

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 95-172

### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

#### 2. Form, Style and Placement in Administrative Code

a. In the introductory clause preceding the plain language analysis of the proposed rule, “licenses” should replace “liceses.”

b. The SECTIONS of the rule should be placed in numerical order of the decimal-numbered provisions affected. Therefore, all of the SECTIONS creating ILHR rules should be first and be in numerical order. All of the SECTIONS affecting Ind rules would follow and be in numerical order.

c. In SECTION 6, all of the material following the treatment clause should be under-scored and the rule section title should appear in capital letters. [See s. 1.05 (2), Manual.]

d. Throughout the rule, “shall” should replace “will,” “must” or “are.” Also, “may not” should replace “do not” or similar terms in expressing a prohibition. [See s. 1.01 (2), Manual.] In s. ILHR s. 272.09 (18) (b) 3., “shall be” should replace “id.”

e. In s. ILHR 272.09 (18), it is not clear what the purpose of par. (a) is. It does not seem to have any substantive provisions. Can it be deleted?

f. All of the subdivision titles in s. ILHR 272.12 (2) (d) should be enclosed in single quotation marks. [See s. 1.05 (2) (e), Manual.]

g. In s. ILHR 272.12 (2) (d) 1. c., commas should be inserted after the first “facilities,” “par. (e)” and “recreation.” Also, “television” should replace “TV.” In subd. 1. d., “the” should

be inserted after “means.” In subd. 1. f., a comma should be inserted after the second “clients.” Also, in subd. 1. f., “on-duty and off-duty” should replace “on and off duty.”

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

a. Section ILHR 272.09 (18) (c) states that unless all of the criteria in par. (b) are met, a business must comply with minimum wage and child labor laws. It is not clear why child labor laws are referenced, since par. (b) only provides an exemption from minimum wage laws.

b. In s. ILHR 272.12 (2) (d) 5., the reference to “ILHR 272.12 (2) (d) 3.” should just be to “subd. 3.” Also, is the reference to “s. ILHR 271.12 (2) (d) 3.” a typographical error? If so, the same change should be made.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In s. ILHR 272.09 (18) (b) 5. (intro.), either “all of” or “any of” should follow “if.”

b. In s. ILHR 272.09 (18) (b) 6. (intro.) and elsewhere in the rule, it is not clear what is meant by “as a general rule.” This phrase gives no guidance to a reader of what the actual requirement is and under what circumstances an exception will be granted. [Also see “as a general matter” in s. ILHR 272.12 (2) (d) 5. c.]

c. The provisions of s. ILHR 272.12 (2) (d) 5. b. to f., relating to determinations of when an employe resides on the premises and deductions for sleep time, are overly long and extremely confusing. It is suggested that the department attempt to rewrite these provisions to make them clearer and more concise.

Possibly some of the examples can be redrafted as accompanying charts or notes to the rule provision in order to make the actual rule shorter and easier to understand.

Words such as “Similarly,” “likewise,” “Furthermore,” “Further” and “It should again be noted” do not belong in administrative rules. Also, it appears that the sentence that begins “For convenience” contains no substantive provisions and should be deleted. In subd. 5. d., what does it mean to say that an agreement “should normally be in writing”; when does it not have to be in writing? In subd. 5. e., “in fact” is superfluous in two places and should be deleted.

d. Section ILHR 272.12 (2) (d) 1. c. would be clearer if “on the same premises” were moved to follow “eating.” Also, in subd. 1. d., “from” should replace “form.”