

GAO Highlights

Highlights of [GAO-14-629T](#), a testimony before the Subcommittee on Workforce Protections, Committee on Education and the Workforce, House of Representatives

Why GAO Did This Study

The FLSA sets federal minimum wage and overtime pay requirements applicable to millions of U.S. workers and allows workers to sue employers for violating these requirements. Questions have been raised about the effect of FLSA lawsuits on employers and workers and about WHD's enforcement and compliance assistance efforts as the number of lawsuits has increased.

This statement examines what is known about the number of FLSA lawsuits filed and how WHD plans its FLSA enforcement and compliance assistance efforts. It is based on the results of a previous GAO report issued in December 2013. In conducting the earlier work, GAO analyzed federal district court data from fiscal years 1991 to 2012 and reviewed selected documents from a representative sample of lawsuits filed in federal district court in fiscal year 2012. GAO also reviewed DOL's planning and performance documents, interviewed DOL officials, as well as stakeholders, including federal judges, plaintiff and defense attorneys who specialize in FLSA cases, officials from organizations representing workers and employers, and academics.

What GAO Recommends

In its December 2013 report, GAO recommended that the Secretary of Labor direct the WHD Administrator to develop a systematic approach for identifying and considering areas of confusion that contribute to possible FLSA violations to help inform the development and assessment of its guidance. WHD agreed with the recommendation and described its plans to address it.

View [GAO-14-629T](#). For more information, contact Andrew Sherrill at (202) 512-7215 or sherrilla@gao.gov

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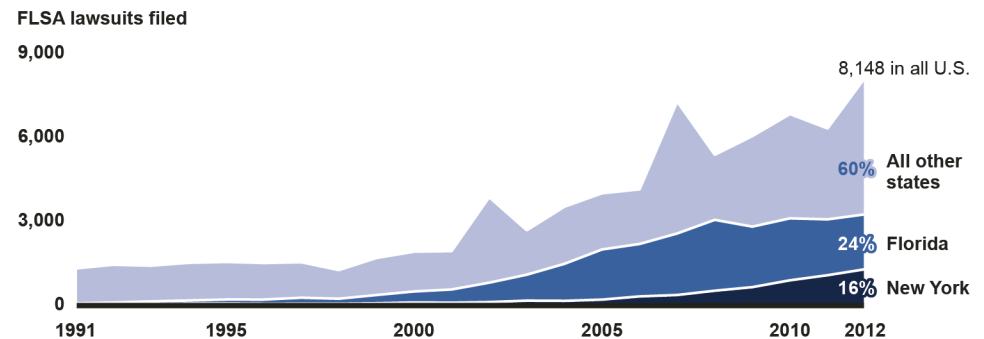
FAIR LABOR STANDARDS ACT

Department of Labor Needs a More Systematic Approach to Developing Its Guidance

What GAO Found

Substantial increases occurred over the last decade in the number of civil lawsuits filed in federal district court alleging violations of the Fair Labor Standards Act of 1938, as amended (FLSA). Federal courts in most states experienced increases in the number of FLSA lawsuits filed, but large increases were concentrated in a few states, including Florida and New York. Many factors may contribute to this general trend; however, the factor cited most often by stakeholders GAO interviewed—including attorneys and judges—was attorneys' increased willingness to take on such cases. In fiscal year 2012, an estimated 97 percent of FLSA lawsuits were filed against private sector employers, often from the accommodations and food services industry, and 95 percent of the lawsuits filed included allegations of overtime violations.

FLSA Lawsuits Filed in Federal District Court in Florida, New York, and Other States, Fiscal Years 1991-2012



Source: GAO analysis of Federal Judicial Center data. | GAO-14-629T

The Department of Labor's Wage and Hour Division (WHD) has an annual process for planning how it will target its enforcement and compliance assistance resources to help prevent and identify potential FLSA violations. In planning its enforcement efforts, WHD targets industries that, according to its recent enforcement data, have a higher likelihood of FLSA violations. WHD, however, does not have a systematic approach that includes analyzing relevant data, such as the number of requests for assistance it receives from employers and workers, to develop its guidance, as recommended by best practices previously identified by GAO. In addition, WHD does not have a routine, data-based process for assessing the adequacy of its guidance. For example, WHD does not analyze trends in the types of FLSA-related questions it receives from employers or workers. According to plaintiff and defense attorneys GAO interviewed, more FLSA guidance from WHD would be helpful, such as guidance on how to determine whether certain types of workers are exempt from the overtime pay and other requirements of the FLSA.