



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

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WAGE & HOUR DIVISION

MICHAEL ROLAND  
DIRECTOR

May 25, 2021

The Healthy Cannabis Company  
Attn: Ethan "Ben" Maszczenski  
190 US Rt 1, PMB #291  
Falmouth, ME 04105

RE: Violation of Title 26, Inspection 453487  
*Certified Mail: 70151520000109628355*

Dear Ethan "Ben" Maszczenski,

When our Inspector, Stephanie Harfoush, contacted your place of business on March 23, 2021 the following violations of Maine Labor Law were found:

**26 MRS §591-A Employee Misclassification** - An employer that intentionally or knowingly misclassifies an employee as an independent contractor commits a civil violation for which a fine of not less than \$2,000 and not more than \$10,000 per violation may be adjudged. A determination of misclassification of a worker as an independent contractor may result in the assessment of penalties under section 1051, 1082, 1225 or Title 39-A, section 105-A or 324.

*In this case, the employer misclassified the following individuals as independent contractors in 2021:*

*Drivers:* [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]

*Production:* [REDACTED], [REDACTED]

*Driver and Production:* [REDACTED], [REDACTED]

*Cultivation and Production:* [REDACTED]

*Cultivation:* [REDACTED]

*On payroll but no time records or job description:* [REDACTED], [REDACTED], [REDACTED], [REDACTED]

*In order to be classified as a bona fide independent contractor, the Employment Standard matrix must be applied. In this case, the work performed by these individuals do not qualify as independent contractors.*

**26 MRS §621-A Timely and Full Payment of Wages** requires that employees be paid in full, on an established day or date, at regular intervals made known to the employee. The intervals may not exceed 16 days and must include all wages earned to within 8 days of the payment date.

*In this case, the employer established a weekly pay cycle with Thursday as the pay date.*

- [REDACTED] worked until 03/04/21 and was not paid on the established pay date of 03/11/21.
- [REDACTED] worked from 03/10/21 to 03/20/21 and was not paid on the established pay dates of 03/18/21 or 03/25/21.

*\*The employer was cited for a prior violation of this statute on 11/25/19.*

**26 MRS §622 Records** requires that employers keep a true record showing the date and amount paid to each employee. Every employer shall keep a daily record of the time worked by each such employee. Records required to be kept by this section must be accessible to any representative of the department at any reasonable hour.

*In this case, the employer failed to provide time records for the following employees:*

[REDACTED] (pay date 01/07/2021), [REDACTED] (pay dates 03/23/21 & 03/30/21), [REDACTED] (pay dates 01/21/2021), and [REDACTED] (pay dates 01/07/2021 to 02/18/2021)  
*11 violations*

**26 MRS §626-A PENALTIES** Whoever violates any of the provisions of sections 621-A to 623 or section 626, 628, 629 or 629-B is subject to a forfeiture of not less than \$100 nor more than \$500 for each violation. Each employee is counted as a separate violation, each pay cycle.

- 3 violations of §621
- 11 violations of §622

**26 MRS §664 (3) Overtime Rate** requires that employees be paid time-and-one-half their regular hourly rate for all hours worked in excess of 40 hours per week.

*In this case: The following employees were not paid overtime. See attached spread sheet identifying 16 violations.*

<u>Employee:</u>	<u>Owed</u>
[REDACTED]	\$183.78
[REDACTED]	\$7.00
[REDACTED]	\$85.33
[REDACTED]	\$239.70
[REDACTED]	\$116.71
[REDACTED]	\$13.65
<b><u>Total overtime wages owed</u></b>	<b><u>\$646.17</u></b>

**26 MRS §665 (1) Pay Statement** requires that employers provide to the employee with each payment of wages a statement which clearly shows the date of the pay period, hours worked, total earnings and itemized deductions.

*In this case, the employer did not provide detailed pay statements to employees between 01/07/21 and 03/23/21 in accordance with this statute.*

*The following list identifies each employee and the number of pay cycles that statements were not provided:*

[REDACTED] (11), [REDACTED] (1), [REDACTED] (2), [REDACTED] (2), [REDACTED]  
(3), [REDACTED] (3), [REDACTED] (1), [REDACTED] (3), [REDACTED] (2), [REDACTED]  
[REDACTED] (2), [REDACTED] (5), [REDACTED] (1), [REDACTED] (4), [REDACTED]  
(7), [REDACTED] (1), [REDACTED] (13), [REDACTED] (12), [REDACTED] (4)

*\*Number of violations per employee in parenthesis for a total of 77 violations.*

**26 MRS §671 PENALTIES** Any employer who violates this subchapter shall, upon conviction thereof, be punished by a fine of not less than \$50 nor more than \$200. In the event of the violation of any of the provisions of this subchapter, the Attorney General may institute injunction proceedings in the Superior Court to enjoin further violation thereof.

- 16 Violations of §664
- 77 violations of §665
- 18 violations of §672

**26 MRS §672 Unfair Contracts** prohibits the employer from having a special contract with an employee to exempt that employee from minimum wage, overtime, and recordkeeping requirements.

*In this case, the employer incorrectly classified the following employees as independent contractors thus forfeiting their employee rights under Labor Law:*

**Drivers:** [REDACTED]  
[REDACTED]  
**Production:** [REDACTED]  
**Driver and Production:** [REDACTED]  
**Cultivation and Production:** [REDACTED]  
**Cultivation:** [REDACTED]  
**Other:** [REDACTED]

**The total penalty for the above violation(s) is \$7,100.00.**

**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 (see employer options) within the specified time frame listed above.

**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 # 453487