

WSR 25-17-090

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed August 20, 2025, 8:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-11-067.

Title of Rule and Other Identifying Information: WAC 192-320-071 Relief of charges to employers furnishing part-time work, 192-150-115 Reduction in compensation of 25 percent or more—RCW 50.20.050 (2) (b) (v), and 192-150-120 Reduction in hours of 25 percent or more—RCW 50.20.050 (2) (b) (vi).

Hearing Location(s): On October 8, 2025, at 9:00 a.m., via Zoom at <https://esd-wa-gov.zoom.us/j/87604079265?pwd=iwFiHsacQPZEkwB2Kazi2InFMBX.1>, Meeting ID 876 0407 9265, Pass-code 523531; or One-tap mobile +13126266799,,87604079265#,,,,*523531# U.S. (Chicago), +16465588656,,87604079265#,,,,*523531# U.S. (New York).

Date of Intended Adoption: October 29, 2025.

Submit Written Comments to: Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, email esdgpuirules@esd.wa.gov, fax 844-652-7096, beginning August 20, 2025, by October 8, 2025, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, phone 360-507-9890, fax 360-586-4600, TTY relay 711, email Teresa.eckstein@esd.wa.gov, by October 1, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to update the employment security department's (department) rules to reflect changes made in SHB 1570 (2023) regarding relief of benefit charging for part-time employers. SHB 1570 allows employers to be eligible for relief of benefit charges if they are continuing to provide part-time work in "substantially the same amount" to a claimant rather than providing part-time work only "on a regularly scheduled permanent" basis, and the individual has become eligible for unemployment insurance benefits because of loss of employment with one or more other employers.

The rule making will also update the department's rules on voluntary quits for reduction in hours or compensation of 25 percent or more to reflect the nature of work for transportation network companies (TNC). The rules specify that a reduction in usual hours or compensation will be measured by comparing the region's aggregate data in past quarters to recent quarters to determine whether a driver has good cause for voluntarily quitting work for a TNC.

Reasons Supporting Proposal: SHB 1570 (2023) incorporated TNCs and their drivers into the unemployment insurance system and provided more flexibility for employers who offer part-time work and are seeking relief of benefit charges. These changes require updates to the department's rules. The approach of using aggregate data to determine a 25 percent or more in hours or compensation is necessary because, in general, drivers may work as much or as little as they choose; TNCs do not offer a certain number of hours or a specific amount of compensation. Therefore, using an individual driver's data may not show whether the total hours or compensation available to them was reduced. Comparing aggregate data from comparable quarters will provide a better picture of whether the hours and compensation available to a driver

were reduced in that driver's region such that the driver had good cause to voluntarily quit.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.12.070; SHB 1570, which added a new section to chapter 50.04 RCW (RCW 50.04.370) and amended RCW 50.29.021 and 50.20.050.

Statute Being Implemented: RCW 50.29.021, 50.20.050, and 50.04.370.

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: J.R. 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, TTY relay 771 [711], email esdgpuirules@esd.wa.gov, <https://esd.wa.gov/newsroom/rulemaking>.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

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. The department determined that the costs associated with the rule are minor. The rule making implements bill changes made by SHB 1570 without imposing any additional costs to businesses. The aggregate data mentioned in the proposed rules is an aggregation of wage and hour data that TNCs are already required to report to the department. The aggregation of existing data should impose only de minimus costs.

August 20, 2025

Joy Adams, Director

Employment System Policy and Integrity

RDS-5538.2

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-150-115 Reduction in compensation of (~~twenty-five~~) 25 percent or more—RCW 50.20.050 (2) (b) (v). (1) "Compensation" means remuneration as defined in RCW 50.04.320.

(2) "Usual" includes amounts actually paid to you by your employer or, if payment has not yet been made, the compensation agreed upon by you and your employer as part of your hiring agreement. For a driver of a transportation network company as defined in RCW 50.04.370, your "usual compensation" will be determined based on the average compensation per active driver in the region in the same quarter of the previous year.

(3) To constitute good cause for quitting work under this section, employer action must have caused the reduction in your usual compensation. For a driver of a transportation network company as defined in RCW 50.04.370, the transportation network company will be deemed to have caused the reduction if the aggregate compensation of drivers divided by the number of active drivers in the region is reduced by 25 percent or more in the most recent calendar quarter for which reporting has been completed compared to the same quarter of the previous year.

(4) All reductions in compensation occurring since the beginning of your base period to the date of separation will be included in the determination as to whether your compensation was reduced by (~~twenty-five~~) 25 percent or more.

(5) The percentage of reduction will be based on your most recent pay grade, salary, or other benefits you received or have accepted on a permanent basis. It does not include any temporary raises or other compensation for performing temporary duties.

(6) For purposes of this rule as it applies to transportation network company drivers, the state is divided into regions as follows:

(a) Each municipality of more than 600,000 shall be a distinct region; and

(b) The remainder of the state shall constitute a single region.

(7) If a transportation network company's driver has at least 33 percent of their completed trips originate in a region in a quarter, the driver will be deemed to have the usual compensation in that region for that quarter.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-150-120 Reduction in hours of (~~twenty-five~~) 25 percent or more—RCW 50.20.050 (2) (b) (vi). (1) Your "usual hours" will be determined based on:

(a) The hours of work agreed on by you and your employer as part of your individual hiring agreement;

(b) For seasonal jobs, the number of hours you customarily work during the season; (~~or~~)

(c) For piecework, the number of hours you customarily work to complete a fixed volume of work; or

(d) For a driver of a transportation network company as defined in RCW 50.04.370, the average number of available hours per active driver in the region in the same quarter of the previous year.

(2) To constitute good cause for quitting under this section, employer action must have caused the reduction in your usual hours. For a driver of a transportation network company as defined in RCW 50.04.370, the transportation network company will be deemed to have caused the reduction if the aggregate hours of drivers, calculated pursuant to WAC 192-310-040(8), divided by the number of active drivers in the region is reduced by 25 percent or more in the most recent calendar quarter for which reporting has been completed compared to the same quarter of the previous year.

(3) All reductions in hours occurring since the beginning of your base period through the date of separation will be included in the de-

termination as to whether your hours were reduced by (~~twenty-five~~) 25 percent or more.

(4) In determining the percentage of reduction, the department will not consider any temporary overtime or additional hours performed on a temporary basis.

(5) For purposes of this rule as it applies to transportation network company drivers, the state is divided into regions as follows:

(a) Each municipality of more than 600,000 shall be a distinct region; and

(b) The remainder of the state shall constitute a single region.

(6) If a transportation network company's driver has at least 33 percent of their completed trips originate in a region in a quarter, the driver will be deemed to have the usual hours in that region for that quarter.

OTS-5232.1

NEW SECTION

WAC 192-320-071 Relief of charges to employers furnishing part-time work. (1) (a) An employer will be deemed to be continuing to furnish or make available part-time work to the individual in substantially the same amount as during the individual's base year if the employer is continuing to furnish or make available hours, with respect to a week in the benefit year, in an amount equal to 90 percent or more of the individual's average part-time weekly base year hours.

(b) An individual need not actually work substantially the same amount of hours as during the individual's base year in order for the employer to be eligible for relief of benefit charges, so long as the employer is continuing to furnish or make available substantially the same amount of hours as during the individual's base year.

(2) For purposes of this section:

(a) Base year means either the individual's regular base year or alternate base year, depending on whichever is used as the basis for the individual's claim.

(b) An individual's average part-time weekly base year hours shall be calculated by dividing the individual's total base year part-time hours worked for the employer requesting relief of charges by the total weeks of part-time work associated with such hours.

(3) Benefit charge relief will cease when, with respect to a week in the benefit year, the employer stops furnishing or making available hours to the individual in substantially the same amount as during the individual's base year.