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2005 Statistics Fact Sheet

Comments

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Wage and Hour Collects \$166 Million in Back Wages for over 241,000 Employees in Fiscal Year 2005

The Employment Standards Administration’s Wage and Hour Division (WHD) recovered more than \$166 million in back wages for over 241,000 employees in fiscal year 2005. Back wage collections this past year represent a 26 percent increase over back wages collected in fiscal year 2001. The number of workers receiving back wages has increased by 11 percent since fiscal year 2001. Also, WHD has continued to reduce the number of days to conclude a complaint case from 139 days in FY 2001 to 85 days in FY 2005. The agency concluded 34,858 compliance actions in fiscal year 2005 and assessed over \$10.5 million in civil money penalties – a 17% increase from the \$9 million assessed in 2004.

WHD Enforcement Statistics – All Acts	FY2001	FY2002	FY2003	FY2004	FY2005	Change (01-05)
Back Wages Collected	\$131,954,657	\$175,640,492	\$212,537,554	\$196,664,146	\$166,005,014	25.8%
Employees Receiving Back Wages	216,647	263,593	342,358	288,296	241,379	11.4%
Complaints Registered	29,085	31,413	31,123	31,786	30,375	4.4%
Enforcement Hours	998,937	1,070,600	1,032,879	1,000,739	969,776	(2.9%)
Average Days to Resolve Complaint	139	129	108	92	85	(38.8%)
Concluded Cases	38,051	40,264	39,425	37,842	34,858	(8.4%)

Over 219,000 Employees Received Fair Labor Standards Act Back Wages

In fiscal year 2005, more than 219,000 employees received a total of \$134.2 million in minimum wage and overtime back wages as a result of Fair Labor Standards Act (FLSA) violations. WHD collected nearly \$119.4 million in back wages for FLSA overtime violations and more than \$14.8 million for FLSA minimum wage violations. Back wages for overtime violations represented roughly 89 percent of all FLSA back wages collected, and the number of employees due overtime back wages represented about 85 percent of all employees due FLSA back wages. In fiscal year 2005, WHD assessed employers \$4.3 million in FLSA civil money penalties, an increase of 22 percent over the \$3.5 million assessed in fiscal year 2004.

	Cases	Back Wages Collected	Percent of all FLSA Back Wages	Employees Receiving Back Wages	Percent of all Employees Receiving FLSA Back Wages
Minimum Wage	12,504	\$14,840,557	11%	53,236	14
Overtime	11,134	\$119,397,287	89%	188,959	86

Of the \$134.2 million in FLSA back wages collected, nearly \$13.6 million were collected for approximately 10,000 employees as a result of violations of the new Overtime Security regulations (29 C.F.R. Part 541). Over \$21.4 million in back wages were collected for 31,450 employees who were paid straight-time for overtime hours worked and approximately \$20.1 million were collected for approximately 56,900 employees who were not paid for all hours worked. The remaining back wages collected were for violations that resulted from the failure to properly compute an employee's regular rate of pay, the failure to combine all hours worked for overtime purposes, misapplied exemptions other than those under Part 541, or missed last paycheck or payroll.

Overtime Security Task Force Results

The WHD's Overtime Security Task Force's FY 2005 initiative focused on workers who became eligible for overtime compensation when the salary threshold increased from \$155 to \$455 a week – the first such increase since 1975. The Task Force identified industries, such as restaurants, day care centers, grocery stores, hotels and motels, in which there were large numbers of salaried workers who earned less than \$455 a week and who reported working over 40 hours in a week. WHD completed 165 directed investigations as part of the initiative resulting in approximately \$217,000 in back wages collected for 285 employees who were employed in violation of the Overtime Security rule.

As part of the initiative, WHD sponsored five regional compliance assistance forums in Pennsylvania, Washington, Texas, Florida, and Ohio, to educate employers and employees on the requirements of the new regulations. Since the rule was published, WHD has conducted over 700 nationwide compliance assistance activities and has issued multiple opinion letters interpreting provisions of the new rule. The opinion letters can be found on the agency's web site at www.wagehour.dol.gov.

The initiative identified violations of the new Overtime Security regulations, 29 C.F.R. Part 541, in 79 of the 165 investigations or 48 percent of the establishments. Just over

one-half of the employers (52%) were in compliance with the new Overtime Security regulations.

- Violations resulting from the new salary level were identified in 44 of the 79 investigations and were most common in the hotel and motel and restaurant industries. As a result, back wages of \$48,766 were found due to 97 employees who were paid below the \$455 threshold.
- Violations of the salary basis tests were identified in 30 of the 79 investigations and were most common in the restaurant and nursing home industries (“salary basis” means an employee regularly receives a predetermined amount of compensation each pay period). These types of violations resulted in \$72,336 in back wages due 95 employees.
- The initiative investigations also found 52 workers due \$60,662 in back wages in 12 cases where the workers did not meet the duties test for the executive exemption.

Back Wages Collected for Workers in Low-Wage Industries Increased

WHD continues to pursue compliance in low-wage industries that employ vulnerable, often immigrant, workers, and those industries with a history of chronic violations. In fiscal year 2005, the agency collected nearly \$45.8 million in back wages for 96,511 workers in low-wage industries – an increase of over 13 percent of low-wage workers receiving back wages in fiscal year 2004. Over a third of WHD enforcement resources are attributed to investigations in nine low-wage industries, which include day care, restaurants, janitorial services and temporary help. The increase in back wages collected and the number of low-wage workers receiving back wages reflect WHD’s continued commitment to ensuring that low-wage workers’ rights and wages are protected.

Low-Wage Industries Statistics	Cases	Back Wages	Employees
Agriculture	1,449	\$1,319,636	4,042
Day Care	809	\$1,026,254	3,578
Restaurants	4,829	\$13,800,956	31,755
Garment Manufacturing	978	\$3,970,247	4,679
Guard Services	716	\$5,873,118	9,150
Health Care	1,773	\$11,917,166	30,508
Hotels and Motels	997	\$2,847,607	5,274

Janitorial Services	536	\$3,408,819	4,699
Temporary Help	381	\$1,619,940	2,826
Total Low-Wage Industries	12,468	\$45,783,743	96,511

Low-Wage Industries Statistics[1]	FY2001	FY2002	FY2003	FY2004	FY2005	Change (01-05)
Back Wages Collected	\$32,470,183	\$38,608,612	\$39,595,382	\$43,141,911	\$45,783,743	41.0%
Employees Receiving Back Wages	69,469	86,432	80,772	84,897	96,511	38.9%
Cases in Low-Wage Industries	14,267	14,016	12,962	12,625	12,468	(12.6%)

Number of Minors Employed in Compliance of Child Labor Laws Improves

Results for fiscal year 2005 show a reduction in the average number of minors found employed in violation of the FLSA child labor provisions. On average 3.3 minors were found illegally employed per case compared to 3.6 in fiscal year 2004. Hazardous Occupation Order (HO) violations were found in a third of the cases with violations. Violations of HO No. 12 (paper balers) was the most common HO violation found followed by violations of HO No. 10 (meat slicers); HO No. 2 (driving) and HO No. 7 (forklifts and other hoisting apparatuses). WHD assessed \$3.7 million in child labor civil money penalties in fiscal year 2005.

Child Labor Statistics	FY2001	FY2002	FY2003	FY2004	FY2005	Change (01-05)
Self-Directed Child Labor Cases	2,021	2,105	2,031	2,155	1,406	(30.4%)
Cases with Child Labor Violations	2,103	1,936	1,648	1,616	1,129	(46.3%)
Minors Employed in Violation	9,918	9,690	7,228	5,840	3,703	(62.7%)
Minors Per Case	4.7	5	4.4	3.6	3.3	(29.8%)
Cases with HO Violations	876	747	654	459	396	(54.8%)

Minors Employed in Violation of HOs	2,060	1,710	1,449	1,087	1,091	(47.0%)
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One explanation for the increase in the number of minors employed in compliance with the child labor laws is the effectiveness of compliance assistance and enforcement strategies. The most recent investigation-based surveys of child labor compliance, conducted in fiscal year 2004, show continued high levels of compliance in the full-service restaurant and grocery store industries and improvements in compliance in quick-service restaurants. The survey also found significant reductions in the percent of employers with repeat violations in all three industries. The survey found that 91% of quick-service restaurants were in compliance with the FLSA youth rules provisions and 99% of youth employed in this industry were employed in compliance. The survey also found 73% of full-service restaurants were in compliance and 88% of youth workers were employed in compliance. Finally, 80% of grocery stores were in compliance and 95% of youth were employed in compliance in this industry.

Investigation-Based Compliance Surveys in the Child Labor Program						
	Quick-Service Restaurants		Full-Service Restaurants		Grocery Stores	
	FY 2004 Survey	FY 2000 Baseline	FY 2004 Survey	FY 2000 Baseline	FY 2004 Survey	FY 2000 Baseline
% of employers in compliance	91%	70%	73%	78%	80%	82%
% of youths employed in compliance	99%	95%	88%	89%	95%	98%
% of employers in compliance with HOs	96%	96%	96%	94%	88%	93%
% of employers with repeat violations	18%	28%	33%	48%	17%	28%
% of youth employed in compliance by prior violators	97%	97%	94%	94%	99%	95%

Family and Medical Leave Act Enforcement Complaints Declined

The number of Family and Medical Leave Act (FMLA) complaint investigations concluded declined slightly in 2005 from fiscal year 2004. The number of violation cases declined by 10 percent from fiscal year 2004. In fiscal year 2005, WHD collected just over \$1.8 million in back wages for violations of FMLA. Termination of employees seeking FMLA leave continues to be the primary reason that employees filed a complaint.

FMLA Enforcement Statistics	FY2001	FY2002	FY2003	FY2004	FY2005	Change (01-05)
Number of Complaints	2,790	3,501	3,565	3,350	2,784	(0.21%)
Nature of Complaint						
Refusal to Grant FMLA Leave	629	741	815	697	647	2.9%
Refusal to Restore to Equivalent Position	360	400	370	369	328	(8.9%)
Termination	1,123	1,503	1,567	1,473	1,132	0.80%
Fail to Maintain Health Benefits	62	71	46	48	50	(19.3%)
Discrimination	616	786	767	763	627	1.79%
Status of Compliance Action						
No Violation Cases	1,343	1,766	1,911	1,848	1,429	6.4%
Employer Not Covered	58	63	68	75	37	(36.2%)
Employee Not Eligible	164	224	199	238	176	7.3%
Complaint Not Valid	953	1,281	1,417	1,301	1,058	11.0%
Other	168	198	227	234	158	(5.9%)
Violation Cases	1,447	1,735	1,654	1,502	1,355	(6.4%)
Number of Employees Affected	1,627	2,077	1,867	1,742	1,626	(0.06%)
Amount of Monetary Damages	\$2,983,936	\$3,731,929	\$2,397,876	\$2,311,781	\$1,867,807	(37.4%)

FY 2006 Initiatives

WHD will undertake key compliance initiatives in fiscal year 2006 in support of its mission “*to promote and achieve compliance with labor standards to protect and enhance the welfare of the nation’s workforce.*” National initiatives include:

“Off-the-Clock” and Overtime Security: WHD will undertake an investigation-based compliance survey of identified low-wage industries in fiscal year 2006. The initiative is designed to measure FLSA compliance in those industries most likely to have minimum wage and overtime violations as a result of “off-the-clock” violations or Overtime Security violations. The initiative will consist of a number of directed investigations nationwide and will be preceded by outreach.

Youth Employment Survey: In fiscal year 2006, WHD will conduct a survey of compliance with the FLSA youth employment provisions in retail establishments. The initiative will also consist of a number of directed investigations nationwide and will include compliance assistance activities.

In addition to these national initiatives, WHD regions have planned regional and local initiatives for fiscal year 2006. The initiatives are a balance of activities in compliance assistance, partnerships and alliances, and enforcement. Each region has a regional initiative designed to decrease employer recidivism. All of the regions have planned for ongoing and prospective partnership and alliance activities in support of the agency’s compliance assistance plan, including increased participation in human trafficking task forces.

Enforcement initiatives are designed to increase compliance with FLSA, including youth employment in low-wage industries. A component of the agency’s low-wage focus will also include regional and district initiatives in agriculture to increase compliance with the Migrant and Seasonal Agricultural Worker Protection Act.

Revised December 2006

[1] Includes Agriculture, Day Care, Restaurants, Garment Manufacturing, Guard Services, Health Care, Hotels and Motels, Janitorial Services, Temporary Help except for fiscal years 1999 and 2000, which do not include data on Day Care and Temporary Help industries