



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Department of Labor and Industries

- Preproposal Statement of Inquiry was filed as WSR 16-11-083 ; 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).

- Original Notice
- Supplemental Notice to WSR \_\_\_\_\_
- Continuance of WSR \_\_\_\_\_

Title of rule and other identifying information: Retail store rulemaking

- WAC 296-17A-6309, Classification 6309 (hardware type stores, retail and wholesale)
- WAC 296-17A-6406, Classification 6406 (retail only variety stores)
- WAC 296-17A-6407, Classification 6407 (wholesale stores)
- WAC 296-17A-6411, Classification 6411 (lower hazard retail stores)

Hearing location(s): See Attachment A

Submit written comments to:

Name: Richard Bredeson  
 Address: Department of Labor and Industries  
 P.O. Box 44148  
 Tumwater, Washington 98504

e-mail [Richard.Bredeson@Lni.wa.gov](mailto:Richard.Bredeson@Lni.wa.gov)  
 fax (360) 902-5830 by November 15, 2016

Assistance for persons with disabilities: Contact  
 Office of Information and Assistance by October 17, 2016  
 TTY (360) 902-5797

Date of intended adoption: February 14, 2017  
 (Note: This is **NOT** the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Department is proposing changes for Chapter 296-17A WAC, Classifications for Washington Workers' Compensation Insurance that will:

- Reclassify lower hazard stores currently assigned classification 6406 (retail only variety stores) to a new, lower-rated retail store classification 6411.
- Reclassify warehouse distribution centers without retail store exposure into classification 6407 (wholesale stores).
- Reclassify some lower hazard stores currently assigned classification 6309 (hardware type stores) to the lower-rated classification 6406 (retail only variety stores).
- Clarify the store classifications to better distinguish them from each other.

See Attachment B for additional detail.

Reasons supporting proposal: Workers' compensation best practices for rating employers require classifications clearly distinguish between different types of work exposures to ensure employers' premiums are fair and reflect the actual degree of hazard.

Statutory authority for adoption: RCW 51.16.035

Statute being implemented:

Is rule necessary because of a:

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

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 STATE OF WASHINGTON  
 FILED

DATE: August 23, 2016

TIME: 11:57 AM

WSR 16-17-129

DATE  
 August 23, 2016

NAME (type or print)  
 Joel Sacks

SIGNATURE

TITLE  
 Director

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Name of proponent:** (person or organization) Department of Labor and Industries

- Private
- Public
- Governmental

**Name of agency personnel responsible for:**

| Name                             | Office Location      | Phone           |
|----------------------------------|----------------------|-----------------|
| Drafting..... Richard Bredeson   | Tumwater, Washington | (360) 902-4985  |
| Implementation....Chris Bowe     | Tumwater, Washington | (360) 902- 4826 |
| Enforcement.....Victoria Kennedy | Tumwater, Washington | (360) 902-4997  |

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

No. Explain why no statement was prepared.

Since the proposed rules set or adjust fees or rates pursuant to legislative standards described in RCW 34.05.310(4)(f) and do not change current coverage options for employers and workers, they are exempted from a small business economic impact statement.

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

No: Please explain:

Since the proposed rules do not change any existing coverage options for employers or workers, and adjust fees pursuant to legislative standards, they are exempted by RCW 34.05.328(5)(b)(vi) from the requirement for a cost-benefit analysis.

Attachment A

Store Classifications Public Hearing Schedule

|                           |            |  |
|---------------------------|------------|--|
| October 26, 2016 (Wed)    | 11:00 a.m. | Marshal Community Center<br>Oak Room<br>1009 E. McLoughlin Blvd.<br>Vancouver, WA 98663                              |
| October 27, 2016 (Thurs)  | 11:00 a.m. | Department of Labor and Industries<br>Tukwila Service Location, Room C30<br>12806 Gateway Dr. S<br>Tukwila, WA 98168 |
| November 1, 2016 (Tues)   | 11:00 a.m. | Everett Community College Corporate &<br>Continuing Education Center<br>2333 Seaway Boulevard<br>Everett, WA 98203   |
| November 2, 2016 (Wed)    | 11:00 a.m. | Spokane CenterPlace<br>2426 N. Discovery Pl.<br>Spokane Valley, WA 99216   |
| November 3, 2016 (Thurs)  | 11:00 a.m. | Richland Community Center<br>Activity Room<br>500 Amon Park Dr.<br>Richland, WA 99352                                |
| November 4, 2016 (Friday) | 11:00 a.m. | Department of Labor and Industries<br>Auditorium<br>7273 Linderson Way SW<br>Tumwater, WA 98501                      |

**Store rulemaking Attachment B**

**Chapter 296-17A WAC Classifications for Washington workers' compensation insurance.**

|    | <b>WAC Numbers and descriptions</b>  | <b>Proposed change</b>   | <b>Reason for change</b>   |
|----|--|--|--|
| 1. | WAC 296-17A-6309 (hardware type stores, retail and wholesale), and WAC 296-17A-6406 (retail only variety stores) | Reclassify the following subclassifications from classification 6309 to classification 6406: <ul style="list-style-type: none"> <li>• 6309-09, Architect and surveyor supplies</li> <li>• 6309-11, Stained glass supply</li> <li>• 6309-17, Sporting goods</li> <li>• 6309-21, Hobbies and crafts</li> </ul>   | <ul style="list-style-type: none"> <li>• The cost per hour for these subclassifications is significantly less than for classification 6309 overall.</li> <li>• Merchandise and operations for these stores often includes similar merchandise and operations found in fabric and variety stores, classified in 6406.</li> </ul>                      |
| 2. | WAC 296-17A-6309 (hardware type stores, retail and wholesale) and WAC 296-17A-2009 (building supply stores)      | Exclude the selling of building supplies from classification 6309.   | <ul style="list-style-type: none"> <li>• Removing building supplies sales from classification 6309 creates a clear distinction between classifications 6309 and 2009.</li> </ul>   |
| 3. | WAC 296-17A-6406 (retail only variety stores), and WAC 296-17A-6411 (retail only stores selling smaller goods)   | Reclassify the following subclassifications from classification 6309 to classification 6406: <ul style="list-style-type: none"> <li>• 6406-01, Cameras</li> <li>• 6406-03, News and magazines</li> <li>• 6406-14, Wind and string musical instruments</li> <li>• 6406-19, Coins, stamps, and collector cards</li> <li>• 6406-20, Books, records, and videos</li> <li>• 6406-24, Smoke shops</li> <li>• 6406-25, Telephone</li> <li>• 6406-27, Stereo components</li> </ul> | <ul style="list-style-type: none"> <li>• There is too much disparity in loss rates between stores currently assigned classification 6406. Reclassifying these subclassifications to a new lower rated classification makes our classification plan more equitable and is consistent with best practices for workers' compensation rating.</li> </ul> |
| 4. | WAC 296-17A-6407 (wholesale stores)  | Include large stand-alone distribution centers operated by retail stores (classifications 6406 and 6411) in the wholesale store classification 6407  | <ul style="list-style-type: none"> <li>• This activity is outside the scopes of classification 6406, and there would be more clarity to include it in a rule.</li> </ul>   |