

# YOUR RIGHTS ON A

# CONSTRUCTION SITE

## How OSHA Helps YOU

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OSHA was established in 1970 to set and enforce workplace safety. Since then, 105 million private-sector workers and employers at 6.9 million sites look to OSHA for guidance on workplace safety and health issues. OSHA established standards and guidelines for employers to follow.

## OSHA IS RESPONSIBLE FOR ENFORCEMENT

OSHA is responsible for the enforcement of its standards, and Compliance Safety and Health Officers conduct inspections and assess fines for regulatory violations.



### DE MINIMIS VIOLATIONS:

The OSH Act authorizes OSHA to treat certain violations, which have no direct or immediate relationship to safety and health, as de minimis, requiring no penalty or abatement. OSHA does not issue citations for de minimis violations.



### REPEAT VIOLATION:

A violation of any standard, regulation, rule, or order where, upon re-inspection, a substantially similar violation is found. Repeat violations can bring fines of up to \$70,000 for each such violation. To serve as the basis for a repeat citation, the original citation must be final; a citation under contest may not serve as the basis for a subsequent repeat citation.



### OTHER THAN SERIOUS VIOLATION:

A violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm. A proposed penalty of up to \$7,000 for each violation is discretionary.



### FAILURE TO ABATE VIOLATION:

Failure to correct a prior violation may bring a civil penalty of up to \$7,000 for each day the violation continues beyond the prescribed abatement date.



### SERIOUS VIOLATION:

A violation where a substantial probability that death or serious physical harm could result and where the employer knew, or should have known, of the hazard. A penalty of up to \$7,000 for each violation must be proposed.



### WILLFUL VIOLATION:

A violation that the employer intentionally and knowingly commits. The employer either knows that what he or she is doing constitutes a violation, or is aware that a condition creates a hazard and has made no reasonable effort to eliminate it. The Act provides that an employer who willfully violates the Act may be assessed a civil penalty of not more than \$70,000 but not less than \$5,000 for each violation. Proposed penalties for other-than-serious and serious violations may be adjusted downward depending on the employer's good faith (demonstrated efforts to comply with the Act through the implementation of an effective health and safety program), history of violations, and size of business. Proposed penalties for willful violations may be adjusted downward depending on the size of the business. Usually no credit is given for good faith.

If an employer is convicted of a willful violation of a standard that has resulted in the death of an employee, the offense is punishable by a court imposed fine or by imprisonment for up to six months, or both. A fine of up to \$250,000 for an individual, or \$500,000 for an organization [authorized under the Omnibus Crime Control Act of 1984 (1984 OCCA), not the OSH Act], may be imposed for a criminal conviction.

However, OSHA is a relatively small agency, employing approximately 2,400 inspectors to inspect more than 8 million workplaces, and according to the AFL-CIO, it would take OSHA 129 years to inspect all workplaces under its jurisdiction. This means that OSHA prioritizes their inspections to first focus on workplaces in particularly hazardous industries, workplaces that have recently seen multiple hospitalizations or a workplace fatality, and workplaces that have employees who have filed complaints or a request for an OSHA inspection.

To that end, in the situation where a workplace does not meet OSHA standards, it's important that employees request an OSHA inspection. By doing so, it will increase the likelihood and expediate the process of an OSHA inspection. Noncompliance with OSHA standards and regulations can lead to injury, illness, or death.



### MISSOURI'S WORK COMP LAW:

Missouri's workers compensation law covers the rights and benefits injured workers are entitled to when they get hurt at work in Missouri. Those rights and benefits are separate from and in addition to the rights guaranteed by OSHA.

If you have been hurt in a motor vehicle accident and have other questions, contact us for a free consultation.

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