

REASONS FOR ADOPTING THE RULE

Rulemaking history:

CR-101 filed: May 29, 2025, WSR # 25-12-056

Stakeholder meeting: August 28, 2025

Stakeholder meeting: September 29, 2025

CR-102 filed: October 22, 2025, WSR # 25-21-149

Public rulemaking hearing: November 25, 2025

CR-103 filed and rules adopted: December 5, 2025, WSR # 26-01-027

Rules effective: January 1, 2026

This Concise Explanatory Statement is regarding adoption of the following rules:

AMENDED RULES

WAC 192-500-010 Employer.

This amendment aligns the definition of “employer” with the legislative amendment mandated by SSB 5191.

WAC 192-500-185 Waiting period.

This amendment aligns the referenced minimum claim duration to that mandated by E2SHB 1213.

WAC 192-510-040 How does an employer's size affect liability for premiums and eligibility for small business assistance grants?

This amendment aligns small business assistance grant eligibility with the legislative amendments mandated by E2SHB 1213.

WAC 192-510-050 How will the department assess the size of new employers?

This amendment aligns employer sizing requirements for the purposes of premium liability and small business grant eligibility with the legislative amendments mandated by E2SHB 1213.

WAC 192-560-010 Which businesses are eligible for small business assistance grants?

This amendment aligns small business assistance grant eligibility with the legislative amendments mandated by E2SHB 1213.

WAC 192-560-020 What is the application process for a small business assistance grant?

This amendment aligns small business assistance grant eligibility with the legislative amendments mandated by E2SHB 1213.

WAC 192-620-005 What is the minimum claim duration?

This amendment aligns the referenced minimum claim duration to that mandated by E2SHB 1213.

WAC 192-700-015 How is employer size determined for employment protection?

This amendment clarifies that the size of an employer for the purposes of employment protection should be determined by the number of employees in Washington that appear on the employer's payroll.

WAC 192-700-020 When does an employer need to provide a continuation of health benefits to an employee who is on paid family or medical leave?

This amendment aligns an employer's requirement to continue health benefits to an employee during a period of paid family or medical leave with the legislative amendments mandated by E2SHB 1213.

WAC 192-800-100 What is the process for filing petition for review and any reply to the petition for review?

This amendment slightly modifies the deadline by which a petition for review must be filed with the commissioner's review office.

NEW RULES

WAC 192-700-008 What is the time frame in which an employer may apply FMLA leave to a period of PFML job protection?

This rule defines the 52-week period referenced in E2SHB 1213 in which employees may receive a maximum of 16 (or 18) weeks of job protection when PFML is used by itself or in conjunction with a period of leave under the federal family and medical leave act (FMLA).

WAC 192-700-025 How does an employee's use of leave under the federal family and medical leave act (FMLA) affect employment restoration rights?

This rule implements portions of E2SHB 1213 related to an employer's ability to reduce job protection under PFML by an equal duration of FMLA leave taken previously. It establishes and clarifies the notice requirements referenced in the bill.

WAC 192-700-030 Do employers need to provide a notice to employees regarding their employment restoration rights?

This rule implements portions of E2SHB 1213 related to an employer's responsibility to provide a notice to employees who take PFML for at least two weeks of their estimated job protection duration and expected return to work date.

REPEALED RULES

WAC 192-560-011 What small business grants are available under pandemic leave assistance?

This rule is repealed because the RCW authorizing payment of these grants has expired.

VARIANCE BETWEEN PROPOSED RULE AND FINAL RULE

- WAC 192-560-010: Subsection (5) was stricken because it is duplicative of statutory language and is no longer consistent with Title 50A RCW as amended by HB 1213.

- WAC 192-700-025: A new subsection (10) was added to clarify that any reference to unpaid leave taken under the federal family and medical leave as it related to eligibility for offsetting against future PFML leave as described in the proposed rules refers to any period of leave that is protected by the federal family and medical leave act regardless of whether the employee receives pay from another source (such as sick leave or an internal short-term disability benefit) during said leave.
- WAC 192-700-025: Subsection (2) was amended to align this rule with the timeline described in WAC 192-700-008.
- WAC 192-700-025: Subsection (4) contained an incorrect pointer. The language that reads “...as described in subsection (1) of this section...” has been amended to read “...as described in subsection (3) of this section...”
- WAC 192-700-025: Subsection (5) contained an incorrect pointer. The language that reads “The notice described in subsection (2) of this section...” has been amended to read “The notice described in subsection (4) of this section...”
- WAC 192-700-030: The words “under Title 50A RCW” were added after “period of leave” to clarify that the referenced leave is PFML leave.

SUMMARY OF COMMENTS TO PROPOSED RULES AND AGENCY RESPONSE

Referenced WAC	Comment*	Response
WAC 192-500-185	Intermittent leave is difficult for employers to manage.	The department is required to implement the law as passed by the legislature.
WAC 192-700-025	The timeline described in this rule is inconsistent with the timeline described in WAC 192-700-008.	WAC 192-700-025 was amended to address this concern.
WAC 192-700-008	The department should share an employee’s claim year information with employers.	The department will work to expand employer access to necessary claim information within existing law.
Chapter 192-700 WAC	How do these rules interact with leave taken in 2025?	Neither HB 1213 nor the proposed rules prohibit FMLA leave taken in 2025 from being applied towards job protection associated with PFML. Similarly, job protection notices will go into effect on January 1, 2026 even if the employee’s leave began in 2025. The same is true for job protection criteria.
WAC 192-700-030	It is difficult for employers to provide the job protection notice to employees on intermittent leave.	The department is required to implement the law as passed by the legislature. Further,

		proposed WAC 192-700-030(2)(b) is designed to address this concern; a single notice may be provided in the case of intermittent leave.
WAC 192-700-025 and WAC 192-700-030	Employers do not have access to claim information that is necessary to provide accurate notices.	The department recognizes the burden that Title 50A's privacy provisions place upon employers' ability to provide accurate notice information. As such, proposed WACs 192-700-025(8) and WAC 192-700-030(4) seek to alleviate employers' concerns that any complaint filed against the employer and any associated investigation related to inaccurate data provided in the notices will take into account the information that employers should reasonably have had access to when providing said notice.
WAC 192-700-025	There is often a mismatch with how much time is claimed for FMLA purposes and how much time is claimed for PFML purposes.	The department is required to implement the law as passed by the legislature. Employers can communicate with their employees to obtain information related to their PFML claim. While precise estimates may not be possible in some cases, employers are encouraged to make the most accurate estimates possible based on available information.
WAC 192-700-025	The monthly notice is burdensome for employers and employees.	The department is required to implement the law as passed by the legislature.
WAC 192-700-025	The law assumes FMLA is utilized first, but does not account for when PFML is utilized first.	The department is required to implement the law as passed by the legislature.
WAC 192-700-025	It is difficult to estimate claimed hours for employees whose typical workweek hours do not align with their current work schedule.	The department is required to implement the law as passed by the legislature. Employers can communicate with their employees to obtain information related to their PFML claim. While precise estimates may not be possible in some cases, employers are encouraged to make the most accurate estimates possible based on available information.

WAC 192-700-015	Ensure that this rule only applies to PFML.	(2) of the rule explicitly states that the rule only applies “for the purpose of RCW 50A.35.010. Further, (3) explicitly states “for the purpose of this section.”
WAC 192-700-025	How does the proposed rule interact with collective bargaining agreements?	The timelines specified in RCW and WAC should be considered minimums. A more generous benefit may be approved as part of a collective bargaining agreement.
WAC 192-700-025	Subsection (4) contains an incorrect pointer.	WAC 192-700-025 was amended to address this concern.
WAC 192-700-025	Expand the cessation of the notice requirement to include the period after the employee has returned from a period of PFML.	If the employer wishes to retain the right to apply FMLA leave to a potential future period of PFML job protection, the notice must be provided monthly as required by RCW 50.35.010(8) as amended by HB 1213. That the employee has only utilized part of their maximum PFML entitlement does not alter this requirement.
WAC 192-700-025	Subsection (5) contains an incorrect pointer.	WAC 192-700-025 was amended to address this concern.
WAC 192-700-025	Subsection (5) implements a shorter timeline than is required by federal regulation to designate the leave as FMLA leave	The department is required to implement the law as passed by the legislature.
WAC 192-700-030	Clarify that the fourteen days of leave refers to PFML leave.	WAC 192-700-030 was amended to address this concern.
WAC 192-700-030	Clarify that FMLA leave still counts for offsetting even if the employee receives payment during that period.	WAC 192-700-030 was amended to address this concern.
WAC 192-620-005	Lowering the minimum amount of time an employee must miss from 8 hours to 4 hours in a claim week will significantly impact the number of intermittent absences we see as a district. For a school district of our size (4,000+ employees), this will have a direct impact on student learning. Many of our paraeducators and other non-certificated staff provide essential daily support to students. More frequent short-term absences during the contracted school year will reduce instructional	The department is required to implement the law as passed by the legislature.

	<p>continuity and place additional strain on school sites that are already struggling to secure full daily coverage. Some examples of how this may impact our students:</p> <p>Intermittent absences may disrupt student routines, especially in special education settings or classrooms where paraeducators provide crucial support (behavioral, academic, social, and safety).</p> <p>Difficulty in planning substitutes or appropriate coverage.</p> <p>Students who rely heavily on paraeducators (e.g., students with IEPs or high needs) might be disproportionately affected if their support person is intermittently out. Even relatively short or frequent disruptions can impact student learning, behavior, and emotional stability in the classroom.</p>	
WAC 192-700-025	<p>The new requirement to send monthly FMLA notices will significantly increase administrative workload. With over 4,000 district employees, generating and distributing individualized monthly notices will require substantial staff time. Additionally, this will result in more frequent contact with employees who are currently on medical leave or bonding leave, which could be intrusive during periods when they are unable to work.</p>	<p>The department is required to implement the law as passed by the legislature. The ability to cap job protection as well as the associated notice are optional.</p>
WAC 192-700-030	<p>Draft WAC 192-700-030 obligates employers to notify employees of their PFML employment-restoration rights. While this requirement may make sense when an employer elects to apply the new stacking limitation—i.e., when the employer is counting certain FMLA time toward PFML entitlement—it does not work in circumstances where an employer is not doing so.</p> <p>Under federal FMLA rules, employers must track and designate FMLA leave (29 C.F.R. § 825.300(d)). But PFML usage is determined by ESD, and employers generally do not receive detailed, real-time PFML usage information from the Department. When an employer chooses not to count FMLA against PFML, the employer will not have</p>	<p>The department is required to implement the law as passed by the legislature. The notice employers must send after 14 days of leave is a <i>separate</i> requirement featured in HB 1213 from the notice employers must provide for the purposes of reducing job protection stacking.</p>

	<p>an accurate accounting from when ESD determines PFML balance is zeroed out.</p> <p>Because the proposed rule requires employers to provide notice to employees five days before PFML leave balance is exhausted, employers would be required to make predictions based on information they do not have access to. This creates a significant compliance risk and would be particularly burdensome for PUDs that already operate under tight administrative constraints.</p> <p>For these reasons, we respectfully request clarification that WAC 192-700-030 applies only when an employer is electing the stacking/concurrent-use option provided under HB 1213.</p>	
<p>WAC 192-700-025</p>	<p>I am writing today to have it heard for the upcoming rules heard that WA paid leave should be completely separate from FLMA and should not be allowed to be ran concurrently.</p> <p>As WA and employee in WA state who has pay taken out my check for WA paid leave, this should not have any impact on FMLA leave which is a federal leave and protection.</p> <p>FLMA has qualifications and you should be able to choose what leave you want to use and when. Please take this into consideration and stop the corporate bullying especially for something we pay for.</p>	<p>The department is required to implement the law as passed by the legislature.</p>

*Comments may be summarized. Comments that are substantially similar in nature to comments already addressed are not included. Comments that are not related to the proposed rules are not included.