

## U.S. DOL scrutinizing restaurant industry

Following numerous, high profile, cases of non-compliance with the federal Fair Labor Standards Act, the Department of Labor is taking a hard line with restaurants found to be in violation of the law. In Boston, the DOL has determined that employers owe \$1.3 M in back wages to their employees.

Boston Division Director of the DOL said, “restaurants violated the FLSA by paying employees flat salaries for all hours worked without overtime pay, failing to combine hours worked at multiple locations for overtime purposes, paying incorrect overtime rates to tipped employees, making illegal deductions from employees’ wages and failing to keep accurate record of employee hours.”

### Wage and hour resources

Labor audits can be costly and restaurateurs should double check to be certain they comply with both state and federal law. Also check to be certain that you have I-9 forms in each employee’s file, indicating their legal right to work in the U.S. FMI:

- ◆ Visit the DOL’s Wage & Hour Division at [www.dol.gov/whd](http://www.dol.gov/whd) download fact sheet #2: “Restaurant and Fast Food Establishments under the FLSA.” It provides general information on minimum wage, tips, overtime, meal credits, youth employment and uniform costs in restaurants.
- ◆ Access the National Restaurant Association’s “Legal Problem Solver for Restaurant Operators” at [www.restaurant.org/legal](http://www.restaurant.org/legal). The member-only materials include overviews of federal laws on these same issues.

### Top Restaurant wage and hour violations

- ◆ Employers paying cash wages “off the books” rather than maintaining legally required employment records.
- ◆ Paying employees a fixed salary for all hours worked, without regard to the FLSA’s minimum wage and overtime requirements.
- ◆ Falsifying employees’ time and payroll records.
- ◆ Failing to pay minimum wage for all hours worked.
- ◆ Failing to pay overtime for tipped employees at the proper rate.
- ◆ Deductions made for uniforms, breakage, and customer walk-outs that result in employees being paid below the required minimum wage.

In FY 2011 the DOL Wage and Hour Division collected more than \$225 Million in back wages for violations of the FLSA from all industries. Their highest year on record. 10% of that sum, \$24 million was from restaurant cases. (Source U.S. Dept. Of Labor-Courtesy Mar-April issue, *NRA Restaurant Advocate*)