



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: September 06, 2023

TIME: 3:37 PM

WSR 23-19-004

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 23-11-067; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) WAC 192-310-040 How should employers report hours worked? (RCW 50.12.070.)

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
October 31, 2023	9:00 AM	Zoom Meeting ID: 827 2060 9701 Passcode: 764365 Call in: +12532158782,,82720609701#,,, ,*764365# US (Tacoma) +12532050468,,82720609701#,,, ,*764365# US	Join Zoom meeting: https://esd-wa-gov.zoom.us/j/82720609701?pwd=My9oRk5iOE9LTitqWIFrZFBTb3htUT09

Date of intended adoption: November 1, 2023 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Stephanie Frazee
Address: P.O. Box 9046, Olympia, WA 98507-9046
Email: rules@esd.wa.gov
Fax: 844-652-7096
Other:
By: October 31, 2023

Assistance for persons with disabilities:

Contact: Teresa Eckstein
Phone: 360-507-9890
Fax: 360-507-9890
TTY: Relay 711
Email: Teresa.eckstein@esd.wa.ov
Other:
By: October 24, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This rulemaking is necessary to amend current rules in accordance with the Department's 2022 legislative report on transportation network companies and to integrate transportation network companies and their drivers into the unemployment insurance system as set forth in SHB 1570 (2023). This rulemaking will set forth the method for transportation network companies to calculate and report hours worked by drivers in their quarterly reports to the Department.

Reasons supporting proposal: This proposals is necessary to set forth the method for transportation network companies to calculate and report hours worked by drivers in their quarterly reports to the Department.

Statutory authority for adoption: RCW 50.12.010, RCW 50.12.040, RCW 50.12.070, and SHB 1570, which adds a new section to RCW chapter 50.04 and amends RCW 50.29.021.

Statute being implemented: SHB 1570, which adds a new section to RCW chapter 50.04 and amends RCW 50.29.021.

Is rule necessary because of a:

Federal Law? Yes No

Federal Court Decision? Yes No

State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None.

Type of proponent: Private Public Governmental
Name of proponent: Employment Security Department

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting: Stephanie Frazee	Olympia, WA	425-465-0313
Implementation: J.R. Richards	Olympia, WA	360-463-1079
Enforcement: J.R. Richards	Olympia, WA	360-463-1079

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name: Stephanie Frazee
Address: P.O. Box 9046, Olympia, WA 98507-9046
Phone: 360-890-3472
Fax: 844-652-7096
TTY: Relay 771
Email: rules@esd.wa.gov
Other: <https://esd.wa.gov/newsroom/rulemaking/transportation-network-companies>

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:
- | | |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |
- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).
- This rule proposal, or portions of the proposal, is exempt under RCW _____.
- Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No The rule proposal does not impose costs on businesses because it clarifies an existing requirement. Transportation network companies must report hours and wages of their drivers under existing law, and the rule explains how they must do so.
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: September 1, 2023

Name: Joy Adams

Title: Acting Director, Employment System Policy & Integrity Division

Signature:

