

WSR 24-06-015
EXPEDITED RULES
GAMBLING COMMISSION
[Filed February 26, 2024, 4:32 p.m.]

Title of Rule and Other Identifying Information: Repeal of WAC 230-06-046 Additional requirements for licensed business premises of nonhouse-banked, Class F, and house-banked card rooms.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The gambling commission (commission) proposes to repeal WAC 230-06-046 Additional requirements for licensed business premises of nonhouse-banked, Class F, and house-banked card rooms. The commission has taken the existing rule, amended it and moved it to chapter 230-03 WAC, the licensing chapter. With a new rule under consideration on this topic in chapter 230-03 WAC, the need for this rule is no longer necessary.

Reasons Supporting Proposal: The current rule will become redundant once the proposed rule (WAC 230-03-182) in chapter 230-03 WAC is adopted.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: RCW 9.46.070.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Adam Amorine, Rules Coordinator, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3473; Implementation: Tina Griffin, Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3546; and Enforcement: Gary Drumheller, Deputy Director, 4565 7th Avenue S.E., Lacey, WA 98503, 509-325-7904.

This notice meets the following criteria to use the expedited repeal process for these rules:

Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: As noted, this rule is to be replaced by a similar rule that will be in chapter 230-03 WAC, making this rule redundant.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Adam Amorine, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, phone 360-486-3473, email rules.coordinator@wsgc.wa.gov, www.wsgc.wa.gov, AND RECEIVED BY May 6, 2024.

January 12, 2024
Adam Amorine
Rules Coordinator

WSR 24-06-028

EXPEDITED RULES

DEPARTMENT OF HEALTH

[Filed February 28, 2024, 3:40 p.m.]

Title of Rule and Other Identifying Information: Military spouses; removing barriers to temporary practice permits. The department of health (department) is proposing amendments to WAC 246-12-051 How to obtain a temporary practice permit—Military spouse, to update language changes made by 2SHB 1009 (chapter 165, Laws of 2023).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: 2SHB 1009 alters temporary practice permit (TPP) requirements to expedite the issuance of professional licenses for military spouses who hold a license in another state by removing the need to first leave employment.

The proposed rule amendment aligns WAC 246-12-051 by striking language from the rule to match the changes made by 2SHB 1009 and codified in RCW 18.340.020.

Reasons Supporting Proposal: The proposed changes will align the rules with statutory changes regarding licensure of military spouses who hold a license in another state.

Statutory Authority for Adoption: 2SHB 1009 (chapter 165, Laws of 2023), codified as RCW 18.340.020.

Statute Being Implemented: RCW 18.340.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Tommy Simpson and Kalon Robinson-Goodman, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4910 or 360-233-1583.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The proposed amendments align WAC 246-12-051 with the statutory language in RCW 18.340.020.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Tommy Simpson or Kalon Robinson-Goodman, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4910 or 360-233-1583, fax 360-236-2901, email <https://fortress.wa.gov/doh/policyreview>, AND RECEIVED BY May 6, 2024.

February 28, 2024
Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-5129.2

AMENDATORY SECTION (Amending WSR 12-24-014, filed 11/27/12, effective 12/28/12)

WAC 246-12-051 How to obtain a temporary practice permit—Military spouse. A military spouse or state registered domestic partner of a military person may receive a temporary practice permit while completing any specific additional requirements that are not related to training or practice standards for the profession. This section applies to any profession listed in RCW 18.130.040 (2) (a).

(1) A temporary practice permit may be issued to an applicant who is a military spouse or state registered domestic partner of a military person and:

(a) Is moving to Washington as a result of the military person's transfer to Washington;

(b) ~~((Left employment in another state to accompany the military person to Washington;~~

~~(c))~~ Holds an unrestricted, active license in another state that has substantially equivalent licensing standards for the same profession to those in Washington; and

~~((d))~~ (c) Is not subject to any pending investigation, charges, or disciplinary action by the regulatory body of the other state or states.

(2) A temporary practice permit grants the individual the full scope of practice for the profession.

(3) A temporary practice permit expires when any one of the following occurs:

(a) The license is granted;

(b) A notice of decision on the application is mailed to the applicant, unless the notice of decision on the application specifically extends the duration of the temporary practice permit; or

(c) One hundred eighty days after the temporary practice permit is issued.

(4) To receive a temporary practice permit, the applicant must:

(a) Submit the necessary application, fee(s), fingerprint card if required, and documentation for the license;

(b) ~~((Attest on the application that he/she left employment in another state to accompany the military person;~~

~~(c))~~ Meet all requirements and qualifications for the license that are specific to the training, education, and practice standards for the profession;

~~((d))~~ (c) Provide verification of having an active unrestricted license in the same profession from another state that has substantially equivalent licensing standards for the profession in Washington;

~~((e))~~ (d) Submit a copy of the military person's orders and a copy of:

(i) The military-issued identification card showing the military person's information and the applicant's relationship to the military person;

(ii) A marriage license; or

(iii) A state registered domestic partnership; and

~~((f))~~ (e) Submit a written request for a temporary practice permit.

(5) For the purposes of this section:

(a) "Military spouse" means the husband, wife, or registered domestic partner of a military person.

(b) "Military person" means a person serving in the United States armed forces, the United States public health service commissioned corps, or the merchant marine of the United States.

WSR 24-06-058

EXPEDITED RULES

DEPARTMENT OF REVENUE

[Filed March 4, 2024, 8:01 a.m.]

Title of Rule and Other Identifying Information: WAC 458-20-144
Printing industry.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of revenue (DOR) is amending WAC 458-20-144 to incorporate 2023 legislation, E2SSB 5199. E2SSB 5199 provides a B&O tax preference in the form of a B&O tax exemption for amounts received by any person engaged in printing and/or publishing newspapers, or publishing eligible digital content. See RCW 82.04.759.

Reasons Supporting Proposal: The rule is being updated to incorporate changes resulting from 2023 legislation, E2SSB 5199.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060.

Statute Being Implemented: RCW 82.04.759.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DOR, governmental.

Name of Agency Personnel Responsible for Drafting: Tiffany Do, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1558; Implementation and Enforcement: John Ryser, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1605.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The expedited rule-making process is applicable to this rule update because DOR is incorporating changes resulting from 2023 legislation.

NOTICE

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March 4, 2024
Brenton Madison
Rules Coordinator

OTS-5257.1

AMENDATORY SECTION (Amending WSR 18-13-094, filed 6/19/18, effective 7/20/18)

WAC 458-20-144 Printing industry. (1) **Introduction.** This ((~~section~~)) rule discusses the taxability of the printing industry. ((~~For information on the taxability of mailing bureau services and a discussion of direct mail, refer to WAC 458-20-141. For information on the taxability of printers and publishers of newspapers, magazines, and periodicals, refer to WAC 458-20-143~~)) Readers may want to refer to other rules for additional information, including:

(a) WAC 458-20-141 Duplicating activities and mailing bureaus;
 (b) WAC 458-20-143 Printers and publishers of newspapers, magazines, and periodicals;
 (c) WAC 458-20-102 Reseller permits;
 (d) WAC 458-20-13601 Manufacturers and processors for hire—Sales and use tax exemptions for machinery and equipment.

(2) **Definition.** The phrase "printing industry" includes letterpress, offset-lithography, and gravure processes as well as multi-graph, mimeograph, autotyping, addressographing and similar activities.

(3) **Business and occupation (B&O) tax.**

(a) Printers are subject to the ((~~business and occupation~~)) B&O tax under the printing and publishing classification upon the gross income of the business.

(b) ((~~Effective~~)) Printers of newspapers. From July 1, 2009, through December 31, 2023, printers of newspapers are taxable under the publication of newspapers classification of the B&O tax upon the gross income of the business.

Effective January 1, 2024, printers of newspapers are exempt from B&O tax under RCW 82.04.759 on the amounts received from engaging in printing a newspaper. The exemption amount is reduced by an amount equal to the value of any expenditure made by the person during the tax reporting period. For purpose of this section, "expenditure" has the meaning provided in RCW 42.17A.005.

Persons reporting income under the publication of newspapers classification of the B&O tax ((~~must file a complete~~)), or claiming the B&O tax exemption for income received from engaging in printing a newspaper on or after January 1, 2024, are required to electronically file an annual tax performance report with the department by May 31st of the following year. ((In addition, such persons must electronically file with the department all reports, returns, and any other forms.)) Refer to RCW ((~~82.32.600~~)) 82.32.534 and WAC 458-20-267 (Annual tax performance reports for certain tax preferences) for the specific guidelines and requirements.

(c) **Doing business inside and outside the state.** RCW 82.04.460 requires that advertising income earned by printers derived from business activities performed within Washington be apportioned to this state for tax purposes. Refer to chapter 23 (E2SSB 6143), Laws of 2010 1st sp. sess. Part I for information on apportioning advertising income.

(4) **Retail sales tax.**

(a) The printing or imprinting of advertising circulars, books, briefs, envelopes, folders, posters, racing forms, tickets, and other

printed matter, whether upon special order or upon materials furnished either directly or indirectly by the customer is a retail sale and subject to the retail sales tax, (~~providing~~) provided the customer either consumes, or distributes such articles free of charge, and does not resell such articles in the regular course of business. The retail sales tax is computed upon the total charge for printing, and the printer may not deduct the cost of labor, author's alterations, or other service charges in performing the printing, even though such charges may be stated or shown separately on invoices.

(b) Sales of printed matter to advertising agencies who purchase for their own use or for the use of their clients, and not for resale in the regular course of business, are sales for consumption and subject to the retail sales tax.

(c) Sales of tickets to theater owners, amusement operators, transportation companies and others are sales for consumption and subject to the retail sales tax. Such tickets are not resold by (~~the~~) theater owners or amusement proprietors as tangible personal property but are used merely as a receipt to the patrons for payment and as evidence of the right to admission or transportation.

(d) Sales of school annuals and similar publications by printers to school districts, private schools or student organizations therein are subject to the retail sales tax.

(e) Sales by printers of books, envelopes, folders, posters, racing forms, stationery, tickets and other printed matter to dealers for resale in the regular course of business are wholesale sales. Such sales are not subject to retail sales tax when the seller obtains (~~a resale certificate for sales made before January 1, 2010, or~~) a reseller permit (~~for sales made on or after January 1, 2010,~~) from the buyer to document the wholesale nature of the sale as provided in (~~WAC 458-20-102A (Resale certificates) and~~) WAC 458-20-102 (Reseller permits). (~~Even though resale certificates are no longer used after December 31, 2009, they must be kept on file by the seller for five years from the date of last use or December 31, 2014.~~)

(f) Charges made by bookbinders or printers for imprinting, binding or rebinding of materials for consumers are subject to the retail sales tax.

(g) Sales to printers of equipment, supplies and materials which do not become a component part or ingredient of the finished printed matter sold or which are put to "intervening use" before being resold are subject to the retail sales tax unless specifically exempt (see subsection (5) of this section). This includes, among others, sales of fuel, furniture, and lubricants.

(h) Sales to printers of paper stock and ink which become a part of the printed matter sold are sales for resale and are not subject to retail sales tax when the buyer provides (~~a resale certificate (WAC 458-20-102A) for sales made before January 1, 2010, or~~) a reseller permit (WAC 458-20-102) (~~for sales made on or after January 1, 2010,~~) to the seller.

(5) **Exemption for sales of computer equipment to printers.** RCW 82.08.806 and 82.12.806 provide a retail sales and use tax exemption to a printer or publisher(~~,~~) for the following:

(a) Purchase and use of computer equipment(~~,~~including) primarily used in printing or publishing of any printed materials. This includes for repair parts and replacement parts (~~for~~) of such qualifying equipment(~~,~~when the computer equipment is used primarily in the printing or publishing of any printed material, or to). "Computer equipment" has the same meaning as defined in RCW 82.08.806 (3) (b).

"Primarily" means greater than 50 percent as measured by time. RCW 82.08.806 (3)(d).

(b) Sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the computer equipment.

~~((This exemption applies))~~ These exemptions apply only to computer equipment not otherwise exempt under RCW 82.08.02565.

(6) Commissions and discounts.

(a) There is a general trade practice in the printing industry of making allowances to advertising agencies of a certain percentage of the gross charge made for printed matter ordered by the agency either in its own name or in the name of the advertiser. This allowance may be a "commission" or may be a "discount."

(b) A "commission" paid by a seller constitutes an expense of doing business and is not deductible from the measure of ~~((tax under either business and occupation))~~ B&O tax or retail sales tax. On the other hand, a "discount" is a deduction from an established selling price allowed to buyers, and a bona fide discount is deductible under both ~~((these classifications))~~ B&O tax and retail sales tax.

(c) In order that there may be a definite understanding, printers, advertising agencies and advertisers are advised that tax liability in such cases is as follows:

(i) The allowance taken by an advertising agency will be deductible as a discount in the computation of the printer's liability only in the event that the printer bills the charge on a net basis; i.e., less the discount.

(ii) Where the printer bills the gross charge to the agency, and the advertiser pays the sales tax measured by the gross charge, no deduction will be allowed, irrespective of the fact that in payment of the account the printer actually receives from the agency the net amount only; i.e., the gross billing, less the commission retained by the agency. In all cases the commission received is taxable to the agency.

WSR 24-06-059

EXPEDITED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed March 4, 2024, 8:14 a.m.]

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is proposing to amend WAC 388-112A-0400 What is specialty training and who is required to take it?

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of amending WAC 388-112A-0400 What is specialty training and who is required to take it?, is to correct a reference, update numbers over 10 from words to numerals, and to remove time-dated language that is no longer needed.

Reasons Supporting Proposal: The proposed changes are necessary for the following reasons:

- The citation in subsection (2) pointing to WAC 388-112A-0010(3) is incorrect and should be WAC 388-112A-0010(36);
- References in subsection (2)(a)(i) and (ii) dealing with alternative curriculum reference a submission date of June 30, 2018, which is no longer needed; and
- Numbers over 10 in subsections (5) and (6) do not conform to the current rules on style which require them to be numerals.

Statutory Authority for Adoption: RCW 70.128.230, 74.08.074, 74.39A.009, and 74.39A.070.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: David Chappell, Aging and Long-Term Support Administration Headquarters, Blake East 4500 10th Avenue S.E., 2nd Floor, Lacey, WA 98503, 360-725-2516.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

This notice meets the following criteria to use the expedited repeal process for these rules:

The rule is no longer necessary because of changed circumstances.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, DSHS, P.O. Box 45850, Olympia, WA 98504-5850, phone 360-664-6097, fax 360-664-6185, email DSHSRPAURulesCoordinator@dshs.wa.gov, AND RECEIVED BY 5:00 p.m. on May 6, 2024.

March 4, 2024
Katherine I. Vasquez
Rules Coordinator

SHS-5021.1

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0400 What is specialty training and who is required to take it? (1) Specialty training refers to approved curricula that meets the requirements of RCW 18.20.270 and 70.128.230 to provide basic core knowledge and skills to effectively and safely provide care to residents living with mental illness, dementia, or developmental disabilities.

(2) Specialty training classes are different for each population served and are not interchangeable. Specialty training curriculum must be DSHS developed, as described in WAC 388-112A-0010(~~(+3)~~) (36), or DSHS approved.

(a) In order for DSHS to approve a curriculum as a specialty training class, the class must use the competencies and learning objectives in WAC 388-112A-0430, 388-112A-0440, or 388-112A-0450.

~~((i) Training entities that currently use classes approved as alternative curriculum for specialty training must update and submit their curricula for approval prior to June 30, 2018.))~~

~~((ii) After July 1, 2018,))~~ (b) Training entities must not use classes approved as alternative curriculum for specialty training that are not using the competencies and learning objectives in WAC 388-112A-0430, 388-112A-0440, or 388-112A-0450 to meet the specialty training requirement.

~~((b))~~ (c) Curricula approved as specialty training may be integrated with basic training if the complete content of each training is included.

(3) Assisted living facility administrators or their designees, enhanced services facility administrators or their designees, adult family home applicants or providers, resident managers, and entity representatives who are affiliated with homes that service residents who have special needs, including developmental disabilities, dementia, or mental health, must take one or more of the following specialty training curricula:

(a) Developmental disabilities specialty training as described in WAC 388-112A-0420;

(b) Dementia specialty training as described in WAC 388-112A-0440;

(c) Mental health specialty training as described in WAC 388-112A-0450.

(4) All long-term care workers including those exempt from basic training who work in an assisted living facility, enhanced services facility, or adult family home who serve residents with the special needs described in subsection (3) of this section, must take a class approved as specialty training. The specialty training applies to the type of residents served by the home as follows:

(a) Developmental disabilities specialty training as described in WAC 388-112A-0420(~~(-)~~);

(b) Dementia specialty training as described in WAC 388-112A-0440; and

(c) Mental health specialty training as described in WAC 388-112A-0450.

(5) Specialty training may be used to meet the requirements for the basic training population specific component if completed within (~~one hundred twenty~~) 120 days of the date of hire.

(6) For long-term care workers who have completed the (~~seventy-five hour~~) 75-hour training and do not have a specialty training certificate that indicates completion and competency testing, the long-term care worker must complete specialty training when employed by the adult family home, enhanced services facility, or assisted living facility that serves residents with special needs.

WSR 24-06-070
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed March 5, 2024, 8:53 a.m.]

Title of Rule and Other Identifying Information: Prevailing wage—Housekeeping. WAC 296-127-010(9) Definitions for chapter 296-127 WAC, 296-127-140 Investigation of complaint, 296-127-160 Appeal of notice of violation, and 296-127-320 Payroll.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this expedited rule making is to amend three rule sections to bring them into alignment with amendments to the statutes they help to interpret and enforce, and one that aligns with current department of labor and industries (L&I) practice. The changes reflect requirements in law and do not affect the purpose of the rule sections.

This proposal includes amending the following sections in rule:

- WAC 296-127-010 Definitions for chapter 296-127 WAC, update the "residential construction" definition to align with the definition for "residential construction" in RCW 39.12.017, which was created with the passage of HB 1743.
- WAC 296-127-140 Investigation of complaint, update language related to L&I's acceptance timeline of a complaint concerning the nonpayment of the prevailing rate of wage. Change the acceptance date from 30 to 60 days for public works projects. This change aligns the section with RCW 39.12.065, which was amended with the passage of SB 5088.
- WAC 296-127-160 Appeal of notice of violation, eliminate the need to submit four copies of the request for a hearing. This aligns with current L&I practice and reduces paperwork.
- WAC 296-127-320 Payroll, align section with RCW 39.12.120, which requires weekly certified payroll records be filed at least once a month using L&I's online system. RCW 39.12.120 was created with the passage of ESSB 5035.

Reasons Supporting Proposal: HB 1743, chapter 29, Laws of 2019, created new RCW 39.12.017 regarding residential construction. WAC 296-127-010 must be updated to adopt the language of the statute.

SB 5088, chapter 88, Laws of 2023, amended RCW 39.12.065 regarding the timeline for a complaint concerning nonpayment of the prevailing rate of wage. WAC 296-127-140 incorporates the statutory language that was amended and must be updated to match the amended language of the statute.

ESSB 5035, chapter 242, Laws of 2019, created new RCW 39.12.120 regarding payroll records and recordkeeping obligations. WAC 296-127-320 incorporates the statutory language of the statute.

L&I should update WAC 296-127-160 to match current internal government operations, which have reduced waste by eliminating unnecessary copies of the request for hearing documents. The update would also benefit filers.

Statutory Authority for Adoption: Chapter 39.12 RCW.

Statute Being Implemented: Not applicable.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Reasa L. Pearson, Tumwater, Washington, 360-999-7226; Implementation and Enforcement: Jody Robbins, Tumwater, Washington, 360-902-5330.

This notice meets the following criteria to use the expedited adoption process for these rules:

Relates only to internal governmental operations that are not subject to violation by a person.

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited rule making is necessary to align rule language with recent changes to the language of the source RCW from which the WAC language is derived. Expedited rule making reducing unnecessary duplicates of requests for hearing is appropriate to match current internal agency operations, which also benefits stakeholders.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Reasa L. Pearson, L&I, Fraud Prevention and Labor Standards, Prevailing Wage, P.O. Box 44540, Olympia, WA 98504-4540, phone 360-999-7226, email PrevailingWageRules@Lni.wa.gov, AND RECEIVED BY May 6, 2024.

March 5, 2024
Joel Sacks
Director

OTS-5247.2

AMENDATORY SECTION (Amending WSR 22-24-089, filed 12/6/22, effective 1/6/23)

WAC 296-127-010 Definitions for chapter 296-127 WAC. (1) "Department" means the department of labor and industries.

(2) "Director" means the director of the department or his or her duly authorized deputy or representative.

(3) "Industrial statistician" means the industrial statistician of the department.

(4) "Assistant director" means the assistant director of the fraud prevention and labor standards (FPLS) division or his or her duly authorized deputy or representative.

(5) "Contractor" means:

(a) The prime contractor, and each and every subcontractor, required to be registered under chapter 18.27 RCW and/or licensed under chapter 19.28 RCW, that performs any work on a public works project site, and/or is required to pay industrial insurance premiums as a construction company.

(b) Employers engaged in shipbuilding and ship repair, building service maintenance, and any fabricator or manufacturer that produces nonstandard items specifically for a public works project.

(c) Employers that contract with contractors or subcontractors for the purpose of the production and/or delivery of materials pursuant to the terms of WAC 296-127-018.

(6) The term municipality shall include every city, county, town, district, political subdivision, or other public agency thereof which is authorized by law to require the execution of public work, except drainage districts, diking districts, diking and drainage improvement districts, drainage improvement districts, diking improvement districts, consolidated diking and drainage improvement districts, consolidated drainage improvement districts, consolidated diking improvement districts, irrigation districts, or any such other districts as shall from time to time be authorized by law for the reclamation or development of waste or undeveloped lands.

(7)(a) The term "public work" shall include:

(i) All work, construction, alteration, enlargement, improvement, repair, and/or demolition that is executed by contract, purchase order, or any other legal agreement and that is executed at the cost of the state of Washington or of any municipality. The source of the funding shall not determine the applicability of the statute, and may include, but is not limited to, such sources as those payments made through contracts with insurance companies on behalf of the insured state or municipality;

(ii) All work, construction, alteration, enlargement, improvement, repair, and/or demolition which, by law, constitutes a lien or charge on any property of the state or of a municipality;

(iii) All work, construction, alteration, repair, or improvement, other than ordinary maintenance that the state or a municipality causes to be performed by a private party through a contract to rent, lease, or purchase at least 50 percent of the project by one or more state agencies or municipalities, pursuant to RCW 39.04.260;

(iv) Maintenance, except ordinary maintenance as defined by (b) (ii)(A) and (B) of this subsection, when performed by contract. Maintenance is defined as keeping existing facilities in good usable, operational condition;

(v) Janitorial and building service maintenance as defined by WAC 296-127-023, when performed by contract, on public buildings and/or assets; and

(vi) The fabrication and/or manufacture of nonstandard items produced by contract specifically for a public works project as defined by (a) (i) through (v) of this subsection.

(b) The term "public work" shall not include:

(i) Work, construction, alteration, enlargement, improvement, repair, demolition, and/or maintenance for which no wage or salary compensation is paid, consistent with the requirements of RCW 35.21.278; or

(ii) Ordinary maintenance.

(A) Ordinary maintenance is defined as maintenance work performed by the regular employees of the state or any county, municipality, or political subdivision created by its laws.

(B) For housing authorities when contracting with a property management services company for purposes of operating a housing project, as defined in RCW 35.82.030. Rental and other project revenues collected by a property management services company from the housing project's tenants and used to pay administrative operating and ordinary maintenance costs incurred by the company under the terms of the contract with the authority shall be treated as private funds, and any resulting services as executed at the cost of the property management services company and the housing project's tenants, until the net operating revenues are distributed to the authority for its exclusive use and control. For the purposes of this subsection, "ordinary maintenance" only includes: Routine repairs related to unit turnover work; grounds and parking lot upkeep; and repairs and cleaning work needed to keep a property in a clean, safe, sanitary, and rentable condition that are customarily undertaken or administered by residential property management services companies. "Ordinary maintenance" does not include repairs that would be considered replacement capital repairs or scheduled regular maintenance work on plumbing, electrical, or HVAC/R systems or their components.

(8) "Contract" means a contract, purchase order, or any other legal agreement in writing for public work to be performed for a fixed or determinable amount, which is duly awarded after advertisement and competitive bid. A contract that is awarded from a small works roster, or under the emergency provisions of state law, need not be advertised.

(9) "Residential construction" means construction, alteration, repair, improvement, or maintenance of single family dwellings, duplexes, apartments, condominiums, and other residential structures not to exceed four stories in height, including basement, ~~((when used solely as permanent residences. It))~~ in the following categories:

(a) Affordable housing, including permanent supportive housing and transitional housing, which may include common spaces, community rooms, recreational spaces, a management office, or offices for the purposes of service delivery;

(b) Weatherization and home rehabilitation programs for low-income households; and

(c) Homeless shelters and domestic violence shelters.

"Residential construction" does not include the utilities construction (such as water and sewer lines), or work on streets, or work on other structures ~~((e.g., for recreation and business.))~~ unrelated to the housing.

AMENDATORY SECTION (Amending WSR 86-03-063, filed 1/17/86)

WAC 296-127-140 Investigation of complaint. (1) The department shall investigate a complaint filed by an interested party unless the complaint was filed more than ~~((thirty))~~ 60 days after the date the public agency accepted the public work that gave rise to the complaint. The department may, in its sole discretion, investigate a complaint filed more than ~~((thirty))~~ 60 days after the acceptance date. However, the department may not charge a contractor with a violation

of RCW 39.12.065 if the complaint is filed after the (~~thirty~~) 60-day limit.

The department's investigation shall determine whether a violation of RCW 39.12.065 or 39.12.050, or both, or of any other provision of chapter 39.12 RCW, occurred.

(2) If the department's investigation substantiates a complaint that alleges that a contractor has violated RCW 39.12.065, the department is required to attempt to collect unpaid wages for the contractor's employees. During the investigation, the department should be able to identify the affected employees. The department shall direct to the affected employees the best notice practicable under the circumstances, including individual notice to all employees who can be identified through reasonable effort. The notice shall inform the employee that (a) the department's final order, whether favorable or not, will apply to all employees; (b) any employee may, if he or she desires, move to intervene as a party in any hearing held as a result of the investigation; and (c) that the employee may have a private right of action to collect unpaid prevailing wages.

AMENDATORY SECTION (Amending WSR 86-03-063, filed 1/17/86)

WAC 296-127-160 Appeal of notice of violation. The violator or any of its sureties who are interested in the matter may request a hearing on a notice of violation. (~~One original and four copies of~~) The request for hearing must be filed with the director within (~~thirty~~) 30 days after the date the department issued the notice. The party requesting the hearing must also serve a copy of the notice on all interested sureties and, if the requestor is a surety, on the violator.

The request for hearing must be in writing and must specify:

- (1) The name and address of the party requesting the hearing;
- (2) The notice of violation that is being appealed;
- (3) The items of the notice of violation that the requestor believes are erroneous; and
- (4) The reasons the notice of violation is erroneous.

AMENDATORY SECTION (Amending WSR 92-01-104, filed 12/18/91, effective 1/31/92)

WAC 296-127-320 Payroll. (1) Each contractor, subcontractor, or employer shall keep accurate payroll records for three years from the date of acceptance of the public works project by the contract awarding agency, showing the employee's full name, address, Social Security number, trade or occupation, classification, straight ((time)) and overtime rates, hourly rate of usual benefits ((as defined by WAC 296-127-014(1)), and ((overtime)) hours worked each day and week, including any employee authorizations executed pursuant to ((WAC 296-127-022)) RCW 49.28.065, and the actual ((rate of)) gross wages, itemized deductions, withholdings, and net wages paid, for each laborer, worker, and mechanic employed by the contractor for work performed on a public works project.

(2) A contractor (~~shall, within ten days after it receives a written request, from the department or from any interested party as~~

~~defined by RCW 39.12.010(4), file a certified copy of the payroll records with the agency that awarded the public works contract and with the department), subcontractor, or employer shall file a copy of its certified payroll records using the department of labor and industries' online system at least once per month. If the department of labor and industries' online system is not used, a contractor, subcontractor, or employer shall file a copy of its certified payroll records directly with the department of labor and industries in a format approved by the department of labor and industries at least once per month.~~

(3) A ~~((contractor's))~~ contractor, subcontractor, or employer's noncompliance with this section shall constitute a violation of RCW 39.12.050.

WSR 24-06-072

EXPEDITED RULES

HEALTH CARE AUTHORITY

[Filed March 5, 2024, 9:51 a.m.]

Title of Rule and Other Identifying Information: WAC 182-513-1530 Maximum guardianship fee and related cost deductions allowed from a client's participation or room and board on or after June 1, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The health care authority (HCA) is amending this rule to correct a typographical error.

Reasons Supporting Proposal: Subsection (1)(d)(i) cites to RCW 11.92.180. The correct citation is chapter 11.130 RCW.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Jensen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0815; Implementation and Enforcement: Paige Lewis, P.O. Box 42722, Olympia, WA 98504-2722, 360-725-0757.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, makes address or name changes, or clarifies language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The expedited rule-making process is appropriate because the proposed rule corrects a typographical error.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, HCA, P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-1306, fax 360-586-9272, email arc@hca.wa.gov, AND RECEIVED BY May 7, 2024.

March 5, 2024
Wendy Barcus
Rules Coordinator

OTS-5237.1

AMENDATORY SECTION (Amending WSR 18-10-024, filed 4/24/18, effective 6/1/18)

WAC 182-513-1530 Maximum guardianship fee and related cost deductions allowed from a client's participation or room and board on or after June 1, 2018. (1) General information.

(a) This section sets the maximum guardianship fee and related cost deductions when:

- (i) A court order was entered on or after June 1, 2018; or
- (ii) The client under guardianship began receiving medicaid-funded long-term services and supports on or after June 1, 2018.

(b) This section only applies to a client who is:

(i) Eligible for and receives institutional services under this chapter (~~(182-513 WAC)~~) or home and community-based waiver services under chapter 182-515 WAC, and who is required to pay participation under WAC 182-513-1380, 182-515-1509, or 182-515-1514; or

(ii) Eligible for long-term services and supports under this chapter (~~(182-513)~~) or chapter 182-515 WAC, and who is required to pay only room and board.

(c) All requirements of this section remain in full force whether or not the agency appears at a guardianship proceeding.

(d) In this section, the agency does not delegate any authority in determining eligibility or post-eligibility for medicaid clients.

(i) Under the authority granted by chapter 11.130 RCW (~~(11.92.180)~~), the agency does not deduct more than the amounts allowed by this section from participation or room and board.

(ii) The eligibility rules under Title 182 WAC remain in full force and effect.

(e) The agency does not reduce a client's participation or room and board under this section for guardianship fees or related costs accumulated during any month that a client was not required to pay:

(i) Participation under WAC 182-513-1380, 182-515-1509, or 182-515-1514; or

(ii) Room and board under this chapter (~~(182-513)~~) or chapter 182-515 WAC.

(f) If the client has another fiduciary, payee, or other principal-agency relationship and the agent is allowed compensation, any monthly guardianship fee approved under this section is reduced by the agent's compensation.

(2) Maximum guardianship fee and related cost deductions.

(a) The maximum guardianship fee and related cost deductions under this section include all guardianship services provided to the client, regardless of the number of guardians appointed to a client during a period of time, or whether the client has multiple guardians appointed at the same time.

(b) Maximum guardianship fees and related cost deductions are as follows:

(i) The total deduction for costs directly related to establishing a guardianship for a client cannot exceed \$1,850;

(ii) The total deduction for guardianship-related costs cannot exceed \$1,200 during any three-year period; and

(iii) The amount of the monthly deduction for guardianship fees cannot exceed \$235 per month.

(3) For people under subsection (1)(b)(i) of this section - Participation deductions.

(a) After receiving the court order, the agency or its designee adjusts the client's current participation to reflect the deductions under WAC 182-513-1380, 182-515-1509, or 182-515-1514.

(b) The amounts of the participation deductions are the amounts under subsection (2) of this section, or the court order, whichever are less.

(c) For clients who pay room and board in addition to participation, if the client's amount of participation is insufficient to allow

for the amounts under subsection (2) of this section, then, regardless of any provision of this chapter (~~(182-513)~~) or chapter 182-515 WAC, the client's room and board will be adjusted to allow the amounts under subsection (2) of this section.

(4) For people under subsection (1)(b)(ii) of this section - Room and board deductions.

(a) The agency adjusts the client's room and board after receiving the court order, regardless of any provision of this chapter (~~(182-513)~~) or chapter 182-515 WAC.

(b) The amounts of the room and board deductions are the amounts under subsection (2) of this section, or the court order, whichever are less.