



DEPARTMENT OF LABOR
BUREAU OF LABOR STANDARDS
45 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0045

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WAGE & HOUR DIVISION

MICHAEL ROLAND
DIRECTOR

September 14, 2021

FELIX PALENCIA FORESTRY SERVICE
Attn. Felix Palencia
8 DYER CT
PITTSFIELD, ME 04967

RE: Violations of 26 MRS, Inspection #460249
Certified Mail: 7015 1520 0001 0962 8621

Dear Mr. Palencia,

When our office investigated a complaint against your place of business on September 13, 2021 the following violations of Maine Labor Law were found:

26 MRS §643 (1)(A) Vehicle Standards A vehicle used to transport workers must meet the standards set forth in 29 Code of Federal Regulations, Section 500.105, regardless of the number of miles traveled or the type of vehicle used, and must include a working seat belt for each worker being transported. Any vehicle used to transport workers may not have any apparatus attached to the rear of the vehicle that interferes with the operation of the rear door. Equipment or any other materials that interfere with the operation of any doors or windows may not be attached to or stored in the vehicle. The number of occupants in any vehicle, other than a bus, may not exceed the manufacturer's design specifications except in no instance may it exceed 12 at any time. In the case of a 15-passenger van, compliance with this standard must be achieved by removal of the seating immediately behind the rear axle, resulting in the number of passengers in the vehicle at any one time not exceeding 11. Attachments are not allowed on the roofs of vans for the purpose of carrying gear

In this case, the employer failed to remove the rear seat of a 15- passenger van in accordance with this statute. The employer transported 12 workers, in addition to the driver, from Pittsfield Maine to the Home Depot parking lot in Waterville on September 13, 2021.

26 MRS §643 (1)(C) Vehicle Equipment Required Each vehicle used to transport workers must be equipped with a first aid kit consistent with 29 Code of Federal Regulations, section 1910.266, Appendix A and communications equipment capable of providing the most immediate access to emergency medical services. A vehicle equipped with such equipment and a driver must be available at or near the work site at all times during the workday. Emergency action plans, written in easily understandable English and in the language of the worker crews, must be

developed and maintained for each job site. Plans must include information on how to transport injured workers to the nearest emergency facility and how to direct emergency workers to the location of an injured worker who cannot be moved.

In this case, the vehicle used to transport workers was not equipped with a first aid kit.

26 MRS §646 Violations; Enforcement (3). Civil violation. An employer who violates this subchapter or any of the rules adopted to implement this subchapter commits a civil violation for which a fine of not less than \$100 nor more than \$1,000 for each violation, payable to the State, may be adjudged.

- A. Each day that a violation remains uncorrected following notice to the employer may be counted as a separate violation.
- B. The bureau may direct an employer to correct any violations in a manner and within a time frame that the bureau determines appropriate to ensure compliance with this subchapter and with the rules adopted to implement this subchapter or to protect the public health. Failure to correct violations within a time frame established by the bureau constitutes a separate violation subject to fine.
- C. The Attorney General may bring an action to seek fines under this subsection, to enjoin violations of this subchapter and for any other available remedy.

- 2 violations of 643 (1)(A)
- 1 violation of 643 (1)(C)

The total penalty for the above violation(s) is \$300.00.

Make check(s) payable to the “Treasurer, State of Maine”

The violations identified above will become a final order within fifteen (15) business days from the day it was received unless you request a penalty discussion or file an appeal (see employer options) within the specified time frame listed above.

Employer options (within 15 business days):

If you intend to correct all violations identified and wish to work with the Wage & Hour Division to possibly reduce the penalty amount, you may request a “Penalty Discussion”. This discussion will pertain only to the penalty(s) and not the violation(s). All proposed penalties will be stayed until after the penalty discussion.

Or

You may file a formal appeal of any violation or penalty within fifteen (15) days of receipt of this citation. Please be specific as to what violation(s) or penalty you wish to appeal. If a request for a formal appeal is received, the Director will set a time and date for a “hearing”. The Director will serve as the hearing officer or may assign the appeal to the Administrative Hearings Division within the Department of Labor. The hearing will be at the headquarters of the Bureau or at a place mutually agreeable to the parties. All proposed penalties will be stayed until after the formal appeal is heard.

As the employer, you must respond in writing to the Director of the Bureau, at the address above, within fifteen (15) business days of receipt of this report stating what option you intend to choose. If no response is received within that time frame you accept all citations and any penalties assessed. The citation will become a final order and payment will be due at that time, made payable to **“Treasurer, State of Maine” and mailed to the address at the top of this citation.**

We strongly recommend that any correspondence be sent by certified mail. Failure to correct violations may result in additional penalties for each violation that is not corrected.

If you have questions regarding this citation, you may contact the Bureau of Labor Standards, Wage & Hour Division at (207) 623-7900.

Dates to remember:

Respond in writing, to the Director of the Bureau within fifteen (15) business days of receipt of this citation indicating what option you choose.

Respectfully,



Scott Cotnoir, Director
Wage and Hour Division
Inspection # 460249