Agency
Department of Labor

Subject
Civil Penalties for Wage Violations

Inclusive Sections
§§ 31-71h-1—31-71h-6

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Civil Penalties for Wage Violations

Sec. 31-71h-1.   Definitions

For the purposes of Sections 31-71h-1 through 31-71h-6, inclusive, of these Regulations, the following definitions apply:

(1) "Civil penalty" means a penalty of $300.00 for each violation of part III of Chapter 557 or Chapter 558.

(2) "Commissioner" means the Labor Commissioner, whose mailing address is Labor Department, 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109, or his designee.

(3) "Division" means the Wage and Workplace Standards Division which is responsible for enforcement of part III of Chapter 557 and Chapter 558 of the Connecticut General Statutes whose mailing address is Labor Department, 200 Folly Brook Boulevard, Wethersfield, Connectiut 06109.

(4) "Employer" means any employer, officer, agent or any other person who may have violated part III of Chapter 557 or Chapter 558 of the Connecticut General Statutes.

(5) "Violation" means a failure by an employer, officer, agent or other person to comply with any applicable provision of part III of Chapter 557 or Chapter 558.

(Effective July 5, 1994; Amended January 4, 2001)

Sec. 31-71h-2.   Assessment of civil penalty

(a) In addition to and apart from any other penalties and/or remedies provided in part III of Chapter 557 and Chapter 558 of the Connecticut General Statutes, the Labor Commissioner shall assess a civil penalty of $300.00 upon the following determination:

(1) an employer has violated a statutory provision of part III of Chapter 557; or

(2) an employer has violated a statutory provision of Chapter 558.

(b) In determining the number of violations committed by an employer, the Commissioner shall assess a separate civil penalty for each individual employee adversely affected by the employer's violation.

(c) In addition, the Commissioner may assess more than one civil penalty against an employer with respect to the same adversely affected employee if the employer has violated more than one statutory provision under part III of Chapter 557 or Chapter 558.

(Effective July 5, 1994; Amended January 4, 2001)

Sec. 31-71h-3.   Notice of violation

(a) The employer shall be notified of a civil penalty assessment by the "Notice of Violation and Opportunity to Show Cause" which shall be sent to the employer along with the "Notice To Employer-Unpaid Wages Due" statement, if applicable.

(b) In cases where there is a violation but no wages are due to any employees, the employer shall be notified of the civil penalty assessment by the "Notice of Violation and Opportunity to Show Cause" which shall be sent to the employer.

(c) The "Notice of Violation and Opportunity to Show Cause" shall provide the

following:

    (1) the total civil penalty assessed;

    (2) the right of the employer to request in writing a hearing to show cause why the civil penalty should not be assessed;

    (3) an advisement that no hearing shall be granted unless a written request for hearing is received by the Division within twenty-one (21) days from the date of mailing of the notice; and

    (4) the right of the employer to waive the right to request a hearing and to respond in writing to the notice within twenty-one (21) days of the date of mailing of the notice.

(Effective July 5, 1994)

Sec. 31-71h-4.   Request for hearing

    Any employer who seeks to contest a civil penalty assessment shall file, within twenty-one (21) days from the date the "Notice of Violation and Opportunity to Show Cause" was issued, a written request for an opportunity to be heard which shall clearly state the reason(s) for such request, including facts to demonstrate that no violation has occurred.

(Effective July 5, 1994)

Sec. 31-71h-5.   Show cause hearing

    (a) If the Commissioner determines that the employer has stated adequate facts or legal grounds to warrant a hearing, the Commissioner shall provide written notice of the hearing to show cause why a civil penalty should not be assessed and shall mail written notice to the employer of the date, time and place of the hearing. Such determination shall be within the sole discretion of the Commissioner. The notice shall inform the employer of its rights in the show cause hearing including:

    (1) the right to be represented by any person, including an attorney; and

    (2) the right to present documentary evidence and written and/or oral argument in support of the employer's position.

    (b) A request for postponement of a hearing so scheduled shall only be granted where the rights of an employer would be subtantially prejudiced by the denial of the request or in a medical emergency. The Commissioner has sole discretion to grant such requests.

(Effective July 5, 1994)

Sec. 31-71h-6.   Determination of penalty

    (a) Following a hearing or after the employer has waived the right to request a hearing, the Commissioner may uphold or modify the civil penalty assessment, such determination shall be within the sole discretion of the Commissioner.

    (b) If the employer requests a hearing, but the Commissioner denies the request for a hearing, the total civil penalty assessed in the Notice shall be the final civil penalty.

    (c) If the employer does not request a hearing or respond in writing to the Notice, the total civil penalty assessed in the Notice shall be the final civil penalty unless otherwise

modified by the Commissioner.

(Effective July 5, 1994)