

WAC 296-128-90080 Enforcement—Compensation. (1) The department may enforce any amounts owed including, but not limited to, amounts collected and tips or gratuities under RCW 49.46.360 and associated rules as a wage payment requirement under RCW 49.48.082.

(2) If an entertainer files a complaint with the department alleging amounts owed as a result of a violation of RCW 49.46.360 and associated rules, the department will investigate the complaint. Alleged violations include, but are not limited to, improper leasing fees or other fees, improper deductions, or the improper collection of amounts owed to an entertainer, including tips or gratuities.

(3) If the department determines that an establishment has violated a requirement of RCW 49.46.360 or associated rules, the department may order the establishment to pay entertainers all amounts owed, including interest of one percent per month on all amounts owed. The amounts and interest owed must be calculated from the first date amounts were owed to the entertainer, except that the department may not order the establishment to pay any amounts and interest that were owed more than three years before the date the complaint was filed with the department.

(4) Unless the complaint is otherwise resolved or withdrawn by the entertainer, the department shall issue either a citation and notice of assessment or a determination of compliance. The department may not investigate any alleged violation that occurred more than three years before the date that the entertainer filed the complaint.

(5) If the department determines that the violation of rights under RCW 49.46.360 or associated rules was a willful violation, and the establishment fails to take corrective action, the department may order the establishment to pay the department a civil penalty as specified in (a) of this subsection.

(a) A citation assessing a civil penalty for a willful violation of such rights will be \$1,000 or an amount equal to 10 percent of the total amount of unpaid amounts owed, whichever is greater, for each willful violation. For a repeat willful violator, the citation assessing a civil penalty will not be less than \$2,000, but no greater than \$20,000 for each repeat willful violation.

(b) The department may not assess a civil penalty if the establishment reasonably relied on:

(i) A written order, ruling, approval, opinion, advice, determination, or interpretation of the director; or

(ii) An interpretive or administrative policy issued by the department and filed with the office of the code reviser. In accordance with the department's retention schedule obligations under chapter 40.14 RCW, the department will maintain a complete and accurate record of all written orders, rulings, approvals, opinions, advice, determinations, and interpretations for purposes of determining whether an establishment is immune from civil penalties under (b) of this subsection.

(c) The department may, at any time, waive or reduce a civil penalty assessed under this section.

(d) The department will deposit civil penalties paid under this section in the supplemental pension fund established under RCW 51.44.033.

(6) During any investigation under RCW 49.46.360, if the department discovers information suggesting additional violations of any requirements of RCW 49.46.360 or any associated rules, the department may investigate and take appropriate enforcement action without any

additional complaint. The department may also initiate an investigation on behalf of one or more entertainers for a violation of any requirements of RCW 49.46.360 or any associated rules, when the director otherwise has reason to believe that a violation may have occurred or will occur.

(7) The department may conduct a consolidated investigation for any alleged violations identified under RCW 49.46.360 or associated rules, when there are common questions of law or fact involving entertainers for the same establishment.

(8) The department may, for the purposes of enforcing RCW 49.46.360 or any associated rules, issue subpoenas to compel the attendance of witnesses or parties and the production of documents and records, administer oaths and examine witnesses under oath, take depositions, and seek affidavits or other verifications. The department may request an establishment perform a self-audit of any records. The results or conclusions of the self-audit must be provided to the department within a reasonable time. Reasonable timelines will be specified in the self-audit request. The records examined by the establishment in order to perform the self-audit must be made available to the department upon request.

(9) For purposes of this section, the following definitions apply:

(a) "Repeat willful violator" means any establishment that has been the subject of a final and binding citation for a willful violation of one or more rights under RCW 49.46.360, and all associated rules, within three years of the date of issuance of the most recent citation for a willful violation of one or more such rights.

(b) "Willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute.

[Statutory Authority: RCW 49.46.360. WSR 24-24-075, s 296-128-90080, filed 12/2/24, effective 1/2/25.]