

ADMINISTRATIVE POLICY



**STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
EMPLOYMENT STANDARDS**

**TITLE: WAIVING OF RIGHTS
UNDER MINIMUM WAGE ACT
PROHIBITED AND
MORE FAVORABLE LAWS ALLOWED**

NUMBER: ES.A.5

**CHAPTER: [RCW 49.46.090](#)
[RCW 49.46.120](#)**

**REPLACES: ES-010
ES.A.7**

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ADMINISTRATIVE POLICY DISCLAIMER

This policy is designed to provide general information in regard to the current opinions of the Department of Labor & Industries on the subject matter covered. This policy is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable to all situations. This policy does not replace applicable RCW or WAC standards. If additional clarification is required, the Program Manager for Employment Standards should be consulted.

This document is effective as of the date of print and supersedes all previous interpretations and guidelines. Changes may occur after the date of print due to subsequent legislation, administrative rule, or judicial proceedings. The user is encouraged to notify the Program Manager to provide or receive updated information. This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

This policy provides information about the Minimum Wage Act’s minimum standards relating to wages, hours, paid sick leave, or other working conditions. Employees cannot waive their rights under the Minimum Wage Act. If more favorable laws or standards exist, employees must receive the more favorable rights granted.

1. An Employer Must Pay Amounts Due Under the Minimum Wage Act, Regardless of Any Employee Agreements to Work for Less.

[RCW 49.46.020](#) is a minimum guarantee to all employees covered by the Washington Minimum Wage Act (MWA) for each hour of employment, and [RCW 49.46.130](#) is the guarantee of overtime pay equal to one and one-half the regular rate of pay for hours worked in excess of 40 per week.

[RCW 49.46.090](#) prohibits agreements entered into, individually or collectively, between an employee and an employer that result in the employee being paid less than the amounts due under the Minimum Wage Act. This includes minimum wages, overtime wages, paid sick leave, and other earnings protected under the Minimum Wage Act, such as gratuities, tips, and service charges that are due to employees. Such agreements do not relieve an employer of their legal responsibilities under the law. Such agreements are considered unlawful and cannot be used as a defense to legal action to recover unpaid wages.

2. An Employer May Deduct Certain Amounts from Wages.

Deductions from wages may be allowed in certain situations under [RCW 49.48.010](#), [RCW 49.52.060](#), [WAC 296-126-025](#), [WAC 296-126-028](#), and [WAC 296-128-030](#). Deductions that meet the criteria of [RCW 49.52.060](#) and [WAC 296-126-028](#), also may allow deductions that reduce net pay below the minimum hourly rate, such as when the deduction is required by state or federal law, for medical insurance, or for voluntary deductions accruing to the benefit of the employee. Examples of voluntary deductions include employee agreement for repayment of loans, personal purchases, and savings accounts or bonds. Because the employee has agreed to use his or her paycheck as a mechanism for spending money that would have been spent regardless, there is no violation even if the employee's *net* pay is less than the minimum wage. Regardless of deductions, an employee's *gross* pay must always be at least the minimum rate per hour.

3. More Favorable Federal, State, or Local Laws Apply.

If there are differences between the Minimum Wage Act and any federal, state, or local laws or rules governing labor standards, the standard more favorable or more protective to the employee is applied.

Individuals with questions regarding whether federal labor law provides more favorable standards should obtain clarification of the [Fair Labor Standards Act \(FLSA\)](#) from the United States Department of Labor. Individuals with questions regarding the interpretation of local labor laws should obtain clarification from the locality where the work is performed.