

## Workers Compensation Fraud

Workers' compensation fraud occurs when a person knowingly and intentionally lies or misrepresents information for personal gain. In most states there are criminal and civil penalties associated with fraud. Since reliable statistics on how much fraud exists are not available, the LMAC wishes to know how much is found and convicted in Montana and how that relates to other states where similar statistics are available. The following table reports on those states that publish reported WC fraud conviction results and attempts to put this information in a meaningful context for comparison purposes; it also demonstrates comparative results for the Montana employer compliance program which represents employers running businesses without the required wc coverage.

**This comparison shows that when we standardize the percentage of convictions (a proxy for the amount of fraud deterrent activity in a state) as a percentage of the number of businesses or the workers covered, Montana has more convictions than other small states where similar data is available; and they do one third to one half of what the three largest states are able to accomplish, with considerable less resources (for example Florida employs about 35 fulltime detectives to combat fraud and California funds an entire Fraud Commission for \$48,136.818 annually; and Washington employees 250 FTE's).**

State	*Employer Compliance Penalties Assessed	Ratio of Compliance Penalties to WC Premium	*Number of Fraud Convictions	*Ratio of Fraud Convictions to Number of Establishments in State	Ratio of Fraud Convictions to Workers Covered*	Penalties for Fraud
California	\$11,442,869	/ \$11,153,490,716 =.1%	532	/891,997 =.06%	/15,248,000 =.0035%	Punishable by imprisonment for one, two, three, or five years, or by a fine not exceeding fifty thousand dollars (\$50,000) or double the amount of the fraud, whichever is greater, or both imprisonment and fine.
Florida	49,772,529	/3,736,915,134 =.13%	180	/523,461 =.034%	/7,177,000 =.0025%	A violation of less than \$20,000, is a felony of the third degree (imprisonment not exceeding 5 years); if \$20,000 or more, but less than \$100,000, a felony of the second degree (imprisonment not exceeding 15 years); if \$100,000 or more, a felony of the first degree (imprisonment not exceeding 30 years) and/or fines from \$5000 to \$10,000 or double the loss.
Montana	5,925,724	/342,634,599 =.17%	5.14*	/37,755 =.014%	/424,000 =.0012%	A person licensed under Title 37 can have their license suspended or revoked for WC fraud; the department may require a person convicted of theft under 45-6-301(5) to pay an amount equal to 10 times the amount paid by an insurer on a false claim up to \$50,000.
Minnesota	7,498,845	/872,738,619 =.86%	3	/151,526 =.002%	/2,631,000 =.0001%	Imprisonment of not more than 20 years or payment of a fine not more than \$100,000 for theft.
New Mexico	Awaiting figures from NM	/278,502,425	3	/46,869 =.006%	/766,000 =.0004%	Depending on the amount of damages, the criminal penalties range from a petty misdemeanor to a fourth degree felony.
New York	Awaiting figures from NY	/2,431,693,174	91	/519,489 =.008%	/8,462,000 =.0011%	Class E felony punishable by loss of right to compensation or payments of any benefits for workers; and restitution, fines and/or prison sentences
Washington (Monopolistic Fund)	4,660,760	/45,875,868 =.10%	11	/184,542 =.006%	/2,817,000 =.0004%	Class C criminal felony; civil penalties may be the greater of \$1000 or three times the amount of such excess benefits or payments plus interest.
Wyoming	Awaiting figures from WY	/5,195,084	1	/	/297,000 =.0003%	A misdemeanor punishable by a fine of not more than seven hundred fifty dollars(\$750.00), imprisonment for not more than six (6) months, or both, if the value of the payment is less than five hundred dollars (\$500.00); A felony punishable by a fine of not more than ten thousand dollars (\$10,000.00), imprisonment for not more than ten (10) years, or both, if the value of the payment is five hundred dollars (\$500.00) or more.

- These figures are for the State's FY 2008/2009 or calendar year 2008 (These are employers found without WC coverage)
- Direct written premium is for 2008 from NCCI
- Number of Establishments taken from 2007 US Census data
- Covered wages is from National Academy of Social Insurance: WC Benefits and Costs, 2008
- Montana's conviction figure is the result of taking the 18 convictions from 2007 thru half of 2010 and dividing it by 3.5 years to get an average per year.

