



JANET T. MILLS
GOVERNOR

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

WAGE & HOUR DIVISION

LAURA A. FORTMAN
COMMISSIONER

DR. JASON MOYER-LEE
DIRECTOR

May 21, 2024

Future Foods
Attn: T.J. Patel
5 Depot Square
Mechanic Falls, ME 04256

RE: Violations of Title 26 MRS. Inspection #472853

Dear T.J. Patel,

When our inspector visited and inspected your place of business on December 8, 2022, as the result of a complaint, the following violations of Maine Labor Law were found:

Timely Payment of Wages

Section 621-A, entitled “Timely and Full Payment of Wages”,¹ (materially) states:

1. Minimum frequency and full payment. At regular intervals not to exceed 16 days, every employer must pay in full all wages earned by each employee, except members of the family of the employer and salaried employees. Each payment must include all wages earned to within 8 days of the payment date. Payments that fall on a day when the business is regularly closed must be paid no later than the following business day. An employee who is absent from work at a time fixed for payment must be paid as if the employee was not absent. ...

2. Regular payment required. Wages must be paid on an established day or date at regular intervals made known to the employee. The interval may not be increased without written notice to the employee at least 30 days in advance of the increase.

In this case, the employer failed to pay 24 employees in full on the established pay date of 11/25/2022. The employer paid all wages owed on 12/02/2022.

Total violations: 24

¹ <https://legislature.maine.gov/statutes/26/title26sec621-A.html>

Pay Statements

Subchapter 3 of Chapter 7 of Title 26 of the Maine Revised Statutes, concerning minimum wage and paid overtime, requires employers to keep pay records and provide pay statements to employees. This requirement is set out at Section 665² and (materially) states:

Every employer...shall keep a true and accurate record of the hours worked by each employee and of the wages paid, such records to be preserved by the employer for a period of at least 3 years, and shall furnish to each employee with each payment of wages a statement that clearly shows the date of the pay period, the hours, total earnings and itemized deductions.

Each instance in which an employer fails to provide a valid pay statement counts as a separate violation. In this case, the employer failed to provide detailed pay statements to 26 employees on 11/25/2022.

Total violations: 26

Minimum Wage

26 MRS §664 (1) Minimum Wage requires that employees be paid at least the minimum wage.

The minimum wage in 2022 was \$12.75 per hour.

In this case, the employer failed to pay minimum wage to 24 employees on 11/25/22. The employer paid these employees \$10.00 per hour instead of \$12.75.

Total violations: 24

Work Permits

Minors under the age of 16 are required to have a work permit in order to work. As is material here, this is set out in Section 775(1):³

1. Work permit authority. A minor under 16 years of age may not be employed without a work permit signed by the superintendent of schools of the school administrative unit in which the minor resides and issued to the minor by the bureau. The superintendent may designate a school official to sign a work permit and that official is directly responsible to the superintendent for this activity.

Each day that a minor works without an approved work permit constitutes a separate violation. In this case, the employer allowed minor employee, [REDACTED], to work 5 days between 11/18/2022 and

² <https://legislature.maine.gov/statutes/26/title26sec665.html>

³ <https://legislature.maine.gov/statutes/26/title26sec775.html>

12/27/2022, without an approved work permit. The employer also allowed minor employee, [REDACTED], to work 12 days between 11/18/2022 and 01/03/2023, without an approved work permit, as her work permit wasn't approved until 01/04/23.

Total violations: 17

Record of Minor's Working Hours

Section 774(7)⁴ (materially) states:

7. Record of work hours of minors. Every employer shall keep a time book or record for every minor employed in any occupation...stating the number of hours worked by each minor on each day of the week. The time book or record must be open at all reasonable hours to the inspection of the director, a deputy of the director or any authorized agent of the bureau. An employer who fails to keep the time book or record required by this subsection or who makes any false entry to the time book or record, refuses to exhibit the time book or record or makes any false statement to the director, a deputy of the director or any authorized agent of the bureau in reply to any question in carrying out this section is liable for a violation of this section and is subject to penalties specified in section 781.

In this case, the employer failed to keep a record of the hours worked for two minors ([REDACTED] [REDACTED]) on 11/18/22 and 11/19/22.

Total violations: 2

Summary of Violations

The total violations are set out in Table 1, below:

Table 1: Summary of Violations

Statute	Issue	Total Violations
621-A	Full payment of wages	24
665	Pay statements	26
664	Minimum wage	24
775	Work permits	17
774	Records of minor working hours	2
TOTAL		93

Penalties

⁴ <https://legislature.maine.gov/statutes/26/title26sec774.html>

When assessing fines, the Division generally relies on Section 53 of Title 26, which (materially) states:

...[T]he director may assess a forfeiture against any employer, officer, agent or other person who violates any provision of chapter 7, subchapters I to IV for each violation of those subchapters. The forfeiture may not exceed \$1,000 or the amount provided in law or rule as a penalty for the specific violation, whichever is less. ... The director shall adopt rules to govern the administration of the civil money forfeiture provisions. The rules must include a right of appeal by the employer and a range of monetary assessments with consideration given to the size of the employer's business, the good faith of the employer, the gravity of the violation and the history of previous violations. ...

The Rules referred to above are entitled: *Chapter 9: Rules Governing Administrative Civil Money Penalties for Labor Law Violations*.⁵ Pursuant to these rules, fines start at the minimum penalty or the lowest amount in the penalty range for a particular violation, and then must be increased for the severity of the violation, when the employer has a history of violations, and if the violations are “willful”. The fines decrease, on the other hand, when the employer demonstrates “good faith” or has 100 or fewer employees.

Employer size is the only relevant criterion to the imposition of fines in this case. The employers in this case had at least 31 employees at the relevant time. This means that, pursuant to Section III(B)(2), the penalty amount in all violations will be reduced by 15%. Therefore, to calculate the penalty amount the Division imposes for the violations in this case, the Division starts with the minimum penalty provided by the statute in question and then reduces the amount by 15%.

Timely and Full Payment of Wages

The violations for timely and full payment of wages (Section 621-A) are subject to the penalty range set out at Section 626-A, which (materially) states: “Whoever violates any of the provisions of...sections 621-A to 623...is subject to a forfeiture of not less than \$100 nor more than \$500 for each violation.”⁶

As \$100 is the lowest amount in the range, the Chapter 9 Rules require us to use this number as our starting point. The \$100 figure is then multiplied by the 24 violations under this category, resulting in an initial fine of \$2,400. The 15% reduction is then applied, resulting in a **total penalty amount of \$2,040.00 for the violations in this category.**

Minimum Wage

⁵The rules which are currently in force, and upon which this citation relies, can be found here: <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fsos%2Fcec%2Frules%2F12%2F170%2F170c009.docx&wdOrigin=BROWSELINK>.

⁶ <https://legislature.maine.gov/statutes/26/title26sec626-A.html>

The penalty range for minimum wage and pay statement violations is set out at Section 671⁷ and (materially) states: “Any employer who violates this subchapter shall, upon conviction thereof, be punished by a fine of not less than \$50 nor more than \$200.” We therefore start with the minimum figure of \$50 per violation. We then multiply this by the 50 violations in these categories, resulting in a penalty amount of \$2,500. After reducing by 15% to account for employer size, **the result is a total penalty amount of \$2,125.00 for the violations in these categories.**

Minors

The penalties for the statutes relating to the employment of minors are set out (as is relevant to this case) in Section 781(1):⁸

1. Strict liability. An employer who employs, permits or suffers any minor to be employed or to work in violation of this article...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[.]

...

We therefore multiply \$250 by the 19 violations under this article, which results in a penalty amount of \$4,750. We then apply the 15% reduction due to employer size, **resulting in a total penalty amount of \$4,037.50 in this category.**

Appeals and Settlements

The total penalty for the above violation(s) is \$8,202.50. Please make checks payable to “Treasurer, State of Maine” and mail to the address at the top of this letter.

Pursuant to Section 53 of Title 26, you have the right to appeal this citation. The Bureau’s appeals process is set out in Section IV of the Chapter 9 Rules.

If you choose to file an appeal of any violation or penalty, you must do so within fifteen (15) business days of receipt of this notice. The appeal must be submitted in writing to the Deputy Director of the Bureau, at the address listed above. If you file an appeal, be specific as to which violation(s) or penalties you wish to appeal. If a request for a formal appeal is received timely, a

⁷ <https://legislature.maine.gov/statutes/26/title26sec671.html>

⁸ <https://legislature.maine.gov/statutes/26/title26sec781.html>

hearing will be scheduled. The Deputy Director will assign the appeal to a qualified hearing officer. The hearing will be at the headquarters of the Bureau or at a place mutually agreeable to the parties. The hearing may be held telephonically or by remote video, at the discretion of the hearing officer. All proposed penalties will be stayed until after the formal appeal is heard.

If no response is received within the designated timeframe, you accept all citations and any penalties assessed. The notice will become a final order and payment will be due at that time.

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.

You may approach the Bureau to negotiate a settlement to waive the violations or penalties at any time during this process. However, settlement negotiations will not affect the deadline to appeal.

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

Respectfully,

A handwritten signature in black ink that reads "Scott R. Cotnoir". The signature is written in a cursive, slightly slanted style.

Scott Cotnoir, Director
Wage and Hour Division
Inspection # 472853