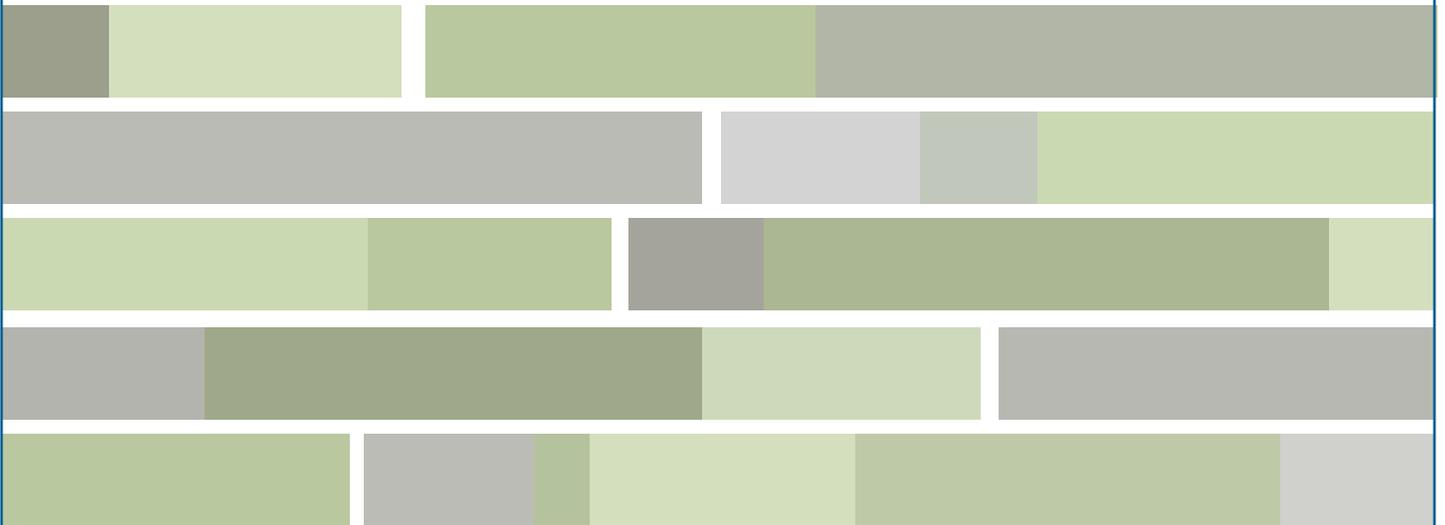


Federal Labor Laws and Penalties by Company Size



Federal Labor Laws and Penalties by Company Size

The following is an overview of various civil penalties that may apply if an employer is found to have violated certain federal employment laws. Depending on the law and violation, employers may be subject to lawsuits brought by individuals or the federal agency responsible for enforcement of the law, as well as civil fines. Criminal penalties, which are not covered in this summary, may also apply.

Please Note: This list is not all-inclusive; additional federal laws may apply to your company. In addition, the penalties imposed for a particular violation may vary depending on a number of factors, including the severity and impact of the violation, the employer's history of violations, and good faith demonstrated by the employer.

1-14 EMPLOYEES		
Law Name	Law Details	Penalty
Fair Labor Standards Act (FLSA)	Establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting employees in the private sector and in federal, state, and local governments.	Employers may be liable for back pay and an equal amount in liquidated damages for violations of the law's minimum wage and overtime pay requirements. Penalties of up to \$2,050 per violation may be imposed for willful or repeated violations. Injunctions to restrain persons from violating the FLSA may also be imposed. For child labor violations, employers are subject to a penalty of up to \$13,702 per worker for each violation and \$59,413 for each violation that causes the death or serious injury of a minor employee (which may be doubled for willful or repeated violations, up to \$118,826).
Immigration Reform & Control Act (IRCA)	Makes it unlawful for an employer to hire any person who is not legally authorized to work in the U.S., and requires employers to collect and document information regarding an employee's identity and employment eligibility on Form I-9; prohibits discrimination on the basis of national origin, citizenship, or immigration status for employers with 4 or more employees.	Failure to comply with Form I-9 requirements may result in fines of \$230 to \$2,292 for each form. Hiring or continuing to employ a person knowing he or she is not authorized to work in the U.S. may result in fines of \$573 to \$4,586 per worker, for a first offense. Employers who unlawfully discriminate may be ordered to stop the prohibited practice and take corrective steps, including hiring or reinstating the individual discriminated against (with or without back pay), and may also be ordered to pay penalties of \$473 to \$3,788 per individual, for a first offense.

Federal Labor Laws and Penalties by Company Size

1-14 EMPLOYEES		
Law Name	Law Details	Penalty
Employee Polygraph Protection Act (EPPA)	Prohibits employers from using lie detector tests, either for pre-employment screening or during the course of employment, with certain exemptions.	Up to \$21,410 per violation. Employers may also be liable to the employee/prospective employee for appropriate legal and equitable relief, including employment, reinstatement, promotion, and payment of lost wages and benefits.
Uniformed Services Employment & Reemployment Rights Act (USERRA)	Prohibits employment discrimination on the basis of past military service, current military obligations, or intent to serve; also addresses health and pension plan coverage for service members.	Employers may be liable for lost wages and benefits. Liquidated damages may also be awarded for willful violations.
Equal Pay Act (EPA)	Prohibits sex-based wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort, and responsibility under similar working conditions.	Employers may be liable for a salary increase, back pay (which includes unpaid minimum wages and unpaid overtime compensation), attorneys' fees, and court costs. Liquidated damages (equal to the amount of back pay) may also be awarded, unless the employer can prove it acted in "good faith" and that it had reasonable grounds to believe its actions did not violate the law.
Consumer Credit Protection Act	Protects employees from discharge by their employers because their wages have been garnished for any one debt, and limits the amount of an employee's earnings that may be garnished in any one week.	Employers may be liable for back pay, reinstatement, and restoration of improperly garnished amounts. Where violations cannot be resolved through informal means, the U.S. Department of Labor may initiate court action to remedy violations.
National Labor Relations Act (NLRA) (Wagner Act)	Prohibits employers from interfering with, restraining, or coercing employees in the exercise of rights relating to organizing, forming, joining, or assisting a labor organization for collective-bargaining purposes, or engaging in protected concerted activities, or refraining from any such activity.	Employers may be issued a remedial order to cease and desist and to remedy the unfair labor practice. Where employees are illegally fired for protected activity, employers may be liable for reinstatement, back pay for the period of unemployment, and payment of dues, fines, or other costs.
Labor-Management Relations Act (Taft-Hartley Act)	Defines certain unfair labor practices by unions and regulates employer-union relations.	Employers may be issued a remedial order to cease and desist and to remedy the unfair labor practice. Where employees are illegally fired for protected activity, employers may be liable for reinstatement, back pay for the period of unemployment, and payment of dues, fines, or other costs.

Federal Labor Laws and Penalties by Company Size

1-14 EMPLOYEES		
Law Name	Law Details	Penalty
Employee Retirement Income Security Act (ERISA)	Regulates employers who offer pension or welfare benefit plans and sets minimum standards for retirement and health benefit plans in private industry.	A civil action to correct violations of the law may be brought by plan participants, beneficiaries, or the U.S. Department of Labor. Additional monetary penalties may also apply, amounts for which vary depending on the section of the law violated.
Federal Insurance Contributions Act (FICA)	Imposes payroll taxes on employers and employees to provide benefits for retired workers and their dependents, as well as for disabled workers and their dependents.	Failure to deposit required taxes is subject to a penalty equal to 2-15% of the amount of underpayment. Additional penalties for failing to file required documents or failing to pay the required amount apply. Penalty relief may be available if the failure is due to reasonable cause and not willful neglect.
Occupational Safety & Health Act (OSH Act)	Requires employers to provide their employees with working conditions that are free of known dangers, and created the Occupational Safety and Health Administration (OSHA), which sets and enforces protective workplace safety and health standards.	Penalties are based on the nature of the violation: <ul style="list-style-type: none"> • De minimus violations have no direct or immediate relationship to safety and health and no penalty is required. • A violation other than a serious violation which has a direct relationship to job safety and health, but probably would not cause death or serious physical harm, carries a discretionary penalty of up to \$13,494 for each violation. • A penalty of up to \$13,494 for each violation may be assessed in the case of a serious violation, where there is a substantial probability that death or serious physical harm could result, and the employer knew, or should have known, of the hazard. • An employer who commits a willful violation may be assessed a penalty of not more than \$134,937, but not less than \$9,639, for each violation. • Repeat violations can bring fines of up to \$134,937 each. • Failure to correct a prior violation may bring a penalty of up to \$13,494 for each day the violation continues beyond the prescribed abatement date.
Health Insurance Portability and Accountability Act (HIPAA)	Provides rights and protections for participants and beneficiaries in group health plans, including with respect to discrimination based on health status and special enrollment opportunities.	Violators of HIPAA's nondiscrimination provisions are generally subject to penalties under ERISA (see above). Violators of HIPAA's privacy-related provisions may be subject to penalties ranging from \$119-\$59,522, depending on the severity of the offense. An annual cap of \$1,785,651 applies to each uncorrected violation caused by willful neglect.

Federal Labor Laws and Penalties by Company Size

1-14 EMPLOYEES		
Law Name	Law Details	Penalty
Jury System Improvements Act	Prohibits employers from discharging or taking other specified actions against an employee summoned to serve as a juror in any court of the United States.	Employers are potentially liable for damages for lost wages and subject to penalties of up to \$5,000 for each violation. Other relief, such as reinstatement and community service, may also apply.
Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)	Requires employers to report information on their newly hired employees to a designated state agency.	States have the option of imposing penalties, not to exceed \$25 per employee. If there is a conspiracy between the employer and employee not to report, the penalty may not exceed \$500 per employee.
Fair Credit Reporting Act (FCRA)	<p>Protects the privacy of consumer report information and guarantees the information supplied by consumer reporting agencies is as accurate as possible; sets forth legal obligations of employers who use consumer reports.</p> <p>Note: Many states have laws which prohibit or limit an employer's use of consumer credit reports or criminal records checks and/or prohibit discrimination based on credit or criminal history information. Be sure to check the applicable laws in your state and consult with an employment law attorney who knows your state laws to ensure full compliance.</p>	<p>Employers may be liable for:</p> <ul style="list-style-type: none"> • Penalties of up to \$3,993 per violation, for knowing violations; • Recovery for actual damages incurred; • Punitive damages; and • Court costs and reasonable attorneys' fees.
Fair and Accurate Credit Transactions Act (FACTA)	Requires proper disposal of information in consumer reports and records to protect against unauthorized access to or use of the information.	<p>Employers may be liable for:</p> <ul style="list-style-type: none"> • Penalties of up to \$1,000; • Recovery for actual damages incurred; • Punitive damages; and • Court costs and reasonable attorneys' fees.

Federal Labor Laws and Penalties by Company Size

15+ EMPLOYEES ALSO NEED TO COMPLY WITH:

Law Name	Law Details	Penalty
Title VII, Civil Rights Act (Title VII)	Prohibits employment discrimination based on race, color, religion, sex, or national origin.	Remedies available for employment discrimination may include: <ul style="list-style-type: none"> • Front pay or back pay; • Hiring, promotion, or reinstatement; • Attorneys' fees; • Expert witness fees; • Court costs; • Compensatory damages; • Punitive damages; or • Other actions that will make an individual "whole" (in the condition he or she would have been but for the discrimination).
Title I, Americans with Disabilities Act (ADA)	Prohibits employment discrimination against qualified individuals with disabilities.	Remedies available for employment discrimination may include: <ul style="list-style-type: none"> • Front pay or back pay; • Hiring, promotion, or reinstatement; • Attorneys' fees; • Expert witness fees; • Court costs; • Compensatory damages; • Punitive damages; or • Other actions that will make an individual "whole" (in the condition he or she would have been but for the discrimination).
Pregnancy Discrimination Act	Prohibits sex discrimination based on pregnancy, childbirth, or related medical conditions.	Remedies available for employment discrimination may include: <ul style="list-style-type: none"> • Front pay or back pay; • Hiring, promotion, or reinstatement; • Attorneys' fees; • Expert witness fees; • Court costs; • Compensatory damages; • Punitive damages; or • Other actions that will make an individual "whole" (in the condition he or she would have been but for the discrimination).
Genetic Information Nondiscrimination Act (GINA)	Prohibits discrimination against applicants, employees, and former employees on the basis of genetic information.	Remedies available for employment discrimination may include: <ul style="list-style-type: none"> • Front pay or back pay; • Hiring, promotion, or reinstatement; • Attorneys' fees; • Expert witness fees; • Court costs; • Compensatory damages; • Punitive damages; or • Other actions that will make an individual "whole" (in the condition he or she would have been but for the discrimination).

Federal Labor Laws and Penalties by Company Size

20+ EMPLOYEES ALSO NEED TO COMPLY WITH:

Law Name	Law Details	Penalty
Age Discrimination in Employment Act (ADEA)	Prohibits employment discrimination against persons 40 years of age or older.	<p>Remedies available for employment discrimination may include:</p> <ul style="list-style-type: none"> • Front pay or back pay; • Hiring, promotion, or reinstatement; • Attorneys' fees; • Expert witness fees; • Court costs; • Compensatory damages; • Punitive damages; or • Other actions that will make an individual "whole" (in the condition he or she would have been but for the discrimination).
Consolidated Omnibus Budget Reconciliation Act (COBRA)	<p>Provides employees and their family members (including legally married same-sex spouses who are otherwise eligible for coverage under the plan) the right to continue group health benefits for limited periods of time under certain circumstances when coverage under the plan would otherwise end, such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce, and other life events.</p> <p>Note: Group health plans sponsored by employers with 20 or more employees on more than 50% of their typical business days in the previous calendar year are subject to federal COBRA (part-time employees count as a fraction of an employee, equal to the number of hours the employee worked, divided by the hours an employee must work to be considered full time).</p>	<p>Employers may be liable for a tax penalty of \$100 per qualified beneficiary (up to \$200 per family) for each day of noncompliance with COBRA. For unintentional violations that are due to reasonable cause and not willful neglect, the maximum tax penalty is the lesser of 10% of the amount paid or incurred by the employer during the preceding tax year for group health plans, or \$500,000.</p> <p>Under ERISA (see above), penalties up to \$110 per day may be assessed for failure to comply with the COBRA notice requirements. Affected persons may also file a lawsuit.</p>

Federal Labor Laws and Penalties by Company Size

50+ EMPLOYEES ALSO NEED TO COMPLY WITH:

Law Name	Law Details	Penalty
Family and Medical Leave Act (FMLA)	<p>Entitles eligible employees (including those in legal same-sex marriages) to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.</p> <p>Note: Private sector employers who employ 50 or more employees for at least 20 workweeks in the current or preceding calendar year are subject to federal FMLA. An employee must work at a location where the company employs 50 or more employees within 75 miles (and meet certain other requirements with respect to time worked) to be eligible for FMLA leave.</p>	<p>Employers may be liable to affected employees for:</p> <ul style="list-style-type: none"> • Lost wages, salary, benefits or other compensation; • Actual monetary losses sustained by the employee as a direct result of the violation (such as the cost of providing care), up to a sum equal to 12 weeks of wages or salary for the employee (26 weeks in the case of military caregiver leave); • Interest on the above amounts, calculated at the prevailing rate; • Liquidated damages; • Appropriate equitable relief, including employment, reinstatement, or promotion; or • Attorneys' fees, expert witness fees, and court costs.

100+ EMPLOYEES ALSO NEED TO COMPLY WITH:

Law Name	Law Details	Penalty
Worker Adjustment & Retraining Notification Act (WARN)	<p>Requires employers to provide notice 60 days in advance of covered plant closings and covered mass layoffs. This notice must be provided to either affected workers or their representatives (e.g., a labor union); to the State dislocated worker unit; and to the appropriate unit of local government.</p>	<p>Affected employees may bring individual or class action lawsuits against an employer believed to be in violation of the law (reasonable attorneys' fees may be awarded to the prevailing party). An employer who violates the WARN provisions is liable to each affected employee for an amount equal to back pay and benefits for the period of the violation, up to 60 days. This may be reduced by the period of any notice that was given, and any voluntary payments that the employer made to the employee.</p> <p>An employer who fails to provide the required notice to the unit of local government is subject to a penalty not to exceed \$500 for each day of violation. The employer may avoid this penalty by satisfying the liability to each employee within three weeks after the closing or layoff.</p>
EEO-1 Report (annual filing)	<p>Requires employers to provide data about employees' ethnicity, race, gender, pay, and hours worked—by job category.</p>	<p>Any employer that fails or refuses to file may be compelled to do so by order of a U.S. District Court.</p>

Federal Labor Laws and Penalties by Company Size

COMPLIANCE FOR FEDERAL CONTRACTORS

Law Name	Law Details	Penalty
EEO-1 Report (annual filing)	Requires federal government contractors with 50+ employees who have a contract, subcontract, or purchase order amounting to \$50,000 or more to provide data about employees' ethnicity, race, gender, pay, and hours worked—by job category.	Any employer that fails or refuses to file may be compelled to do so by order of a U.S. District Court. Termination of the federal government contract and debarment from future federal contracts may also be incurred.
Executive Order 11246	Prohibits federal contractors that generally have contracts that exceed \$10,000 from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin; also requires covered contractors to take affirmative action to ensure equal opportunity in all aspects of employment.	Penalties may include proceedings under Title VII of the Civil Rights Act (see above) being instituted, as well as the termination of government contracts and debarment from future government contracts, if reasonable efforts to comply are not made within a reasonable time frame.
Rehabilitation Act, Section 503	Prohibits discrimination and requires employers with federal contracts exceeding \$10,000 to take affirmative action to hire, retain, and promote qualified individuals with disabilities.	Penalties may include the withholding of payment of government contracts, termination of government contracts, and debarment from future government contracts.
Drug-Free Workplace Act	Requires some federal contractors to provide drug-free workplaces as a precondition of receiving a contract from a federal agency, and prescribes actions to comply with the Act.	<p>A contractor or grantee can be penalized in one or more of the following ways:</p> <ul style="list-style-type: none"> • Payments for contract or grant activities may be suspended; • Contract or grant may be suspended or terminated; • Contractor or grantee may be prohibited from receiving, or participating in, any future contracts or grants awarded by any federal agency for a specified period, not to exceed five years. <p>Note: Compliance with the Act's requirements is reviewed as part of normal federal contract and grant administration and auditing procedures.</p>

Federal Labor Laws and Penalties by Company Size

COMPLIANCE FOR FEDERAL CONTRACTORS (continued)

Law Name	Law Details	Penalty
Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA)	Requires covered federal government contractors to take affirmative action to employ and advance in employment specified categories of veterans, and prohibits discrimination against such veterans; requires contractors to list employment openings with the appropriate employment service delivery system, and that covered veterans receive priority in referral to such openings; also includes annual reporting requirements.	Penalties may include back pay, reinstatement, and, depending on the circumstances, cancellation, suspension, or termination of government contracts, withholding of progress payments, or debarment.
Davis-Bacon Act	Requires contractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair of public buildings or public works to pay laborers employed under the contract no less than the locally prevailing wages, and fringe benefits for corresponding work on similar projects in the area.	Violations may be grounds for contract termination and debarment from future contracts for a period up to three years. Contract payments may also be withheld in sufficient amounts to satisfy liabilities for unpaid wages and for liquidated damages for overtime violations.
Copeland "Anti-Kickback" Act	Prohibits federal contractors engaged in building construction or repair from inducing an employee to give up any part of the compensation to which he or she is entitled under his or her employment contract, and requires weekly statements of compliance.	Contractors and subcontractors may be subject to a \$5,000 fine.
McNamara-O'Hara Service Contract Act (SCA)	Requires contractors performing services on covered federal contracts in excess of \$2,500 to pay service employees in various classes no less than the monetary wage rates, and to furnish fringe benefits, found prevailing in the locality or the rates contained in a predecessor contractor's collective bargaining agreement.	Violations may result in: <ul style="list-style-type: none"> • Contract terminations, and liability for any resulting costs to the government; • Withholding of contract payments in sufficient amounts to cover wage and fringe benefit underpayments; • Legal action to recover the underpayments; and • Debarment from future contracts, for up to three years.

Federal Labor Laws and Penalties by Company Size

COMPLIANCE FOR FEDERAL CONTRACTORS (continued)

Law Name	Law Details	Penalty
Walsh-Healey Public Contracts Act (PCA)	Requires contractors engaged in the manufacturing or furnishing of materials, supplies, articles, or equipment to the U.S. government or the District of Columbia to pay employees who produce, assemble, handle, or ship goods under contracts exceeding \$10,000 the federal minimum wage for all hours worked, and time and one-half their regular rates of pay for all hours worked over 40 in a workweek. Also includes child labor protections.	Violations may result in: <ul style="list-style-type: none"> • Withholding of contract payments in amounts sufficient to reimburse the underpayment of wages and overtime pay; • A \$27-per-day per-person penalty for employing underage minors or convicts (contract payments may also be withheld); • Legal action to collect wage underpayment and fines; • Cancellation of current contracts; and • Debarment from future federal contracts for a three-year period.

Federal Labor Laws and Penalties by Company Size

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