§ 95-25.8. Withholding of wages.

(a)   An employer may withhold or divert any portion of an employee's wages when:

    (1)   The employer is required or empowered to do so by State or federal law;

    (2)   When the amount or rate of the proposed deduction is known and agreed upon in advance, the employer must have written authorization from the employee which (i) is signed on or before the payday(s) for the pay period(s) from which the deduction is to be made; (ii) indicates the reason for the deduction; and (iii) states the actual dollar amount or percentage of wages which shall be deducted from one or more paychecks. Provided, that if the deduction is for the convenience of the employee, the employee shall be given a reasonable opportunity to withdraw the authorization; or

    (3)   When the amount of the proposed deduction is not known and agreed upon in advance, the employer must have written authorization from the employee which (i) is signed on or before the payday(s) for the pay period(s) from which the deduction is to be made; and (ii) indicates the reason for the deduction. Prior to any deductions being made under this section, the employee must (i) receive advance written notice of the actual amount to be deducted; (ii) receive written notice of their right to withdraw the authorization; and (iii) be given a reasonable opportunity to withdraw the authorization in writing.

(b)   The withholding or diversion of wages owed for the employer's benefit must comply with the following requirements:

    (1)   In nonovertime workweeks, an employer may reduce wages to the minimum wage level.

    (2)   In overtime workweeks, employers may reduce wages to the minimum wage level for nonovertime hours.

    (3)   No reductions may be made to overtime wages owed.

(c)   In addition to complying with the requirements in subsections (a) and (b) of this section, an employer may withhold or divert a portion of an employee's wages for cash shortages, inventory shortages, or loss or damage to an employer's property after giving the employee written notice of the amount to be deducted seven days prior to the payday on which the deduction is to be made, except that when a separation occurs the seven-day notice is not required.

(d)   Notwithstanding subsections (a) and (b), above, an overpayment of wages to an employee as a result of a miscalculation or other bona fide error, advances of wages to an employee or to a third party at the employee's request, and the principal amount of loans made by an employer to an employee are considered prepayment of wages and may be withheld or deducted from an employee's wages. Deductions for interest and other charges related to loans by an employer to an employee shall require written authorization in accordance with subsection (a), above.

(e)   Notwithstanding subsections (a) and (c), above, if criminal process has issued against an employee, an employee has been indicted, or an employee has been arrested pursuant to Articles 17, 20, and 32 of Chapter 15A of the General Statutes for a charge incident to a cash shortage, inventory shortage, or damage to an employer's property, an employer may withhold or divert a portion of the employee's wages in order to recoup the amount of the cash shortage, inventory shortage, or damage to the employer's property, without the written authorization required by this section, but the amount of such withholdings shall comply with the provisions of subsection (b) of this section. If the employee is not found guilty, then the amount deducted shall be reimbursed to the employee by the employer.

(f)	For purposes of this section, a written authorization or written notice may be in the form of an electronic record in compliance with Article 40 of Chapter 66 (the Uniform Electronic Transactions Act).

(g)	Nothing in this Article shall preclude an employer from bringing a civil action in the General Court of Justice to collect any amounts due the employer from the employee. (1975, c. 413, s. 6; 1979, c. 839, s. 1; 1981, c. 663, s. 2; 2005-453, s. 16.)