	2	3	3	3	\$470
61.Educational Services	2	-	-			
62.Health Care and Social Assistance	28	14	23	1,188	320	\$265,999
71.Arts, Entertainment, and Recreation	2	2	4	126	1	\$1,058

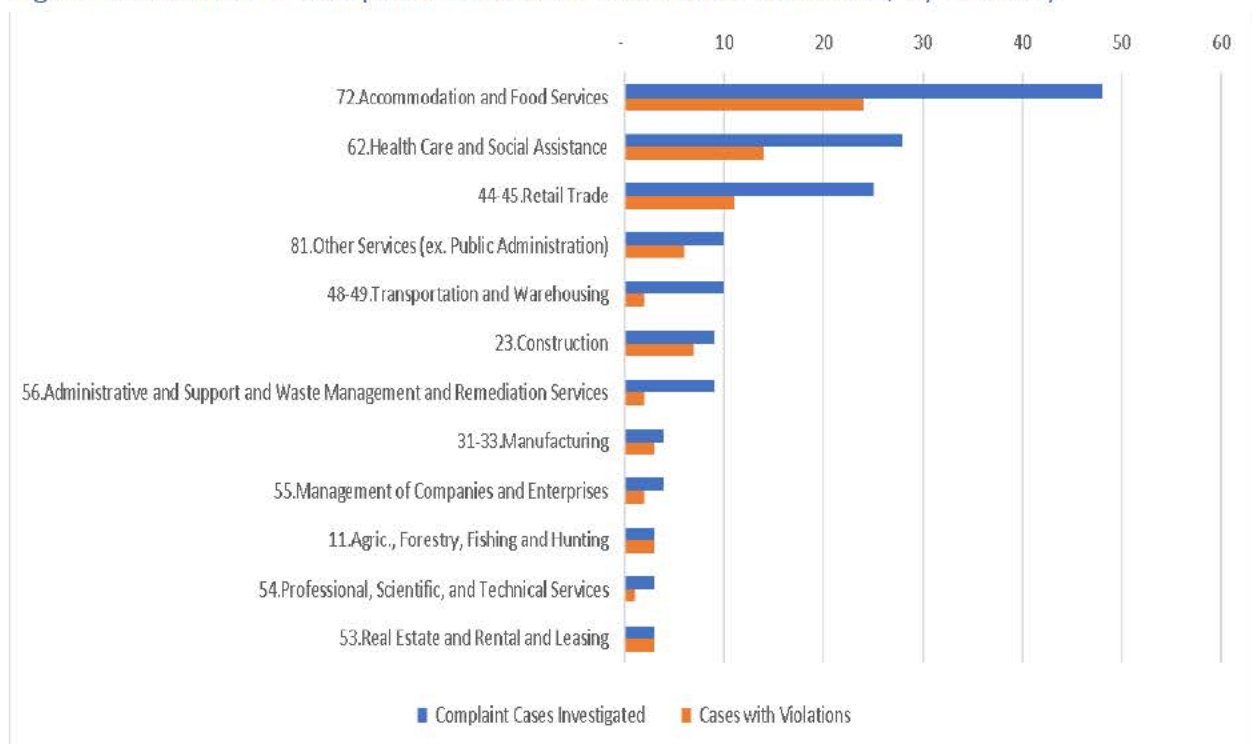
Industry Sector	Complaint Cases Investigated	Cases with Violations	Statute Sections Violated	Number of Violations	Workers Owed	Wages Owed
72.Accommodation and Food Services	48	24	63	2,523	267	\$32,898
81.Other Services (except Public Administration)	10	6	13	130	11	\$28,598
92.Public Administration	2	-	-		1	\$308
Total	167	81	176	5,811	657	\$491,850

A comprehensive breakdown of this information by six-digit NAICS industry appears in **Appendix B**.

The sector generating the most complaints and violations affecting the largest number of workers was Accommodation and Food Services with 24 cases with violations and 267 workers owed, however Health Care and Social Assistance had more wages owed.

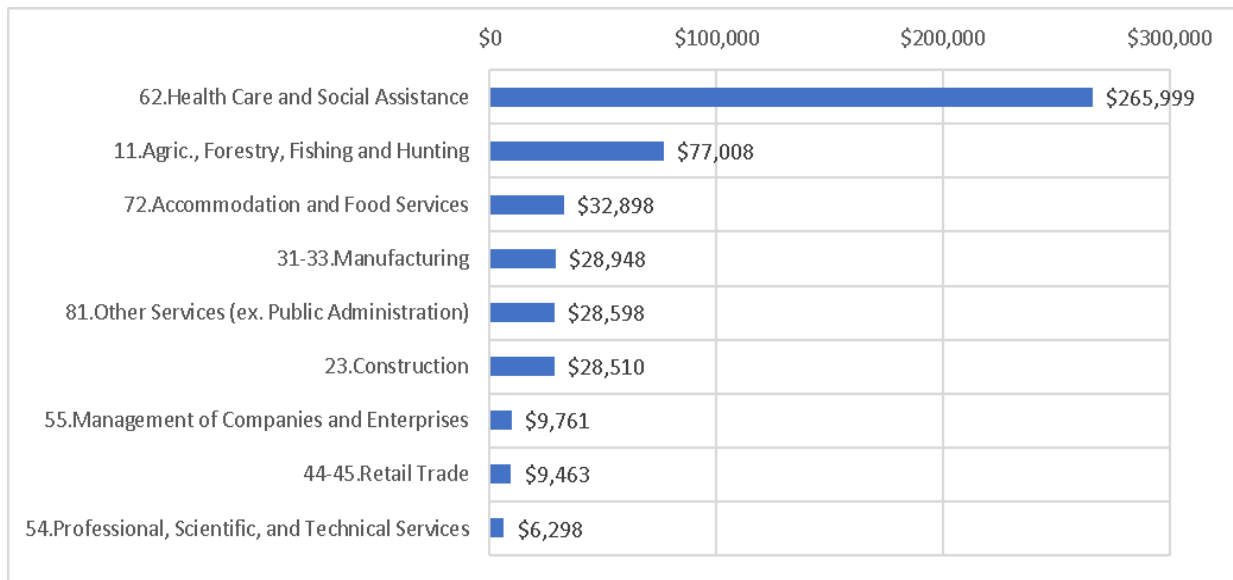
The twelve industries with three or more complaints cases investigated in 2022 are illustrated in Figure 2 below. As it and Appendix B demonstrate, food service establishments generated a large number of complaints and violations. Almost thirty percent (48) of the initial complaint cases are from either full service or limited service eating establishments, which also account for thirty percent of the cases with violations. Another 28 complaints (17%) were in the Health Care services group. The largest number within that group (13) were in the home health care group.

Figure 2: Number of Complaint Cases and Cases with Violations, by Industry



Wages owed provide another indicator of the seriousness of the violations within industry groups. The following table illustrates the nine industries in which the most money was owed to workers, mostly the same as above but in a different order. This table includes industry groups with greater than \$5,000 owed in wages. Almost all the wages owed in the Health care group were owed to workers in the Home Health Care industry group. Almost all the wages owed for the Agriculture, Forestry and Fishing industry group were from a single complaint and case involving 5 workers in the Soil Preparation, Planting and Cultivating industry group. (See Appendix B for a detailed breakdown.)

Figure 3: Wages Owed, by Industry



Complaints Involving Fines

At times, in addition to recovering wages owed to the worker, the Bureau will assess fines on a business. This section looks at cases where such fines were assessed and collected. Of the 81 cases with violations, 12 of the cases included 36 penalties assessed. Cases can have multiple penalties assessed for different sections of the law violated.

Table 6 lists fines as a result of an inspection, by those paid, and by the number of penalties of the particular statutory section of MRS Title 26 which was determined to be violated.

Table 6: Fines Assessed and Paid by Statute Section

Statute Section	Statutes with Fines Assessed	Initial Fines Assessed	Fine Adjustments	Fines Paid
591-A - Employee Misclassification	2	\$74,000		
621-A - Timely and Full Payment of Wages	7	\$35,890		\$90
622- Records	5	\$56,230		\$1,730
629 - Unfair Agreement	2	\$610		\$310
664(1) - Minimum Wage & Overtime	2	\$195		\$45
664(3) - Overtime	2	\$250		
665- Examination of Records & Pay Statements	2	\$1,500		
665 - Powers and Duties / including pay statement	2	\$255		\$155
771 - Youth Minimum Age	2	\$1,025		\$1,025
774 - Youth Hours of Employment	5	\$25,275	-\$11,250	\$2,275
774(F) - Youth -AM/PM Limits	2	\$141,500	-\$126,675	\$14,825
775 - Work Permits for under 16	3	\$26,000	-\$17,550	\$4,200
Total	36	\$362,730	-\$155,475	\$24,655

While there are not as many complaints or citations for them, child labor issues are something the Bureau takes seriously. The Youth -AM/PM Limits involved the highest initial penalties assessed and paid in 2022. This would be for hours beyond the limits set for daily work by a minor. There was a single complaint that resulted in a large finding of violations in 2022 and the result was a substantial fine and settlement, reflected in the penalties assessed and paid.

Table 7: Occurrences, Fines Assessed and Fines Paid by Industry Group

Industry Group	Cases with Fines in This Industry	Fines Assessed in this Industry	Fines Assessed	Fine Adjustments	Fines paid
111.Crop Production	1	1	\$1,730		\$1,730
236.Construction of Buildings	2	8	\$79,800		
445.Food and Beverage Retailers	1	2	\$500		\$500
531.Real Estate	2	4	\$63,550		
611.Educational Services	1	2	\$13,550		
713.Amusement, Gambling, and Recreation Industries	1	2	\$3,000		\$3,000
721.Accommodation	1	7	\$3,900		
722.Food Services and Drinking Places	3	10	\$196,700	-\$155,475	\$19,425
Total	12	36	\$362,730	-\$155,475	\$24,655

As in prior years, by far the greatest number and amount of penalties assessed were in the Food Services and Drinking Places industry.

The next table represents individual cases with penalties assessed and collected during calendar 2022, including the number of days to resolution of the complaint.

Table 8: Case-specific Penalties Assessed, Violations, Fines Assessed, Fines Paid and Days to Resolve by Industry Category

Industry	Fines Assessed	Violations	Net Fines Assessed	Fines Paid	Days to Resolve
111419.Other Food Crops Grown Under Cover	1	173	\$1,730	\$1,730	112
236115.New Single-Family Housing Construction (except For-Sale Builders)	4	17	\$3,500		216
236118.Residential Remodelers	4	81	\$76,300		98
445131.Convenience Retailers	2	4	\$500	\$500	119
531110.Lessors of Residential Buildings and Dwellings	1	2	\$200		14
531311.Residential Property Managers	3	551	\$63,350		253
611110.Elementary and Secondary Schools	2	150	\$13,550		72
713990.All Other Amusement and Recreation Industries	2	12	\$3,000	\$3,000	14
721110.Hotels (except Casino Hotels) and Motels	7	12	\$3,900		232
722511.Full-Service Restaurants	3	691	\$17,275	\$17,275	350
722511.Full-Service Restaurants	6	142	\$2,150	\$2,150	316
722513.Limited-Service Restaurants	1	218	\$21,800		109
Total	36	2,049	\$207,255	\$24,655	

Occasionally, assessed fines are reduced when employers demonstrate compliance with Maine's labor laws. To assure continued compliance, the Bureau may enter into settlement agreements wherein we reduce the penalties if the employer agrees to comply with all terms listed. In 2022, we entered into five such agreements. Each agreement has specific terms relevant to the types of violations found. The agreement remains in effect for a period of two to three years. In the event of any breach of the Settlement Agreement, the Department may enforce the entire amount of the penalties originally assessed, along with penalties for any additional violations subsequent to the date of the Agreement.

In this table we also see a new column called the Days to Resolve which is the number of days it took from the day the case was entered into the case management system to the date the inspection ended. These tend to be high for cases involving fines because the inspectors exercise great caution in getting accurate information.

Wage and Hour Violations Webpage

As another way to promote compliance, the Department has begun posting on its website reports of final enforcement actions taken by the Bureau. These describe citations which have either not been appealed or for which appeals have been exhausted. They contain the name and location of each employer, state whether penalties and back wages have been paid, and include links to citation letters and settlement agreements. Enforcement actions from 2021 and 2022 are currently listed, and the page is updated quarterly. To access the web page, use this link:

<https://www.maine.gov/labor/bls/whv2022/index.shtml>

Note that the downloadable spreadsheet list on the page includes outstanding penalties from prior years and may not match data in this report.

The screenshot shows a web browser window displaying the Maine Department of Labor's Wage and Hour Violations page for 2022. The browser's address bar shows the URL <https://www.maine.gov/labor/bls/whv2022/index.shtml>. The page has a navigation menu at the top with links like Home, Contact Us, Online Services, About MDOL, News and Events, Forms and Publications, MDOL Agencies, and Non-Labor Resources. A sidebar on the left lists various labor-related topics under the heading 'Maine Department of Labor'. The main content area is titled 'Wage and Hour Violations - 2022' and includes a sub-header '(Information last updated 11/07/2022)'. The text explains that the Maine Department of Labor's Wage and Hour Division enforces employment laws, including timely wage payment, recordkeeping, overtime, tips, and child labor. It summarizes workplace violations and the assessment of monetary penalties and actions taken by the Division in 2022. A link is provided for more information on Maine's employment laws: https://www.maine.gov/labor/labor_laws/wagehour.html. The page also mentions that the Department may offer settlement agreements with certain employers in cases where violations have been found. Each agreement has specific terms relative to the types of violations found. The agreements remain in effect for a period of two to three years. In the event of any breach of the Settlement Agreement, the Department may enforce the entire amount of the penalties originally assessed, along with penalties for any additional violations subsequent to the date of the Agreement. The Department may pursue additional enforcement action against employers who remain out of compliance and have not paid penalties assessed. Below this text, there is a section titled 'Wage Violation Information From Other Years' with links for 2021 and 2022. A 'Downloads' section includes a link to 'Download the 2022 Wage and Hour Violations list (excel)'. At the bottom, there is a section titled 'Wage Violation Information - 2022' which displays two entries in a table-like format: '4 Birdies LLC (d/b/a Limestone Country Club)' and 'Morales-Martinez Framing Drywall'.

Home → Wage and Hour Actions - 2022

Maine Department of Labor

- Jobs and Training
- Unemployment Insurance
- Disability Services
- WorkPlace Safety
- Labor Laws
- Labor Statistics
- Work Force Development

Wage and Hour Violations - 2022

(Information last updated 11/07/2022)

The Maine Department of Labor's Wage and Hour Division enforces employment laws, such as the timely and full payment of wages, recordkeeping, overtime, tips, child labor, and more. The following summarizes workplace violations that include the assessment of monetary penalties and actions taken by the Division in 2022, and if steps have been taken by the employers to comply.

For more information on Maine's employment laws, visit: https://www.maine.gov/labor/labor_laws/wagehour.html

As a means to accomplish future compliance with Maine's labor laws, the Department may offer settlement agreements with certain employers in cases where violations have been found. Each agreement has specific terms relative to the types of violations found. The agreements remain in effect for a period of two to three years. In the event of any breach of the Settlement Agreement, the Department may enforce the entire amount of the penalties originally assessed, along with penalties for any additional violations subsequent to the date of the Agreement.

The Department may pursue additional enforcement action against employers who remain out of compliance and have not paid penalties assessed.

Wage Violation Information From Other Years

- 2021
- 2022

Downloads

- [Download the 2022 Wage and Hour Violations list \(excel\)](#)

Wage Violation Information - 2022

4 Birdies LLC (d/b/a Limestone Country Club)	Morales-Martinez Framing Drywall
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Appendix Table A: RULES GOVERNING ADMINISTRATIVE CIVIL MONEY PENALTIES FOR LABOR LAW VIOLATIONS

12 DEPARTMENT OF LABOR

170 BUREAU OF LABOR STANDARDS

Chapter 9: RULES GOVERNING ADMINISTRATIVE CIVIL MONEY PENALTIES FOR LABOR LAW VIOLATIONS

Summary: The purpose of this chapter is to provide procedural parameters and procedures regarding the assessment of administrative civil money penalties for labor law violations. This rule also sets forth the procedure for appealing administrative civil money penalties.

Section I: Application

These rules apply to the assessment of administrative civil money penalties against employers determined to have violated Title 26, MRS Chapter 7.

Section II: Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

- A.** "Bureau" means the Bureau of Labor Standards, within the Department of Labor.
- B.** "Bureau Director" means the Director of the Bureau or Director's designee(s).
- C.** "Business days" means calendar days excluding any Saturday, Sunday, or Maine state holiday.
- D.** "Division" means the Division of Wage and Hour within the Bureau of Labor Standards, Department of Labor.
- E.** "Division Director" means the Director of the Division of Wage and Hour or Director's designee(s).
- F.** "Qualified hearing officer" means an individual with background or experience with adjudicatory proceedings under the Administrative Procedure Act; a Hearing Officer within the Division of Administrative Hearings within the Bureau of Unemployment Compensation, Department of Labor; or an attorney.

- G.** "Violation" means a single breach of the law as determined by the Director. For failure to respond to the survey and, where otherwise appropriate, each day may be considered a separate violation.
- H.** A "willful" violation is committed when the employer knew or, due to experience or expertise, should have known the operative facts that made its actions a violation of the law. A 'willful' violation includes an employer's intentional or reckless disregard of its obligations under the law.

Section III: Penalty Calculation

The penalty for a violation or set of violations must be based on the statutory penalty for the violation. The Division Director shall calculate the final penalty according to the following schedule.

A. Penalty Calculation for violations that have penalty ranges

The number of violations will be multiplied by the minimum penalty or lowest of any penalty range affixed in the statute. The result will then be multiplied by the severity and/or history of factors as outlined below. No per-violation penalty can exceed the statutory maximum or highest of the penalty range for that violation.

1. Severity	Multiplier
A minor was exposed to a hazardous Occupation; or the average underpayment was more than two weeks average pay for the affected employees; or the employer was in violation of 26 MRS §643 subsection 1, A through E.	1.50
The average underpayment was more than one weeks average pay for the affected employees.	1.25
The average underpayment was more than one-half weeks average pay for the affected employees.	1.10
2. History of Previous Violations	Multiplier
The employer has been adjudged in violation of the labor laws as set forth in Sec. I, has entered into a settlement agreement or consent decree,	2.0

and/or has been penalized
under these rules for the same or
similar violations.

The employer has previous violations of the same or similar nature that did not result in court action or penalty.	1.5
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3.	Repeat Violations	Multiplier
	First repeat violation	2.0
	Second through fourth repeat violation	5.0
	Fifth or greater repeat violation	10.0

4.	Willful Violations	Multiplier
	If the Division Director determines, in accordance with Section II. H. above, that the violation is willful	2.0

B. Penalty Adjustments

The result of the above calculation will then be adjusted based upon the good faith
and size of employer factors as outlined below.

1. Good Faith

An employer who makes timely restitution to affected employees and
institutes procedural changes to reduce the likelihood of future violations
will receive a reduction of 25%. An employer who had a multiplier of
more than 1.0 under history of previous violations is not eligible for this
adjustment.

2. Size of Employer

Number of Employees	Multiplier
1 - 20	.667
21 - 50	.850
51 - 100	.950
Over 100	1.000

C. Combining or grouping penalties for multiple violations

Where the penalty provision of the statutes allow, the Division Director may
combine or group the penalty amounts for multiple violations of the statute.

Section IV: Appeals

A. Notice of Penalty Assessment and Right to Appeal

The Division Director shall issue a Notice of Penalty Assessment in writing. Such notice must be sent by at least one of the following methods:

1. U.S. mail;
2. By hand; or
3. By email if the Division previously communicated with the employer by email.

The Notice of Penalty Assessment must state that the penalty may be appealed by making a written request for an appeal to the Bureau Director. The employer may request the appeal by U.S mail, hand delivery or email. The request for an appeal must be received by the Bureau Director within fifteen (15) business days from the date the Notice of Penalty Assessment was mailed or otherwise delivered.

B. Conduct of Hearing on Appeal to Bureau Director

1. The Bureau Director may serve as the hearing officer or may assign the appeal to a qualified Hearing Officer.
2. The Hearing Officer may call upon the parties to appear telephonically for a pre-hearing conference to identify issues, witnesses, exhibits and such other matters that may aid in the conduct of the hearing.
3. The Hearing Officer shall establish a hearing date and provide notice to the parties at least 10 days in advance of the hearing.
4. A parties' failure to participate in a pre-hearing conference and/or to comply with requirements of a pre-hearing order, such as providing witness and exhibit lists, may result in a default in accordance with 5 M.R.S. §9053(3).
5. The hearing will be conducted pursuant to the provisions of the *Administrative Procedure Act* governing adjudicatory proceedings, 5 M.R.S. §§ 9051-9064.
6. The hearing will be at the headquarters of the Bureau or at a place mutually agreeable to the parties. The hearing may be held telephonically or by remote video, at the discretion of the Bureau Director.

7. The Hearing Officer may sequester witnesses, except a representative of the employer, the Director of the Bureau, and the Director of the Division of Wage and Hour. An employer who is represented by counsel may have a representative in addition to counsel present throughout the hearing. The parties may agree not to sequester witnesses.
8. Evidence shall be admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious business.
9. All witnesses shall be sworn by the Hearing Officer.
10. The parties will have an opportunity to present evidence. Cross-examination of all witnesses shall be allowed.
11. The Hearing Officer decides the Order of Proceedings. The Division Director has the burden of production. The appellant has the burden of proof.
12. Within 30 days of the close of evidence, including any written closing statements or legal briefs, if allowed, the Hearing Officer shall issue a written Recommended Decision to the parties and to the Bureau Director. The Recommended Decision may be issued by U.S. mail, hand delivery or by email. The Recommended Decision shall include findings of fact sufficient to apprise the parties of the basis for the recommendation.
13. The parties may submit written objections or other comments on the Recommended Decision to the Bureau Director by U.S. mail, hand delivery or email within ten (10) business days after the Recommended Decision was issued.

C. Final Decision of the Bureau Director

The Bureau Director shall issue a Final Decision, which is final agency action within the meaning of 5 M.R.S. §11001. The Final Decision will be sent by U.S. mail, hand delivery or by email to all parties. The Final Decision of the Bureau Director shall be subject to review by the Superior Court, pursuant to 5 M.R.S. §11001.

Section V. Collections

Payment of any penalty is due to the Department of Labor within 30 business days after the issuance of the Notice of Penalty Assessment by the Division Director. Payment of the penalty is stayed during any appeal.

STATUTORY AUTHORITY:
26 M.R.S. §§ 42 and 53

EFFECTIVE DATE:
February 2, 2000 – filing 2000-79
May 24, 2002 – filing 2002-122 (Major substantive)
September 21, 2022 – filing 2022-177 (Major substantive)

Appendix Table B: Detailed Industry Data

Industry	Complaints	Cases with Violations	Statute Sections	Violations	Workers Owed	Wages Owed	Workers Paid	Wages Paid
111419.Other Food Crops Grown Under Cover	3	1	1	173			0	
111421.Nursery and Tree Production	1	0	0				0	
111998.All Other Miscellaneous Crop Farming	2	0	0				0	
114112.Shellfish Fishing	2	1	1	2	1	\$1,400	1	\$1,400
115112.Soil Preparation, Planting, and Cultivating	1	1	1	20	5	\$75,608	5	\$75,608
221114.Solar Electric Power Generation	1	0	0				0	
221117.Biomass Electric Power Generation	1	0	0				0	
236115.New Single-Family Housing Construction (except For-Sale Builders)	2	1	4	17	1	\$785	0	
236118.Residential Remodelers	5	2	8	93	3	\$436	3	\$436
236220.Commercial and Institutional Building Construction	3	0	0		1	\$101	1	\$101
237110.Water and Sewer Line and Related Structures Construction	1	0	0				0	
237990.Other Heavy and Civil Engineering Construction	1	0	0		1	\$1,600	0	
238131.Residential Framing Contractors	1	0	0				0	
238162.Nonresidential Roofing Contractors	1	0	0				0	
238210.Electrical Contractors and Other Wiring Installation Contractors	1	0	0				0	
238212.Nonresidential Electrical Contractors and Other Wiring Installation Contractors	1	1	2	2	2	\$0	2	\$1,008
238220.Plumbing, Heating, and Air-Conditioning Contractors	1	1	1	1	1	\$1,140	1	\$1,140
238222.Nonresidential Plumbing, Heating, and Air-Conditioning Contractors	1	0	0				0	
238310.Drywall and Insulation Contractors	1	1	1	15	5	\$21,616	5	\$21,616
238351.Residential Finish Carpentry Contractors	1	0	0				0	
238990.All Other Specialty Trade Contractors	1	0	0				0	
238992.All Other Nonresidential Specialty Trade Contractors	1	1	2	25	1	\$2,831	1	\$2,831

Industry	Complaints	Cases with Violations	Statute Sections	Violations	Workers Owed	Wages Owed	Workers Paid	Wages Paid
311421.Fruit and Vegetable Canning	1	0	0				0	
311811.Retail Bakeries	1	0	0				0	
324121.Asphalt Paving Mixture and Block Manufacturing	1	0	0				0	
325199.All Other Basic Organic Chemical Manufacturing	1	0	0				0	
325411.Medicinal and Botanical Manufacturing	2	1	1	48			0	
333415.Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing	1	1	2	2	5	\$28,814	8	\$28,814
336412.Aircraft Engine and Engine Parts Manufacturing	1	1	1	5	5	\$133	5	\$133
337212.Custom Architectural Woodwork and Millwork Manufacturing	1	0	0				0	
339112.Surgical and Medical Instrument Manufacturing	1	0	0				0	
339113.Surgical Appliance and Supplies Manufacturing	1	0	0				0	
423430.Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	1	0	0				0	
423930.Recyclable Material Merchant Wholesalers	1	1	7	17			0	
424460.Fish and Seafood Merchant Wholesalers	2	0	0				0	
441110.New Car Dealers	1	0	0		1	\$369	1	\$369
441210.Recreational Vehicle Dealers	1	0	0				0	
441340.Tire Dealers	2	0	0				0	
444140.Hardware Retailers	1	0	0				0	
445110.Supermarkets and Other Grocery Retailers (except Convenience Retailers)	3	1	1	1	1	\$348	1	\$348
445131.Convenience Retailers	2	1	2	2	1	\$440	1	\$440
445298.All Other Specialty Food Retailers	2	2	4	35	1	\$660	1	\$660
449210.Electronics and Appliance Retailers	1	1	2	2	1	\$757	1	\$773
455110.Department Stores	1	0	0				0	
455211.Warehouse Clubs and Supercenters	4	1	1	6			0	

Industry	Complaints	Cases with Violations	Statute Sections	Violations	Workers Owed	Wages Owed	Workers Paid	Wages Paid
455219.All Other General Merchandise Retailers	2	1	2	3	1	\$112	1	\$112
456191.Food (Health) Supplement Retailers	3	1	2	10	1	\$972	1	\$972
457210.Fuel Dealers	1	0	0				0	
459110.Sporting Goods Retailers	1	1	2	220	0	\$5,805	2	\$5,805
459420.Gift, Novelty, and Souvenir Retailers	1	0	0				0	
459930.Manufactured (Mobile) Home Dealers	1	1	1	133			0	
459991.Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers	1	0	0				0	
459999.All Other Miscellaneous Retailers	5	1	3	23			0	
484110.General Freight Trucking, Local	4	1	4	341	1	\$0	1	\$500
484121.General Freight Trucking, Long-Distance, Truckload	4	0	0				0	
484210.Used Household and Office Goods Moving	1	0	0				0	
484230.Specialized Freight (except Used Goods) Trucking, Long-Distance	1	0	0				0	
485410.School and Employee Bus Transportation	1	0	0				0	
488410.Motor Vehicle Towing	2	0	0		1	\$220	0	
488999.All Other Support Activities for Transportation	1	0	0				0	
491110.Postal Service	1	0	0				0	
492110.Couriers and Express Delivery Services	4	1	1	22	1	\$513	1	\$513
492210.Local Messengers and Local Delivery	1	0	0				0	
493110.General Warehousing and Storage	1	0	0				0	
517112.Wireless Telecommunications Carriers (except Satellite)	2	0	0		1	\$147	1	\$147
518210.Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services	1	0	0				0	
522310.Mortgage and Nonmortgage Loan Brokers	1	0	0				0	
524210.Insurance Agencies and Brokerages	1	0	0				0	
531110.Lessors of Residential Buildings and Dwellings	1	1	1	1	1	\$51	1	\$51
531210.Offices of Real Estate Agents and Brokers	1	0	0				0	
531311.Residential Property Managers	2	2	4	552	3	\$1,603	1	\$1,724

Industry	Complaints	Cases with Violations	Statute Sections	Violations	Workers Owed	Wages Owed	Workers Paid	Wages Paid
532283.Home Health Equipment Rental	1	0	0				0	
541110.Offices of Lawyers	1	0	0				0	
541191.Title Abstract and Settlement Offices	1	1	4	66			0	
541211.Offices of Certified Public Accountants	1	0	0				0	
541613.Marketing Consulting Services	1	0	0		1	\$6,000	0	
541940.Veterinary Services	1	0	0		0	\$298	1	\$298
551112.Offices of Other Holding Companies	3	2	4	4	6	\$7,924	0	
551114.Corporate, Subsidiary, and Regional Managing Offices	2	0	0		1	\$1,836	1	\$1,836
561311.Employment Placement Agencies	1	0	0				0	
561320.Temporary Help Services	6	0	0		1	\$350	1	\$350
561330.Professional Employer Organizations	2	0	0				0	
561421.Telephone Answering Services	1	0	0				0	
561422.Telemarketing Bureaus and Other Contact Centers	1	1	1	1			0	
561599.All Other Travel Arrangement and Reservation Services	1	0	0				0	
561612.Security Guards and Patrol Services	1	0	0				0	
561720.Janitorial Services	3	1	2	2	2	\$120	0	
561730.Landscaping Services	1	0	0				0	
561790.Other Services to Buildings and Dwellings	1	0	0				0	
561990.All Other Support Services	1	0	0				0	
562910.Remediation Services	1	0	0				0	
611110.Elementary and Secondary Schools	8	0	0				0	
611310.Colleges, Universities, and Professional Schools	1	0	0				0	
611699.All Other Miscellaneous Schools and Instruction	1	0	0				0	
621111.Offices of Physicians (except Mental Health Specialists)	1	0	0				0	
621210.Offices of Dentists	3	1	2	14	1	\$4,464	0	

Industry	Complaints	Cases with Violations	Statute Sections	Violations	Workers Owed	Wages Owed	Workers Paid	Wages Paid
621330.Offices of Mental Health Practitioners (except Physicians)	1	0	0				0	
621340.Offices of Physical, Occupational and Speech Therapists, and Audiologists	1	1	3	95	2	\$3,301	0	
621420.Outpatient Mental Health and Substance Abuse Centers	3	0	0		1	\$690	1	\$690
621498.All Other Outpatient Care Centers	1	0	0				0	
621610.Home Health Care Services	13	4	6	72	215	\$232,610	14	\$6,405
621910.Ambulance Services	1	0	0				0	
622110.General Medical and Surgical Hospitals	6	3	4	4	2	\$4,173	3	\$4,173
623110.Nursing Care Facilities (Skilled Nursing Facilities)	3	1	2	138	6	\$509	6	\$509
623210.Residential Intellectual and Developmental Disability Facilities	2	0	0				0	
623312.Assisted Living Facilities for the Elderly	2	1	1	1	47	\$1,806	47	\$5,644
623990.Other Residential Care Facilities	3	1	1	1	2	\$2,408	2	\$2,408
624120.Services for the Elderly and Persons with Disabilities	2	1	3	861	38	\$13,877	38	\$13,877
624190.Other Individual and Family Services	1	0	0				0	
624410.Child Care Services	4	1	1	2	6	\$2,161	6	\$2,382
713910.Golf Courses and Country Clubs	2	1	1	65	1	\$1,058	1	\$1,058
713940.Fitness and Recreational Sports Centers	2	0	0				0	
713950.Bowling Centers	1	0	0				0	
713990.All Other Amusement and Recreation Industries	3	1	3	61			0	
721110.Hotels (except Casino Hotels) and Motels	11	4	13	227	25	\$12,469	14	\$9,976
721211.RV (Recreational Vehicle) Parks and Campgrounds	1	1	6	6	1	\$535	1	\$535
721214.Recreational and Vacation Camps (except Campgrounds)	1	0	0				0	
722310.Food Service Contractors	1	0	0				0	
722410.Drinking Places (Alcoholic Beverages)	2	0	0				0	
722511.Full-Service Restaurants	34	10	26	1,000	24	\$8,020	29	\$14,643
722513.Limited-Service Restaurants	19	5	11	263	106	\$8,862	98	\$2,559

Industry	Complaints	Cases with Violations	Statute Sections	Violations	Workers Owed	Wages Owed	Workers Paid	Wages Paid
722514.Cafeterias, Grill Buffets, and Buffets	1	1	1	3	2	\$510	2	\$510
722515.Snack and Nonalcoholic Beverage Bars	6	3	7	1,024	109	\$2,502	106	\$2,559
811121.Automotive Body, Paint, and Interior Repair and Maintenance	1	0	0				0	
811192.Car Washes	1	0	0				0	
811490.Other Personal and Household Goods Repair and Maintenance	1	1	3	10	1	\$960	1	\$1,400
812112.Beauty Salons	1	0	0				0	
812199.Other Personal Care Services	3	3	8	116	5	\$17,136	7	\$17,148
812331.Linen Supply	2	1	1	1			0	
812332.Industrial Launderers	1	0	0		1	\$1,010	0	
812910.Pet Care (except Veterinary) Services	1	1	1	3	3	\$1,367	3	\$1,367
812990.All Other Personal Services	1	0	0		1	\$8,125	0	
813410.Civic and Social Organizations	1	0	0				0	
921190.Other General Government Support	1	0	0				0	
922120.Police Protection	1	0	0				0	
922140.Correctional Institutions	2	0	0		1	\$308	1	\$308
923120.Administration of Public Health Programs	1	0	0				0	
923140.Administration of Veterans' Affairs	1	0	0				0	
Total	302	81	177	5,811	657	\$491,850	429	\$236,135