



HR Compliance Issues:

What Are the Most Common Challenges
U.S. Employers Face Today?





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Introduction

Employment-related government regulations are complex, but *not* insurmountable.

Recently, sweeping legislation like the Pregnant Workers Fairness Act (PWFA) requires covered organizations to provide reasonable accommodations to employees for limitations associated with:

 **PREGNANCY**

 **CHILDBIRTH**

 **RELATED MEDICAL CONDITIONS**

Meanwhile, employers also have to monitor and navigate the legislative landscape in the state — or states — in which they do business. Several states have passed laws limiting the use of noncompetes, nonsolicitation and confidentiality agreements. State tax laws also pose a compliance challenge on top of federal rules. Alabama, for example, will exempt hourly employees from a state tax on their overtime pay in 2024.

Both require HR to stay on top of their game to shield their organizations from audits, penalties and other risks associated with noncompliance.

The legally mandated need for consistency and accuracy applies to all areas of HR administration, from background checks and benefits to time and attendance. Keeping up with all of it is enough to overwhelm even the most seasoned HR pro — or would be, without a solid compliance strategy backed by the right HR tech.

As we dive into these compliance challenges, remember: You don't have to face overcoming them alone. Knowledge is your best defense, and this guide will help you understand these widespread laws and their associated risks. Afterward, we'll explore best practices and tools to empower your company to **comply with confidence**.



Facing a Formidable Opponent

Of the current 436 U.S. government agencies in existence,¹ at least seven regulate aspects of employment.²

Most of these agencies have the power to change compliance requirements and issue guidelines on how to meet them. But agency-initiated notices, rules and guidance don't become law the way bills do. They're published — with startling frequency — in the *Federal Register* or announced via press release. **For the nearly 1,800 bills Congress passed in the last 10 years, thousands of rules were issued by federal agencies.**³

One example of this phenomenon is the one-two punch the Department of Labor delivered in May 2016. On May 12, the Occupational Safety and Health Administration (OSHA) issued a rule that requires certain employers to electronically submit information regarding workplace injuries and illnesses, effective Jan. 1, 2017.⁴

Key Takeaways

- » Employment-related regulations continue to grow in number and complexity.
- » The cost of noncompliance places enormous pressure on HR professionals and their organizations.
- » Knowledge, strategy and the right compliance tools allow HR to help meet complicated, high-risk requirements.





Eleven days later, the Wage and Hour Division published a rule that, had it gone into effect, would have doubled the salary threshold at which white-collar employees are exempt from earning overtime, effectively making millions of employees eligible for overtime pay.

The speed at which new regulations are created or changed is nothing compared to their complexity. The Affordable Care Act (ACA) is a perfect example. At more than 900 pages⁵, it's one of the most complex pieces of employment law ever conceived. And unfortunately, it, too, is subject to change.

It's no wonder that keeping up with the regulatory changes that impact your business can feel practically impossible. But again, you have the power to effectively manage these changes — as well as their associated penalties.

Regulations Cost Businesses Millions

In 2023, the federal regulatory cost reached \$1.9 trillion. If those costs were a country, it would be the 11th-largest economy in the world.



U.S. Regulatory Costs Compared to International GDP

Sources: Competitive Enterprise Institute; Statistics Times

Enforcement, Penalties and Class-Action Lawsuits on the Rise

As the cost of compliance grows, so does the cost of noncompliance. In 2023, OSHA's maximum per-violation penalties increased to \$15,625 for serious and other-than-serious violations and \$156,259 for willful or repeated violations.⁶

As penalties for noncompliance grow, so do enforcement efforts. In the fiscal year of 2022, the Wage and Hour Division collected more than \$115 million in total back wages.⁷

When it comes to wage-and-hour laws, businesses aren't just facing the risk of incurring fines and penalties. Class-action lawsuits can cost any employer — big or small — millions of dollars. The tide of litigation is high as well. In 2022, the combined total of the 10 most expensive settlements for wage-and-hour class action lawsuits was over \$574 million.

\$15,625

per violation for serious and nonserious violations

\$156,259

per violation for willful or repeated violations



HR's Burden Is High-Risk, Ever-Increasing

Complying with labor laws requires a complete understanding of a growing, changing patchwork of convoluted rules and regulations at both the state and federal level, and no one knows that better than you.

But it's a lot to keep up with, and it presents unique challenges, no matter your industry or the size of your business. For example, an employee count of 20 or more, in conjunction with a group health plan, triggers a requirement to offer COBRA coverage to applicable employees, which in turn requires compliance with American Rescue Plan Act's changes to eligibility standards and notice provisions.

Similarly, ACA requirements to provide minimum essential coverage and send reports to the IRS apply to employers with 50 or more full-time employees.

Small businesses in particular must manage their resources wisely and can find it increasingly difficult to allocate the staff — and the time — to manage all of their company's obligations for today's labor laws.

Larger businesses, with thousands of workers employed across state lines, face the challenge of ensuring HR teams are following the right rules. It's no wonder managing compliance can feel overwhelming. But it doesn't have to be.

In fiscal year 2022, the Wage and Hour Division collected more than:



5 Best Practices to Win the Compliance Challenge

Implementing a few best practices can make it easier to manage the growing compliance burden and protect your company from exposure.

1. Automate compliance.

If you're like most executives, you probably already subscribe to compliance alerts and updates in an effort to stay abreast of the regulations that could impact your business. But automating the process of how you're informed on changing compliance requirements is just the first step. Automating your controls and processes that help you comply is the next step.

Consider adopting technology that automatically initiates compliance measures to meet regulatory requirements. Online onboarding checklists can ensure you mitigate risks like missing I-9 deadlines. Robust time-and-labor software can alert you to potential wage violations. New advancements like self-service payroll allow employees to verify, troubleshoot and approve their paychecks before payroll, reducing the chance of retroactive adjustments that could later complicate an audit.

The right system also should be able to help your team automate tasks like tracking garnishment payments, identifying a tipping point for FLSA overtime wages, staying aware of possible changes to ACA status or sending COBRA correspondence. Additionally, investing in HR technology that provides monitoring capabilities can relieve your team's administrative burden, lessen the risk of human error and help safeguard your business.

And if employees have the option to approve their paychecks in advance, they also have the opportunity to raise the alarm on possible issues. This function gives your HR team the insight they need to prevent a small payroll error from becoming a consistent compliance pain point.



2. Maintain complete, consistent and easily accessible records.

Compliance with most employment laws and regulations involves record-keeping, yet sometimes it's easy to neglect. In the daily hustle it takes to accomplish business objectives, updating a policy or making a slight change to a job description may seem like something that can wait. But if that happens often enough, it could leave you out of compliance.

Document and task management systems that make it easy to update and securely store files, reports and data can help your team meet numerous regulatory requirements. And in the event of an audit – of your ACA adherence or pay records, for example – it can illustrate your company's commitment to compliance to inspectors and potentially save your business. The same is true for time and attendance records when violations are alleged in labor disputes.

3. Train managers to recognize — and avoid — noncompliance.

Your managers play an important role in your company's compliance strategy. For example, it's late and your business's closing crew is about to leave for the evening. All of the hourly employees have clocked out, but the manager calls one of them back to quickly help finish a few tasks.

It should only take a few minutes, so the employee doesn't bother clocking back in. Fifteen minutes later, tasks are finished, everyone leaves and your business could be at risk for a wage-and-hour violation. In fact, even if the employee's time is entered by the manager — or HR — the risk of inaccurate timekeeping presents itself, affecting crucial concerns like overtime calculation. It is a situation where the employee's time should be entered by the person who knows it best: the employee.

This cautionary tale — and others like it — may be all too familiar for your HR or executive team. But would your managers recognize the liabilities in these situations and know to avoid them? If not, consider training your management team on the subtle ways noncompliance risk can arise in everyday situations and how they can help ensure the right decisions are being made for your people and your business. Keep in mind, too, the need for training and awareness extends well beyond this example. It also encompasses sensitive topics like sexual harassment and other forms of unwelcome workplace behavior, with the potential cost of allegations making it crucial to create and maintain a robust anti-harassment policy.

The risk of inaccurate timekeeping affects crucial concerns like overtime calculation.



4. Proactively identify risk.

When it comes to complying with government regulations, the best defense is a strong offense. A thorough self-audit can help you find the areas in which your company is most at risk and examine the processes or procedures that led to those vulnerabilities.

To conduct an effective audit, you need to gather enough information to give you an accurate risk assessment without causing too much disruption. Storing everything from employee data to company policies, in an easily accessible system with robust reporting capabilities, can help you easily obtain the information you need to proactively build a solid compliance strategy.



5. Choose a partner that can help you win.

Managing compliance is too big a job — and the consequences too severe — to go it alone.

Find a human capital technology provider that can give you and your team the tools you need to win the fight against compliance burden and risk.

The right software should help you:

- » stay on top of changing regulations and requirements
- » mitigate errors and exposure, while lightening the administrative burden on your team
- » proactively find and address areas of potential risk
- » become the resource your C-suite depends on for insight into compliance-related challenges your business is facing
- » empower employees to enter and manage their data easily, efficiently and securely in a single database

Even during rampant regulatory changes, the right HR tech helps you become a compliance champion for your organization.

See how Paycom helps you comply with confidence at paycom.com or 800.580.4505.



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