

**44-319. Withholding of wages, limitations on; deductions from wages, when allowed.** (a) Except as provided in subsections (b) and (c), no employer may withhold, deduct or divert any portion of an employee's wages unless: (1) The employer is required or empowered to do so by state or federal law; (2) the deductions are for medical, surgical or hospital care or service, without financial benefit to the employer, and are openly, clearly and in due course recorded in the employer's books; (3) the employer has a signed authorization by the employee for deductions for a lawful purpose accruing to the benefit of the employee; or (4) the deductions are for contributions attributable to automatic enrollment, as defined in K.S.A. 2016 Supp. 44-319a, and amendments thereto, in a retirement plan established by the employer described in sections 401(k), 403(b), 408, 408A or 457 of the internal revenue code.

(b) Subject to the provisions of subsection (e), pursuant to a signed written agreement between the employer and employee, an employer may withhold, deduct or divert any portion of an employee's wages for the following purposes:

(1) To allow the employee to repay a loan or advance which the employer made to the employee during the course of and within the scope of employment;

(2) to allow for recovery of payroll overpayment; and

(3) to compensate the employer for the replacement cost or unpaid balance of the cost of the employer's merchandise or uniforms purchased by the employee.

(c) Subject to the provisions of subsection (e), upon providing a written notice and explanation, an employer may withhold, deduct or divert any portion of an employee's final wages for the following purposes:

(1) To recover the employer's property provided to the employee in the course of the employer's business including, but not limited to, tools of the trade or profession, personal safety equipment, computers, electronic devices, mobile phones, proprietary information such as client or customer lists and intellectual property, security information, keys or access cards or materials until such time as such property is returned by the employee to the employer. Upon return of the employer's property, the employer shall relinquish the wages withheld to the employee;

(2) to allow an employee to repay a loan or advance which the employer made to the employee during the course of and within the scope of employment;

(3) to allow for the recovery of payroll overpayment; or

(4) to compensate the employer for the replacement cost or unpaid balance of the cost of the employer's merchandise, uniforms, company property, equipment, tools of the trade or other materials intentionally purchased by the employee.

(d) Nothing in this section shall be construed as prohibiting the withholding of amounts authorized in writing by the employee to be contributed by the employee to charitable organizations; nor shall this section prohibit deductions by check-off of dues to labor organizations or service fees, where such is not otherwise prohibited by law.

(e) Amounts withheld under this section shall not reduce wages paid to below the minimum wage required under the federal fair labor standards act, 29 U.S.C.A. § 201 et seq., or the minimum wage required under K.S.A. 44-1203, and amendments thereto, whichever is applicable.

**History:** L. 1973, ch. 204, § 7; L. 2006, ch. 68, § 2; L. 2013, ch. 6, § 4; July 1.