

Oregon Increases Penalties for Workplace Safety Violations

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On May 24, 2023, Governor Tina Kotek signed into law legislation raising the maximum penalties for workplace fatality-related citations in Oregon far above federal limits. The law took effect immediately.

Quick Hits

- Effective May 24, 2023, Oregon increased the penalty for a workplace fatality-related citation to a maximum of \$250,000 for a fatal willful or repeat violation.
- Oregon OSHA will be prevented from making penalty adjustments based on an employer's size in association with willful citations or serious citations related to a fatality unless the employer agrees to abatement measures.
- Oregon OSHA will be required to conduct comprehensive inspections in certain instances.

Under [Senate Bill 592](#), which was [introduced in January 2023](#) and passed earlier in May 2023 as an emergency measure, the minimum penalty for a fatal willful or repeat violation is \$50,000, with the maximum penalty being \$250,000. By contrast, the most the federal Occupational Safety and Health Administration (OSHA) can seek is a \$156,259 penalty for a repeat or willful violation, regardless of whether there is a death involved. In Oregon, a serious violation linked to a death can result in a penalty ranging from \$20,000 to \$50,000. The current maximum penalty for a serious citation issued by OSHA is \$15,625, regardless of the involvement of a death. In Oregon, the maximum penalty for a serious violation that does not involve a fatality has been increased to \$15,625 and minimum penalties have been legislated. Penalties will be adjusted annually for inflation.

Additionally, the new legislation prevents the Oregon Occupational Safety and Health Division (Oregon OSHA) from making employer size-related penalty adjustments for penalties issued in association with willful or serious citations related to a fatality unless the employer agrees to additional abatement measures. While additional abatement measures, also known as enhanced abatement measures, are often sought by Oregon OSHA in negotiating a resolution of a matter, that isn't a prerequisite for a size-related penalty adjustment.

Historically, Oregon OSHA penalties were among the lowest in the country. OSHA stated in a [report](#) released in late 2021 on Oregon OSHA's website that the state agency's average penalty for a serious violation in fiscal year 2021 was \$620, compared with the [national average](#) of \$2,143 for all citations issued to employers (regardless of location, classification, or whether a death was involved).

Beyond the increased penalties for all types of citations, the new law also compels Oregon OSHA to conduct “comprehensive inspections” in certain instances. Those instances include when an inspector deems it necessary based on prior citation history, whenever an accident investigation reveals that a violation has caused or contributed to a work-related fatality, and whenever three or more willful or repeated violations have occurred at a place of employment within a one-year period.

While Oregon had been a place of relatively modest workplace safety and health enforcement, those days are no more and Oregon employers face the potential for massive penalties.

Ogletree Deakins' [Workplace Safety and Health Practice Group](#) will continue to monitor developments and will provide updates on the [Workplace Safety and Health](#) and [Oregon](#) blogs as additional information becomes available.

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