



DON'T BE A STATISTIC
5 WAYS TO REDUCE
YOUR RISK OF
NON-COMPLIANCE



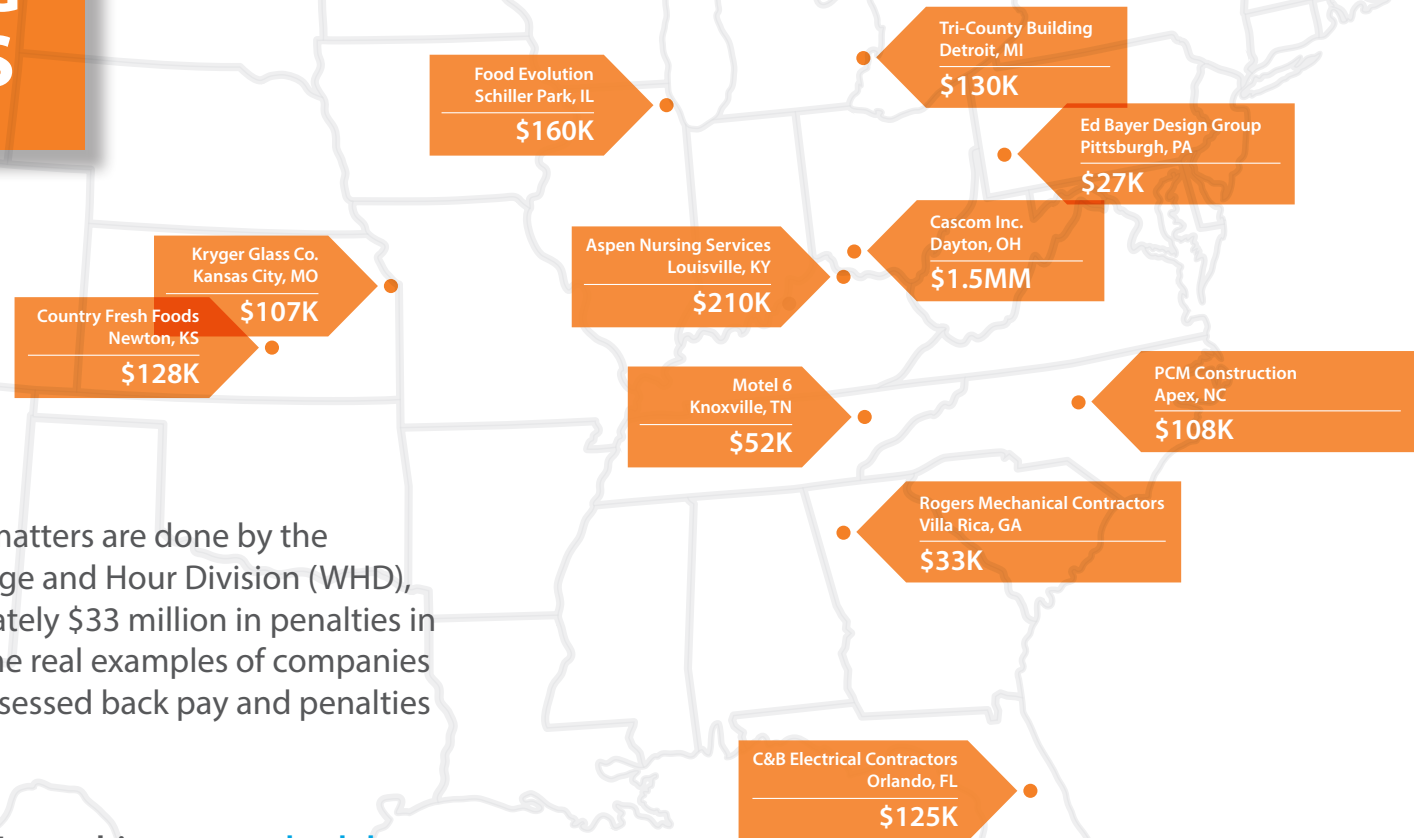
DON'T BE A STATISTIC: 5 WAYS TO REDUCE YOUR RISK OF NON-COMPLIANCE

IRS, OSHA, WHD, EEOC, OFCCP...there's an alphabet soup of government agencies, all with rules and regulations that businesses must follow. Unfortunately, companies frequently make mistakes that result in hefty penalties and fines. For example, the Department of Labor assessed more than \$82 million in penalties in 2013.¹

WHAT NON-COMPLIANCE COULD COST YOUR BUSINESS

The financial risk of being out of compliance varies depending on the agency. A large number of penalties stem from violations of the Fair Labor Standards Act (FLSA). One of the most common mistakes is incorrectly classifying employees, such as classifying non-exempt employees as exempt and thus wrongfully denying them overtime pay, or classifying an employee as an independent contractor so as to avoid providing him or her benefits.

#1 MISTAKE INCORRECTLY CLASSIFYING EMPLOYEES



Investigations into these matters are done by the Department of Labor's Wage and Hour Division (WHD), which assessed approximately \$33 million in penalties in 2013. This map shows some real examples of companies against which the WHD assessed back pay and penalties in 2013.²

See real-time data on DOL penalties at ogesdw.dol.gov.

A DOL CRACKDOWN ISN'T THE ONLY THREAT

- ▶ **The Equal Employment Opportunity Commission (EEOC) awarded \$42 million in monetary benefits in 2012 to people who were subjected to employment discrimination.**³
- ▶ **40% of small businesses incur penalties from the Internal Revenue Service (IRS) due to payroll errors.**⁴
- ▶ **State and federal taxing agencies could assess anywhere between 10% and 50% of total liabilities as penalties.**⁵

But the impact of non-compliance goes beyond penalties charged by government agencies. Thanks to today's technology, employees and customers are more empowered than ever to report violations and publicize a company's non-compliance. Smartphone apps like the Department of Labor's *Timesheet* and *Eat, Sleep, Shop* make it possible.



TIMESHEET

The *Timesheet* app allows employees to independently track their hours and thus determine the wages they are owed, including overtime. The app empowers employees to ensure they are being paid correctly. If they aren't, they may be motivated to seek legal recourse, using the data they've collected with the app as evidence. In 2012, **7,064 federal wage and hour lawsuits were filed**—and that number does not include lawsuits on the state level.⁶ Settling wage and hour cases is not cheap: **the average per-case court settlement costs more than \$300,000, with an average per-case litigation cost (not considering settlement) of more than \$50,000.**⁷

EAT, SLEEP, SHOP

The *Eat, Sleep, Shop* app empowers consumers to make informed decisions. Using this app, **consumers can search for restaurants, hotels and retailers nearby and see ratings and reviews—as well as any labor violations.** This is what senior DOL officials have referred to as “shaming,” and it can result in lost business for the company in question.⁸ Because any history of violations is now easily visible to consumers at the moment they are deciding where to eat, sleep or shop, it is critical to ensure your wage and hour practices are compliant with the law.



5 WAYS TO REDUCE YOUR COMPLIANCE RISK

Fortunately, you can mitigate your company's compliance risk. Here are five ideas you could implement today to help protect you against government penalties and lawsuits:



TRACK ALL EMPLOYEE DATA, AND MAKE SURE INFORMATION IS EASY FOR USERS TO ACCESS.

If an auditor comes knocking at the door or you find your company embroiled in a lawsuit with a former employee, accurate records will be invaluable. Otherwise, it's your word against theirs—so make sure you have a digital “paper trail” to support your assertions.

- Track employee hours using an online system so records are easy to access in the event of a lawsuit or WHD investigation.
- Use an applicant tracking system to maintain hire/offer logs and reasons for non-selection to protect your company in case of EEOC or OFCCP violations.
- Leverage a human resources information system (HRIS) to electronically track employee performance reviews, new-hire paperwork, benefit-enrollment data and other relevant employee data to ensure you have a complete record of each worker's employment.

2

OUTSOURCE PAYROLL PROCESSING AND PAYROLL TAX FILING.

The IRS reports that approximately **one-third of employers make payroll mistakes**, which presents a sizable risk to companies. Not only can payroll errors result in fines from taxing agencies, but such mistakes also can hurt company morale and increase the risk of employee lawsuits. Outsourcing payroll is one of the easiest ways to reduce errors and avoid fines from taxing agencies like the IRS. Payroll providers have the necessary expertise and resources to ensure that employees and tax authorities paid correctly and on time. Plus, outsourcing means your staff will be able to focus on more value-added tasks and initiatives.

3

PUT POLICIES IN PLACE TO PROTECT YOUR COMPANY.

Make sure managers and supervisors know how to stay compliant. According to wage and hour attorney Jim Langendorf of Ohio-based Langendorf Law Firm, “For the most part, higher-level officers know what the rules are. **It’s when you get into the middle-management or supervisor level that things break down**—they end up violating the law without even knowing it.”⁹ If you feel that keeping managers up to date on compliance changes won’t be manageable, institute a policy that requires them to go to HR for matters like terminating an employee or refusing a leave request.

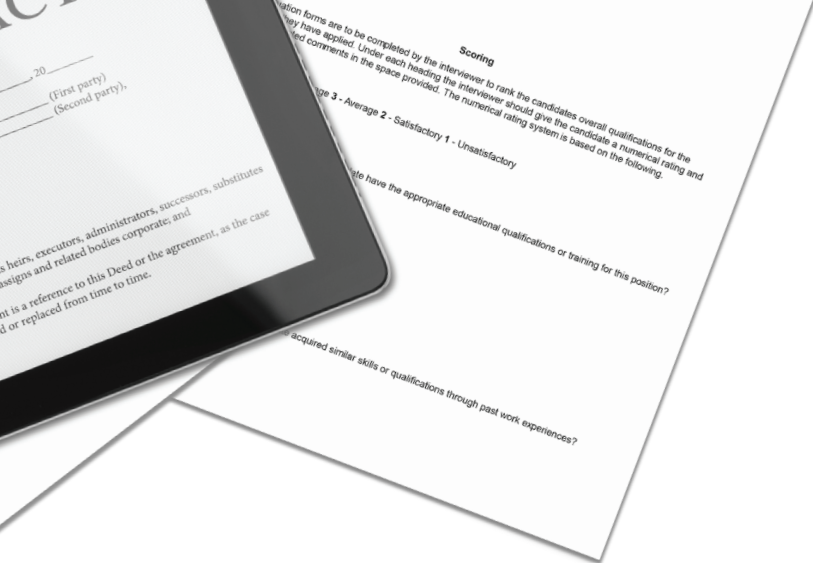
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MAKE SURE YOU HAVE APPROPRIATE HR ASSETS ON FILE.

No company should live without the following eight HR assets:

- Employee handbook and acknowledgement of receipt:** Having an effective handbook in place can help you keep your business out of court, improve overall operations, motivate employee performance and establish clear communication. Every employee should sign an acknowledgement form indicating he or she has reviewed the company's handbook, and these forms should be kept in personnel files.
- Employment application:** Utilizing an employment application allows your company to collect consistent data across the board for all applicants, keeping you organized and showing that your business is fair and non-discriminatory.
- Job descriptions:** Having clear job descriptions for every position within your organization helps convey the needs and expectations of your company. Job descriptions also can be used as a basis for performance management and minimizing company liability. For the employee, a clear job description delineates required responsibilities and duties.
- Offer letter:** An offer letter indicates the start date, salary, position and any other contingencies to continued employment. Having an offer letter for each new hire ensures that everyone is on the same page. Paired with a job description, an offer letter leaves little room for misunderstanding or liability.
- I-9 form:** Employers must complete an I-9 form to document verification of the identity and employment authorization of each new employee (both citizen and noncitizen) hired to work in the United States. While some states may also require E-Verify, the I-9 form is a requirement of federal law and is not replaced by E-Verify.



- ❑ **W-4 form:** It is also a requirement of federal law that employers complete a W-4 form for every employee so the correct federal income tax is withheld. Consider recommending that your employees complete a new W-4 each year or when their personal financial situation changes.
- ❑ **Performance review:** An employee's past performance evaluations (especially documented in writing or in an HRIS) are one of an employer's best defenses in the event of a termination. Evaluations are also valuable tools to improve employee communication, morale, motivation, productivity and engagement.
- ❑ **Termination meeting checklist and documentation:** One of the hardest tasks managers face is terminating an employee. Using a checklist or template can help with this unpleasant but common concern.¹⁰

HAVE AN EXPERT YOU CAN CALL IF YOU HAVE QUESTIONS.

The world of HR compliance changes constantly. Having an HR expert on speed dial can go a long way to help you avoid mistakes and is usually less expensive than hiring legal counsel. For smaller companies that don't have as many HR resources, having someone to reach out to with questions can be a lifesaver.

Rules and regulations are always evolving, and staying compliant will become only more difficult as time goes on. Fortunately, there are many tools and resources to help keep you compliant—and sane.

REDUCE YOUR ORGANIZATION'S COMPLIANCE RISK WITH INTUITIVE HR AND PAYROLL SOLUTIONS

Paycor helps companies perform better with intuitive, cloud-based HR, payroll and timekeeping software. We use clients' feedback to continually enhance our technology, empowering their organizations to be more strategic. More than 24,000 small and mid-sized businesses across America trust Paycor for easy-to-use solutions that improve efficiency and enable them to focus on growing their businesses.

Here are some of the ways Paycor can help you stay compliant:

- ☑ Cloud-based HRIS for employee record retention
- ☑ Intuitive time and attendance application to effectively manage employee hours
- ☑ Applicant tracking system to help ensure EEOC/OFCCP-compliant hiring practices
- ☑ Payroll processing and tax filing services to relieve the burden from your staff and ensure timely, correct payments
- ☑ HR Support Center, an online knowledgebase of HR templates, assets and checklists
- ☑ HR On Demand to give you access to an HR professional who can answer your specific questions
- ☑ Updates to help you stay on top of the constantly changing regulatory landscape and avoid costly errors





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