



DEPARTMENT OF LABOR
BUREAU OF LABOR STANDARDS
45 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0045

LAURA A. FORTMAN
COMMISSIONER

JANET T. MILLS
GOVERNOR

WAGE & HOUR DIVISION

MICHAEL ROLAND
DIRECTOR

February 7, 2023

Becky's Diner
Attn. Rebecca Rand
390 COMMERCIAL ST
PORTLAND, ME 04101

RE: Violations of Title 26 MRS. Inspection #460614
Certified Mail: 7015 1520 0001 0962 9680

Dear Mrs. Rand,

When our Inspector reviewed the time records for your place of business for the period of January 1, 2021 through July 1, 2022 the following violations of Maine Labor Law were found:

26 MRS §771. Minors under 14 years of age A minor under 14 years of age may not be employed, permitted or suffered to work in nonagricultural or agricultural employment, except for agricultural employment in the planting, cultivating or harvesting of field crops or other agricultural employment not in direct contact with hazardous machinery or hazardous substances as long as the employment is in accordance with rules adopted pursuant to section 772 and in accordance with 29 Code of Federal Regulations, Part 570. This section does not apply to any minor under 14 years of age employed in school lunch programs, if limited to serving food and cleaning up dining rooms, or in a business solely owned by the minor's parents. A parent is prohibited from employing the parent's minor child in occupations declared hazardous by the director pursuant to section 772 and in accordance with 29 Code of Federal Regulations, Part 570.

In this case, the employer permitted two 13-year-old minors to work on 28 separate days between 08/01/2021 and 09/22/2021 in a business not solely owned by the minor's parent. **28 violations**

26 MRS §774 (1) Hours of employment- Minors 16 and 17 years of age. A minor 16 years of age or older and under 18 years of age, enrolled in school, may not be employed as follows:

- A. More than 50 hours in any week when the minor's school is not in session;
- B. More than 24 hours in any week when the minor's school is in session. In addition, the maximum weekly hours a minor may work is 50 hours during any week that the approved school calendar for the minor's school is less than 3 days or during the first or last week of the school calendar, regardless of how many days the minor's school is in session for the week. If requested, a school must provide verification of its closings to the minor's employer or the Department of Labor;

- C. More than 10 hours in any day when the minor's school is not in session;
- D. More than 6 hours in any day when the minor's school is in session, except that the minor may work up to 8 hours on the last scheduled day of the school week;
- E. More than 6 consecutive days;
- F. After 10:15 p.m. on a day preceding a day on which the minor's school is in session or after 12 midnight on a day that does not precede such a school day; or
- G. Before 7 a.m. on a day on which the minor's school is in session or before 5 a.m. on any other day.

In this case, the employer allowed 2 minors between 16 and 17 years of age to work in violation of subsection B on 5 separate occasions between 02/06/2021 and 06/05/2021. **5 violations**

The employer allowed 2 minors between 16 and 17 years of age to work in violation of subsection C on 02/06/2021 and 08/13/2021. **2 violations**

The employer allowed 7 minors between 16 and 17 years of age to work in violation of subsection D on 34 separate occasions between 03/17/2021 and 09/13/2021. **34 violations**

The employer allowed 2 minors between 16 and 17 years of age to work in violation of subsection F on 5 separate occasions between 05/18/2021 and 06/05/2022. **5 violations**

46 violations

26 MRS §774 (2) Restricted Hours - Minors Under 16 years of Age A minor under 16 years of age may not be employed as follows:

- A. More than 40 hours in any given week when school is not in session;
- B. More than 18 hours in any week when school is in session;
- C. More than 8 hours in any day when school is not in session;
- D. More than 3 hours in any day when school is in session;
- E. More than 6 consecutive days; or
- F. Between the hours of 7 p.m. and 7 a.m. except during summer vacation, when that minor may not work between the hours of 9 p.m. and 7 a.m.

In this case, the employer allowed 1 minor under 16 years of age to work in violation of subsection B on 10/02/2021. **1 violation**

The employer allowed 4 minors under 16 years of age to work in violation of subsection C on 26 separate occasions between 03/28/2021 and 05/07/2022. **26 violations**

The employer allowed 7 minors under 16 years of age to work in violation of subsection D on 22 separate occasions between 04/19/2021 and 03/15/2022. **22 violations**

The employer allowed 3 minors under 16 years of age to work in violation of subsection F (Before 7AM) on 8 separate occasions between 04/21/2021 and 01/23/2022. **8 violations**
 (After 7PM) 8 minors under 16 years of age on 51 separate occasions between 03/28/2021 and 05/14/2022. **51 violations**
 (After 9PM) 5 minors under 1 years of age on 23 separate occasions between 06/24/2021 and 09/17/2021. **23 violations**

131 violations

26 MRS §775 Work Permit requires that an employer obtain an approved Work Permit before allowing a minor under the age of 16 to perform any work.

In this case, the employer allowed [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] to work without an approved work permit on 54 separate days between 04/18/2021 and 09/28/2021. **54 violations**

26 MRS §781 PENALTIES An employer who employs, permits or suffers any minor to be employed or to work in violation of this article or Title 20-A, section 5054 is subject to the following forfeiture or civil penalty, payable to the State and recoverable in a civil action:

- A. For the first violation or a violation not subject to an enhanced sanction under paragraph B or C, a forfeiture or penalty of not less than \$250 nor more than \$5,000;
- B. For a 2nd violation occurring within 3 years of a prior adjudication, a forfeiture or penalty of not less than \$500 nor more than \$5,000; or
- C. For a 3rd and subsequent violation occurring within 3 years of 2 or more prior adjudications, a penalty of not less than \$2,000 nor more than \$10,000.

- **28 violations of §771 x \$250 = \$7,000**
- **46 violations of §774(1) x \$250 = \$11,500**
- **131 violations of §774(2) x \$250 = \$32,750**
- **54 violations of §775 x \$250 = \$13,500**

The total penalty for the above violation(s) is \$64,750.00.

Make checks payable to the “Treasurer, State of Maine”

The violations identified above will become a final order within fifteen (15) business days from the day it was received unless you request a penalty discussion or file an appeal within 15 business days.

(see employer options below)

Employer options (within 15 business days):

If you intend to correct all violations identified and wish to work with the Wage & Hour Division to possibly reduce the penalty amount, you may request a “Penalty Discussion”. This discussion will pertain only to the penalty(s) and not the violation(s). All proposed penalties will be stayed until after the penalty discussion.

Or

You may file a formal appeal of any violation or penalty within fifteen (15) days of receipt of this citation. Please be specific as to what violation(s) or penalty you wish to appeal. If a request for a formal appeal is received, the Director will set a time and date for a “hearing”. The Director will serve as the hearing officer or may assign the appeal to the Administrative Hearings Division within the Department of Labor. The hearing will be at the headquarters of the Bureau or at a place mutually agreeable to the parties. All proposed penalties will be stayed until after the formal appeal is heard.

As the employer, you must respond in writing to the Director of the Bureau, at the address above, within fifteen (15) business days of receipt of this report stating what option you intend to choose. If no response is received within that time frame you accept all citations and any penalties assessed. The citation will become a final order and payment will be due at that time, made payable to **“Treasurer, State of Maine” and mailed to the address at the top of this citation.**

We strongly recommend that any correspondence be sent by certified mail. Failure to correct violations may result in additional penalties for each violation that is not corrected.

If you have questions regarding this citation, you may contact the Bureau of Labor Standards, Wage & Hour Division at (207) 623-7900.

Dates to remember:

Respond in writing, to the Director of the Bureau within fifteen (15) business days of receipt of this citation indicating what option you choose.

Respectfully,



Scott Cotnoir, Director
Wage and Hour Division
Inspection # 460614