

AMENDATORY SECTION (Amending WSR 20-01-063, filed 12/10/19, effective 7/1/20)

WAC 296-128-540 Outside salesperson. The term "individual employed in the capacity of outside salesperson" in RCW 49.46.010 (3)(c) shall mean any employee:

(1) Whose primary duty is:

(a) Making sales; including any sale, exchange, contract to sell, consignment for sale, shipment for sale or other disposition; or

(b) Obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer ~~(; or~~

~~(c) In demonstrating products or equipment for sale; or~~

~~(d) In the sale of services and performance of the service sold when the compensation to the employee is computed on a commission basis; and~~

~~(2) Whose hours of work of a nature other than that described in subsection (1)(a), (b), (c) and (d) of this section do not exceed 20 percent of the hours worked in the work week by nonexempt employees of the employer: Provided, that work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including incidental deliveries and collections, shall not be regarded as nonexempt work;~~

~~(3)); and~~

(2) Who is customarily and regularly engaged away from the employer's place or places of business in performing such primary duty; and

~~((4))~~ (3) Who is compensated by the employer on a guaranteed salary, commission or fee basis and who is advised of ~~((the))~~ their employee status as an "outside salesperson." The requirements of WAC 296-128-545 do not apply to the outside salespersons described in this section.

AMENDATORY SECTION (Amending WSR 20-01-063, filed 12/10/19, effective 7/1/20)

WAC 296-128-545 Salary thresholds. To qualify as an exempt employee under this section, an employee must be compensated on a salary or fee basis, exclusive of board, lodging, or other facilities, as follows:

(1) Beginning July 1, 2020, and through December 31, 2020, an amount not less than 1.25 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek regardless of the size of the employer;

(2) Beginning January 1, 2021, and through December 31, 2021:

(a) When the employee works for an employer with fifty or fewer employees, an amount not less than 1.5 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek; and

(b) When the employee works for an employer with more than fifty employees, an amount not less than 1.75 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek.

(3) Beginning January 1, 2022, and through December 31, 2022, an amount not less than 1.75 times the minimum wage prescribed in RCW

49.46.020 for a forty-hour workweek regardless of the size of the employer;

(4) Beginning January 1, 2023, and through December 31, 2023:

(a) When the employee works for an employer with fifty or fewer employees, an amount not less than 1.75 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek; and

(b) When the employee works for an employer with more than fifty employees, an amount not less than 2.0 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek.

(5) Beginning January 1, 2024, and through December 31, 2024, an amount not less than 2.0 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek regardless of the size of the employer((-));

(6) Beginning January 1, 2025, and through December 31, 2025:

(a) When the employee works for an employer with fifty or fewer employees, an amount not less than 2.0 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek; and

(b) When the employee works for an employer with more than fifty employees, an amount not less than 2.25 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek.

(7) Beginning January 1, 2026, and through December 31, 2026, an amount not less than 2.25 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek regardless of the size of the employer((-));

(8) Beginning January 1, 2027, and through December 31, 2027:

(a) When the employee works for an employer with fifty or fewer employees, an amount not less than 2.25 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek; and

(b) When the employee works for an employer with more than fifty employees, an amount not less than 2.5 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek.

(9) Beginning January 1, ((2026)) 2028, and each following year, an amount not less than 2.5 times the minimum wage prescribed in RCW 49.46.020 for a forty-hour workweek regardless of the size of the employer((-));

Table 2
Illustration of Salary Threshold As
Multipliers of Minimum Wage

Effective Date	Employer Size	
	1-50 Employees	51+ Employees
July 1, 2020	1.25x	1.25x
January 1, 2021	1.5x	1.75x
January 1, 2022	1.75x	1.75x
January 1, 2023	1.75x	2.0x
January 1, 2024	2.0x	2.0x
January 1, 2025	2.0x	2.25x
January 1, 2026	2.25x	2.25x
January 1, 2027	2.25x	2.5x
January 1, 2028	2.5x	2.5x

Table 2 is provided for illustrative purposes only.

(10) For the purposes of this section, the size of the employer is based solely on the number of Washington-based employees it employs at the time of the effective date for each subsection. Each Washing-

ton-based employee counts as an employee for the purposes of determining the size of the employer regardless of whether that employee works full-time or part-time. An employer classified as employing fewer than fifty employees under RCW 50A.10.030 (8) (c) may rely on that classification for purposes of determining the size of the employer under this section for the following calendar year.