



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

LAURA A. FORTMAN
COMMISSIONER

JANET T. MILLS
GOVERNOR

WAGE & HOUR DIVISION

DR. JASON MOYER-LEE
DIRECTOR

March 7, 2024

Kevin Finkenaur
and
Liberty Bell Moving & Storage
3 Mallison Falls Road
Windham, ME 04062

RE: Violations of Title 26 MRS. Inspection #487184

Dear Liberty Bell Moving & Storage and Kevin Finkenaur,

When information regarding your business was brought to the attention of our Investigator on February 1, 2024, the following violations of Maine Labor Law were found:

26 MRS §600-A Criminal history record information; employment application (2) Initial employee application form. Except as provided in subsection 4, an employer may not:

- A. Request criminal history record information on the employer's initial employee application form; or
- B. State on an initial employee application form or advertisement or specify prior to determining a person is otherwise qualified for the position that a person with a criminal history may not apply or will not be considered for a position.

(4) Exceptions for initial employee application form. An employer may inquire about criminal convictions on an initial employee application form or state on an initial employee application form or advertisement or otherwise assert that a person with a criminal history may not apply or will not be considered for a position if:

- A. The position is one for which a federal or state law or regulation or rule creates a mandatory or presumptive disqualification based on a conviction for one or more types of criminal offenses, and the questions on the initial employee application form are limited to the types of criminal offenses creating the disqualification; or
- B. The employer is subject to an obligation imposed by a federal or state law or regulation or rule not to employ in a position a person who has been convicted of one or more types of criminal offenses, and the questions on the initial employee application form are limited to the types of criminal offenses creating the obligation.

In this case, the employer requested criminal history information in Craigslist advertisements for a bookkeeper position and Secretary, Warehouse, and Labor positions on the following dates:
01/26/2024 at 17:56hrs for Bookkeeper

01/27/2024 at 07:25hrs for Bookkeeper
01/29/2024 at 18:52hrs for Bookkeeper
01/29/2024 at 18:53hrs for Bookkeeper
01/31/2024 at 06:44hrs for Bookkeeper
02/01/2024 at 06:36hrs for Bookkeeper
02/08/2024 at 13:33hrs for Secretary/ Warehouse/ Labor
02/24/2024 at 07:44hrs for Secretary/ Warehouse/ Labor

26 MRS §53 Additional penalties In addition to any penalties provided in chapter 7, subchapters I to IV, the 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 Attorney General, upon complaint of the director, shall institute a civil action to recover the forfeiture. Any amount recovered must be deposited with the Treasurer of State. 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.

BLS Rules, Chapter 9, Rules Governing Administrative Civil Money Penalties for Labor Law Violations, sections II and III defines terms and how penalties are calculated respectively, including multipliers.

26 MRS §626-A PENALTIES Whoever violates any of the provisions of sections 600-A, 621-A to 623 or section 626, 628, 628-A, 629 or 629-B is subject to a forfeiture of not less than \$100 nor more than \$500 for each violation.

8 violations of §600-A x \$100.00 = \$800.00 x .667 multiplier for employer size = \$533.60.

The total penalty for the above violation(s) is \$533.60.

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

You may file a formal appeal of any violation or penalty 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 what violation(s) or penalty you wish to appeal. If a request for a formal appeal is received timely, a hearing will be scheduled. The Deputy Director will serve as the hearing officer or may 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 Deputy Director. 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.

Checks should be 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.

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 style with a large initial 'S'.

Scott Cotnoir, Director
Wage and Hour Division
Inspection #487184