

Guidelines

Civil Penalties for Labor Law Violations – Agricultural Employers

New York State Labor Law allows the imposition of civil penalties of up to \$1,000 for a first violation, \$2,000 for a second violation and \$3,000 for a third or subsequent violation of Labor Law Article 19-A, Section 212-a or Section 212-b where the violation is for a reason other than the employer’s failure to pay wages, benefits or wage supplements found to be due.

The following guidelines identify the various violations and establish a range of monetary assessments. The guidelines may not cover every specific situation. In determining the appropriate monetary amount within the range shown, consideration is 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.

Penalties

First Violation	\$0	-	\$1,000
Second Violation	\$500	-	\$2,000
Third and Subsequent Violation	\$2,000	-	\$3,000

Violations

1. Article 19-A
 - a. Records of employers - Except keeping a summary or posting of Article 19-A regulations (Sec. 679)
 - i. No records or falsified records
 - ii. Failure to keep records open for inspection
 - iii. Hindering interview of employees
2. Part 190 - Minimum Wage Order for Farm Workers
 - a. Basis of wage payment (Sec. 190-1.2)
 - b. Deductions and expenses (Sec. 190-5.1)
 - c. Posting and notification (Sec. 190-6.1)
 - d. Statement to employee (Sec. 190-8.1)
 - e. Employer Records (Sec. 190-8.2)
3. Migrant Registration Law (Sec. 212-a)
 - a. Acting as a Farm Labor Contractor without a valid Certificate of Registration issued by the Commissioner (Sec. 212-a 2a)
 - b. Grower or processor who utilizes the services of a Farm Labor Contractor (Sec. 212-a 3)
4. Farm Labor Camp Commissaries (Sec. 212-b)
 - a. Operating a Farm Labor Camp Commissary without a valid permit issued by the Commissioner (Sec. 212-b 1)
 - b. Causing or allowing the operation of a Farm Labor Camp Commissary without a valid permit issued by the Commissioner (Sec. 212-b 1)

5. Part 197 - Regulation relating to the granting of Farm Labor Contractor Certificates of Registration, Migrant Labor Registration Certificates and Farm Labor Camp Commissary Permits
 - a. Permit to operate a Farm Labor Camp Commissary (197.6)
 - b. Possession of certificates (Sec. 197.7)
 - c. Copies of approved certificate application (Sec. 197.8)
Copies to each worker. Copies posted in a conspicuous place at any camp in which workers are housed
 - d. Payroll record, wage statement and commissary record requirements (Sec. 197.9)
 - e. Interview of workers (Sec. 197.10)

NOTE: Agricultural employers may also be liable to the imposition of civil penalties under Section 218 of the Labor Law for violations of those sections of Article 6 (Payment of Wages) and Article 19 (Minimum Wage Act) of the Labor Law which are applicable to agricultural employers.

Conference Prior to Assessment of Penalty. After a violation is reported, a conference may be scheduled affording the employer the opportunity to be heard on the reported violation. A determination regarding the assessment of a civil penalty will be made following the conference.

Right to Appeal. If the employer is aggrieved by the determination following such conference, the employer has the right to appeal such determination within 60 days of the date of issuance to the Industrial Board of Appeals, Building 12, Room 116, 1220 Washington Ave., Albany, NY 12226 as prescribed by its Rules of Procedure.

For information regarding New York State laws, please communicate with the nearest office of the Division of Labor Standards listed below:

<p>Albany District 1220 Washington Ave. Bldg. 12 Room 185A Albany, NY 12226 (518) 457-2730</p>	<p>Buffalo District 295 Main Street Suite 914 Buffalo, NY 14203 (716) 847-7141</p>	<p>New York City District 55 Hanson Place 11th Floor Brooklyn, NY 11217 (212) 775-3880</p>	<p>Syracuse District 333 East Washington Street Room 121 Syracuse, NY 13202 (315) 428-4057</p>
<p>Bronx District 55 Hanson Place 11th Floor Brooklyn, NY 11217 (212) 775-3597</p>	<p>Garden City District 400 Oak Street Suite 102 Garden City, NY 11530 (516) 794-8195</p>	<p>Rochester District 276 Waring Road Room 104 Rochester, NY 14609 (585) 258-4550</p>	<p>White Plains District 120 Bloomingdale Road White Plains, NY 10605 (914) 997-9521</p>