

HOUSE BILL No. 2326

By Committee on Commerce, Labor and Economic Development

2-9

1 AN ACT concerning wages; relating to employer deductions; amending
2 K.S.A. 2016 Supp. 44-319 and repealing the existing section.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2016 Supp. 44-319 is hereby amended to read as
6 follows: 44-319. ~~(a)~~ *An employer may not withhold, deduct or divert an*
7 *employee's wages, except as provided in subsections (a), (b) and (c), no.*

8 *(a) An employer may withhold, deduct or divert any portion of an*
9 *employee's wages—unless for the following purposes and circumstances:*
10 *(1) The employer is required or empowered to do so by state or federal law*
11 *or by court order; (2) the deductions are for medical, surgical or hospital*
12 *care or service, without financial benefit to the employer, and are openly,*
13 *clearly and in due course recorded in the employer's books; (3) the*
14 *employer has a signed authorization by the employee for deductions for a*
15 *lawful purpose accruing to the benefit of the employee;—or (4) the*
16 *deductions are made to correct or recover wage overpayments, provided*
17 *that the deduction rate may not exceed the overpayment rate without the*
18 *employee's signed authorization; or (5) the deductions are for*
19 *contributions attributable to automatic enrollment, as defined in K.S.A.*
20 *2016 Supp. 44-319a, and amendments thereto, in a retirement plan*
21 *established by the employer described in sections 401(k), 403(b), 408,*
22 *408A or 457 of the internal revenue code.*

23 ~~(b) Subject to the provisions of subsection (c), Pursuant to a signed~~
24 ~~written agreement between the employer and employee the employee's~~
25 ~~signed authorization, an employer may withhold, deduct or divert any~~
26 ~~portion of an employee's wages for the following purposes:~~

27 (1) To allow the employee to repay a loan or wage advance which the
28 employer made to the employee during the course of and within the scope
29 of employment. *For purposes of this subsection (b)(1), a written request*
30 *from the employee requesting the loan or wage advance shall satisfy the*
31 *requirement of a signed authorization; and*

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

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

36 ~~(c) Subject to the provisions of subsection (e), Upon providing a~~

1 written notice and explanation, an employer may withhold, deduct or
 2 divert any portion of an employee's final wages for the following purposes:

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

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

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

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

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

24 (e) ~~Amounts withheld under~~ *Nothing in* this section shall ~~not reduce~~
 25 ~~wages paid to below the minimum wage required under~~ *be construed as*
 26 *authorizing deductions in violation of* the federal fair labor standards act,
 27 29 U.S.C.A. § 201 et seq., or the minimum wage required under K.S.A.
 28 44-1203, and amendments thereto, whichever is applicable.

29 Sec. 2. K.S.A. 2016 Supp. 44-319 is hereby repealed.

30 Sec. 3. This act shall take effect and be in force from and after its
 31 publication in the statute book.