

COMPLIANCE BULLETIN



DOL Increases Civil Penalty Amounts for 2023

The Department of Labor (DOL) has [released](#) its 2023 inflation-adjusted civil monetary penalties that may be assessed on employers for violations of a wide range of federal laws, including:

- 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. Key penalty increases include the following:

- The maximum penalty for violations of federal **minimum wage or overtime requirements** increases from \$2,203 to \$2,374 per violation.
- The maximum penalty for failing to file a **Form 5500** for an employee benefit plan increases from \$2,400 to \$2,586 per day.
- The maximum penalty for violations of the **poster requirement under the FMLA** increases from \$189 to \$204 per offense.

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.

Highlights

Annual Updates

The DOL must adjust its civil penalty amounts for inflation each year.

Possible Penalties

The DOL may assess these penalties on employers that violate federal laws that the DOL enforces, such as the FLSA, ERISA, the FMLA and the OSH Act.

Compliance Review

To minimize potential liability, employers should review their compliance with laws enforced by the DOL.

Effective Date

Jan. 15, 2023

The increased amounts apply to civil penalties that are assessed after Jan. 15, 2023 (for violations occurring after Nov. 2, 2015).

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REQUIREMENT	2022 PENALTY AMOUNT	2023 PENALTY AMOUNT
Wage and Hour		
Repeated or willful violations of minimum wage or overtime requirements (FLSA)	Up to \$2,203 for each violation	Up to \$2,374 for each violation
Violations of child labor laws	Up to \$14,050 for each employee subject to the violation	Up to \$15,138 for each employee subject to violation
Violations of child labor laws that cause death or serious injury to an employee under age 18	Up to \$63,855 for each violation (doubled to \$127,710 if the violation is repeated or willful)	Up to \$68,801 for each violation (doubled to \$137,602 if the violation is repeated or willful)
Willful failure to post FMLA general notice	Up to \$189 for each separate offense	Up to \$204 for each separate offense
Violations of the Employee Polygraph Protection Act (EPPA)	Up to \$23,011 for each violation	Up to \$24,793 for each violation
Employee Benefits		
Failure to file an annual report (Form 5500) with the DOL (unless a filing exemption applies)	Up to \$2,400 per day	Up to \$2,586 per day
Failure of a multiple employer welfare arrangement (MEWA) to file an annual report (Form M-1) with the DOL	Up to \$1,746 per day	Up to \$1,881 per day
Failure to furnish plan-related information requested by the DOL	Up to \$171 per day, but not to exceed \$1,713 per request	Up to \$184 per day, but not to exceed \$1,846 per request
<p>*Under ERISA, administrators of employee benefit plans must furnish to the DOL, upon request, any documents relating to the employee benefit plan.</p>		

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REQUIREMENT	2022 PENALTY AMOUNT	2023 PENALTY AMOUNT
Failure to provide the annual notice regarding CHIP coverage opportunities <small>*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.</small>	Up to \$127 per day for each failure (each employee is a separate violation)	Up to \$137 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 \$152 per day	Up to \$164 per day
Failure to provide summary of benefits and coverage (SBC)	Up to \$1,264 per failure	Up to \$1,362 per failure
Employee Safety – OSH Act		
Violation of posting requirement	Up to \$14,502 for each violation	Up to \$15,625 for each violation
Other-than-serious violation	Up to \$14,502 for each violation	Up to \$15,625 for each violation
Serious violation	Up to \$14,502 for each violation	Up to \$15,625 for each violation
Willful violation	Between \$10,360 and \$145,027 per violation	Between \$11,162 and \$156,259 per violation
Uncorrected violation	Up to \$14,502 per day until the violation is corrected	Up to \$15,625 per day until the violation is corrected