



Concise Explanatory Statement

Transportation Network Companies and Relief of Benefit Charges for Employers Who Offer Part-Time Work

Introduction

Pursuant to RCW 34.05.325(6), the Employment Security Department (Department) hereby provides the Department’s reasons for adopting the rules, a description of the variances between the proposed rules and the final rules, and a summary of comments received regarding the proposed rules and responses to the comments.

Reasons for adopting the rule

SHB 1570 (2023) incorporated transportation network companies (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.

This rulemaking amends the Department’s rules on voluntarily quitting employment due to a reduction in hour or compensation of 25% or more and adds a new rule defining “substantially the same amount” for purposes of employers seeking relief of benefit charges when they are continuing to offer part-time work to claimants who have separated from other employment.

The Department’s amendments to its 25% reduction in hours or wages rules state that the Department will use aggregate wage and hour data reported by TNCs by region each quarter to determine whether there has been a reduction in hours or wages of 25% or more for drivers in a region in a particular quarter compared to the same quarter in the previous year. The approach of using aggregate data to determine a 25% or more reduction in hours or compensation is necessary because, in general, TNC 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.

The new rule defining “substantially the same amount” states that employers will be deemed to continue to furnish part-time work in substantially the same amount if they continue to furnish hours equal to 90% or more of the individual’s average part-time weekly base year hours. This rule will help define “substantially the same amount” as used in RCW 50.29.021(3)(a)(iv).

Variance between proposed rule and final rule

The Department has considered the public comments and determined that no changes should be made to the rule language on the basis of the comments, as set forth below. However, the Department has made the following updates to the proposed rule language:

WAC 192-150-115(6)(a) and WAC 192-150-120(5)(a) were both changed from “Each municipality of more than 600,000 shall be a distinct region” to “Each municipality with a population of more than 600,000 shall be a distinct region.” This change was made for clarity.

WAC 192-150-120(1)(d) changed from “...the average number of available hours...” to “...the average number of hours...” This change was made to correct a clerical error.

Summary of comments to proposed rules and agency response

Julia Gorton, Principal, PNW Advocacy

Via email September 11, 2025

I reviewed the CR 102 regarding TNCs, and I have some questions about the 25% work reduction and relief of benefit charges section. I was wondering if you'd have time to meet with our group to make sure I am fully understanding the impact of the rules. Do you have any availability next week? I am traveling in Spokane for work on Monday and Tuesday but am back the remainder of the week.

Department Response:

Via email September 22, 2025

Thank you for your interest in this rulemaking. We are currently in the CR 102 phase of this rulemaking, which means that all communications on the rulemaking need to [be] public and documented in the Concise Explanatory Statement that will be issued with the CR 103 and final rules are filed. You are welcome to provide your questions/comments in writing or to present them at the rulemaking hearing. If your questions relate to operation or implementation of the rules as written we can meet to address your questions after the final rules are adopted.

The rulemaking hearing will be on October 8, 2025, at 9:00 A.M., via Zoom: [meeting log-in link was provided].

Additional Department Response:

The Department will not make changes to the proposed rule language based on this comment.

Julia Gorton, Principal, PNW Advocacy

Via email September 22, 2025

I did have a question that could probably be answered via email. My question is about this section: [quoted New Section WAC 192-320-071 Relief of charges to employers furnishing part-time work.]

Does this section apply to other base year employers who are not responsible for the 25% hours reduction, or the primary employer who reduced hours, or both?

Using a hypothetical, if the worker was employed by X hotel part time and was also an Uber driver, and their Uber hours were reduced by more than 25% and the worker quit to find more work, does this section say that X hotel can get relief from benefit charges because they are still offering the same or similar hours, or is this saying Uber gets relief of benefit charges because they still offer some (but less) hours?

Thank you for this clarification.

Via email September 30, 2025

I just wanted to follow up on this. I was hoping to get clarity so we can determine if we need to submit comments.

Department Response:

Via email October 2, 2025

Thank you for your questions. During the CR 102 phase of rulemaking, all correspondence we receive regarding the rules are considered public comments to the CR 102 and must be documented and responded to in the Concise Explanatory Statement, which will be issued when the final rule is adopted, and a copy will be provided to you. It appears your questions relate to operations/implementation of the rules, so we can set a meeting to discuss your questions after the final rule is adopted. In the meantime, we are happy to consider any additional comments you have on the proposed rules.

Department Response in Concise Explanatory Statement:

SHB 1570 made a change to RCW 50.29.021(3)(a)(iv) on relief of benefit charges for employers continuing to offer part-time employment. The rule at issue in the stakeholder's comment was based on this subsection, which states the following:

(3)(a) A contribution paying base year employer, except employers as provided in subsection (5) of this section, not otherwise eligible for relief of charges for benefits under this section, may receive such relief if the benefit charges result from payment to an individual who:

...

(iv) **Continues to be employed by the employer seeking relief** and: (A) The employer furnished part-time work to the individual during the base year; (B) the individual has become eligible for benefits because of loss of employment with one or more other employers; and (C) the employer has continued to furnish or make available part-time work to the individual in substantially the same amount as during the individual's base year. This subsection does not apply to shared work employers under chapter 50.60 RCW... (emphasis added).

Therefore, the relief of benefit charges discussed in the new rule—WAC 192-320-071—may be requested by a contribution paying base year employer that is continuing to employ the claimant. Relief of benefit charges under this subsection would not be available to an employer from which the claimant has separated from employment.

The agency will not make changes to the proposed rule language based on this comment.

Joshua Welter, Teamsters 117 and Drivers Union

We are writing to provide joint comment from Teamsters Local 117 and Drivers Union on proposed rules regarding implementation of SHB 1570, specifically 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.

In order for an aggregate threshold for 25 percent reduction rule to be workable, TNC drivers must have transparency regarding whether a 25 percent reduction of compensation has occurred, prior to applying for unemployment benefits.

Transparency – and the data reporting that facilitates it – is essential in order for TNC drivers to have the same rights and protections as all other workers.

We understand that ESD has developed a transparency and data reporting process to support this rule. We recommend that the details of that process be included in the rule itself to ensure success.

All other workers have full transparency when their hours are being reduced at the time the reduction occurs, before they may decide to quit as a result and whether to apply for unemployment benefits. Through their paystubs, other workers in Washington have complete knowledge and documentation of whether they have experienced a 25 percent reduction.

Based on advocacy from Transportation Network Companies, this proposed rule contemplates an aggregate standard for Transportation Network Company drivers. The only way under an aggregate standard that TNC drivers will have equal protections as all other workers is if those drivers have transparent access to information regarding whether a 25 percent reduction has occurred before they apply for unemployment.

Prior to the development of this draft rule, there was robust stakeholder process, where stakeholders agreed to transparency as part of a framework for an aggregate 25 percent reduction threshold.

Without transparency, a TNC driver would not know whether a 25 percent reduction to their hours and earnings as defined under the rule has occurred, until after they have already quit, applied for unemployment benefits, and a lengthy adjudication process has occurred. No other worker in Washington is deprived of information prior to a voluntary quit that forms the basis as to whether they have good cause.

Below is recommended additional rule language that would codify transparency and the data reporting to support it.

WAC 192-150-115

(8) By the 30th day of the month following the end of a calendar quarter, a transportation network company shall report to department data necessary to implement this rule in a manner approved by the department. The Department shall post online and notify the Driver Resource Center as defined in RCW 49.46.300 of any Transportation Network Companies which have caused a reduction of compensation of 25 percent or more in the prior quarter, and the region(s) in which such a reduction has occurred. If a claimant reports a voluntary quit due to a 25% reduction in compensation, the department will use the most recent quarter's data on file for adjudication purposes, provided that, if a transportation network company has failed to report data as required by this rule, the claimant shall be deemed to have good cause to quit.

WAC 192-150-120

(7) By the 30th day of the month following the end of a calendar quarter, a transportation network company shall report to department data necessary to implement this rule in a manner approved by the

department. The Department shall post online and notify the Driver Resource Center as defined in RCW 49.46.300 of any Transportation Network Companies which have caused a reduction of hours of 25 percent or more in the prior quarter, and the region(s) in which such a reduction has occurred. If a claimant reports a voluntary quit due to a 25% reduction in hours, the department will use the most recent quarter's data on file for adjudication purposes, provided that, if a transportation network company has failed to report data as required by this rule, the claimant shall be deemed to have good cause to quit.

We are happy to work with the Department and stakeholders collaboratively on how to ensure transparency under an aggregate 25 percent reduction standard.

Department Response:

As noted by the commenter, the Department worked extensively with stakeholders representing both TNCs and drivers to develop the proposed rule language and agency processes to implement the rules. The Department plans to implement the following process to ensure transparency:

For each TNC, the Department will take the submitted hours, wages, and active drivers for each region and apply the following equation to determine if there was a 25% reduction:

1. Separately divide the hours and wages for a quarter by drivers corresponding to that quarter's hours and wages. The result is X%.
2. For the same quarter of the previous year, separately divide the hours and wages by drivers corresponding to that same quarters' hours or wages. The result is Y%.
3. Compare X% to Y% to determine if there has been a 25% reduction.

The Department will update its website with these results each quarter. It will indicate for both hours and wages whether a 25% reduction occurred in the two regions.

Thus, the stakeholders' concerns regarding transparency will be addressed through the Department's implementation.

Additionally, the Department already has statutes and rules addressing an employer's failure to report wages and hours, as well as an employer's failure to participate in the adjudication process when a claimant applies for benefits and a job separation is at issue. *See, for example*, RCW 50.12.070; WAC 192-130-050; WAC 192-130-080; WAC 192-310-035. Specifically, if an employer does not respond with information on a separation issue within five working days, the Department may make a decision, and allow benefits, based on available information. WAC 192-130-050; WAC 192-130-080(2).

The commenter's proposed rule language states "the department will use the most recent quarter's data on file for adjudication purposes, provided that, if a transportation network company has failed to report data as required by this rule, *the claimant shall be deemed to have good cause to quit*" (emphasis added). The Department has concerns with rule language stating that a claimant shall be deemed to have good cause to quit if a TNC has failed to report as required. Regardless of whether a TNC reports as required or participates in the adjudication process, the Department must base its benefit determinations on the information available. Further, whether a TNC has met the reporting requirements, due process requires that the TNC be given an opportunity to rebut the information provided by a claimant during adjudication of the claim.

Therefore, the Department will not make changes to the proposed rule language based on this comment.
