

# COMPLIANCE BULLETIN



## DOL Increases Civil Penalty Amounts for 2021

The Department of Labor (DOL) has [released](#) its 2021 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 \$2,050 to \$2,074 per violation.
- The maximum penalty for failing to file a **Form 5500** for an employee benefit plan increases from \$2,233 to \$2,259 per day.
- The maximum penalty for violations of the **poster requirement under the FMLA** increases from \$176 to \$178 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, 2021

The increased amounts apply to civil penalties that are assessed after Jan. 15, 2021 (for violations occurring after Nov. 2, 2015).

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## 2020 Penalty Amounts

REQUIREMENT	2020 PENALTY AMOUNT	2021 PENALTY AMOUNT
<b>Wage and Hour</b>		
<b>Repeated or willful violations of minimum wage or overtime requirements (FLSA)</b>	Up to <b>\$2,050</b> for each violation	Up to <b>\$2,074</b> for each violation
<b>Violations of child labor laws</b>	Up to <b>\$13,072</b> for each employee subject to the violation	Up to <b>\$13,227</b> for each employee subject to the violation
<b>Violations of child labor laws that cause death or serious injury to an employee under age 18</b>	Up to <b>\$59,413</b> for each violation (doubled to <b>\$118,826</b> if the violation is repeated or willful)	Up to <b>\$60,115</b> for each violation (doubled to <b>\$120,230</b> if the violation is repeated or willful)
<b>Willful failure to post FMLA general notice</b>	Up to <b>\$176</b> for each separate offense	Up to <b>\$178</b> for each separate offense
<b>Violations of the Employee Polygraph Protection Act (EPPA)</b>	Up to <b>\$21,410</b> for each violation	Up to <b>\$21,663</b> for each violation
<b>Employee Benefits</b>		
<b>Failure to file an annual report (Form 5500) with the DOL</b> (unless a filing exemption applies)	Up to <b>\$2,233</b> per day	Up to <b>\$2,259</b> per day
<b>Failure of a multiple employer welfare arrangement (MEWA) to file an annual report (Form M-1) with the DOL</b>	Up to <b>\$1,625</b> per day	Up to <b>\$1,644</b> per day
<b>Failure to furnish plan-related information requested by the DOL</b>  *Under ERISA, administrators of employee benefit plans must furnish to the DOL, upon request, any documents relating to the employee benefit plan.	Up to <b>\$159</b> per day, but not to exceed <b>\$1,594</b> per request	Up to <b>\$161</b> per day, but not to exceed <b>\$1,613</b> per request

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REQUIREMENT	2020 PENALTY AMOUNT	2021 PENALTY AMOUNT
<p><b>Failure to provide the annual notice regarding CHIP coverage opportunities</b></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 <b>\$119</b> per day for each failure (each employee is a separate violation)	Up to <b>\$120</b> per day for each failure (each employee is a separate violation)
<p><b>For 401(k) plans, failure to provide blackout notice or notice of right to divest employer securities</b></p>	Up to <b>\$141</b> per day	Up to <b>\$143</b> per day
<p><b>Failure to provide summary of benefits and coverage (SBC)</b></p>	Up to <b>\$1,176</b> per failure	Up to <b>\$1,190</b> per failure
Employee Safety – OSH Act		
<p><b>Violation of posting requirement</b></p>	Up to <b>\$13,494</b> for each violation	Up to <b>\$13,653</b> for each violation
<p><b>Other-than-serious violation</b></p>	Up to <b>\$13,494</b> for each violation	Up to <b>\$13,653</b> for each violation
<p><b>Serious violation</b></p>	Up to <b>\$13,494</b> for each violation	Up to <b>\$13,653</b> for each violation
<p><b>Willful violation</b></p>	Between <b>\$9,639</b> and <b>\$134,937</b> per violation	Between <b>\$9,753</b> and <b>\$136,532</b> per violation
<p><b>Uncorrected violation</b></p>	Up to <b>\$13,494</b> per day until the violation is corrected	Up to <b>\$13,563</b> per day until the violation is corrected