



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

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COMMISSIONER

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GOVERNOR

WAGE & HOUR DIVISION

MICHAEL ROLAND
DIRECTOR

March 21, 2022

Pizzaiolo
Atten: Pat Scully
865 Forest Ave.
Portland, ME 04103

RE: Violations of Title 26. Inspection #459062

Dear Pat Scully,

When our Inspector completed an inspection of your place of business, the following violations of Maine Labor Law were found:

26 MRS §772 Hazardous Occupations declares certain occupations as hazardous and subject to a minimum age.

In this case, the employer allowed [REDACTED] to work in a hazardous occupation. On 07/22/2021, Inspector [REDACTED] witnessed [REDACTED] working in the kitchen assembling and cooking pizza. All steps involved in the pizza making process are specifically declared hazardous in the Fair Labor Standards Act and therefore considered hazardous under Maine law.

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, [REDACTED] worked 9 hours on July 3, 2021.
In addition, [REDACTED] worked past 9PM on the following dates:*

- 07/02/21 10PM
- 07/03/21 11PM
- 07/23/21 10:07PM
- 07/24/21 10:27PM

26 MRS §774 (1)(E) No More Than 6 Days - 16 & 17 years of Age prohibits a minor between 16 and 17 years of age from working more than 6 consecutive days.

In this case, [REDACTED] worked 7 consecutive days from July 5, 2021 through July 11, 2021.

26 MRS §774 (1) Restricted Hours - Minors 16 & 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:

- More than 50 hours in any week when the minor's school is not in session;
- More than 24 hours in any week when the minor's school is in session;
- More than 10 hours in any day when the minor's school is not in session;
- 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;
- More than 6 consecutive days;
- 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
- 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 [REDACTED] to work 11.5 hours on 07/10/2021. In addition, the employer allowed [REDACTED] to work a total of 61.75 hours during the week ending 07/11/2021.

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] to work without an approved work permit on 16 separate dates between 07/02/2021 and 07/25/2021. [REDACTED] work permit was not approved until 07/30/2021.

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.
- 1 violation of §772 $\$250 \times 1.5 \text{ multiplier} = \375
 - 8 violations of §774 $8 \times \$250 = \2000
 - 16 violations of §775 $16 \times \$250 = \4000

The total penalty for the above violation(s) is \$6,375.00.

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 # 459062