

EMPLOYMENT LAW SUMMARY

Florida Workers' Compensation - Employer Penalties



Because You're Different

Workers' compensation is a system of no-fault insurance that provides monetary and medical benefits to employees (or their survivors) for work-related injuries, diseases and deaths.

The Florida Workers' Compensation Law (WCL) imposes specific obligations on employers and includes penalties employers may face if they fail to comply. The [Division of Workers' Compensation](#) (DWC), which is part of the Florida Department of Financial Services (DFS), enforces compliance with the WCL throughout the state.

FAILURE TO MAINTAIN COVERAGE

In general, all Florida employers that have four or more employees and all Florida employers in the construction industry with at least one employee in the state must obtain and maintain workers' compensation coverage. An employer that fails to comply with coverage requirements may be subject to:

- A DWC order to immediately cease all business operations;
- Fines of \$1,000 per day for each day that it operated without the required coverage; and
- An additional fine equal to the greater of either \$1,000 or twice the amount the employer would have paid in insurance premiums for the period of noncompliance.

When an employer receives a stop-work order for a failure to maintain coverage, information about the order is published and maintained on the DWC's website for at least five years.

If an employer violates the DWC coverage requirements more than once within a five-year period or fails to comply with a DWC stop-work order, additional penalties may include criminal felony charges.

An employer may also face additional fines of \$5,000 if it fails to provide coverage for an employee because it misclassified him or her as an independent contractor to its insurance carrier or to the DWC.

Finally, an employer that fails to maintain coverage may be sued in court for damages if an employee sustains a work-related injury during the period of noncompliance. In this type of lawsuit, a court may order the employer to pay amounts that are significantly higher than the benefits available under the WCL. An employer that is sued for this reason is also placed at a disadvantage in the lawsuit, because the law bars it from raising certain defenses in this defending this type of case.

FAILURE TO PAY ASSESSMENTS (SELF-INSURED EMPLOYERS)

Employers that self-insure for their workers' compensation liabilities must make annual payments to the Florida Self-Insurers Guaranty Association. These payments are due within 30 days after receiving a notice of the amount from the Association.

A self-insured employer that fails to pay this assessment on time may be subject to a fines of either \$100 or five percent of the overdue assessment amount, whichever is greater, for each month that the assessment remains unpaid. The maximum penalty for late payment is the greater of either \$25,000 or 50 percent of the total assessment.

REPORTING FAILURES

The FWCL requires employers to file certain forms, reports and documents within specified time periods. Employers that fail to file complete legible forms, reports or documents on time may be subject to the civil penalties outlined in the table below.

Number of days late	Fine
1 – 14	\$100
15 – 30	\$500
31 – 60	\$1,000
Over 60	\$50 per day (maximum of \$5,000)

Employers may avoid late filing charges by requesting an extension from the DWC. This request must be in writing and must be postmarked at least 15 days prior to the due date. The DWC only approves extensions for delays caused by circumstances entirely beyond an employer's control, such as acts of God, natural disasters and regulatory processes that depend on state or federal calendars. Clerical errors, personnel turnover and accidental or intentional destruction of documents are not sufficient grounds for an extension.

Failing to submit required documents altogether may result in additional fines or the revocation of self-insurance authorization.

FAILURE TO PAY BENEFITS

When an employee sustains a work-related condition that is compensable under the WCL, the employer must provide prompt medical care to treat the injury and pay any other benefits to which the employee (or his or her survivors in cases of death) is entitled under the WCL.

The table below provides a general summary of the penalties that may apply if an employer fails to meet its obligations relating to the provision of workers' compensation benefits.

Employer obligation	Penalties for violations
Provide prompt medical care to injured employee	Fines of \$2,500 per violation, up to a maximum of \$100,000
Pay first installment of disability or death benefits by the 21st calendar day after receiving notification of the injury or death and make any additional benefit payments at least biweekly	Fine equal to 20 percent of the unpaid installment plus 12 percent interest on the installment amount
Pay uncontested medical bills within 45 days after receiving invoice	Fines of between \$25 and \$50 for each unpaid bill plus 12 percent interest on the unpaid amount
Pay any compensation due under an FDWC award within seven days after the due date stated on the award	Fines of between \$50 and \$100 for each unpaid amount plus 12 percent interest on the unpaid amount

An employer may also face fines of \$2,500 per violation, up to a maximum of \$100,000, for failing to meet any other obligation outlined in the FWCL.

FRAUD

Employers are required to report any fraudulent insurance activity to the Division of Insurance Fraud, Bureau of Workers' Compensation. Fraudulent insurance activities include knowingly:

- Assisting, conspiring with or urging another to participate in a prohibited activity;
- Concealing or omitting material information to avoid, delay or reduce the amount of benefits owed to an injured employee;
- Concealing or omitting material information to secure workers' compensation;
- Presenting false or misleading evidence of insurance compliance;
- Presenting false or misleading information to secure workers' compensation benefits;
- Requiring an employee to pay any portion of an employer's insurance premium; and
- Violating a stop-work order issued by the FDWC.

Penalties for engaging in fraudulent activities include those outlined in the table below.

Monetary value	Possible conviction	Maximum fine	Maximum imprisonment
Maximum imprisonment Less than \$20,000	Third-degree felony	\$5,000	Up to five years
\$20,000 - \$100,000	Second-degree felony	\$10,000	Up to 15 years
More than \$100,000	First-degree felony	\$10,000	Up to 30 years

RETALIATION

Florida law prohibits employers from coercing, discharging, disciplining, taking adverse personnel action or refusing to hire any employee or applicant solely because the employee or applicant refuses to obtain an exemption, has filed a claim for workers' compensation benefits or has reported a violation (or suspected violation) to appropriate authorities. Retaliation is punishable by one year of imprisonment.

Similarly, insurance companies may not revoke or cancel a workers' compensation policy solely because an employer has returned an employee to work or has hired an employee who has filed a benefits claim. This form of discrimination is also punishable by one year of imprisonment.

MORE INFORMATION

Contact Heffernan Insurance Brokers or visit the DWC [website](#) more information on workers' compensation laws in Florida

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