



RULE-MAKING ORDER

CR-103 (June 2004) (Implements RCW 34.05.360)

Agency: Department of Labor and Industries

- Permanent Rule
 Emergency Rule

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) 1/1/2006 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
 Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: Payroll Deductions, chapter 296-126 WAC 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 from termination wages and ruled that RCW 49.48.010, which limits the deductions that an employer may make from an employee's wages, applies only to deductions from wages upon termination of employment. RCW 49.52.060 limits deductions from wages to those provided by law and those that have been agreed upon in writing in advance and that accrue to the benefit of the worker, and specifies that the employer cannot benefit financially from the deduction.

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.

Citation of existing rules affected by this order:

Repealed: None
 Amended: WAC 296-126-025
 Suspended: None

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

Other authority : None.

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 05-13-150 on June 21, 2005 and WSR 05-20-070 on October 4, 2005.
 Describe any changes other than editing from proposed to adopted version: See Attachment 1.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: na

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: November 29, 2005

NAME (TYPE OR PRINT)

Gary K. Weeks

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

WSR # 05-24-019

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>2</u>	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>2</u>	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	<u>2</u>	Amended	<u>1</u>	Repealed	_____

The following changes were made to the proposed wording:

- WAC 296-126-025, Deductions from final wages.
 - Amended wording to allow an employer to deduct an employee's paycheck below minimum wage for personal loans.
 - Amended wording to clarify the difference between an advance and a draw on wages.
 - Reorganized wording for clarity.
 - Added examples for clarity.
- WAC 296-126-028, Wage deductions during on-going employment.
 - Amended wording to allow an employer to deduct an employee's paycheck below minimum wage for personal loans.
 - Added note saying employers need to follow the Internal Revenue Service rules when charging interest.
 - Reorganized wording for clarity.
- WAC 296-126-030, Adjustments for overpayments.
 - Amended effective date to January 1, 2006.
 - Amended wording for clarification and ease of use.