



Higher OSHA Penalties Soon To Be Issued in North Carolina

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Tucked into the state budget recently passed by the General Assembly and expected to be signed by Governor Cooper is a provision, see [here](#) (reference Part XIII. Labor, page 131), that would dramatically raise the penalties issued by the Commissioner of Labor for alleged violations of the North Carolina Occupational Safety and Health Act (the Act), to match the range of penalty levels used by federal OSHA. The current penalty structure in place at the federal level is shown in the following table (source found [here](#)).

Federal Maximum and Minimum Amounts for Civil Penalties		
Type of Violation	Penalty Minimum	Penalty Maximum
Serious	\$1,036 per violation	\$14,502 per violation
Other-Than-Serious	\$0 per violation	\$14,502 per violation
Willful or Repeated	\$10,360* per violation	\$145,027 per violation

Federal Maximum and Minimum Amounts for Civil Penalties		
Type of Violation	Penalty Minimum	Penalty Maximum
Posting Requirements	\$0 per violation	\$14,502 per violation
Failure to Abate	N/A	\$14,502 per day unabated beyond the abatement date [generally limited to 30 days maximum]

** For a repeated other-than-serious violation that otherwise would have no initial penalty, a GBP penalty of \$414 shall be proposed for the first repeated violation, \$1,036 for the second repeated violation, and \$2,072 for a third repetition.*

The current penalty structure in North Carolina is shown in the following table (NC Department of Labor Source found [here](#)).

North Carolina Maximum and Minimum Amounts for Civil Penalties		
Type of Violation	Penalty Minimum	Penalty Maximum
Serious [not involving an injury to a minor]	\$100 per violation	\$7,000 per violation
Other-Than-Serious	\$100 per violation	\$7,000 per violation

North Carolina Maximum and Minimum Amounts for Civil Penalties		
Type of Violation	Penalty Minimum	Penalty Maximum
Willful or Repeated	\$5,000 per violation	\$40,000 per violation
Posting Requirements	\$1,000 to \$3,000 per violation	\$7,000 per violation
Failure to Abate	\$100 per day	\$7,000 per day unabated beyond the abatement date [generally limited to 30 days maximum]

Thus, effective on October 1, 2022, North Carolina employers will face penalties that are at least ***twice*** as high as previously assessed. In addition, the new rates will be adjusted annually to account for inflation.

The Commissioner appears to have acquiesced to the position taken by federal OSHA that all so-called **State Plans**, like the one operated in North Carolina, must adopt maximum penalty levels that are at least as effective as federal OSHA's, or be subject to federal takeover of the State Plan.

The statutory amendment gives North Carolina employers even more incentive to supplement their safety and health plans and to challenge citations alleging violations of the Act.

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