



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Labor and Industries

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as <u>WSR 03-20-095</u> ; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4).	<input type="checkbox"/> Continuance of WSR _____

Title of rule and other identifying information: Payroll Deduction Rules in Chapter 296-126 WAC

Hearing location(s):

Date: July 26, 2005 Time: 1:00 pm
 Department of Labor and Industries
 7273 Linderson Way SW, Auditorium
 Tumwater, Washington

Date: July 27, 2005 Time: 11:00 am
 Department of Labor and Industries
 901 North Monroe Street, Room Spok 4
 Spokane, Washington

Submit written comments to:

Name: Sally Elliott
 Department of Labor and Industries
 Address: Post Office Box 44400
 Olympia, Washington 98504-4400
 e-mail yous235@lni.wa.gov
 fax (360) 902-5292 by July 27,2005

Assistance for persons with disabilities: Contact

Sally Elliott by July 18, 2005
 (360) 902-6411 or yous235@lni.wa.gov

Date of intended adoption: August 23, 2005

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The current payroll deductions rule (WAC 296-126-025) is in conflict with the chapter 49.46 and 49.52 RCW statute and have been since the ruling of Pope v. University of Washington. This court case addressed which deductions are permitted and determined they were only permitted from the worker's termination wages. The proposed wording also includes two new sections (WAC 296-126-028 and WAC 296-126-030) for wage deductions during on-going employment and adjustments for overpayments.

The proposed rule will clarify when an employer can deduct an employee's wages from final paychecks, on-going employment, or overpayments. It also clarifies when the employee's paycheck cannot go below minimum wage. The proposed rules are consistent with RCW 49.46.090, 49.48.010, and 49.52.060.

Reasons supporting proposal:

These rules are necessary in order to make sure employers understand and don't misapply the payroll deduction laws and rules.

Statutory authority for adoption: Chapter 49.12, 49.46, 49.48, 49.52 RCW, and RCW 43.22.270

Statute being implemented: Chapter 49.12, 49.46, 49.48, 49.52 RCW, and RCW 43.22.270

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

If yes, CITATION:
 Pope v. UW, 121 Wn.2d 479, 852 P.2d
 1055 (1994)

CODE REVISER USE ONLY

WSR #05-13-150

DATE
June 21, 2005

NAME (type or print)
Gary K. Weeks

SIGNATURE

TITLE
Director

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

Name of proponent: (person or organization) Department of Labor and Industries

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Rich Ervin	Tumwater, Washington	(360) 902-5310
Implementation.... Patrick Woods	Tumwater, Washington	(360) 902-6348
Enforcement..... Patrick Woods	Tumwater, Washington	(360) 902-6348

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

The department has considered whether these proposed rules are subject to the Regulatory Fairness Act and has determined that they do not require a small business economic impact statement because the costs associated with the proposed changes are exempted by law [see RCW 19.85.025 referencing RCW 34.05.310(4) (c), (d), and (e)] from the small business economic impact requirements and/or do not impose a more than minor economic impact on business.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain:

The proposed rules are not to a cost-benefit analysis [see RCW 34.05.328(5) (iii), (iv), and (v)]. The department also concluded the proposed rule do not impose a more than minor cost on business.