

WSR 24-11-139

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed May 21, 2024, 2:11 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-12-017.

Title of Rule and Other Identifying Information: WAC 192-150-145 Change in working conditions by RCW 50.20.050 (2)(b)(v) through (x), and new WAC 192-150-065 Leaving work due to inaccessible care for a child or vulnerable adult.

Hearing Location(s): On July 11, 2024, at 9:00 a.m., via Zoom <https://esd-wa-gov.zoom.us/j/89915962264?pwd=UWdNbElIV3JFUnVpVWdpeEp3bU01Zz09>, Meeting ID 899 1596 2264, Pass-code 151558; or call in +13052241968,,89915962264#,,,,*151558# US, +13092053325,,89915962264#,,,,*151558# US.

Date of Intended Adoption: July 18, 2024.

Submit Written Comments to: Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, email rules@esd.wa.gov, fax 844-652-7096, by July 11, 2024.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, phone 360-507-9890, fax 360-586-4600, relay 711, email Teresa.eckstein@esd.wa.gov, by July 11, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is necessary to incorporate into the employment security department's (department) rules the changes made by HB [ESHB] 1106 (2023), which amended RCW 50.20.050 and expanded the good cause reasons for voluntarily quitting employment, including adding good cause quit due to inaccessible care of a child or vulnerable adult in the claimant's care and due to an employer changing the claimant's shift, under certain circumstances. This rule making will add the new good cause reason to quit of inaccessible care for a child or vulnerable adult into the department's rules and will add a definition for "split shift."

Reasons Supporting Proposal: This rule making is necessary to incorporate into the department's rules the changes made by HB [ESHB] 1106 (2023), which expanded the good cause reasons for voluntarily quitting employment set forth in RCW 50.20.050. This rule making will add the new good cause reason to quit employment due to inaccessible care of a child or vulnerable adult to the department's rules and will define the term "split shift," which will add clarity to the circumstances under which a claimant has good cause to quit due to a change in schedule.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.20.050.

Statute Being Implemented: RCW 50.20.050.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting: Stephanie Frazee, Olympia, Washington, 425-465-0313; Implementation and Enforcement: JR Richards, Olympia, Washington, 360-463-1079.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, phone 425-465-0313, fax

844-652-7096, relay 771 [711], email rules@esd.wa.gov, <https://esd.wa.gov/newsroom/rulemaking/leave-of-absence>.

Scope of exemption for rule proposal:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This rule making incorporates a statutory provision into the department's rules and adds a clarifying definition, neither of which imposes costs on businesses.

May 21, 2024

Joy Adams

Employment System Policy and Integrity Director

OTS-5297.1

NEW SECTION

WAC 192-150-066 Leaving work due to inaccessible care for a child or a vulnerable adult. For separations occurring on or after July 7, 2024, and before July 8, 2029:

(1) **General rule.** To establish good cause for leaving work voluntarily because the care for a child or vulnerable adult in your care is inaccessible, you must demonstrate that:

(a) You left work primarily because of such caregiving inaccessibility;

(b) The caregiving inaccessibility made it necessary for you to leave work;

(c) You terminated your employment status and are not entitled to be reinstated to the same position or a comparable similar position; and

(d) You made reasonable efforts to preserve your employment prior to leaving work, including:

(i) Requesting changes in working conditions; changes to your work schedule that would accommodate the caregiving inaccessibility; or a leave of absence, notifying your employer of the reason(s) for the leave of absence before the date you begin the leave of absence; and

(ii) Asking to be reemployed when you are able to return to work. (You are not required to request reemployment after the job separation has occurred to establish good cause.)

(2) **Exception.** You may be excused from pursuing reasonable alternatives prior to leaving work as required by subsection (1)(d) of this section if you can show that doing so would have been a futile act.

OTS-5298.1

AMENDATORY SECTION (Amending WSR 10-11-046, filed 5/12/10, effective 6/12/10)

WAC 192-150-145 Change in working conditions covered by RCW

50.20.050 (2) (b) (v) through (x) and (xiv). (1) If you quit work due to a change in working conditions that meets the requirements of RCW 50.20.050 (2) (b) (v) through (x) or (xiv), the department will not deny benefits solely on the basis that you continued working for a brief period of time following the change. However, you must demonstrate to the department that the change in working conditions was the motivating factor for quitting work.

(2) "Brief period of time" means the amount of time a reasonably prudent person would have continued working after the change in circumstances.

(3) "Split shift" means a work schedule in which paid and working time periods are interrupted by nonpaid and nonworking time periods established by the employer, with the time period between shifts being longer than a bona fide rest or meal period and within the same work day.