

EMPLOYMENT LAW SUMMARY

Louisiana Workers' Compensation – Employer Penalties



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

The **Louisiana Workers' Compensation Law** (WCL) imposes obligations on employers and outlines penalties for noncompliance. The **Louisiana Office of Workers' Compensation Administration** ([OWCA](#)), part of the Louisiana Workforce Commission (Commission), administers the workers' compensation system and enforces employer compliance with WCL obligations.

This Employment Law Summary provides a general overview of some of the penalties an employer may face if it fails to comply with WCL requirements.

FAILURE TO MAINTAIN COVERAGE

The WCL requires all employers in the state to secure and maintain adequate workers' compensation coverage for their employees at all times. An employer that does not maintain the required coverage may face civil penalties, business disruptions, criminal charges and higher claim costs.

CIVIL PENALTIES

Civil penalties for a failure to maintain adequate workers' compensation coverage may include **finest of up to:**

- **\$250 per employee** (up to a total of \$10,000) for a first offense; and
- **\$500 per employee** for a second or subsequent offense.

In addition, the OWCA may issue a **cease-and-desist order** against an employer that does not have coverage. A cease-and-desist order prohibits an employer from continuing its business operations until it secures the appropriate coverage and satisfies all other fines and penalties that may have been assessed for the coverage violation.

CRIMINAL PENALTIES

Employers are also subject to criminal penalties if they fail to provide adequate workers' compensation coverage for their employees. Criminal penalties are punishable by fines, imprisonment or both, as shown in the following table.

Charge	Fine	Imprisonment
Willfully failing to maintain workers' compensation coverage (in general, the OWCA will consider any third or subsequent violation to be a willful failure).	\$250 per day	Up to one year
Knowingly giving false or misleading information to: <ul style="list-style-type: none">• Obtain workers' compensation coverage; or• Avoid, delay or diminish workers' compensation premium payments.	\$250 per day	One to 10 years

Charge	Fine	Imprisonment
Omitting or concealing any material information to: <ul style="list-style-type: none"> • Obtain workers' compensation coverage; or • Avoid, delay or diminish workers' compensation premium payments. 	\$250 per day	One to 10 years
Knowingly misrepresenting or concealing payroll, worker classification or loss history information to avoid or diminish the amount of any workers' compensation premiums.	\$250 per day	One to 10 years
Willfully misrepresenting to have required coverage.	\$250 per day	One to 10 years

INCREASED COSTS OF CLAIMS

In addition to the penalties described above, the OWCA may order an employer that fails to provide adequate coverage to pay 150 percent of any benefits owed under the WCL.

An employer that does not have adequate coverage and fails to pay all the benefits it's required to pay to its employees is not protected from liability by the WCL. This means that injured employees can sue their employer for all the damages that result from work-related conditions. These amounts are often significantly higher than the limited benefits available to injured employees under the WCL.

EMPLOYEE CONTRIBUTIONS

Employers may not allow or require their employees to contribute, in any way, to the cost of providing their workers' compensation coverage in Louisiana. Violations may result in criminal charges punishable by a **fine of up to \$500, imprisonment for up to one year or both.**

In addition to these criminal penalties, the OWCA may order an employer to pay a civil penalty of between \$500 and \$5,000, reasonable attorney fees and refund any amount collected from employee wages, salaries or other benefits.

FAILURE TO POST NOTICE

The WCL requires employers to post a [notice](#) about the WCL in a convenient and conspicuous place within their places of business. If an employer fails to post the required information, the OWCA may extend the time limits employees have to file claims against the employer for any work-related injuries or illnesses.

PROHIBITED DISCRIMINATION

Employers may not terminate an employee, or refuse to employ an applicant, based on the fact that the individual has asserted a workers' compensation claim.

An individual who has been denied employment or terminated for this reason may sue the employer in court, and the employer may be ordered to pay:

- The **annual salary or wages** the individual would have earned in the employment;
- Reasonable **attorneys' fees**; and
- All **court costs**.

FAILURE TO PAY BENEFITS

Under the WCL, employers must pay benefits within specified time frames. These time frames depend on the several variables, such as whether the claim is or was disputed, the type of benefits payable and whether the employer had control over the circumstances related to the benefit payment.

The following table provides a general overview of the WCL's benefit-payment requirements and the civil penalties that the OWCA or a state court may assess for failure to comply. Noncompliant employers may also be ordered to pay any **attorneys' fees** that result from the enforcement of these obligations.

Requirement	Penalty for NonCompliance
Perform a reasonable inquiry regarding medical necessity before denying a treatment expense.	The greater of either: <ul style="list-style-type: none"> • The unpaid expense amount; or • Up to \$500.

Requirement	Penalty for NonCompliance
Pay medical expenses within 60 days after receiving written notice of the expenses.	
Begin paying weekly benefits for temporary total disability (TTD), permanent total disability (PTD) or death by the 14th day after first obtaining knowledge of injury or death.	The greater of either: <ul style="list-style-type: none"> • 12 percent of the unpaid benefits or medical expenses; or • \$50 per calendar day that the expense remains unpaid (up to an aggregate maximum of \$2,000 per claim).
Begin paying weekly supplemental earnings benefits by the 14th day after first obtaining knowledge of the employee's first week of entitlement to the benefits.	
Pay all benefits according to the terms of a final, non-appealable judgment within 30 days after the amounts are due.	The greater of either: <ul style="list-style-type: none"> • 24 percent of the awarded and unpaid amount; or • \$100 per calendar day that the amount remains unpaid (up to an aggregate maximum of \$3,000 per claim).
Continue ongoing benefit payments unless there is a valid basis for discontinuing them.	Up to \$8,000

MISREPRESENTATION AND FRAUD

Under the WCL, employers have a general duty to cooperate with the OWCA at all times and to ensure that any information they provide relating to workers' compensation is true, accurate and complete.

An employer may face criminal charges if it knowingly or willfully makes a false statement or representation for purposes of avoiding any payment or obtaining any benefit under the WCL. The punishments upon conviction of these charges depend on the value of the benefit or payment involved in the violation, as outlined in the table to the right. Criminal charges are punishable by a fine, imprisonment or both.

Value of Benefit or Payment	Maximum Fine	Maximum Imprisonment
Less than \$2,500	\$500	Six months
\$2,500-\$10,000	\$5,000	Five years
More than \$10,000	\$10,000	Ten years

In addition to the penalties described above, the OWCA may order an employer to pay **restitution** for the value of the benefit avoided or obtained and assess a civil fine of **between \$500 and \$5,000**.

CONFIDENTIALITY

Although some exceptions are possible, the WCL requires employers to maintain the confidentiality of employees' personal and claim information. Employers that breach their confidentiality obligations may be subject to **criminal misdemeanor charges** and required to:

- Compensate employees with up to \$1,000 in actual **damages**; and
- Pay all reasonable **attorney fees** the employee incurs to recover the damages.

Misdemeanor criminal charges in these situations are punishable by a fine of up to \$500 per offense.

Despite this confidentiality obligation, employers are also required to provide test results to employees who are tested for toxic substance exposure. Testing results must be provided within **10 days** of receiving a written employee request. The penalty for failing to comply with this obligation is a fine of \$1,000 in addition to any costs and attorneys' fees the employee may incur to enforce this obligation.

Similarly, the WCL provides employees the right to request a no-cost copy of their own medical record or report if the record or report was prepared by a medical provider chosen by the employer. The medical record or report copy must be provided within **30 days** after receiving a written employee request. The penalty for violating this requirement is a fine of \$250 and any attorneys' fees an employee incurs to enforce this requirement.

MORE INFORMATION

Contact Heffernan Insurance Brokers or visit the OWCA [website](#) for more information on workers' compensation laws in Louisiana.

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