



COMPLIANCE BULLETIN

DOL Increases Civil Penalty Amounts for 2019

HIGHLIGHTS

- The DOL must adjust its civil penalty amounts for inflation each year.
- The increased amounts apply to penalties that are assessed after Jan. 23, 2019.
- To minimize potential liability, employers should review their compliance with laws enforced by the DOL.

IMPORTANT DATE

January 23, 2019

The increased penalty amounts take effect.

OVERVIEW

On Jan. 23, 2019, the Department of Labor (DOL) increased the civil penalty amounts that may be imposed on employers under the following federal laws:

- ✓ The Fair Labor Standards Act (FLSA);
- ✓ The Employee Retirement Income Security Act (ERISA);
- ✓ The Family and Medical Leave Act (FMLA); and
- ✓ The Occupational Safety and Health Act (OSH Act).

To maintain their deterrent effect, the DOL is required to adjust these penalties for inflation, no later than Jan. 15 of each year. The DOL's civil penalty adjustments for 2019 were delayed due to the federal government shutdown.

These increased amounts apply to civil penalties that are assessed after Jan. 23, 2019.

ACTION STEPS

Employers should become familiar with the new penalty amounts and review their pay practices, benefit plan administration and safety protocols to ensure compliance with federal requirements.

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2019 Penalty Amounts

REQUIREMENT	2018 PENALTY AMOUNT	2019 PENALTY AMOUNT
Wage and Hour		
Repeated or willful violations of minimum wage or overtime requirements (FLSA)	Up to \$1,964 for each violation	Up to \$2,014 for each violation
Violations of child labor laws	Up to \$12,529 for each employee subject to the violation	Up to \$12,845 for each employee subject to the violation
Violations of child labor laws that cause death or serious injury to an employee under age 18	Up to \$56,947 for each violation (doubled to \$113,894 if the violation is repeated or willful)	Up to \$58,383 for each violation (doubled to \$116,766 if the violation is repeated or willful)
Willful failure to post FMLA general notice	Up to \$169 for each separate offense	Up to \$173 for each separate offense
Violations of the Employee Polygraph Protection Act (EPPA)	Up to \$20,521 for each violation	Up to \$21,039 for each violation
Employee Benefits		
Failure to file an annual report (Form 5500) with the DOL (unless a filing exemption applies)	Up to \$2,140 per day	Up to \$2,194 per day
Failure of a multiple employer welfare arrangement (MEWA) to file an annual report (Form M-1) with the DOL	Up to \$1,558 per day	Up to \$1,597 per day
Failure to furnish plan-related information requested by the DOL *Under ERISA, administrators of employee benefit plans must furnish to the DOL, upon request, any documents relating to the employee benefit plan.	Up to \$152 per day, but not to exceed \$1,527 per request	Up to \$156 per day, but not to exceed \$1,566 per request

This Compliance Bulletin is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

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REQUIREMENT	2018 PENALTY AMOUNT	2019 PENALTY AMOUNT
<p>Failure to provide the annual notice regarding CHIP coverage opportunities</p> <p>*This notice applies to employers with group health plans that cover residents of states that provide a premium assistance subsidy under a Medicaid or CHIP program.</p>	Up to \$114 per day for each failure (each employee is a separate violation)	Up to \$117 per day for each failure (each employee is a separate violation)
For 401(k) plans, failure to provide blackout notice or notice of right to divest employer securities	Up to \$136 per day	Up to \$139 per day
Failure to provide summary of benefits and coverage (SBC)	Up to \$1,128 per failure	Up to \$1,156 per failure
Employee Safety – OSH Act		
Violation of posting requirement	Up to \$12,934 for each violation	Up to \$13,260 for each violation
Other-than-serious violation	Up to \$12,934 for each violation	Up to \$13,260 for each violation
Serious violation	Up to \$12,934 for each violation	Up to \$13,260 for each violation
Willful violation	Between \$9,239 and \$129,336 per violation	Between \$9,472 and \$132,598 per violation
Uncorrected violation	Up to \$12,934 per day until the violation is corrected	Up to \$13,260 per day until the violation is corrected