



ADMINISTRATIVE RULES OF MONTANA



24.16.7556 SPECIAL CIRCUMSTANCES JUSTIFYING MAXIMUM PENALTY

- (1) The following conduct by the employer constitutes special circumstances that justify the imposition of the maximum penalty allowed by law:
 - (a) the employer fails to provide information requested by the department and/or does not cooperate in the department's investigation of the wage claim;
 - (b) there is substantial credible evidence that the employer's payroll records are falsified or intentionally misleading;
 - (c) the employer has previously violated similar wage and hour statutes within three years prior to the date of filing of the wage claim;
 - (d) the employer has issued an insufficient funds paycheck; or
 - (e) the employer has incorrectly classified a worker as an independent contractor, unless it is determined by the department that 39-71-417(7)(d), MCA, applies.
- (2) Exceptions may be made in instances where the employee has failed to provide records or information necessary for the employer to make final payroll calculation and issue the final paycheck.
- (3) The maximum penalty is mandatory under the above circumstances and may be reduced only upon the written mutual agreement of the parties and the department.

Authorizing statute(s): 39-3-202, 39-3-403, MCA

Implementing statute(s): 39-3-206 MCA

History: NEW, 1994 MAR p. 1152, Eff. 5/1/94; AMD, 2024 MAR p. 2061, Eff. 8/24/24.