

Chapter 49.52 RCW
WAGES—DEDUCTIONS—CONTRIBUTIONS—REBATES

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RCW 49.52.010 Employees' benefit deductions and employer contributions are trust funds—Enforcement. All moneys collected by any employer from his or her or its employees and all money to be paid by any employer as his or her contribution for furnishing, either directly, or through contract, or arrangement with a hospital association, corporation, firm, or individual, of medicine, medical or surgical treatment, nursing, hospital service, ambulance service, dental service, burial service, or any or all of the above enumerated services, or any other necessary service, contingent upon sickness, accident, or death, are hereby declared to be a trust fund for the purposes for which the same are collected. The trustees (or their administrator, representative, or agent under direction of the trustees) of such fund are authorized to take such action as is deemed necessary to ensure that the employer contributions are made including, but not limited to filing actions at law, and filing liens against moneys due to the employer from the performance of labor or furnishing of materials to which the employees contributed their services. Such trust fund is subject to the provisions of *chapter 48.52 RCW. [2010 c 8 s 12053; 1975 c 34 s 1; 1927 c 307 s 1; RRS s 7614-1.]

***Reviser's note:** Chapter 48.52 RCW was repealed by 1979 ex.s. c 34 s 1.

RCW 49.52.020 Lien of party rendering service. In case any employer collecting moneys from his or her employees or making contributions to any type of benefit plan for any or all of the purposes specified in RCW 49.52.010, shall enter into a contract or

arrangement with any hospital association, corporation, firm, or individual, to furnish any such service to its employees, the association, corporation, firm, or individual contracting to furnish such services, shall have a lien upon such trust fund prior to all other liens except taxes. The lien hereby created shall attach from the date of the arrangement or contract to furnish such services and may be foreclosed in the manner provided by law for the foreclosure of other liens on personal property. [2010 c 8 s 12054; 1975 c 34 s 2; 1927 c 307 s 2; RRS s 7614-2.]

RCW 49.52.030 Deductions in extrahazardous employment—Medical aid fund deductions excluded. All moneys realized by any employer from the employer's employees either by collection or by deduction from the wages or pay of employees intended or to be used for the furnishing to workers engaged in extrahazardous work, their families or dependents, of medical, surgical or hospital care and treatment, or for nursing, ambulance service, burial or any or all of the above enumerated services, or any service incidental to or furnished or rendered because of sickness, disease, accident or death, and all moneys owing by any employer therefor, shall be and remain a fund for the purposes for which such moneys are intended to be used, and shall not constitute or become any part of the assets of the employer making such collections or deductions: PROVIDED, HOWEVER, That RCW 49.52.030 and 49.52.040 shall not apply to moneys collected or deducted as aforesaid for, or owing by employers to the state medical aid fund. Such moneys shall be paid over promptly to the physician or surgeon or hospital association or other parties to which such moneys are due and for the purposes for which such collections or deductions were made. [1989 c 12 s 16; 1929 c 136 s 1; RRS s 7713-1.]

RCW 49.52.040 Actions to recover for service—Lien—Priority. If any such employer shall default in any such payment to any physician, surgeon, hospital, hospital association or any other parties to whom any such payment is due, the sum so due may be collected by an action at law in the name of the physician, surgeon, hospital, hospital association or any other party to whom such payment is owing, or their assigns and against such defaulting employer, and in addition to such action, such claims shall have the same priority and lien rights as granted to the state for claims due the accident and medical aid funds by section 7682 of Remington's Compiled Statutes of Washington, 1922 [RCW 51.16.150 through 51.16.170], and acts amendatory thereto, which priority and lien rights shall be enforced in the same manner and under the same conditions as provided in said section 7682 [RCW 51.16.150 through 51.16.170]: PROVIDED, HOWEVER, That the said claims for physicians, surgeons, hospitals and hospital associations and others shall be secondary and inferior to any claims of the state and to any claims for labor. Such right of action shall be in addition to any other right of action or remedy. [1929 c 136 s 2; RRS s 7713-2.]

RCW 49.52.050 Rebates of wages—False records—Penalty. Any employer or officer, vice principal or agent of any employer, whether said employer be in private business or an elected public official, who

- (1) Shall collect or receive from any employee a rebate of any part of wages theretofore paid by such employer to such employee; or
 - (2) Wilfully and with intent to deprive the employee of any part of his or her wages, shall pay any employee a lower wage than the wage such employer is obligated to pay such employee by any statute, ordinance, or contract; or
 - (3) Shall wilfully make or cause another to make any false entry in any employer's books or records purporting to show the payment of more wages to an employee than such employee received; or
 - (4) Being an employer or a person charged with the duty of keeping any employer's books or records shall wilfully fail or cause another to fail to show openly and clearly in due course in such employer's books and records any rebate of or deduction from any employee's wages; or
 - (5) Shall wilfully receive or accept from any employee any false receipt for wages;
- Shall be guilty of a misdemeanor. [2010 c 8 s 12055; 1941 c 72 s 1; 1939 c 195 s 1; Rem. Supp. 1941 s 7612-21.]

Severability—1939 c 195: "If any section, subsection, sentence or clause of this act shall be adjudged unconstitutional, such adjudication shall not affect the validity of the act as a whole or of any section, subsection, sentence or clause thereof not adjudged unconstitutional." [1939 c 195 s 5; RRS s 7612-25.] This applies to RCW 49.52.050 through 49.52.080.

RCW 49.52.060 Authorized withholding. The provisions of RCW 49.52.050 shall not make it unlawful for an employer to withhold or divert any portion of an employee's wages when required or empowered so to do by state or federal law or when a deduction has been expressly authorized in writing in advance by the employee for a lawful purpose accruing to the benefit of such employee nor shall the provisions of RCW 49.52.050 make it unlawful for an employer to withhold deductions for medical, surgical, or hospital care or service, pursuant to any rule or regulation: PROVIDED, That the employer derives no financial benefit from such deduction and the same is openly, clearly and in due course recorded in the employer's books. [1939 c 195 s 2; RRS s 7612-22.]

Penalty for coercion as to purchase of goods, meals, etc.: RCW 49.48.020.

Public employment, payroll deductions: RCW 41.04.020, 41.04.030, 41.04.035, and 41.04.036.

Wages to be paid in lawful money or negotiable order, penalty: RCW 49.48.010.

RCW 49.52.070 Civil liability for double damages. Any employer and any officer, vice principal or agent of any employer who shall violate any of the provisions of RCW 49.52.050 (1) and (2) shall be liable in a civil action by the aggrieved employee or his or her assignee to judgment for twice the amount of the wages unlawfully rebated or withheld by way of exemplary damages, together with costs

of suit and a reasonable sum for attorney's fees: PROVIDED, HOWEVER, That the benefits of this section shall not be available to any employee who has knowingly submitted to such violations. [2010 c 8 s 12056; 1939 c 195 s 3; RRS s 7612-23.]

RCW 49.52.080 Presumption as to intent. The violations by an employer or any officer, vice principal, or agent of any employer of any of the provisions of subdivisions (3), (4), and (5) of RCW 49.52.050 shall raise a presumption that any deduction from or underpayment of any employee's wages connected with such violation was wilful. [1939 c 195 s 4; RRS s 7612-24.]

RCW 49.52.090 Rebates of wages on public works—Penalty. Every person, whether as a representative of an awarding or public body or officer, or as a contractor or subcontractor doing public work, or agent or officer thereof, who takes or receives, or conspires with another to take or receive, for his or her own use or the use of any other person acting with him or her any part or portion of the wages paid to any laborer, worker, or mechanic, including a piece worker and working subcontractor, in connection with services rendered upon any public work within this state, whether such work is done directly for the state, or public body or officer thereof, or county, city and county, city, town, township, district or other political subdivision of the said state or for any contractor or subcontractor engaged in such public work for such an awarding or public body or officer, shall be guilty of a gross misdemeanor. [2010 c 8 s 12057; 1935 c 29 s 1; RRS s 10320-1.]

Prevailing wages must be paid on public works: RCW 39.12.020.