



# County Technical Assistance Service

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## Enforcement and Penalties

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Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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## Enforcement and Penalties

**Reference Number:** CTAS-1001

Employees can sue their employers for back wages and liquidated damages (equal to the amount of back wages), together with attorneys' fees, costs, and other appropriate relief such as promotions and reinstatement, for violations of the FLSA. The Secretary of Labor also can bring a lawsuit on the employee's behalf for back wages and either liquidated damages or an injunction prohibiting the employer from committing further violations of the Act.

The DOL also can institute criminal prosecution for willful violations of the Act. Employers who willfully violate the minimum wage or overtime provisions of FLSA may be fined up to \$10,000, and if the employer has been convicted on a prior occasion may also be imprisoned up to six months. See 29 U.S.C. § 216. The statute of limitations is five years for criminal violations under the FLSA.

In addition to criminal penalties, the DOL is authorized to impose civil monetary penalties for repeated or willful violations of the FLSA. A penalty of up to \$1,964 per violation may be imposed for violations of the minimum wage or overtime provisions of the act, which means up to \$1,964 per employee due back wages. A violation is considered "repeated" if the employer has previously received notice of a violation of the act. A violation is considered "willful" where the employer either knew the conduct violated the act or showed reckless disregard for the requirements of the act, such as situations in which the employer should have inquired further into whether the conduct violated the act. 29 C.F.R. § 578.3.

Under the child labor provisions of the act, an employer can be fined up to \$12,529 per child labor violation. If the violation causes death or serious injury to an employee under the age of 18, the maximum penalty is \$56,947 and if that violation is repeated or willful the maximum goes up to \$113,894. 29 C.F.R. § 579.1.

An employer is prohibited from retaliating against an employee for filing a complaint or otherwise participating in an FLSA proceeding.

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