IC 22

TITLE 22. LABOR AND SAFETY

IC 22-1

ARTICLE 1. DEPARTMENT OF LABOR

IC 22-1-1

Chapter 1. Powers and Duties of the Department

IC 22-1-1-1

Creation

Sec. 1. There is created a department of labor, which shall be administered by a commissioner of labor.

(Formerly: Acts 1945, c.334, s.1.) As amended by P.L.37-1985, SEC.16.

IC 22-1-1-2

Commissioner of labor; bonds; oath

Sec. 2. (a) The commissioner of labor shall be appointed by the governor and shall serve at the will of the governor. The commissioner serves until the commissioner's successor is appointed and qualified.

(b) The commissioner of labor:

(1) shall be the administrative and executive officer of the department of labor;

(2) shall supervise and direct the work of the department;

(3) shall have immediate charge of the administration and enforcement of all the laws and rules that the department is required by law to enforce and administer;

(4) shall have general charge of all inspections and investigations; and

(5) shall perform such other duties as may be prescribed in this chapter.

(c) The commissioner shall adopt and use an official seal for the authentication of the orders and records of the department.

(d) Before entering upon the discharge of official duties, the commissioner shall:

(1) execute a bond, payable to the state in such amount and with such sureties as shall be approved by the governor, conditioned for the faithful discharge of the commissioner's official duties; and

(2) take and subscribe an oath, which shall be endorsed upon the commissioner's official bond;

and the bond and oath when so executed shall be filed in the office of the secretary of state.

(Formerly: Acts 1945, c.334, s.2.) As amended by P.L.37-1985, SEC.17; P.L.100-2012, SEC.55.

IC 22-1-1-2.5

Repealed

(Repealed by P.L.100-2012, SEC.56.)

IC 22-1-1-3

Department of labor; office space; traveling expenses

Sec. 3. (a) The department of labor shall be provided with adequate offices in the state capitol building or in some other suitable building in Indianapolis, in which its records shall be kept and its official business shall be transacted.

(b) The commissioner of labor and the several employees of the department shall be entitled to receive from the state their necessary and actual expenses while traveling on the business of the department, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency.

(c) All salaries and expenses of the department shall be audited and paid out of appropriations made to the department of labor for that purpose in the manner prescribed by law for the payment of the expenses of other departments of the state government.

(Formerly: Acts 1945, c.334, s.3.) As amended by P.L.37-1985, SEC.19.

IC 22-1-1-4

Department of labor; bureaus

Sec. 4. The following bureaus are created within the department of labor:

(1) The bureau of mines and mine safety.

(2) The bureau of child labor.

(Formerly: Acts 1945, c.334, s.4; Acts 1975, P.L.235, SEC.2.) As amended by P.L.37-1985, SEC.20.

IC 22-1-1-5

Bureaus; powers and duties

Sec. 5. (a) The bureau of mines and mining safety shall do the following:

(1) have immediate charge of the administration of the underground mine laws of this state;

(2) provide safety consultation services to any underground mine operator at the request of the operator;

(3) provide mine safety and health education information to all underground mine operators; and

(4) investigate all fatalities occurring in underground mine operations for the purpose of data collection; however, an investigation shall not interfere with investigations by the federal Mine Safety and Health Administration.

(b) The bureau of child labor shall have immediate charge of the supervision of children who are gainfully employed, including employment certificate violations under IC 20-33-3-38.5, IC 20-33-3-39, and IC 20-33-3-40. A child employee under the jurisdiction of the bureau of child labor may file a complaint with the

bureau of child labor if the employer of the child employee requires noncompliance by the child employee with the provisions of IC 20-33-3-38.5.
(Formerly: Acts 1945, c.334, s.5; Acts 1975, P.L.235, SEC.3.) As amended by P.L.37-1985, SEC.21; P.L.215-1989, SEC.1; P.L.182-2006, SEC.10; P.L.35-2007, SEC.1.

IC 22-1-1-6
Bureaus; directors; appointment
Sec. 6. Each bureau is under the immediate charge of a director who is under the immediate charge of the commissioner. A director for each bureau shall be appointed by the commissioner of labor with the approval of the governor.
(Formerly: Acts 1945, c.334, s.6.) As amended by P.L.215-1989, SEC.2.

IC 22-1-1-7
Repealed
(Repealed by P.L.37-1985, SEC.60.)

IC 22-1-1-8
Commissioner of labor; general powers and duties
Sec. 8. The commissioner of labor may do the following:
(1) Make or cause to be made all necessary inspections to see that all of the laws and rules enacted or adopted for that purpose and that the department is required to enforce are promptly and effectively administered and executed.
(2) Collect, collate, and publish statistical and other information relating to working conditions in this state and to the enforcement of this chapter and such rules as may be necessary to the advancement of the purposes of this chapter, but no publicity of any information involving the name or identity of any employer, employee, or other person, firm, limited liability company, or corporation shall be given. It shall be unlawful for the commissioner or any person to divulge, or to make known in any way not provided by law, to any person the operation, style of work, or apparatus of any employer, or the amount or sources of income, profits, losses, expenditures, or any part thereof obtained by him in the discharge of his official duties.
(3) Except as otherwise provided by law, employ, promote, and remove clerks, inspectors, and other employees as needed or as the service of the department of labor may require, and with the approval of the governor, within the appropriation therefor, fix their compensation and to assign to them their duties.
(4) Promote the voluntary arbitration, mediation, and conciliation of disputes between employers and employees, for the purpose of avoiding strikes, lockouts, boycotts, blacklists, discrimination, and legal proceedings in matters of employment. The commissioner may appoint temporary boards of arbitration, provide for the payment of the necessary expenses of the

boards, order reasonable compensation paid to each member engaged in arbitration, prescribe and adopt rules of procedure for arbitration boards, conduct investigations and hearings, publish reports and advertisements, and do all other things convenient and necessary to accomplish the purpose of this chapter. The commissioner may designate an employee of the department to act as chief mediator and may detail other employees, from time to time, to act as the commissioner's assistants for the purpose of executing this chapter. Any employee of the department who may act on a temporary board shall serve without extra compensation.

(Formerly: Acts 1945, c.334, s.8.) As amended by P.L.37-1985, SEC.22; P.L.8-1993, SEC.269; P.L.6-2012, SEC.149.

IC 22-1-1-9
Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-1-1-10
Safe place to work

Sec. 10. Every employer and place of employment under the jurisdiction of the department of labor created by this chapter shall:

(1) furnish employment that is safe for the employees therein;

(2) furnish and use safety devices, safeguards, methods, and processes reasonably adequate to render employment and place of employment safe; and

(3) do every other thing reasonably necessary to protect the safety of the employee.

(Formerly: Acts 1945, c.334, s.10.) As amended by P.L.37-1985, SEC.23.

IC 22-1-1-11
Commissioner of labor; powers and duties

Sec. 11. The commissioner of labor is authorized and directed to do the following:

(1) To investigate and adopt rules under IC 4-22-2 prescribing what safety devices, safeguards, or other means of protection shall be adopted for the prevention of accidents in every employment or place of employment, to determine what suitable devices, safeguards, or other means of protection for the prevention of industrial accidents or occupational diseases shall be adopted or followed in any or all employments or places of employment, and to adopt rules under IC 4-22-2 applicable to either employers or employees, or both for the prevention of accidents and the prevention of industrial or occupational diseases.

(2) Whenever, in the judgment of the commissioner of labor, any place of employment is not being maintained in a sanitary manner or is being maintained in a manner detrimental to the health of the employees therein, to obtain any necessary

technical or expert advice and assistance from the state department of health. The state department of health, upon the request of the commissioner of labor, shall furnish technical or expert advice and assistance to the commissioner and take the steps authorized or required by the health laws of the state.

(3) Annually forward the report received from the mining board under IC 22-10-1.5-5(a)(5) to the legislative council in an electronic format under IC 5-14-6 and request from the general assembly funding for necessary additional mine inspectors.

(4) Administer the mine safety fund established under IC 22-10-12-16.

(Formerly: Acts 1945, c.334, s.11.) As amended by P.L.37-1985, SEC.24; P.L.2-1992, SEC.738; P.L.187-2003, SEC.1; P.L.28-2004, SEC.158; P.L.35-2007, SEC.2.

IC 22-1-1-12
Rules; petition for variation

Sec. 12. (a) If there will be practical difficulties or unnecessary hardships in carrying out any rule, order, or determination of the commissioner of labor, the commissioner of labor may, after a public hearing, authorize a variation from any requirement, if the spirit of the rule and of the law will be otherwise observed. Any person who is affected by any rule, or his agent, may petition the commissioner of labor, in writing, for variation, stating the grounds therefor. The commissioner of labor shall fix a day for a hearing on the petition and shall give reasonable notice thereof to the petitioner.

(b) A properly indexed record of all variations made shall be kept in the office of the department of labor and shall be open to public inspection.

(Formerly: Acts 1945, c.334, s.12.) As amended by P.L.37-1985, SEC.25.

IC 22-1-1-13
Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-1-1-14
Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-1-1-15
Labor information; wages and hours; records

Sec. 15. (a) Every employer, employee, owner or other person shall furnish to the commissioner of labor any information which the commissioner of labor is authorized to require, and shall make true and specific answers to all questions, whether submitted orally or in writing, which are authorized to be put to him.

(b) Every employer shall keep a true and accurate record of the name, address or occupation of each person employed by him, and of the daily and weekly hours worked by each such person and of the

wages paid each pay period to each such person. Provided however, That the record of the daily and weekly hours worked or of the wages paid shall not be required for any person employed in a bona fide executive, agricultural, domestic, administrative or professional capacity or in the capacity of an outside salesman. No employer shall make or cause to be made any false entries in any such record.
(Formerly: Acts 1945, c.334, s.15.)

IC 22-1-1-16
Investigations; right of entry

Sec. 16. The commissioner of labor and his authorized representative shall have the power and the authority to enter any place of employment for the purpose of collecting facts and statistics relating to the employment of workers and of making inspections for the proper enforcement of all of the labor laws of this state, including IC 5-16-7. No employer or owner shall refuse to admit the commissioner of labor or his authorized representatives to his place of employment.
(Formerly: Acts 1945, c.334, s.16.) As amended by P.L.35-1990, SEC.41.

IC 22-1-1-17
Investigations; depositions; subpoenas; production of books and papers; contempt

Sec. 17. The commissioner of labor and any officer or employee of the department of labor designated by the commissioner, in the performance of any duty, or the execution of any power prescribed by law, may administer oaths, certify to official acts and records, and, where specifically ordered by the governor, take and cause to be taken depositions of witnesses, issue subpoenas, and compel the attendance of witnesses and the production of papers, books, accounts, payrolls relating to the employment of workers, documents, records, and testimony. In case of the failure of any person to comply with any subpoena lawfully issued, or on the refusal of any witness to produce evidence or to testify to any matter regarding which he may be lawfully interrogated, it shall be the duty of any circuit or superior court upon application of the commissioner or any officer or employee of the department of labor and a showing of the probable materiality of books, records, and papers, or, in the case of a witness, that he is believed to be possessed of information material to the examination, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements, of a subpoena issued from a court or a refusal to testify therein.
(Formerly: Acts 1945, c.334, s.17.) As amended by P.L.37-1985, SEC.26.

IC 22-1-1-18
Rule violations; prosecution

Sec. 18. It shall be the duty of the several prosecuting attorneys of the respective judicial circuits or the attorney-general of the state of

Indiana on the relation of the state of Indiana, upon the request of the commissioner of labor, or any of his authorized representatives, to prosecute any violation of any law, rule or order which it is made the duty of the commissioner to enforce.
(Formerly: Acts 1945, c.334, s.18.)

IC 22-1-1-19
Repealed
(Repealed by Acts 1971, P.L.356, SEC.2.)

IC 22-1-1-20
Repealed
(Repealed by Acts 1979, P.L.17, SEC.55.)

IC 22-1-1-21
Repealed
(Repealed by P.L.37-1985, SEC.60.)

IC 22-1-1-22
Information sharing concerning construction workers misclassified as independent contractors
Sec. 22. (a) This section applies after December 31, 2009.
(b) As used in this section, "contractor" means:
(1) a sole proprietor;
(2) a partnership;
(3) a firm;
(4) a corporation;
(5) a limited liability company;
(6) an association; or
(7) another legal entity;
that engages in construction and is authorized by law to do business in Indiana. The term includes a general contractor, a subcontractor, and a lower tiered contractor. The term does not include the state, the federal government, or a political subdivision.
(c) The department of labor shall cooperate with the:
(1) department of workforce development established by IC 22-4.1-2-1;
(2) department of state revenue established by IC 6-8.1-2-1; and
(3) worker's compensation board of Indiana created by IC 22-3-1-1(a);
by sharing information concerning any suspected improper classification by a contractor of an individual as an independent contractor (as defined in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).
(d) For purposes of IC 5-14-3-4, information shared under this section is confidential, may not be published, and is not open to public inspection.
(e) An officer or employee of the department of labor who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor.
As added by P.L.164-2009, SEC.2.

IC 22-1-1.5
Chapter 1.5. Department Personnel

IC 22-1-1.5-1
Repealed
(Repealed by P.L.100-2012, SEC.57.)

IC 22-1-1.5-2
Department personnel; job specifications
Sec. 2. The Commissioner of Labor shall prepare job specifications for the use of the Department of Administration which specifications shall be considered as advisory and may be amended and changed by the Department of Administration, provided however, that job experience may be substituted for education and that job experience shall be considered in the preparation of specifications, and the consideration of job applicants.
(Formerly: Acts 1971, P.L.348, SEC.1.)

IC 22-1-1.7

Chapter 1.7. Transition From the Division of Labor to the Department of Labor

IC 22-1-1.7-1

Treatment of rules of division of labor

Sec. 1. Any rule of the division of labor filed with the secretary of state before July 1, 1985, shall be treated after June 30, 1985, as if it had been adopted by the department of labor established by P.L.37-1985.

As added by P.L.220-2011, SEC.359.

IC 22-1-1.7-2

Transfer of powers, duties, and liabilities of division of labor

Sec. 2. On July 1, 1985, all powers, duties, and liabilities of the division of labor are transferred to the department of labor established by P.L.37-1985.

As added by P.L.220-2011, SEC.359.

IC 22-1-1.7-3

Treatment of references to division of labor

Sec. 3. After June 30, 1985, any reference to the division of labor in any statute or rule shall be treated as a reference to the department of labor established by P.L.37-1985.

As added by P.L.220-2011, SEC.359.

IC 22-1-1.7-4

Transfer of records and property of division of labor

Sec. 4. On July 1, 1985, all records and property of the division of labor are transferred to the department of labor established by P.L.37-1985.

As added by P.L.220-2011, SEC.359.

IC 22-1-1.7-5

Staff of division of labor

Sec. 5. The staff of the department of labor established by P.L.37-1985 shall be composed initially from among employees of the division of labor.

As added by P.L.220-2011, SEC.359.

IC 22-1-2
Repealed

(Repealed by Acts 1971, P.L.356, SEC.2.)

IC 22-1-3
Repealed

(Repealed by Acts 1978, P.L.2, SEC.2251.)

IC 22-1-4
Repealed

(Repealed by P.L.34-1985, SEC.11.)

IC 22-1-5

Chapter 5. Home Care Consumers and Worker Protection

IC 22-1-5-1
"Attendant care services"

Sec. 1. As used in this chapter, "attendant care services" has the meaning set forth in IC 16-18-2-28.5.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-2
"Companion type services"

Sec. 2. As used in this chapter, "companion type services" refers to services described in IC 12-10-17.1-2(2).

As added by P.L.212-2005, SEC.19. Amended by P.L.141-2006, SEC.103.

IC 22-1-5-3
"Consumer"

Sec. 3. As used in this chapter, "consumer" means an individual who:

(1) receives home care services given by a home care services worker in the individual's residence; or

(2) pays for and directs the home care services for another individual.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-4
"Consumer notice"

Sec. 4. As used in this chapter, "consumer notice" means the notice described in section 14 of this chapter.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-5
"Department"

Sec. 5. As used in this chapter, "department" refers to the department of labor created under IC 22-1-1-1.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-6
"Home care services"

Sec. 6. As used in this chapter, "home care services" means skilled and unskilled services provided to an individual at the individual's residence to enable the individual to remain in the residence safely and comfortably. The provision of at least two (2) of the following is included in home care services:

(1) Nursing.

(2) Therapy.

(3) Attendant care.

(4) Companion type services.

(5) Homemaker services.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-7
"Home care services worker"

Sec. 7. As used in this chapter, "home care services worker" means an individual performing home care services for compensation.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-8
"Homemaker services"

Sec. 8. As used in this chapter, "homemaker services" means assistance with or performing household tasks that include housekeeping, shopping, laundry, meal planning and preparation, handyman services, and seasonal chores.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-9
"Placement agency"

Sec. 9. As used in this chapter, "placement agency" means a person engaged in the business of securing home care services employment for an individual or securing a home care services worker for a consumer. The term:

(1) includes an employment agency, a nurse registry, and an entity that places a home care services worker for compensation by a consumer in the consumer's residence to provide home care services; and

(2) does not include a worker who solely and personally provides home care services to another individual at the residence of that individual.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-10
"Skilled services"

Sec. 10. As used in this chapter, "skilled services" means services provided by a:

(1) registered nurse (as defined in IC 25-23-1-1.1(a));

(2) licensed practical nurse (as defined in IC 25-23-1-1.2); or

(3) health care professional listed in IC 16-27-1-1.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-11
"Worker notice"

Sec. 11. As used in this chapter, "worker notice" means the statement described in section 17 of this chapter.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-12
Application of chapter

Sec. 12. This chapter applies to a placement agency, but does not

apply to a:

(1) hospital (as defined in IC 16-18-2-179);

(2) health facility (as defined in IC 16-18-2-167(a)); or

(3) home health agency (as defined in IC 16-18-2-173).

As added by P.L.212-2005, SEC.19.

IC 22-1-5-13

Consumer notice; criminal history check

Sec. 13. (a) A placement agency:

(1) must provide a consumer with a consumer notice each time a home care services worker is placed in the home of the consumer; and

(2) is not required to provide a consumer notice when a new or different home care services worker is substituting for the regular home care services worker placed with the consumer.

(b) Before a placement agency places a home care services worker with a consumer, the home care services worker must provide the placement agency with a copy of the individual's limited criminal history from the central repository for criminal history information under IC 10-13-3. The home care services worker is responsible for the fees required under IC 10-13-3-30 and must annually obtain an updated limited criminal history. A copy of the home care services worker's limited criminal history must be made available to the consumer.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-14

Consumer notice information

Sec. 14. A consumer notice must include the following:

(1) The duties, responsibilities, and obligations of the placement agency to the:

(A) home care services worker; and

(B) consumer.

(2) A statement identifying the placement agency as:

(A) an employer;

(B) a joint employer;

(C) a leasing employer; or

(D) not an employer.

(3) A statement that notwithstanding the employment status of the placement agency, the consumer:

(A) may be considered an employer under state and federal employment laws; and

(B) may be responsible for:

(i) payment of local, state, or federal employment taxes;

(ii) payment for Social Security and Medicare contributions;

(iii) ensuring payment of at least the minimum wage;

(iv) overtime payment;

(v) unemployment contributions under IC 22-4-11; or

(vi) worker's compensation insurance as required by

IC 22-3-2-5 and IC 22-3-7-34;
of the home care services worker.

(4) The appropriate telephone number, address, and electronic mail address of the department for inquiries regarding the contents of the notice.

The department shall determine the content and format of the consumer notice.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-15

Failure to provide consumer notice

Sec. 15. The failure of a placement agency to provide a consumer notice to the consumer at the time a home care services worker is placed in the consumer's home does not relieve a consumer from the duties or obligations as an employer. If a placement agency fails to provide a consumer notice and the consumer is liable for payment of wages, taxes, worker's compensation insurance premiums, or unemployment compensation employer contributions, the consumer has a right of indemnification against the placement agency, which includes the actual amounts paid to or on behalf of the home care services worker as well as the consumer's attorney's fees and costs.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-16

Worker notice

Sec. 16. A placement agency that will not be the actual employer of the home care services worker shall provide a worker notice as set forth in section 17 of this chapter to a home care services worker who is placed with a consumer. The worker notice must:

(1) be provided to the home care services worker upon placement in the consumer's home; and

(2) specify the home care services worker's legal relationship with the placement agency and the consumer.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-17

Worker notice information

Sec. 17. The worker notice referred to in section 16 of this chapter must contain the following:

(1) The duties, responsibilities, and obligations of the placement agency, the consumer, and the home care services worker if the home care services worker is determined to be an independent contractor, including:

(A) a statement of the party responsible for the payment of the home care services worker's wages, taxes, Social Security and Medicare contributions, unemployment contributions, and worker's compensation insurance premiums; and

(B) a statement identifying the party responsible for the home care services worker's hiring, firing, discipline, day to

day supervision, assignment of duties, and provision of equipment or materials for use by the home care services worker.

(2) The telephone number, address, and electronic mail address of the department for inquiries regarding the contents of the notice.

The department shall determine the content and format of the consumer notice.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-18

Investigation of complaints

Sec. 18. The department may at any time and upon receiving a complaint from an interested person investigate an alleged violation of this chapter by a placement agency.

As added by P.L.212-2005, SEC.19.

IC 22-1-5-19

Penalties

Sec. 19. The department may impose a civil penalty not to exceed one thousand dollars ($1,000) against a placement agency that fails to provide a worker notice or a consumer notice at the times required under section 13 or 16 of this chapter. The civil penalty may be assessed by the department and, if necessary, shall be recovered by the prosecuting attorney of the county in which the violation has occurred or by the attorney general, as provided in IC 22-1-1-18.

As added by P.L.212-2005, SEC.19.

IC 22-2

ARTICLE 2. WAGES, HOURS, AND BENEFITS

IC 22-2-1

Repealed

(Repealed by Acts 1982, P.L.133, SEC.1.)

IC 22-2-2

Chapter 2. Minimum Wage

IC 22-2-2-1

Short title

Sec. 1. This chapter shall be known and may be cited as the Minimum Wage Law of 1965.

(Formerly: Acts 1965, c.134, s.1.) As amended by P.L.144-1986, SEC.1.

IC 22-2-2-2

Public policy

Sec. 2. There are persons employed in some occupations in the state of Indiana at wages insufficient to provide adequate maintenance for themselves and their families. Such employment impairs the health, efficiency and well being of the persons so employed and their families, constitutes unfair competition against other employees and their employers, threatens the stability of industry, and requires, in many cases, that income be supplemented by the payment of public moneys for relief or the provision of other public or private assistance. Employment of persons at such insufficient rates of pay threatens the health and well being of the people of the state of Indiana and injures the economy of the state.

Accordingly, it is hereby declared the policy of the state of Indiana that such conditions be eliminated as rapidly as practicable without substantially curtailing opportunities for employment. To this end, the Minimum Wage Law of 1965 is enacted.

(Formerly: Acts 1965, c.134, s.2.)

IC 22-2-2-3

Definitions; exemptions

Sec. 3. As used in this chapter:

"Commissioner" means the commissioner of labor or the commissioner's authorized representative.

"Department" means the department of labor.

"Occupation" means an industry, trade, business, or class of work in which employees are gainfully employed.

"Employer" means any individual, partnership, association, limited liability company, corporation, business trust, the state, or other governmental agency or political subdivision during any work week in which they have two (2) or more employees. However, it shall not include any employer who is subject to the minimum wage provisions of the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-209).

"Employee" means any person employed or permitted to work or perform any service for remuneration or under any contract of hire, written or oral, express or implied by an employer in any occupation, but shall not include any of the following:

(a) Persons less than sixteen (16) years of age.

(b) Persons engaged in an independently established trade,

occupation, profession, or business who, in performing the services in question, are free from control or direction both under a contract of service and in fact.

(c) Persons performing services not in the course of the employing unit's trade or business.

(d) Persons employed on a commission basis.

(e) Persons employed by their own parent, spouse, or child.

(f) Members of any religious order performing any service for that order, any ordained, commissioned, or licensed minister, priest, rabbi, sexton, or Christian Science reader, and volunteers performing services for any religious or charitable organization.

(g) Persons performing services as student nurses in the employ of a hospital or nurses training school while enrolled and regularly attending classes in a nurses training school chartered or approved under law, or students performing services in the employ of persons licensed as both funeral directors and embalmers as a part of their requirements for apprenticeship to secure an embalmer's license or a funeral director's license from the state, or during their attendance at any schools required by law for securing an embalmer's or funeral director's license.

(h) Persons who have completed a four (4) year course in a medical school approved by law when employed as interns or resident physicians by any accredited hospital.

(i) Students performing services for any school, college, or university in which they are enrolled and are regularly attending classes.

(j) Persons with physical or mental disabilities performing services for nonprofit organizations organized primarily for the purpose of providing employment for persons with disabilities or for assisting in their therapy and rehabilitation.

(k) Persons employed as insurance producers, insurance solicitors, and outside salesmen, if all their services are performed for remuneration solely by commission.

(l) Persons performing services for any camping, recreational, or guidance facilities operated by a charitable, religious, or educational nonprofit organization.

(m) Persons engaged in agricultural labor. The term shall include only services performed:

(1) on a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;

(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of the farm and its tools and equipment if the major part of the service is performed on a farm;

(3) in connection with:

(A) the production or harvesting of maple sugar or maple

syrup or any commodity defined as an agricultural commodity in the Agricultural Marketing Act, as amended (12 U.S.C. 1141j);

(B) the raising or harvesting of mushrooms;

(C) the hatching of poultry; or

(D) the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes; and

(4) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage, to market, or to a carrier for transportation to market, any agricultural or horticultural commodity, but only if service is performed as an incident to ordinary farming operation or, in the case of fruits and vegetables, as an incident to the preparation of fruits and vegetables for market. However, this exception shall not apply to services performed in connection with any agricultural or horticultural commodity after its delivery to a terminal market or processor for preparation or distribution for consumption.

As used in this subdivision, "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, nurseries, orchards, or greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities.

(n) Those persons employed in executive, administrative, or professional occupations who have the authority to employ or discharge and who earn one hundred fifty dollars ($150) or more a week, and outside salesmen.

(o) Any person not employed for more than four (4) weeks in any four (4) consecutive three (3) month periods.

(p) Any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service under the federal Motor Carrier Act of 1935 (49 U.S.C. 304(3)) or any employee of a carrier subject to IC 8-2.1.

(Formerly: Acts 1965, c.134, s.3; Acts 1967, c.153, s.1.) As amended by Acts 1977, P.L.259, SEC.1; P.L.37-1985, SEC.27; P.L.246-1985, SEC.11; P.L.23-1988, SEC.110; P.L.99-1989, SEC.30; P.L.3-1989, SEC.131; P.L.133-1990, SEC.1; P.L.23-1993, SEC.127; P.L.8-1993, SEC.270; P.L.178-2003, SEC.8.

IC 22-2-2-4
Rates; discrimination

Sec. 4. (a) Every employer employing four (4) or more employees during a work week shall:

(1) in any work week beginning on or after July 1, 1968, in which the employer is subject to the provisions of this chapter, pay each of the employer's employees wages of not less than one dollar and twenty-five cents ($1.25) per hour;

(2) in any work week beginning on or after July 1, 1977, in which the employer is subject to this chapter, pay each of the employer's employees wages of not less than one dollar and fifty cents ($1.50) per hour;

(3) in any work week beginning on or after January 1, 1978, in which the employer is subject to this chapter, pay each of the employer's employees wages of not less than one dollar and seventy-five cents ($1.75) per hour; and

(4) in any work week beginning on or after January 1, 1979, in which the employer is subject to this chapter, pay each of the employer's employees wages of not less than two dollars ($2) per hour.

(b) Except as provided in subsection (c), every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on and after July 1, 1990, and before October 1, 1998, wages of not less than three dollars and thirty-five cents ($3.35) per hour.

(c) An employer subject to subsection (b) is permitted to apply a "tip credit" in determining the amount of cash wage paid to tipped employees. In determining the wage an employer is required to pay a tipped employee, the amount paid the employee by the employee's employer shall be an amount equal to:

(1) the cash wage paid the employee, which for purposes of the determination shall be not less than the cash wage required to be paid to employees covered under the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 203(m)(1)) on August 20, 1996, which amount is two dollars and thirteen cents ($2.13) an hour; and

(2) an additional amount on account of the tips received by the employee, which amount is equal to the difference between the wage specified in subdivision (1) and the wage in effect under subsections (b), (f), (g), and (h).

An employer is responsible for supporting the amount of tip credit taken through reported tips by the employees.

(d) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which employees are employed, between employees on the basis of sex by paying to employees in such establishment a rate less than the rate at which the employer pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to:

(1) a seniority system;

(2) a merit system;

(3) a system which measures earnings by quantity or quality of production; or

(4) a differential based on any other factor other than sex.

(e) An employer who is paying a wage rate differential in

violation of subsection (d) shall not, in order to comply with subsection (d), reduce the wage rate of any employee, and no labor organization, or its agents, representing employees of an employer having employees subject to subsection (d) shall cause or attempt to cause such an employer to discriminate against an employee in violation of subsection (d).

(f) Except as provided in subsection (c), every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on or after October 1, 1998, and before March 1, 1999, wages of not less than four dollars and twenty-five cents ($4.25) per hour.

(g) Except as provided in subsections (c) and (j), every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on or after March 1, 1999, and before July 1, 2007, wages of not less than five dollars and fifteen cents ($5.15) an hour.

(h) Except as provided in subsections (c) and (j), every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on or after June 30, 2007, wages of not less than the minimum wage payable under the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.).

(i) This section does not apply if an employee:

(1) provides companionship services to the aged and infirm (as defined in 29 CFR 552.6); and

(2) is employed by an employer or agency other than the family or household using the companionship services, as provided in 29 CFR 552.109 (a).

(j) This subsection applies only to an employee who has not attained the age of twenty (20) years. Instead of the rates prescribed by subsections (c), (f), (g), and (h), an employer may pay an employee of the employer, during the first ninety (90) consecutive calendar days after the employee is initially employed by the employer, a wage which is not less than:

(1) four dollars and twenty-five cents ($4.25) per hour, effective March 1, 1999; and

(2) the amount payable under the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.), during the first ninety (90) consecutive calendar days after initial employment to an employee who has not attained twenty (20) years of age, effective July 1, 2007.

However, no employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in this subsection.

(k) Except as otherwise provided in this section, no employer shall employ any employee for a work week longer than forty (40)

hours unless the employee receives compensation for employment in excess of the hours above specified at a rate not less than one and one-half (1.5) times the regular rate at which the employee is employed.

(l) For purposes of this section the following apply:

(1) "Overtime compensation" means the compensation required by subsection (k).

(2) "Compensatory time" and "compensatory time off" mean hours during which an employee is not working, which are not counted as hours worked during the applicable work week or other work period for purposes of overtime compensation, and for which the employee is compensated at the employee's regular rate.

(3) "Regular rate" means the rate at which an employee is employed is considered to include all remuneration for employment paid to, or on behalf of, the employee, but is not considered to include the following:

(A) Sums paid as gifts, payments in the nature of gifts made at Christmas time or on other special occasions, as a reward for service, the amounts of which are not measured by or dependent on hours worked, production, or efficiency.

(B) Payments made for occasional periods when no work is performed due to vacation, holiday, illness, failure of the employer to provide sufficient work, or other similar cause, reasonable payments for traveling expenses, or other expenses, incurred by an employee in the furtherance of the employer's interests and properly reimbursable by the employer, and other similar payments to an employee which are not made as compensation for the employee's hours of employment.

(C) Sums paid in recognition of services performed during a given period if:

(i) both the fact that payment is to be made and the amount of the payment are determined at the sole discretion of the employer at or near the end of the period and not pursuant to any prior contract, agreement, or promise causing the employee to expect the payments regularly;

(ii) the payments are made pursuant to a bona fide profit sharing plan or trust or bona fide thrift or savings plan, meeting the requirements of the administrator set forth in appropriately issued regulations, having due regard among other relevant factors, to the extent to which the amounts paid to the employee are determined without regard to hours of work, production, or efficiency; or

(iii) the payments are talent fees paid to performers, including announcers, on radio and television programs.

(D) Contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for providing old age, retirement, life, accident, or health insurance or similar benefits for employees.

(E) Extra compensation provided by a premium rate paid for certain hours worked by the employee in any day or work week because those hours are hours worked in excess of eight (8) in a day or in excess of the maximum work week applicable to the employee under subsection (k) or in excess of the employee's normal working hours or regular working hours, as the case may be.

(F) Extra compensation provided by a premium rate paid for work by the employee on Saturdays, Sundays, holidays, or regular days of rest, or on the sixth or seventh day of the work week, where the premium rate is not less than one and one-half (1.5) times the rate established in good faith for like work performed in nonovertime hours on other days.

(G) Extra compensation provided by a premium rate paid to the employee, in pursuance of an applicable employment contract or collective bargaining agreement, for work outside of the hours established in good faith by the contract or agreement as the basic, normal, or regular workday (not exceeding eight (8) hours) or work week (not exceeding the maximum work week applicable to the employee under subsection (k)) where the premium rate is not less than one and one-half (1.5) times the rate established in good faith by the contract or agreement for like work performed during the workday or work week.

(m) No employer shall be considered to have violated subsection (k) by employing any employee for a work week in excess of that specified in subsection (k) without paying the compensation for overtime employment prescribed therein if the employee is so employed:

(1) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand forty (1,040) hours during any period of twenty-six (26) consecutive weeks; or

(2) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that during a specified period of fifty-two (52) consecutive weeks the employee shall be employed not more than two thousand two hundred forty (2,240) hours and shall be guaranteed not less than one thousand eight hundred forty (1,840) hours (or not less than forty-six (46) weeks at the normal number of hours worked per week, but not less than thirty (30) hours per week) and not more than two thousand eighty (2,080) hours of employment for which the employee shall receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of the maximum work week applicable to the employee under

subsection (k) or two thousand eighty (2,080) in that period at rates not less than one and one-half (1.5) times the regular rate at which the employee is employed.

(n) No employer shall be considered to have violated subsection (k) by employing any employee for a work week in excess of the maximum work week applicable to the employee under subsection (k) if the employee is employed pursuant to a bona fide individual contract, or pursuant to an agreement made as a result of collective bargaining by representatives of employees, if the duties of the employee necessitate irregular hours of work, and the contract or agreement includes the following:

(1) Specifies a regular rate of pay of not less than the minimum hourly rate provided in subsections (c), (h), and (j) (whichever is applicable) and compensation at not less than one and one-half (1.5) times that rate for all hours worked in excess of the maximum work week.

(2) Provides a weekly guaranty of pay for not more than sixty (60) hours based on the rates so specified.

(o) No employer shall be considered to have violated subsection (k) by employing any employee for a work week in excess of the maximum work week applicable to the employee under that subsection if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, the amount paid to the employee for the number of hours worked by the employee in the work week in excess of the maximum work week applicable to the employee under that subsection:

(1) in the case of an employee employed at piece rates, is computed at piece rates not less than one and one-half (1.5) times the bona fide piece rates applicable to the same work when performed during nonovertime hours;

(2) in the case of an employee performing two (2) or more kinds of work for which different hourly or piece rates have been established, is computed at rates not less than one and one-half (1.5) times those bona fide rates applicable to the same work when performed during nonovertime hours; or

(3) is computed at a rate not less than one and one-half (1.5) times the rate established by the agreement or understanding as the basic rate to be used in computing overtime compensation thereunder, provided that the rate so established shall be substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time;

and if the employee's average hourly earnings for the work week exclusive of payments described in this section are not less than the minimum hourly rate required by applicable law, and extra overtime compensation is properly computed and paid on other forms of additional pay required to be included in computing the regular rate.

(p) Extra compensation paid as described in this section shall be creditable toward overtime compensation payable pursuant to this section.

(q) No employer shall be considered to have violated subsection (k) by employing any employee of a retail or service establishment for a work week in excess of the applicable work week specified therein, if:

(1) the regular rate of pay of the employee is in excess of one and one-half (1.5) times the minimum hourly rate applicable to the employee under section 2 of this chapter; and

(2) more than half of the employee's compensation for a representative period (not less than one (1) month) represents commissions on goods or services.

In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be considered commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.

(r) No employer engaged in the operation of a hospital or an establishment which is an institution primarily engaged in the care of the sick, the aged, or individuals with a mental illness or defect who reside on the premises shall be considered to have violated subsection (k) if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of fourteen (14) consecutive days is accepted in lieu of the work week of seven (7) consecutive days for purposes of overtime computation and if, for the employee's employment in excess of eight (8) hours in any workday and in excess of eighty (80) hours in that fourteen (14) day period, the employee receives compensation at a rate not less than one and one-half (1.5) times the regular rate at which the employee is employed.

(s) No employer shall employ any employee in domestic service in one (1) or more households for a work week longer than forty (40) hours unless the employee receives compensation for that employment in accordance with subsection (k).

(t) In the case of an employee of an employer engaged in the business of operating a street, a suburban or interurban electric railway, or a local trolley or motorbus carrier (regardless of whether or not the railway or carrier is public or private or operated for profit or not for profit), in determining the hours of employment of such an employee to which the rate prescribed by subsection (k) applies, there shall be excluded the hours the employee was employed in charter activities by the employer if both of the following apply:

(1) The employee's employment in the charter activities was pursuant to an agreement or understanding with the employer arrived at before engaging in that employment.

(2) If employment in the charter activities is not part of the employee's regular employment.

(u) Any employer may employ any employee for a period or periods of not more than ten (10) hours in the aggregate in any work week in excess of the maximum work week specified in subsection (k) without paying the compensation for overtime employment prescribed in subsection (k), if during that period or periods the

employee is receiving remedial education that:

(1) is provided to employees who lack a high school diploma or educational attainment at the eighth grade level;

(2) is designed to provide reading and other basic skills at an eighth grade level or below; and

(3) does not include job specific training.

(v) Subsection (k) does not apply to an employee of a motion picture theater.

(w) Subsection (k) does not apply to an employee of a seasonal amusement or recreational establishment, an organized camp, or a religious or nonprofit educational conference center that is exempt under the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 213).

(Formerly: Acts 1965, c.134, s.4; Acts 1967, c.153, s.2.) As amended by Acts 1977, P.L.259, SEC.2; P.L.19-1986, SEC.38; P.L.133-1990, SEC.2; P.L.39-1998, SEC.1; P.L.1-1999, SEC.53; P.L.234-1999, SEC.6; P.L.99-2007, SEC.182; P.L.165-2007, SEC.1.

IC 22-2-2-5
Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-2-2-6
Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-2-2-7
Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-2-2-8
Statement of hours and wages; furnishing employees; posting law

Sec. 8. (a) Every employer subject to the provisions of this chapter or to any rule or order issued under this chapter shall each pay period furnish to each employee a statement that includes at least the following information:

(1) The hours worked by the employee.

(2) The wages paid to the employee.

(3) A listing of the deductions made.

(b) An employer shall furnish to the commissioner upon demand a sworn statement of the information furnished to an employee under subsection (a). Records relating to the information furnished shall be open to inspection by the commissioner, the commissioner's deputy, or any authorized agent of the department at any reasonable time.

(c) Every employer subject to the provisions of this chapter or to any rule or order issued under this chapter shall post in a conspicuous place in the area where employees are employed a single page poster providing employees notice of the following information:

(1) The current Indiana minimum wage.

(2) An employee's basic rights under Indiana's minimum wage law.

(3) Contact information to inform an employee how to obtain additional information from or to direct questions or complaints to the Indiana department of labor.

(d) The commissioner shall furnish copies of this chapter and the rules and orders to employers without charge upon request.

(Formerly: Acts 1965, c.134, s.8.) As amended by P.L.144-1986, SEC.2; P.L.48-2009, SEC.1.

IC 22-2-2-9

Actions and proceedings; damages; limitation of actions; defenses

Sec. 9. Any employer who violates the provisions of section 4 of this chapter shall be liable to the employee or employees affected in the amount of their unpaid minimum wages and in an equal additional amount as liquidated damages. Action to recover such liability may be maintained within three (3) years after the cause of action therefor arises in the circuit or superior court of the county in which the services out of which the claim arises were performed or in which the defendant resides or transacts business. Such action may be brought by any one (1) or more employees for and on behalf of himself or themselves and all other employees of the same employer who are similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to the plaintiffs, allow recovery of a reasonable attorney's fee and costs of the action. No contract or agreement between the employee and the employer nor any acceptance of a lesser wage by the employee shall be a defense to the action.

(Formerly: Acts 1965, c.134, s.9.) As amended by P.L.144-1986, SEC.3.

IC 22-2-2-10

Other statutes; application of law

Sec. 10. Nothing in this chapter shall be deemed to authorize or permit the payment to any employee of a lower rate of pay than may be prescribed by any other applicable law.

(Formerly: Acts 1965, c.134, s.10.) As amended by P.L.144-1986, SEC.4.

IC 22-2-2-10.5

Prohibition against unit establishing, mandating, or requiring higher minimum wage; exception

Sec. 10.5. (a) As used in this section, "unit" has the meaning set forth in IC 36-1-2-23.

(b) Unless federal or state law provides otherwise, a unit may not:

(1) establish;

(2) mandate; or

(3) otherwise require;

a minimum wage that exceeds the minimum wage required by section 4 of this chapter or by the federal minimum hourly wage prescribed by 29 U.S.C. 206(a)(1).

(c) This section does not limit the authority of a unit to establish wage rates in a contract to which the unit is a party.

As added by P.L.211-2011, SEC.1.

IC 22-2-2-11

Violations

Sec. 11. (a) An employer or his agent who:

(1) discharges or otherwise discriminates in regard to tenure or condition of employment against any employee because the employee has:

(A) instituted or participated in the institution of any action to recover wages under this chapter; or

(B) demanded the payment of wages under this chapter;

(2) pays or agrees to pay any employee less than the minimum wage prescribed by section 4 of this chapter; or

(3) fails to keep records required by section 8 of this chapter;

commits a Class C infraction.

(b) An employer or the employer's agent who knowingly or intentionally violates section 4 or 8 of this chapter commits a Class A infraction.

(c) An employer or the employer's agent who violates section 4 of this chapter, having a prior unrelated judgment for a violation of section 4 of this chapter, commits a Class B misdemeanor.

(d) An employer or the employer's agent who violates section 8 of this chapter, having a prior unrelated judgment for a violation of section 8 of this chapter, commits a Class B misdemeanor.

(Formerly: Acts 1965, c.134, s.11.) As amended by Acts 1978, P.L.2, SEC.2202; P.L.37-1985, SEC.28; P.L.133-1990, SEC.3.

IC 22-2-2-12

Discharging persons within four weeks; offense

Sec. 12. An employer who consistently discharges persons within four (4) weeks of their employment and replaces the discharged person without work stoppage commits a Class A infraction.

(Formerly: Acts 1965, c.134, s.14; Acts 1967, c.153, s.4.) As amended by Acts 1977, P.L.259, SEC.3; Acts 1978, P.L.2, SEC.2203; P.L.133-1990, SEC.4.

IC 22-2-2-13

Collective bargaining agreements; applicability

Sec. 13. The equal pay provisions of section 4 of this chapter shall not apply to employees covered by a bona fide collective bargaining agreement in effect on March 2, 1965, until the termination of such collective bargaining agreement or July 1, 1968, whichever shall occur first.

(Formerly: Acts 1965, c.134, s.15; Acts 1967, c.153, s.5.) As amended by P.L.144-1986, SEC.5.

IC 22-2-3
Repealed

(Repealed by Acts 1978, P.L.2, SEC.2251.)

IC 22-2-4

Chapter 4. Regulation of Wage Payments

IC 22-2-4-1

"Financial institution" defined; payment; void contracts; exceptions

Sec. 1. (a) As used in this section, "financial institution" means a financial institution regulated by an agency of the United States or any state.

(b) Every corporation, limited liability company, association, company, firm, or person engaged in Indiana in mining coal, ore, or other mineral, quarrying stone, or in manufacturing iron, steel, lumber, staves, heading barrels, brick, tile, machinery, agricultural or mechanical implements, or any article of merchandise shall pay each employee of the corporation, limited liability company, company, association, firm, or person, if demanded, at least every two (2) weeks, the amount due the employee for labor. The payments shall be made in lawful money of the United States, by negotiable check, draft, or money order, or by electronic transfer to the financial institution designated by the employee.

(c) Any contract in violation of this section is void. This section does not apply where employees and employers by mutual agreement or contract have provided for payments on a weekly basis.

(Formerly: Acts 1911, c.68, s.1; Acts 1971, P.L.349, SEC.1.) As amended by P.L.216-1989, SEC.1; P.L.8-1993, SEC.271.

IC 22-2-4-2

Scrip; offense

Sec. 2. A person who publishes, issues, or circulates any check, card, or other paper, which is not commercial paper payable at a fixed time in any bank in this state, at its full face value, in lawful money of the United States, with eight percent (8%) interest, or by bank check or currency issued by authority of the United States government, to his employee in payment for any work done or for any labor contracted to be done commits a Class C infraction.

(Formerly: Acts 1911, c.68, s.2.) As amended by Acts 1978, P.L.2, SEC.2204.

IC 22-2-4-3

Merchandise or supplies; sale to employees at higher price

Sec. 3. It is a Class C infraction for a person to knowingly sell to his employee any merchandise or supplies at a higher price than the merchandise or supplies are sold to others for cash.

(Formerly: Acts 1911, c.68, s.3.) As amended by Acts 1978, P.L.2, SEC.2205.

IC 22-2-4-4

Failure to pay; fines and penalties; damages

Sec. 4. Every corporation, limited liability company, company, association, firm, or person who shall fail for ten (10) days after

demand of payment has been made to pay employees for their labor, in conformity with the provisions of this chapter, shall be liable to such employee for the full value of his labor, to which shall be added a penalty of one dollar ($1) for each succeeding day, not exceeding double the amount of wages due, and a reasonable attorney's fee, to be recovered in a civil action and collectable without relief.
(Formerly: Acts 1911, c.68, s.4.) As amended by P.L.144-1986, SEC.6; P.L.8-1993, SEC.272.

IC 22-2-4-5
Repealed
(Repealed by Acts 1978, P.L.2, SEC.2251.)

IC 22-2-4-6
Liens for work; application of law
Sec. 6. This chapter shall not in any way affect the liens of laborers, as secured to them on April 21, 1911, by the laws of this state.
(Formerly: Acts 1911, c.68, s.6.) As amended by P.L.144-1986, SEC.7.

IC 22-2-5

Chapter 5. Frequency of Wage Payments

IC 22-2-5-0.3

Application of amendments to section 1 of chapter by P.L.51-2007; intent of general assembly; expiration of section

Sec. 0.3. (a) The amendments made to section 1 of this chapter by P.L.51-2007 apply to claims for wages earned before, on, or after July 1, 2007.

(b) Having received and considered testimony concerning the customary and usual wage payment practices of employers, it is the intent of the general assembly that the ten (10) day period referenced in section 1 of this chapter, before its amendment by P.L.51-2007, be construed as ten (10) business days (as defined in section 0.5 of this chapter, as added by P.L.51-2007).

(c) This section expires July 1, 2017.

As added by P.L.220-2011, SEC.360.

IC 22-2-5-0.5

"Business day"

Sec. 0.5. As used in this chapter, "business day" means a day other than Saturday, Sunday, or a legal holiday (as defined in IC 1-1-9-1).

As added by P.L.51-2007, SEC.1.

IC 22-2-5-1

Payment; voluntarily leaving employment

Sec. 1. (a) Every person, firm, corporation, limited liability company, or association, their trustees, lessees, or receivers appointed by any court, doing business in Indiana, shall pay each employee at least semimonthly or biweekly, if requested, the amount due the employee. The payment shall be made in lawful money of the United States, by negotiable check, draft, or money order, or by electronic transfer to the financial institution designated by the employee. Any contract in violation of this subsection is void.

(b) Payment shall be made for all wages earned to a date not more than ten (10) business days prior to the date of payment. However, this subsection does not prevent payments being made at shorter intervals than specified in this subsection, nor repeal any law providing for payments at shorter intervals. However, if an employee voluntarily leaves employment, either permanently or temporarily, the employer shall not be required to pay the employee an amount due the employee until the next usual and regular day for payment of wages, as established by the employer. If an employee leaves employment voluntarily, and without the employee's whereabouts or address being known to the employer, the employer is not subject to section 2 of this chapter until:

(1) ten (10) business days have elapsed after the employee has made a demand for the wages due the employee; or

(2) the employee has furnished the employer with the

employee's address where the wages may be sent or forwarded.
(Formerly: Acts 1933, c.47, s.1; Acts 1971, P.L.350, SEC.1.) As amended by P.L.216-1989, SEC.2; P.L.8-1993, SEC.273; P.L.51-2007, SEC.2.

IC 22-2-5-1.1
Employees eligible for overtime compensation; exemption from IC 22-2-5-1

Sec. 1.1. Salaried employees who are eligible for overtime compensation under the Fair Labor Standards Act (29 U.S.C. 201 et seq.) are specifically exempted from section 1 of this chapter.
As added by P.L.143-1988, SEC.1.

IC 22-2-5-2
Failure to pay; damages; actions for recovery

Sec. 2. Every such person, firm, corporation, limited liability company, or association who shall fail to make payment of wages to any such employee as provided in section 1 of this chapter shall, as liquidated damages for such failure, pay to such employee for each day that the amount due to him remains unpaid ten percent (10%) of the amount due to him in addition thereto, not exceeding double the amount of wages due, and said damages may be recovered in any court having jurisdiction of a suit to recover the amount due to such employee, and in any suit so brought to recover said wages or the liquidated damages for nonpayment thereof, or both, the court shall tax and assess as costs in said case a reasonable fee for the plaintiff's attorney or attorneys.
(Formerly: Acts 1933, c.47, s.2.) As amended by P.L.144-1986, SEC.8; P.L.8-1993, SEC.274.

IC 22-2-5-3
Agricultural workers; criminal offenders; exemptions

Sec. 3. The following shall be specifically exempt from the provisions of this chapter:

(1) Farmers and those engaged in the business of agriculture and horticulture.

(2) Criminal offenders in a facility operated by the department of correction (as established by IC 11-8-2-1) or operated by a private operator under contract with the department of correction.

(Formerly: Acts 1933, c.47, s.3.) As amended by P.L.144-1986, SEC.9; P.L.223-2013, SEC.5.

IC 22-2-6

Chapter 6. Wage Deductions

IC 22-2-6-1

Definitions

Sec. 1. (a) Any direction given by an employee to an employer to make a deduction from the wages to be earned by said employee, after said direction is given, shall constitute an assignment of the wages of said employee.

(b) For the purpose of this chapter, the term "employer" shall also include the state and any political subdivision of the state.

(Formerly: Acts 1945, c.183, s.1; Acts 1965, c.301, s.1.) As amended by P.L.144-1986, SEC.10; P.L.143-1988, SEC.2.

IC 22-2-6-2

Assignment of wages; requisites

Sec. 2. (a) Any assignment of the wages of an employee is valid only if all of the following conditions are satisfied:

(1) The assignment is:

(A) in writing;

(B) signed by the employee personally;

(C) by its terms revocable at any time by the employee upon written notice to the employer; and

(D) agreed to in writing by the employer.

(2) An executed copy of the assignment is delivered to the employer within ten (10) days after its execution.

(3) The assignment is made for a purpose described in subsection (b).

(b) A wage assignment under this section may be made for the purpose of paying any of the following:

(1) Premium on a policy of insurance obtained for the employee by the employer.

(2) Pledge or contribution of the employee to a charitable or nonprofit organization.

(3) Purchase price of bonds or securities, issued or guaranteed by the United States.

(4) Purchase price of shares of stock, or fractional interests therein, of the employing company, or of a company owning the majority of the issued and outstanding stock of the employing company, whether purchased from such company, in the open market or otherwise. However, if such shares are to be purchased on installments pursuant to a written purchase agreement, the employee has the right under the purchase agreement at any time before completing purchase of such shares to cancel said agreement and to have repaid promptly the amount of all installment payments which theretofore have been made.

(5) Dues to become owing by the employee to a labor organization of which the employee is a member.

(6) Purchase price of merchandise sold by the employer to the

employee, at the written request of the employee.

(7) Amount of a loan made to the employee by the employer and evidenced by a written instrument executed by the employee subject to the amount limits set forth in section 4(c) of this chapter.

(8) Contributions, assessments, or dues of the employee to a hospital service or a surgical or medical expense plan or to an employees' association, trust, or plan existing for the purpose of paying pensions or other benefits to said employee or to others designated by the employee.

(9) Payment to any credit union, nonprofit organizations, or associations of employees of such employer organized under any law of this state or of the United States.

(10) Payment to any person or organization regulated under the Uniform Consumer Credit Code (IC 24-4.5) for deposit or credit to the employee's account by electronic transfer or as otherwise designated by the employee.

(11) Premiums on policies of insurance and annuities purchased by the employee on the employee's life.

(12) The purchase price of shares or fractional interest in shares in one (1) or more mutual funds.

(13) A judgment owed by the employee if the payment:

(A) is made in accordance with an agreement between the employee and the creditor; and

(B) is not a garnishment under IC 34-25-3.

(Formerly: Acts 1945, c.183, s.2; Acts 1947, c.330, s.1; Acts 1963, c.148, s.1; Acts 1975, P.L.251, SEC.1.) As amended by P.L.143-1988, SEC.3; P.L.115-1994, SEC.1; P.L.83-2001, SEC.1.

IC 22-2-6-3
Validation of deductions

Sec. 3. All deductions made before July 1, 1988, by an employer from the wages of an employee, at the request of the employee, or without the objection of the employee, provided the amount so deducted was either retained by the employer and credited upon an indebtedness owing to the employer by the employee, or paid by the employer in accordance with the request of the employee, or without the employee's objection, are hereby legalized, and no action shall be brought or maintained against the employer to recover from the employer the amount so retained or paid.

(Formerly: Acts 1945, c.183, s.4.) As amended by P.L.143-1988, SEC.4.

IC 22-2-6-4
Overpayment by employer

Sec. 4. (a) If an employer has overpaid an employee, the employer may deduct from the wages of the employee the amount of the overpayment. A deduction by an employer for reimbursement of an overpayment of wages previously made to an employee is not a fine under IC 22-2-8-1 or an assignment of wages under section 2 of this

chapter. An employer must give an employee two (2) weeks notice before the employer may deduct, under this section, any overpayment of wages from the employee's wages.

(b) An employer may not deduct from an employee's wages an amount in dispute under IC 22-2-9-3.

(c) The amount of a wage deduction made by an employer under subsection (a) is limited to the following:

(1) Except as provided in subdivision (2), the maximum part of the aggregate disposable earnings of an employee for any work week that is subjected to an employer deduction for overpayment may not exceed the lesser of:

(A) twenty-five percent (25%) of the employee's disposable earnings for that week; or

(B) the amount by which the employee's disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage prescribed by 29 U.S.C. 206(a)(1) in effect at the time the earnings are payable.

In the case of earnings for a pay period other than a week, the earnings must be computed upon a multiple of the federal minimum hourly wage equivalent to thirty (30) times the federal minimum hourly wage as prescribed in this section.

(2) If a single gross wage overpayment is equal to ten (10) times the employee's gross wages earned due to an inadvertent misplacement of a decimal point, the entire overpayment may be deducted immediately.

As added by P.L.215-1995, SEC.1.

IC 22-2-7

Chapter 7. Assignment of Wages

IC 22-2-7-1

Wage broker defined; employee direct deposit or commission payments by insurer; applicability of wage assignment provisions

Sec. 1. (a) Any person, company, corporation, limited liability company, or association loaning money directly or indirectly to any employee or wage earner, except the employer of the employee, upon the security of or in consideration of any assignment of the wages or salary of such employee or wage earner shall be defined and held to be a wage broker and subject to the provisions of this chapter.

(b) A direct deposit made by electronic funds transfer or other method to an employee's account in a financial institution as agreed to by the employer and the employee does not constitute an assignment of wages subject to this chapter.

(c) An assignment or pledge of, or a grant of a security interest in, a contractual right of a person to receive commissions payable directly or indirectly by an insurer (as defined in IC 27-1-2-3) does not constitute an assignment of wages subject to this chapter.

(Formerly: Acts 1909, c.34, s.1.) As amended by P.L.144-1986, SEC.11; P.L.143-1988, SEC.5; P.L.216-1989, SEC.3; P.L.8-1993, SEC.275; P.L.116-1994, SEC.1.

IC 22-2-7-2

Amount of assignment; post-dating

Sec. 2. No assignment of his or her wages or salary by any employee or wage earner to any wage broker or any other person for his benefit shall be valid or enforceable, nor shall any employer or debtor recognize or honor such assignment for any purpose whatever, unless it be for a fixed and definite part of the wages or salary earned or to be earned during a period not exceeding thirty (30) days immediately following the date of the assignment. Any assignment which shall be post-dated or dated on any other date than that of its actual execution shall be void and of no effect for any purpose whatever.

(Formerly: Acts 1909, c.34, s.2.)

IC 22-2-7-3

Interest; rates and charges

Sec. 3. No wage broker shall ask, demand or receive, either as compensation or interest, or in any other manner, directly or indirectly, any compensation or interest for the use of money advanced or loaned by him to any employee or wage earner in excess of the rate of eight per cent (8%) per year, and said compensation or rate of interest shall be computed upon the amount actually advanced to and received by the borrower, and no commission, compensation or charges in addition to the interest above named shall be asked, demanded or received by said wage broker or any other person for making or securing said advancement or loan.

(Formerly: Acts 1909, c.34, s.3.)

IC 22-2-7-4
Married persons; consent; exemptions

Sec. 4. (a) No assignment of wages by a married person who is living with the person's spouse residing in Indiana to any wage broker shall be valid or enforceable without the consent of the spouse, evidenced by the spouse's signature to said assignment, executed and acknowledged before a notary public or other officer empowered to take acknowledgments of conveyances. No wage broker or person connected with the married person directly or indirectly shall be authorized to take any such acknowledgment.

(b) This chapter shall not apply to any deduction from the wages of any employee of such employer, which deduction is made for the purpose of applying the same to any account of such employee in any credit union or any nonprofit organization of employees of such employer organized under any law of this state or of the United States.

(Formerly: Acts 1909, c.34, s.4; Acts 1945, c.250, s.1; Acts 1955, c.278, s.1; Acts 1957, c.303, s.1; Acts 1975, P.L.111, SEC.2.) As amended by P.L.143-1988, SEC.6.

IC 22-2-7-5
Notice to employer

Sec. 5. No assignment of wages shall be valid or enforceable unless notice in writing of the same, accompanied by a copy of the assignment, shall be given to the employer or debtor within ten (10) days from the date of its execution.

(Formerly: Acts 1909, c.34, s.5.) As amended by P.L.143-1988, SEC.7.

IC 22-2-7-6
Amount of loan

Sec. 6. Every purchase of a wage broker of an assignment of the wages of any employee or wage earner shall be held and considered to be a loan in the sum and of the amount actually paid to and received by such employee or wage earner.

(Formerly: Acts 1909, c.34, s.6.) As amended by P.L.143-1988, SEC.8.

IC 22-2-7-7
Violations

Sec. 7. A person who recklessly violates this chapter commits a Class B misdemeanor.

(Formerly: Acts 1909, c.34, s.7.) As amended by Acts 1978, P.L.2, SEC.2206.

IC 22-2-7-8
Forfeitures

Sec. 8. Any note, bill, or other evidence of indebtedness and any

assignment of wages or salary given to or received by any wage broker or any other person in violation of any of the provisions of this chapter shall be null and void and of no effect; and upon conviction, any and all moneys advanced or loaned by said wage broker in violation of any of the provisions of this chapter and all interest thereon shall be forfeited.

(Formerly: Acts 1909, c.34, s.8.) As amended by P.L.144-1986, SEC.12.

IC 22-2-8

Chapter 8. Deduction From Wage Payments

IC 22-2-8-1

Fine of employee by employer prohibited

Sec. 1. It is unlawful for any employer to assess a fine on any pretext against any employee and retain the same or any part thereof from his wages. An employer who violates this section commits a Class C infraction.

(Formerly: Acts 1899, c.124, s.3.) As amended by Acts 1978, P.L.2, SEC.2207; Acts 1981, P.L.209, SEC.1.

IC 22-2-8-2

Repealed

(Repealed by Acts 1978, P.L.2, SEC.2251.)

IC 22-2-8-3

Enforcement

Sec. 3. It is hereby made the duty of the commissioner of labor to enforce the provisions of this chapter by the processes of the courts, and in the name of the state; and, upon his failure so to do, any citizen of the state is hereby authorized to do the same in the name of the state.

(Formerly: Acts 1899, c.124, s.6.) As amended by Acts 1981, P.L.209, SEC.2.

IC 22-2-9
Chapter 9. Wage Claims

IC 22-2-9-0.1
Application of certain amendments to chapter
Sec. 0.1. The amendments made to section 5 of this chapter by P.L.165-2007 apply to wage claims filed with the commissioner of labor after June 30, 2007.
As added by P.L.220-2011, SEC.361.

IC 22-2-9-1
Definitions
Sec. 1. Whenever used in this chapter:
(a) The term "employer" means and includes every person, firm, partnership, association, corporation, limited liability company, receiver, or other officer of any court of this state, and any agent or officer of any of the above mentioned classes, employing any person in this state.
(b) The term "wages" means all amounts at which the labor or service rendered is recompensed, whether the amount is fixed or ascertained on a time, task, piece, or commission basis, or in any other method of calculating such amount.
(Formerly: Acts 1939, c.95, s.1.) As amended by P.L.144-1986, SEC.13; P.L.8-1993, SEC.276.

IC 22-2-9-2
Discharge of employee; unpaid wages; payment; labor disputes
Sec. 2. (a) Whenever any employer separates any employee from the pay-roll, the unpaid wages or compensation of such employee shall become due and payable at regular pay day for pay period in which separation occurred: Provided, however, That this provision shall not apply to railroads in the payment by them to their employees.
(b) In the event of the suspension of work, as the result of an industrial dispute, the wages and compensation earned and unpaid at the time of such suspension shall become due and payable at the next regular pay day, including, without abatement or reduction, all amounts due all persons whose work has been suspended as a result of such industrial dispute.
(Formerly: Acts 1939, c.95, s.2; Acts 1969, c.62, s.1.)

IC 22-2-9-3
Disputes; payment of amount agreed upon
Sec. 3. In case of a dispute over wages, the employer shall give notice to the employee of the amount of wages which he concedes to be due, and shall pay such amount, without condition, within the time fixed by this chapter, but the acceptance by the employee of any payment made under this chapter shall not constitute a release as to any balance of his claim.
(Formerly: Acts 1939, c.95, s.3.) As amended by P.L.144-1986,

SEC.14.

IC 22-2-9-4
Investigations; civil actions

Sec. 4. (a) It shall be the duty of the commissioner of labor to enforce and to insure compliance with the provisions of this chapter, to investigate any violations of any of the provisions of this chapter, and to institute or cause to be instituted actions for penalties and forfeitures provided under this chapter. The commissioner of labor may hold hearings to satisfy himself as to the justice of any claim, and he shall cooperate with any employee in the enforcement of any claim against his employer in any case whenever, in his opinion, the claim is just and valid.

(b) The commissioner of labor may refer claims for wages under this chapter to the attorney general, and the attorney general may initiate civil actions on behalf of the claimant or may refer the claim to any attorney admitted to the practice of law in Indiana. The provisions of IC 22-2-5-2 apply to civil actions initiated under this subsection by the attorney general or his designee.

(Formerly: Acts 1939, c.95, s.4.) As amended by P.L.127-1984, SEC.1.

IC 22-2-9-5
Assignment of claims; joinder of actions

Sec. 5. (a) The commissioner of labor is hereby authorized to take assignments of wage claims of less than six thousand dollars ($6,000), rights of action for penalties, mechanics and other liens of workers, without being bound by any of the technical rules with reference to the validity of such assignments, and shall have power and authority to prosecute actions for the collection of such claims of persons who, in the judgment of the commissioner:

(1) are entitled to the services of the commissioner; and

(2) have claims which are valid and enforceable in the court.

(b) The commissioner shall have power to join various claimants in one (1) preferred claim or lien, and, in case of suit, to join them in one (1) cause of action.

(Formerly: Acts 1939, c.95, s.5; Acts 1965, c.68, s.1; Acts 1971, P.L.351, SEC.1.) As amended by P.L.165-2007, SEC.2.

IC 22-2-9-6
Actions and proceedings; costs; bond; sheriff's fees

Sec. 6. (a) In all actions brought by the labor commissioner as assignee under section 5 of this chapter, no court costs of any nature shall be required to be advanced nor shall any bond or other security therefor be required from the commissioner in connection with the same.

(b) Any sheriff, constable, or other officer requested by the commissioner to serve summons, writs, complaints, or orders and all necessary and legal papers within his jurisdiction shall do so without requiring the commissioner to advance the fees or furnish any

security or bond therefor.
(Formerly: Acts 1939, c.95, s.6.) As amended by P.L.144-1986, SEC.15.

IC 22-2-9-7
Savings clause

Sec. 7. Nothing in this chapter shall be construed to repeal IC 22-2-5.
(Formerly: Acts 1939, c.95, s.8.) As amended by P.L.144-1986, SEC.16.

IC 22-2-9-8
Exemption for criminal offenders

Sec. 8. Criminal offenders in a facility operated by the department of correction (as established by IC 11-8-2-1) or operated by a private operator under contract with the department of correction are specifically exempt from this chapter.
As added by P.L.223-2013, SEC.6.

IC 22-2-10

Chapter 10. Employees as Preferred Creditors

IC 22-2-10-1

Assignments for benefit of creditors; bankruptcy; salesmen

Sec. 1. Hereafter, when the property of any company, corporation, limited liability company, firm or person, engaged in any manufacturing, mechanical, agricultural or other business or employment, or in the construction of any work or building, shall be seized upon any mesne or final process of any court of the state, or where their business shall be suspended by the action of creditors or put into the hands of any assignee, receiver, or trustee, then in all such cases the debts owing to laborers or employees, which have accrued by reason of their labor or employment to an amount not exceeding six hundred dollars ($600) to each employee, for work and labor performed within three (3) months next preceding the seizure of such property, shall be considered and treated as preferred debts and such laborers or employees shall be preferred creditors and shall be first paid in full, and if there be not sufficient to pay them in full then the same shall be paid to them pro rata, after paying costs; however, the term employees as used in this section shall include traveling salesmen, traveling agents and manufacturers' agents, whether they are employed under monthly or yearly contracts or otherwise.

(Formerly: Acts 1879(ss), c.62, s.1; Acts 1885(ss), c.3, s.1; Acts 1917, c.109, s.1; Acts 1967, c.104, s.1.) As amended by P.L.8-1993, SEC.277.

IC 22-2-11

Chapter 11. Payroll Bond for Benefit of Employees

IC 22-2-11-1

Bond; filing; amount; right of action; exemptions

Sec. 1. (a) Every corporation, limited liability company, association, company, firm, person, or persons engaged or about to engage in the business of mining coal, ore, or other minerals, or quarrying stone or manufacturing iron, steel, lumber, stoves, barrels, brick, tile, machinery, agricultural, or mechanical implements, or any article of merchandise, having a lease only on such mine, quarry, or manufacturing plant, and such lessee does not own the plant, works, tools, appliances, and machinery used or to be used in conducting any such business, shall, before beginning or continuing such work, tender to the clerk of the circuit court of the county in which such a business is located, for filing, a bond to be approved by such clerk, payable to the state of Indiana, in a sum double the amount of the weekly payroll of any such lessee, and signed by good and sufficient freehold sureties or a surety company and conditioned that payments of wages due the employees of any such lessee will be paid promptly when due and in default thereof any or all of the employees of such lessee shall have a right of action on such bond for the payment of any wages due, together with attorney's fees for collecting same. Such clerk shall not file such bond until after the same has been examined and approved by him. The clerk of such court shall examine such lessee under oath, touching the number of employees to be employed and the amount of weekly wages to be paid, and may from time to time reexamine such lessee and cause the amount of such bond to be increased on account of changed conditions of employment to an amount not exceeding double the weekly wages of the employees of such lessee. If the value of the physical property owned by such lessee in conducting such business, as shown by the last preceding assessment for taxation, is at least double the amount of the weekly payroll of such lessee, then and in that event it shall not be necessary for lessee to file a bond conditioned that payments of wages due the employees of such lessee will be paid, as provided in this section.

(b) Subsection (a) shall not apply to any corporation, limited liability company, association, company, firm, person, or persons engaged or about to engage in any of the businesses described in subsection (a) which shall hold on, before, or after May 21, 1929, only a lease upon any such mine, quarry, or manufacturing plant owned by the United States of America or by any department, division, bureau, representative, agent, subordinate unit, subsidiary corporation, or instrumentality thereof; and any and all fines and penalties imposed by this chapter and incurred on or before March 8, 1943, by any such corporation, limited liability company, association, company, firm, person, or persons holding such lease on such mine, quarry, or manufacturing plant owned by the United States of America or by any department, division, bureau,

representative, agent, subordinate unit, subsidiary corporation, or instrumentality thereof are hereby cancelled, annulled, and forgiven.
(Formerly: Acts 1929, c.41, s.1; Acts 1935, c.81, s.1; Acts 1943, c.180, s.1.) As amended by P.L.144-1986, SEC.17; P.L.8-1993, SEC.278.

IC 22-2-11-2
Actions and proceedings; costs; attorney's fees

Sec. 2. Any person having wages due and unpaid from any lessee as provided in section one, shall have a right of action in the name of the state of Indiana on the relation of such person on such bond, from the date the same is due and in any suit brought thereon such person shall, when judgment is rendered for such wages, also have judgment for the costs of suit and attorney's fees.
(Formerly: Acts 1929, c.41, s.2.)

IC 22-2-11-3
Failure to file bond

Sec. 3. A person who fails to file the bond as provided in section 1 of this chapter commits a Class C infraction; each day business is conducted without the filing of the bond constitutes a separate offense.
(Formerly: Acts 1929, c.41, s.3.) As amended by Acts 1978, P.L.2, SEC.2208.

IC 22-2-11-4
Liens of laborers; application of law

Sec. 4. This chapter shall not in any way affect the liens of laborers, as secured to them on April 21, 1911, by the laws of this state.
(Formerly: Acts 1929, c.41, s.4.) As amended by P.L.144-1986, SEC.18.

IC 22-2-12

Chapter 12. Employee Benefit Plans

IC 22-2-12-1

Payment or refund of wages; estates of decedents; beneficiaries; release of employer

Sec. 1. Whenever payment or refund is made to an employee, former employee, or his beneficiary or his heirs, legatees or the representative of his estate pursuant to a written retirement, death, or other employee benefit plan or savings plan, such payment or refund shall fully discharge the employer, former employer, and any trustee making such payment or refund from all adverse claims thereto unless, before such payment or refund is made, the employer or former employer, where the payment or refund is made by the employer or former employer, has received at its principal place of business within this state, written notice by or on behalf of some other person that such other person claims to be entitled to such payment or refund or some part thereof, or where a trustee is making the payment or refund, such notice has been received by the trustee at its home office.

(Formerly: Acts 1957, c.63, s.1.)

IC 22-2-12-2

Corporate stock; payment or refund; release of employer

Sec. 2. Should said payment or refund made as provided in section 1 of this chapter be comprised in whole or in part of stock in any corporation, such corporation may accept said stock for transfer as directed by the employer, former employer, or the trustee making such payment or refund, and shall be entitled to treat the transferee as the owner of said stock for all purposes unless and until the corporation has received at its home office written notice by or on behalf of some other person that such other person claims to be entitled to such stock or to some interest therein.

(Formerly: Acts 1957, c.63, s.2.) As amended by P.L.144-1986, SEC.19.

IC 22-2-12-3

Payment or refund of wages; release of employer; application of law

Sec. 3. Nothing contained in this chapter shall affect any claim or right to any such payment or refund or part thereof as between all persons other than the employer or former employer and the trustee making such payment or refund, or the corporation accepting such stock for transfer.

(Formerly: Acts 1957, c.63, s.3.) As amended by P.L.144-1986, SEC.20.

IC 22-2-12-4

Employer's failure to make payments; notice; damages

Sec. 4. (a) This section applies to an employer who has contracted

in writing to make payments to an employee welfare plan, vacation plan, health plan, dental plan, insurance plan, supplemental unemployment plan, benefit plan, profit-sharing plan, pension plan, industry plan, or any other employee plan either by agreement with an employee or an employee benefit plan group or by a collective bargaining agreement.

(b) Not later than seven (7) days after failing to make a payment under an agreement covered by subsection (a), the employer shall give written notice of nonpayment to:

(1) the employee on whose behalf the payment should have been made;

(2) an authorized representative of such an employee;

(3) an authorized representative of a union that represents such an employee;

(4) the authorized representative of the benefit plan to which the payment should have been made; or

(5) the trustee of the employee to which the payment should have been made.

(c) An injured employee may recover double damages plus costs and attorney fees from an employer who fails to give notice under subsection (b) and who fails to make those payments described in subsection (a) on the employee's behalf. However, an employer is not liable under this section if he shows good cause for his failure to make the payments described in subsection (a) or his failure to give the written notice required in subsection (b). "Good cause" does not include the employer's financial inability to make the payments described in subsection (a).

As added by Acts 1982, P.L.134, SEC.1.

IC 22-2-13

Chapter 13. Military Family Leave

IC 22-2-13-0.3

Effect of addition of chapter by P.L.151-2007

Sec. 0.3. The addition of this chapter by P.L.151-2007 does not excuse noncompliance with a provision of a collective bargaining agreement or other employment benefit program or plan in effect on July 1, 2007, that is not in substantial conflict with this chapter, as added by P.L.151-2007. This chapter, as added by P.L.151-2007, does not justify an employer reducing employment benefits provided by the employer that exceed the benefits required by this chapter, as added by P.L.151-2007.

As added by P.L.220-2011, SEC.362.

IC 22-2-13-1

Application of chapter

Sec. 1. This chapter applies to an employer that employs at least fifty (50) employees for each working day during each of at least twenty (20) calendar work weeks.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-2

"Armed forces of the United States"

Sec. 2. As used in this chapter, "armed forces of the United States" means the active or reserve components of:

(1) the Army;
(2) the Navy;
(3) the Air Force;
(4) the Coast Guard;
(5) the Marine Corps; or
(6) the Merchant Marine.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-2.5

"Child"

Sec. 2.5. As used in this chapter, "child" means a biological child, adopted child, foster child, or stepchild.

As added by P.L.45-2009, SEC.1.

IC 22-2-13-3

"Employee"

Sec. 3. As used in this chapter, "employee" means a person employed or permitted to work or perform services for remuneration under a contract of hire, written or oral, by an employer.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-4

"Employer"

Sec. 4. As used in this chapter, the term "employer" includes the

state and political subdivisions of the state.
As added by P.L.151-2007, SEC.3.

IC 22-2-13-5
"Grandparent"
Sec. 5. As used in this chapter, "grandparent" means a biological grandparent, an adoptive grandparent, a foster grandparent, or a stepgrandparent.
As added by P.L.151-2007, SEC.3. Amended by P.L.45-2009, SEC.2.

IC 22-2-13-6
"Health care benefits"
Sec. 6. As used in this chapter, "health care benefits" means employer provided health coverage, including coverage for medical care, prescription drugs, vision care, medical savings accounts, or any other health related benefit.
As added by P.L.151-2007, SEC.3.

IC 22-2-13-7
"Active duty"
Sec. 7. As used in this chapter, "active duty" means full-time service on active duty orders in:
(1) the armed forces of the United States; or
(2) the National Guard;
for a period that exceeds eighty-nine (89) consecutive calendar days.
As added by P.L.151-2007, SEC.3.

IC 22-2-13-8
"National Guard"
Sec. 8. As used in this chapter, "National Guard" means:
(1) the Indiana Army National Guard; or
(2) the Indiana Air National Guard.
As added by P.L.151-2007, SEC.3.

IC 22-2-13-9
"Parent"
Sec. 9. As used in this chapter, "parent" means:
(1) a biological father or mother;
(2) an adoptive father or mother;
(3) a court appointed guardian or custodian;
(4) a foster parent; or
(5) a stepparent.
As added by P.L.151-2007, SEC.3. Amended by P.L.45-2009, SEC.3.

IC 22-2-13-10
"Sibling"
Sec. 10. As used in this chapter, "sibling" means:
(1) a biological brother or sister;
(2) an adoptive brother or sister;
(3) a foster brother or sister; or

(4) a stepbrother or stepsister.

As added by P.L.151-2007, SEC.3. Amended by P.L.45-2009, SEC.4.

IC 22-2-13-11

Eligibility; leave amount; use of other paid leave

Sec. 11. (a) An employee who:

(1) has been employed by an employer for at least twelve (12) months;

(2) has worked at least one thousand five hundred (1,500) hours during the twelve (12) month period immediately preceding the day the leave begins; and

(3) is the spouse, parent, grandparent, child, or sibling of a person who is ordered to active duty;

is entitled to an unpaid leave of absence as provided in subsection (b).

(b) An employee may take a leave of absence during one (1) or more of the following periods:

(1) During the thirty (30) days before active duty orders are in effect.

(2) During a period in which the person ordered to active duty is on leave while active duty orders are in effect.

(3) During the thirty (30) days after the active duty orders are terminated.

(c) The leave of absence allowed each calendar year under subsection (a) may not exceed a total of ten (10) working days.

(d) An eligible employee may elect, or an employer may require the employee, to substitute any earned paid vacation leave, personal leave, or other paid leave, except for paid medical or sick leave, available to the employee for leave provided under this chapter for any part of the ten (10) day period of such leave.

As added by P.L.151-2007, SEC.3. Amended by P.L.45-2009, SEC.5.

IC 22-2-13-12

Employee notice; employer verification

Sec. 12. (a) An employee who wants to take a leave of absence under this chapter shall provide written notice, including a copy of the active duty orders if available, to the employee's employer of the date the leave will begin. An employee shall give at least thirty (30) days notice before the date on which the employee intends to begin the leave, unless the active duty orders are issued less than thirty (30) days before the date the requested leave is to begin.

(b) An employer may require verification of an employee's eligibility for the leave. If an employee fails to provide verification required under this subsection, an employer may consider the employee's absence from employment unexcused.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-13

Employee post-leave restoration to same or equivalent position

Sec. 13. (a) Except as provided in subsection (b), after an

employee takes a leave of absence under this chapter, an employee must be restored to:

(1) the position that the employee held before the leave; or

(2) a position equivalent to the position that the employee held before the leave, with equivalent seniority, pay, benefits, and other terms and conditions of employment.

(b) An employer is not required to restore an employee to a position described in subsection (a) if the employer proves that the reason that the employee was not restored to the position is unrelated to the employee's exercise of the employee's rights under this chapter.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-14

Continuation of employee health care benefits

Sec. 14. An employer shall permit an employee who is taking a leave of absence under this chapter to continue the employee's health care benefits at the employee's expense.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-15

Employer noninterference with employee rights

Sec. 15. An employer shall not interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided under this chapter.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-16

Remedies

Sec. 16. (a) An employee may bring a civil action at law to enforce this chapter.

(b) A circuit court may:

(1) enjoin any act or practice that violates this chapter; and

(2) order any other equitable relief that is just and proper under the circumstances to redress the violation of or to enforce this chapter.

As added by P.L.151-2007, SEC.3.

IC 22-2-14

Chapter 14. Employee Breaks

IC 22-2-14-1

"Employer"

Sec. 1. As used in this chapter, "employer" means a person or entity that employs twenty-five (25) or more employees.

As added by P.L.13-2008, SEC.4.

IC 22-2-14-2

Employer provide private location where employees can express milk; employer provide cold storage for expressed milk; employer not liable

Sec. 2. (a) To the extent reasonably possible, an employer shall provide a private location, other than a toilet stall, where an employee can express the employee's breast milk in privacy during any period away from the employee's assigned duties.

(b) To the extent reasonably possible, an employer shall:

(1) provide a refrigerator or other cold storage space for keeping milk that has been expressed; or

(2) allow the employee to provide the employee's own portable cold storage device for keeping milk that has been expressed until the end of the employee's work day.

(c) Except in cases of willful misconduct, gross negligence, or bad faith, an employer is not liable for any harm caused by or arising from either of the following that occur on the employer's premises:

(1) The expressing of an employee's breast milk.

(2) The storage of expressed milk.

As added by P.L.13-2008, SEC.4.

IC 22-2-15

Chapter 15. Guidelines and Procedures for Investigating Questions and Complaints Concerning Employee Classification

IC 22-2-15-1

"Department"

Sec. 1. As used in this chapter, "department" refers to the department of labor created by IC 22-1-1-1.

As added by P.L.110-2010, SEC.22.

IC 22-2-15-2

Development of guidelines and procedures concerning employee classification; contents; exemptions; plan for implementation

Sec. 2. (a) The department shall develop guidelines and procedures for investigating questions and complaints concerning employee classification and a plan for implementation of those guidelines and procedures.

(b) The guidelines and procedures must do the following:

(1) Cover at least the following:

(A) Who is eligible to file a complaint. The guidelines and procedures must allow any aggrieved person to file a complaint and must indicate what evidence is needed to initiate an investigation.

(B) Applicable and appropriate penalties, taking into consideration:

(i) the financial impact on both employers and misclassified employees; and

(ii) whether the employer has previously misclassified employees.

(C) Mechanisms to share data with appropriate state agencies to assist those agencies in determining compliance with and enforcing state laws concerning misclassified employees and to recoup contributions owed, depending on the level of culpability.

(D) Record keeping requirements for contractors, including any records necessary for the department to investigate alleged violations concerning misclassification of employees.

(E) Investigative procedures.

(2) Apply to public works and private work projects for the construction industry (as described in IC 4-13.5-1-1(3)), including demolition.

(3) Apply to any contractor that engages in construction and is authorized to do business in Indiana.

(4) Provide a remedy for an employer or a misclassified employee in response to:

(A) any retaliation that occurs as the result of an investigation or a complaint; and

(B) any complaints that the department determines are frivolous or that are filed for the purpose of harassment.

(5) Provide that in carrying out this chapter the department has the same inspection, investigative, and enforcement powers that the department has in enforcing the labor laws of this state, including powers described in IC 22-1-1.

(c) The guidelines and procedures may include other elements as determined by the department.

(d) The department shall exempt the following from the guidelines and procedures developed under this chapter:

(1) Residential construction of a single family home or duplex if the builder builds less than twenty-five (25) units each year.

(2) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376, to a motor carrier.

As added by P.L.110-2010, SEC.22.

IC 22-2-15-3

Use of Internal Revenue Code definitions; use of Internal Revenue Service factors

Sec. 3. In developing the guidelines and procedures under this chapter, the department shall use:

(1) the definition of "employee" used in Section 3401(c) of the Internal Revenue Code; and

(2) the following factors used by the Internal Revenue Service to determine whether a worker is an independent contractor:

(A) Instructions. A worker who is required to comply with other persons' instructions about when, where, and how he or she is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions. See, for example, Rev. Rul. 68-598, 1968-2 C.B. 464, and Rev. Rul. 66-381, 1966-2 C.B. 449.

(B) Training. Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner. See Rev. Rul. 70-630, 1970-2 C.B. 229.

(C) Integration. Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business. See United States v. Silk, 331 U.S. 704 (1947), 1947-2 C.B. 167.

(D) Services rendered personally. If the services must be rendered personally, presumably the person or persons for whom the services are performed are interested in the

methods used to accomplish the work as well as in the results. See Rev. Rul. 55-695, 1955-2 C.B. 410.

(E) Hiring, supervising, and paying assistants. If the person or persons for whom the services are performed hire, supervise, and pay assistants, that factor generally shows control over the workers on the job. However, if one (1) worker hires, supervises, and pays the other assistants under a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, this factor indicates an independent contractor status. Compare Rev. Rul. 63-115, 1963-1 C.B. 178, with Rev. Rul. 55-593 1955-2 C.B. 610.

(F) Continuing relationship. A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals. See United States v. Silk.

(G) Set hours of work. The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control. See Rev. Rul. 73-591, 1973-2 C.B. 337.

(H) Full time required. If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, such person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor on the other hand, is free to work when and for whom he or she chooses. See Rev. Rul. 56-694, 1956-2 C.B. 694.

(I) Doing work on employer's premises. If the work is performed on the premises of the person or persons for whom the services are performed, that factor suggests control over the worker, especially if the work could be done elsewhere. Rev. Rul. 56-660, 1956-2 C.B. 693. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform such services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass a territory within a certain time, or to work at specific places as required. See Rev. Rul. 56-694.

(J) Order of sequence set. If a worker must perform services in the order or sequence set by the person or persons for

whom the services are performed, that factor shows that the worker is not free to follow the worker's own pattern of work but must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if such person or persons retain the right to do so. See Rev. Rul. 56-694.

(K) Oral or written reports. A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control. See Rev. Rul. 70-309, 1970-1 C.B. 199, and Rev. Rul. 68-248, 1968-1 C.B. 431.

(L) Payment by hour, week, month. Payment by the hour, week, or month generally points to an employer-employee relationship, if this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on a straight commission generally indicates that the worker is an independent contractor. See Rev. Rul. 74-389, 1974-2 C.B. 330.

(M) Payment of business and traveling expenses. If the person or persons for whom the services are performed ordinarily pay the worker's business or traveling expenses or business and traveling expenses, the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities. See Rev. Rul. 55-144, 1955-1 C.B. 483.

(N) Furnishing of tools and materials. The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship. See Rev. Rul. 71-524, 1971-2 C.B. 346.

(O) Significant investment. If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees (such as the maintenance of an office rented at fair value from an unrelated party), that factor tends to indicate that the worker is an independent contractor. On the other hand, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for such facilities and, accordingly, the existence of an employer-employee relationship. See Rev. Rul. 71-524. Special scrutiny is required with respect to certain types of facilities, such as home offices.

(P) Realization of profit or loss. A worker who can realize a profit or suffer a loss as a result of the worker's services (in addition to the profit or loss ordinarily realized by employees) is generally an independent contractor, but the

worker who cannot is an employee. See Rev. Rul. 70-309. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, that factor indicates that the worker is an independent contractor. The risk that a worker will not receive payment for his or her services, however, is common to both independent contractors and employees and thus does not constitute a sufficient economic risk to support treatment as an independent contractor.

(Q) Working for more than one (1) firm at a time. If a worker performs more than de minimis services for a multiple of unrelated persons or firms at the same time, that factor generally indicates that the worker is an independent contractor. See Rev. Rul. 70-572, 1970-2 C.B. 221. However, a worker who performs services for more than one (1) person may be an employee of each of the persons, especially where such persons are part of the same service arrangement.

(R) Making service available to general public. The fact that a worker makes his or her services available to the general public on a regular and consistent basis indicates an independent contractor relationship. See Rev. Rul. 56-660.

(S) Right to discharge. The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor, on the other hand, cannot be fired so long as the independent contractor produces a result that meets the contract specifications. Rev. Rul. 75-41, 1975-1 C.B. 323.

(T) Right to terminate. If the worker has the right to end his or her relationship with the person for whom the services are performed at any time he or she wishes without incurring liability, that factor indicates an employer-employee relationship. See Rev. Rul. 70-309.

(U) Any other guidelines under IC 22-3-6-1(b) and IC 22-3-7-9(b)(5).

As added by P.L.110-2010, SEC.22.

IC 22-2-15-4

Presentation to pension management oversight commission

Sec. 4. The department shall make a presentation to the pension management oversight commission not later than October 1, 2010, outlining the proposed guidelines and procedures.

As added by P.L.110-2010, SEC.22.

IC 22-2-15-5

Recommendations to legislative council

Sec. 5. The department shall before November 1, 2010, make recommendations in an electronic format under IC 5-14-6 to the legislative council concerning any legislative changes needed to implement the guidelines and procedures developed under this chapter, including a budgetary recommendation for the implementation of the guidelines and procedures and a funding mechanism, to the extent possible, which must include a fee.
As added by P.L.110-2010, SEC.22.

IC 22-2-15-6
Rule adoption and implementation

Sec. 6. After considering any recommendations by the pension management oversight commission, the department shall convert the guidelines and procedures to rules by adopting rules under IC 4-22-2 before August 1, 2011. The department shall implement the rules before August 1, 2011.
As added by P.L.110-2010, SEC.22.

IC 22-2-16
Chapter 16. Employee Benefits

IC 22-2-16-1
Applicability of chapter

Sec. 1. This chapter does not apply to any of the following:

(1) An employee of a unit.

(2) The terms of a contract entered into by a unit and a third party.

(3) The terms and conditions required by a unit or a redevelopment commission established by a unit for the grant or approval of:

(A) a tax credit;
(B) a tax deduction;
(C) a tax abatement;
(D) a tax exemption;
(E) a grant;
(F) a loan;
(G) a loan guarantee;
(H) financial or economic development assistance; or
(I) another economic development incentive.

(4) Training requirements or other qualifications established by a unit for a private ambulance service, security service, or other provider of public health and safety services within the jurisdiction of the unit.

As added by P.L.88-2013, SEC.1.

IC 22-2-16-2
"Unit"

Sec. 2. As used in this chapter, "unit" has the meaning set forth in IC 36-1-2-23.

As added by P.L.88-2013, SEC.1.

IC 22-2-16-3
Prohibition against unit establishing, mandating, or requiring employee benefits

Sec. 3. Unless federal or state law provides otherwise, a unit may not establish, mandate, or otherwise require an employer to provide to an employee who is employed within the jurisdiction of the unit:

(1) a benefit;
(2) a term of employment;
(3) a working condition; or
(4) an attendance or leave policy;

that exceeds the requirements of federal or state law, rules, or regulations.

As added by P.L.88-2013, SEC.1.

IC 22-2-16-4
Rule of statutory construction

Sec. 4. Nothing in this chapter shall be construed to prohibit a

city, town, or county from adopting an ordinance under IC 22-9-1-12.1 relating to a category or class in addition to the categories and classes described in IC 22-9-1-2.
As added by P.L.205-2013, SEC.336.

IC 22-3

ARTICLE 3. WORKER'S COMPENSATION SYSTEM

IC 22-3-1

Chapter 1. Worker's Compensation Board

IC 22-3-1-1

Creation; term of office; other positions; removal from office; compensation; executive administrator; expenses

Sec. 1. (a) There is hereby created the worker's compensation board of Indiana, which shall consist of seven (7) members, not more than four (4) of whom shall belong to the same political party, appointed by the governor, one (1) of whom the governor shall designate as chairman. All members of the board shall be attorneys in good standing admitted to the practice of law in Indiana.

(b) Each member of said board shall hold office for four (4) years and until the member's successor is appointed and qualified.

(c) No member of the board shall hold any other position of trust or profit or engage in any occupation or business interfering with or inconsistent with the discharge of the member's duties.

(d) Any member of said board may be removed by the governor at any time for incompetency, neglect of duty, misconduct in office, or other good cause to be stated in writing in the order of removal. In case of a vacancy in the membership of the said board, the governor shall appoint for the unexpired term.

(e) The budget agency, with the approval of the governor, shall approve the salaries of the members of the board and the secretary.

(f) The board may appoint an executive administrator and may remove the executive administrator. The executive administrator shall have authority to administer oaths and issue subpoenas in connection with the administration of IC 22-3-2 through IC 22-3-7.

(g) The board, subject to the approval of the governor, may employ and fix the compensations of such clerical and other assistants as it may deem necessary.

(h) The members of the board and its assistants shall be entitled to receive from the state their actual and necessary expenses while traveling on the business of the board, but such expenses shall be approved by the chairman of the board before payment is made.

(i) All salaries and expenses of the board shall be audited and paid out of the state treasury in the manner prescribed for similar expenses in other departments or branches of the state service.

(Formerly: Acts 1937, c.34, s.4 1/2; Acts 1943, c.138, s.1; Acts 1945, c.354, s.1; Acts 1961, c.219, s.1; Acts 1967, c.299, s.1; Acts 1974, P.L.108, SEC.1.) As amended by P.L.144-1986, SEC.21; P.L.28-1988, SEC.18; P.L.134-2006, SEC.1; P.L.168-2011, SEC.1.

IC 22-3-1-2

Jurisdiction

Sec. 2. The worker's compensation board shall administer the worker's compensation law (IC 22-3-2 through IC 22-3-6).

(Formerly: Acts 1937, c.34, s.5.) As amended by P.L.37-1985, SEC.29; P.L.28-1988, SEC.19.

IC 22-3-1-3
Rules; powers and duties

Sec. 3. (a) The worker's compensation board may adopt rules under IC 4-22-2 to carry into effect the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7).

(b) The worker's compensation board is authorized:

(1) to hear, determine, and review all claims for compensation under IC 22-3-2 through IC 22-3-7;
(2) to require medical service for injured employees;
(3) to approve claims for medical service or attorney's fees and the charges for nurses and hospitals;
(4) to approve agreements;
(5) to modify or change awards;
(6) to make conclusions of facts and rulings of law;
(7) to certify questions of law to the court of appeals;
(8) to approve deductions in compensation made by employers for amounts paid in excess of the amount required by law;
(9) to approve agreements between an employer and an employee or the employee's dependents for the cash payment of compensation in a lump sum, or, in the case of a person under eighteen (18) years of age, to order cash payments;
(10) to establish and maintain a list of independent medical examiners and to order physical examinations;
(11) to subpoena witnesses;
(12) to administer oaths;
(13) to apply to the circuit or superior court to enforce the attendance and testimony of witnesses and the production and examination of books, papers, and records;
(14) to create and undertake a program designed to educate and provide assistance to employees and employers regarding the rights and remedies provided by IC 22-3-2 through IC 22-3-7, and to provide for informal resolution of disputes;
(15) to assess and collect, on the board's own initiative or on the motion of a party, the penalties provided for in IC 22-3-2 through IC 22-3-7; and
(16) to exercise all other powers and duties conferred upon the board by law.

(Formerly: Acts 1937, c.34, s.8; Acts 1943, c.138, s.2; Acts 1973, P.L.80, SEC.5.) As amended by P.L.37-1985, SEC.30; P.L.28-1988, SEC.20; P.L.170-1991, SEC.1.

IC 22-3-1-4
Schedule of attorney's fees

Sec. 4. (a) As used in this section, "attorney's fees" means the fees requested for compensation for service provided by an attorney to a claimant under the worker's compensation law and the worker's

occupational diseases law as provided under section 3(b)(3) of this chapter.

(b) As used in this section, "board" refers to the worker's compensation board of Indiana established by section 1 of this chapter.

(c) As used in this section, "claim" refers to a claim for compensation under IC 22-3-2 through IC 22-3-7 filed with the board.

(d) The following schedule of attorney's fees applies to an attorney who represents a claimant before the board when the claim for compensation results in a recovery:

(1) A minimum of two hundred dollars ($200).

(2) Twenty percent (20%) of the first fifty thousand dollars ($50,000) of recovery.

(3) Fifteen percent (15%) of the recovery in excess of fifty thousand dollars ($50,000).

(4) Ten percent (10%) of the value of:

(A) unpaid medical expenses;

(B) out-of-pocket medical expenses; or

(C) future medical expenses.

(e) The board maintains continuing jurisdiction over all attorney's fees in cases before the board and may order a different attorney's fee or allowance in a particular case.

As added by P.L.134-2006, SEC.2.

IC 22-3-1-5

Information sharing concerning construction workers misclassified as independent contractors

Sec. 5. (a) This section applies after December 31, 2009.

(b) As used in this section, "contractor" means:

(1) a sole proprietor;

(2) a partnership;

(3) a firm;

(4) a corporation;

(5) a limited liability company;

(6) an association; or

(7) another legal entity;

that engages in construction and is authorized by law to do business in Indiana. The term includes a general contractor, a subcontractor, and a lower tiered contractor. The term does not include the state, the federal government, or a political subdivision.

(c) The worker's compensation board of Indiana shall cooperate with the:

(1) department of state revenue established by IC 6-8.1-2-1;

(2) department of labor created by IC 22-1-1-1; and

(3) department of workforce development established by IC 22-4.1-2-1;

by sharing information concerning any suspected improper classification by a contractor of an individual as an independent contractor (as defined in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).

(d) For purposes of IC 5-14-3-4, information shared under this section is confidential, may not be published, and is not open to public inspection.

(e) An officer or employee of the worker's compensation board of Indiana who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor.

As added by P.L.164-2009, SEC.3.

IC 22-3-2

Chapter 2. Worker's Compensation: Application, Rights, and Remedies

IC 22-3-2-1

Repealed

(Repealed by P.L.28-1988, SEC.118.)

IC 22-3-2-2

Mandatory compliance; burden of proof; exemptions

Sec. 2. (a) Every employer and every employee, except as stated in IC 22-3-2 through IC 22-3-6, shall comply with the provisions of IC 22-3-2 through IC 22-3-6 respectively to pay and accept compensation for personal injury or death by accident arising out of and in the course of the employment, and shall be bound thereby. The burden of proof is on the employee. The proof by the employee of an element of a claim does not create a presumption in favor of the employee with regard to another element of the claim.

(b) IC 22-3-2 through IC 22-3-6 does not apply to railroad employees engaged in train service as:

(1) engineers;

(2) firemen;

(3) conductors;

(4) brakemen;

(5) flagmen;

(6) baggagemen; or

(7) foremen in charge of yard engines and helpers assigned thereto.

(c) IC 22-3-2 through IC 22-3-6 does not apply to employees of municipal corporations in Indiana who are members of:

(1) the fire department or police department of any such municipality; and

(2) a firefighters' pension fund or of a police officers' pension fund.

However, if the common council elects to purchase and procure worker's compensation insurance to insure said employees with respect to medical benefits under IC 22-3-2 through IC 22-3-6, the medical provisions of IC 22-3-2 through IC 22-3-6 apply to members of the fire department or police department of any such municipal corporation who are also members of a firefighters' pension fund or a police officers' pension fund.

(d) IC 22-3-2 through IC 22-3-6 do not apply to the following:

(1) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis.

(2) A nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters

into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(e) When any municipal corporation purchases or procures worker's compensation insurance covering members of the fire department or police department who are also members of a firefighters' pension fund or a police officers' pension fund, and pays the premium or premiums for such insurance, the payment of such premiums is a legal and allowable expenditure of funds of any municipal corporation.

(f) Except as provided in subsection (g), where the common council has procured worker's compensation insurance under this section, any member of such fire department or police department employed in the city carrying such worker's compensation insurance under this section is limited to recovery of medical and surgical care, medicines, laboratory, curative and palliative agents and means, x-ray, diagnostic and therapeutic services to the extent that such services are provided for in the worker's compensation policy procured by such city, and shall not also recover in addition to that policy for such same benefits provided in IC 36-8-4.

(g) If the medical benefits provided under a worker's compensation policy procured by the common council terminate for any reason before the police officer or firefighter is fully recovered, the common council shall provide medical benefits that are necessary until the police officer or firefighter is no longer in need of medical care.

(h) The provisions of IC 22-3-2 through IC 22-3-6 apply to:

(1) members of the Indiana general assembly; and

(2) field examiners of the state board of accounts.

(Formerly: Acts 1929, c.172, s.2; Acts 1937, c.214, s.7; Acts 1943, c.114, s.1; Acts 1953, c.260, s.1; Acts 1963, c.387, s.1; Acts 1971, P.L.352, SEC.1; Acts 1972, P.L.173, SEC.1; Acts 1974, P.L.108, SEC.2.) As amended by Acts 1981, P.L.11, SEC.125; P.L.28-1988, SEC.21; P.L.217-1989, SEC.1; P.L.201-2005, SEC.1; P.L.134-2006, SEC.3.

IC 22-3-2-2.1

Coverage for rostered volunteers

Sec. 2.1. (a) As used in this section, "rostered volunteer" means a volunteer:

(1) whose name has been entered on a roster of volunteers for a volunteer program operated by a unit; and

(2) who has been approved by the proper authorities of the unit.

The term does not include a volunteer firefighter (as defined in IC 36-8-12-2) or an inmate assigned to a correctional facility operated by the state or a unit.

(b) As used in this section, "unit" means a county, a municipality, or a township.

(c) A rostered volunteer may be covered by the medical treatment provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational disease law (IC 22-3-7). If

compensability of an injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-7 apply as appropriate.

(d) All expenses incurred for premiums of the insurance allowed or other charges or expenses under this section shall be paid out of the unit's general fund in the same manner as other expenses of the unit are paid.

As added by P.L.51-1993, SEC.2.

IC 22-3-2-2.3

Volunteer workers; services; medical benefits

Sec. 2.3. (a) As used in this section, "volunteer worker" means a person who:

(1) performs services:

(A) for a state institution (as defined in IC 12-7-2-184); and

(B) for which the person does not receive compensation of any nature; and

(2) has been approved and accepted as a volunteer worker by the director of:

(A) the division of disability and rehabilitative services; or

(B) the division of mental health and addiction.

(b) Services of any nature performed by a volunteer worker for a state institution (as defined in IC 12-7-2-184) are governmental services. A volunteer worker is subject to the medical benefits described under this chapter through IC 22-3-6. However, a volunteer worker is not under this chapter through IC 22-3-6.

As added by P.L.2-1992, SEC.739. Amended by P.L.4-1993, SEC.257; P.L.5-1993, SEC.270; P.L.24-1997, SEC.62; P.L.215-2001, SEC.98; P.L.141-2006, SEC.104.

IC 22-3-2-2.5

School to work student

Sec. 2.5. (a) As used in this section, "school to work student" refers to a student participating in on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).

(b) Except as provided in IC 22-3-7-2.5, a school to work student is entitled to the following compensation and benefits under this article:

(1) Medical benefits under IC 22-3-2 through IC 22-3-6.

(2) Permanent partial impairment compensation under IC 22-3-3-10. Permanent partial impairment compensation for a school to work student shall be paid in a lump sum upon agreement or final award.

(3) In the case that death results from the injury:

(A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars ($175,000), payable upon agreement or final award to any dependents of the student under IC 22-3-3-18 through IC 22-3-3-20, or, if the student has no dependents, to the student's parents; and

(B) burial compensation under IC 22-3-3-21.

(c) For the sole purpose of modifying an award under

IC 22-3-3-27, a school to work student's average weekly wage is presumed to be equal to the federal minimum wage.

(d) A school to work student is not entitled to the following compensation under this article:

(1) Temporary total disability compensation under IC 22-3-3-8.

(2) Temporary partial disability compensation under IC 22-3-3-9.

(e) Except for remedies available under IC 5-2-6.1, recovery under subsection (b) is the exclusive right and remedy for:

(1) a school to work student; and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a school to work student;

on account of personal injury or death by accident arising out of and in the course of school to work employment.

As added by P.L.235-1999, SEC.1.

IC 22-3-2-3

Repealed

(Repealed by Acts 1974, P.L.108, SEC.14.)

IC 22-3-2-4

Preexisting contracts; continuance; minors

Sec. 4. (a) Every contract of service between any employer and employee covered by IC 22-3-2 through IC 22-3-6, written or implied, in operation on May 21, 1929, or made or implied prior to May 21, 1929, shall, after May 21, 1929, be presumed to continue; and every such contract made subsequent to May 21, 1929, shall be presumed to have been made subject to the provisions of IC 22-3-2 through IC 22-3-6 unless either party, except as provided in section 15 of this chapter, shall give notice, as provided in section 9 of this chapter, to the other party to such contract that the provisions of IC 22-3-2 through IC 22-3-6 (other than IC 22-3-4-13) are not intended to apply.

(b) A like presumption shall exist equally in the case of all minors unless notice of the same character be given by or to the parent or guardian of the minor.

(Formerly: Acts 1929, c.172, s.4.) As amended by P.L.144-1986, SEC.23.

IC 22-3-2-5

Insurance; certificates authorizing carrying of risk without insurance; state self-insurance program

Sec. 5. (a) Every employer who is bound by the compensation provisions of IC 22-3-2 through IC 22-3-6, except the state, counties, townships, cities, towns, school cities, school towns, school townships, other municipal corporations, state institutions, state boards, state commissions, banks, trust companies, and building and loan associations, shall insure the payment of compensation to the employer's employees and their dependents in the manner provided in IC 22-3-3, or procure from the worker's compensation board a

certificate authorizing the employer to carry such risk without insurance. While such insurance or such certificate remains in force, the employer or those conducting the employer's business and the employer's worker's compensation insurance carrier shall be liable to any employee and the employee's dependents for personal injury or death by accident arising out of and in the course of employment only to the extent and in the manner specified in IC 22-3-2 through IC 22-3-6.

(b) The state may not purchase worker's compensation insurance. The state may establish a program of self-insurance to cover its liability under this article. The state may administer its program of self-insurance or may contract with any private agency, business firm, limited liability company, or corporation to administer any part of the program. The state department of insurance may, in the manner prescribed by IC 4-22-2, adopt the rules necessary to implement the state's program of self-insurance.

(Formerly: Acts 1929, c.172, s.5; Acts 1961, c.187, s.1; Acts 1974, P.L.108, SEC.3.) As amended by P.L.28-1983, SEC.56; P.L.28-1988, SEC.22; P.L.8-1993, SEC.279.

IC 22-3-2-6

Exclusive remedies

Sec. 6. The rights and remedies granted to an employee subject to IC 22-3-2 through IC 22-3-6 on account of personal injury or death by accident shall exclude all other rights and remedies of such employee, the employee's personal representatives, dependents, or next of kin, at common law or otherwise, on account of such injury or death, except for remedies available under IC 5-2-6.1.

(Formerly: Acts 1929, c.172, s.6.) As amended by Acts 1982, P.L.21, SEC.50; P.L.2-1992, SEC.740; P.L.47-1993, SEC.11.

IC 22-3-2-7

Performance of statutory duties; application of law

Sec. 7. Nothing in IC 22-3-2 through IC 22-3-6 shall be construed to relieve any employer or employee from penalty for failure or neglect to perform any statutory duty.

(Formerly: Acts 1929, c.172, s.7.) As amended by P.L.144-1986, SEC.24.

IC 22-3-2-8

Qualifications; burden of proof

Sec. 8. No compensation is allowed for an injury or death due to the employee's knowingly self-inflicted injury, his intoxication, his commission of an offense, his knowing failure to use a safety appliance, his knowing failure to obey a reasonable written or printed rule of the employer which has been posted in a conspicuous position in the place of work, or his knowing failure to perform any statutory duty. The burden of proof is on the defendant.

(Formerly: Acts 1929, c.172, s.8.) As amended by Acts 1978, P.L.2, SEC.2209.

IC 22-3-2-9
Exempt employees; waiver of exemption; notice of acceptance

Sec. 9. (a) IC 22-3-2 through IC 22-3-6 shall not apply to:

(1) casual laborers (as defined in IC 22-3-6-1);

(2) farm or agricultural employees;

(3) household employees; or

(4) a person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis.

IC 22-3-2 through IC 22-3-6 do not apply to the employers or contractors of the persons listed in this subsection.

(b) An employer who is exempt under this section from the operation of the compensation provisions of this chapter may at any time waive such exemption and thereby accept the provisions of this chapter by giving notice as provided in subsection (c).

(c) The notice of acceptance referred to in subsection (b) shall be given thirty (30) days prior to any accident resulting in injury or death, provided that if any such injury occurred less than thirty (30) days after the date of employment, notice of acceptance given at the time of employment shall be sufficient notice thereof. The notice shall be in writing or print in a substantial form prescribed by the worker's compensation board and shall be given by the employer by posting the same in a conspicuous place in the plant, shop, office, room, or place where the employee is employed, or by serving it personally upon the employee; and shall be given by the employee by sending the same in registered letter addressed to the employer at the employer's last known residence or place of business, or by giving it personally to the employer, or any of the employer's agents upon whom a summons in civil actions may be served under the laws of the state.

(d) A copy of the notice in prescribed form shall also be filed with the worker's compensation board, within five (5) days after its service in such manner upon the employee or employer.

(Formerly: Acts 1929, c.172, s.9; Acts 1963, c.387, s.2; Acts 1974, P.L.108, SEC.4.) As amended by P.L.28-1988, SEC.23; P.L.258-1997(ss), SEC.1; P.L.201-2005, SEC.2.

IC 22-3-2-10
Repealed

(Repealed by Acts 1974, P.L.108, SEC.14.)

IC 22-3-2-11
Repealed

(Repealed by Acts 1974, P.L.108, SEC.14.)

IC 22-3-2-12
Repealed

(Repealed by Acts 1974, P.L.108, SEC.14.)

IC 22-3-2-13
Claims against third persons; subrogation; procedures

Sec. 13. Whenever an injury or death, for which compensation is payable under chapters 2 through 6 of this article shall have been sustained under circumstances creating in some other person than the employer and not in the same employ a legal liability to pay damages in respect thereto, the injured employee, or the injured employee's dependents, in case of death, may commence legal proceedings against the other person to recover damages notwithstanding the employer's or the employer's compensation insurance carrier's payment of or liability to pay compensation under chapters 2 through 6 of this article. In that case, however, if the action against the other person is brought by the injured employee or the injured employee's dependents and judgment is obtained and paid, and accepted or settlement is made with the other person, either with or without suit, then from the amount received by the employee or dependents there shall be paid to the employer or the employer's compensation insurance carrier, subject to its paying its pro-rata share of the reasonable and necessary costs and expenses of asserting the third party claim, the amount of compensation paid to the employee or dependents, plus the services and products and burial expenses paid by the employer or the employer's compensation insurance carrier and the liability of the employer or the employer's compensation insurance carrier to pay further compensation or other expenses shall thereupon terminate, whether or not one (1) or all of the dependents are entitled to share in the proceeds of the settlement or recovery and whether or not one (1) or all of the dependents could have maintained the action or claim for wrongful death.

In the event the injured employee or the employee's dependents, not having received compensation or services and products or death benefits from the employer or the employer's compensation insurance carrier, shall procure a judgment against the other party for injury or death, which judgment is paid, or if settlement is made with the other person either with or without suit, then the employer or the employer's compensation insurance carrier shall have no liability for payment of compensation or for payment of services and products or death benefits whatsoever, whether or not one (1) or all of the dependents are entitled to share in the proceeds of settlement or recovery and whether or not one (1) or all of the dependents could have maintained the action or claim for wrongful death.

In the event any injured employee, or in the event of the employee's death, the employee's dependents, shall procure a final judgment against the other person other than by agreement, and the judgment is for a lesser sum than the amount for which the employer or the employer's compensation insurance carrier is liable for compensation and for services and products, as of the date the judgment becomes final, then the employee, or in the event of the employee's death, the employee's dependents, shall have the option of either collecting the judgment and repaying the employer or the

employer's compensation insurance carrier for compensation previously drawn, if any, and repaying the employer or the employer's compensation insurance carrier for services and products previously paid, if any, and of repaying the employer or the employer's compensation insurance carrier the burial benefits paid, if any, or of assigning all rights under the judgment to the employer or the employer's compensation insurance carrier and thereafter receiving all compensation and services and products, to which the employee or in the event of the employee's death, which the employee's dependents would be entitled if there had been no action brought against the other party.

If the injured employee or the employee's dependents shall agree to receive compensation from the employer or the employer's compensation insurance carrier or to accept from the employer or the employer's compensation insurance carrier, by loan or otherwise, any payment on account of the compensation, or institute proceedings to recover the same, the employer or the employer's compensation insurance carrier shall have a lien upon any settlement award, judgment or fund out of which the employee might be compensated from the third party.

The employee, or in the event of the employee's death, the employee's dependents, shall institute legal proceedings against the other person for damages, within two (2) years after the cause of action accrues. If, after the proceeding is commenced, it is dismissed, the employer or the employer's compensation insurance carrier, having paid compensation or having become liable therefor, may collect in their own name, or in the name of the injured employee, or, in case of death, in the name of the employee's dependents, from the other person in whom legal liability for damages exists, the compensation paid or payable to the injured employee, or the employee's dependents, plus services and products, and burial expenses paid by the employer or the employer's compensation insurance carrier or for which they have become liable. The employer or the employer's compensation insurance carrier may commence an action at law for collection against the other person in whom legal liability for damages exists, not later than one (1) year from the date the action so commenced has been dismissed, notwithstanding the provisions of any statute of limitations to the contrary.

If the employee, or, in the event of the employee's death, the employee's dependents, shall fail to institute legal proceedings against the other person for damages within two (2) years after the cause of action accrues, the employer or the employer's compensation insurance carrier, having paid compensation, or having been liable therefor, may collect in their own name or in the name of the injured employee, or in the case of the employee's death, in the name of the employee's dependents, from the other person in whom legal liability for damage exists, the compensation paid or payable to the injured employee, or to the employee's dependents, plus the services and products, and burial expenses, paid by them, or for

which they have become liable, and the employer or the employer's compensation insurance carrier may commence an action at law for collection against the other person in whom legal liability exists, at any time within one (1) year from the date of the expiration of the two (2) years when the action accrued to the injured employee, or, in the event of the employee's death, to the employee's dependents, notwithstanding the provisions of any statute of limitations to the contrary.

In actions brought by the employee or the employee's dependents, the employee or the employee's dependents shall, within thirty (30) days after the action is filed, notify the employer or the employer's compensation insurance carrier by personal service or registered mail, of the action and the name of the court in which such suit is brought, filing proof thereof in the action.

The employer or the employer's compensation insurance carrier shall pay its pro rata share of all costs and reasonably necessary expenses in connection with asserting the third party claim, action or suit, including but not limited to cost of depositions and witness fees, and to the attorney at law selected by the employee or the employee's dependents, a fee of twenty-five percent (25%), if collected without suit, of the amount of benefits actually repaid after the expenses and costs in connection with the third party claim have been deducted therefrom, and a fee of thirty-three and one-third percent (33 1/3%), if collected with suit, of the amount of benefits actually repaid after deduction of costs and reasonably necessary expenses in connection with the third party claim action or suit. The employer may, within ninety (90) days after receipt of notice of suit from the employee or the employee's dependents, join in the action upon the employee's motion so that all orders of court after hearing and judgment shall be made for the employee's protection. An employer or the employer's compensation insurance carrier may waive its right to reimbursement under this section and, as a result of the waiver, not have to pay the pro-rata share of costs and expenses.

No release or settlement of claim for damages by reason of injury or death, and no satisfaction of judgment in the proceedings, shall be valid without the written consent of both employer or the employer's compensation insurance carrier and employee or the employee's dependents, except in the case of the employer or the employer's compensation insurance carrier, consent shall not be required where the employer or the employer's compensation insurance carrier has been fully indemnified or protected by court order.

(Formerly: Acts 1929, c.172, s.13; Acts 1945, c.188, s.4; Acts 1951, c.258, s.1; Acts 1955, c.240, s.1; Acts 1963, c.387, s.3; Acts 1969, c.94, s.1; Acts 1974, P.L.108, SEC.5.) As amended by Acts 1977, P.L.260, SEC.1; P.L.31-2000, SEC.1; P.L.275-2013, SEC.1.

IC 22-3-2-14

Contractors; certificate of coverage; subrogation

Sec. 14. (a) As used in this section, "person" does not include:

(1) an owner who contracts for performance of work on the

owner's owner occupied residential property; or

(2) a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(b) The state, any political division thereof, any municipal corporation, any corporation, limited liability company, partnership, or person, contracting for the performance of any work exceeding one thousand dollars ($1,000) in value by a contractor subject to the compensation provisions of IC 22-3-2 through IC 22-3-6, without exacting from such contractor a certificate from the worker's compensation board showing that such contractor has complied with section 5 of this chapter, IC 22-3-5-1, and IC 22-3-5-2, shall be liable to the same extent as the contractor for compensation, physician's fees, hospital fees, nurse's charges, and burial expenses on account of the injury or death of any employee of such contractor, due to an accident arising out of and in the course of the performance of the work covered by such contract.

(c) Any contractor who shall sublet any contract for the performance of any work, to a subcontractor subject to the compensation provisions of IC 22-3-2 through IC 22-3-6, without obtaining a certificate from the worker's compensation board showing that such subcontractor has complied with section 5 of this chapter, IC 22-3-5-1, and IC 22-3-5-2, shall be liable to the same extent as such subcontractor for the payment of compensation, physician's fees, hospital fees, nurse's charges, and burial expenses on account of the injury or death of any employee of such subcontractor due to an accident arising out of and in the course of the performance of the work covered by such subcontract.

(d) The state, any political division thereof, any municipal corporation, any corporation, limited liability company, partnership, person, or contractor paying compensation, physician's fees, hospital fees, nurse's charges, or burial expenses under this section may recover the amount paid or to be paid from any person who, independently of such provisions, would have been liable for the payment thereof and may, in addition, recover the litigation expenses and attorney's fees incurred in the action before the worker's compensation board as well as the litigation expenses and attorney's fees incurred in an action to collect the compensation, medical expenses, and burial expenses.

(e) Every claim filed with the worker's compensation board under this section shall be instituted against all parties liable for payment. The worker's compensation board, in an award under subsection (b), shall fix the order in which said parties shall be exhausted, beginning with the immediate employer, and, in an award under subsection (c), shall determine whether the subcontractor has the financial ability to pay the compensation and medical expenses when due and, if not, shall order the contractor to pay the compensation and medical expenses.

(Formerly: Acts 1929, c.172, s.14; Acts 1947, c.162, s.1.) As amended by P.L.28-1988, SEC.24; P.L.8-1993, SEC.280; P.L.258-1997(ss), SEC.2; P.L.202-2001, SEC.2; P.L.201-2005, SEC.3.

IC 22-3-2-14.5
Independent contractor electing exemption from compensation provisions; filing statement; certificate of exemption

Sec. 14.5. (a) As used in this section, "independent contractor" refers to a person described in IC 22-3-6-1(b)(7).

(b) As used in this section, "person" means an individual, a proprietorship, a partnership, a joint venture, a firm, an association, a corporation, or other legal entity.

(c) An independent contractor who does not make an election under IC 22-3-6-1(b)(4) or IC 22-3-6-1(b)(5) is not subject to the compensation provisions of IC 22-3-2 through IC 22-3-6 and must file a statement with the department of state revenue in accordance with IC 6-3-7-5 and obtain a certificate of exemption.

(d) Together with the statement required in subsection (c), an independent contractor shall file annually with the department documentation in support of independent contractor status before being granted a certificate of exemption. The independent contractor must obtain clearance from the department of state revenue before issuance of the certificate.

(e) An independent contractor shall pay a filing fee in the amount of fifteen dollars ($15) with the certificate filed under subsection (g). The fees collected under this subsection shall be deposited in the worker's compensation supplemental administrative fund and shall be used for all expenses the board incurs.

(f) The worker's compensation board shall maintain a data base consisting of certificates received under this section and on request may verify that a certificate was filed.

(g) A certificate of exemption must be filed with the worker's compensation board. The board shall indicate that the certificate has been filed by stamping the certificate with the date of receipt and returning a stamped copy to the person filing the certificate. A certificate becomes effective as of midnight seven (7) business days after the date file stamped by the worker's compensation board. The board shall maintain a data base containing the information required in subsections (d) and (f).

(h) A person who contracts for services of another person not covered by IC 22-3-2 through IC 22-3-6 to perform work must secure a copy of a stamped certificate of exemption filed under this section from the person hired. A person may not require a person who has provided a stamped certificate to have worker's compensation coverage. The worker's compensation insurance carrier of a person who contracts with an independent contractor shall accept a stamped certificate in the same manner as a certificate of insurance.

(i) A stamped certificate filed under this section is binding on and holds harmless from all claims:

(1) a person who contracts with an independent contractor after receiving a copy of the stamped certificate; and

(2) the worker's compensation insurance carrier of the person who contracts with the independent contractor.

The independent contractor may not collect compensation under IC 22-3-2 through IC 22-3-6 for an injury from a person or the person's worker's compensation carrier to whom the independent contractor has furnished a stamped certificate.

As added by P.L.75-1993, SEC.2. Amended by P.L.202-2001, SEC.3.

IC 22-3-2-15

Contracts, agreements, or rules do not relieve employers of obligations; voluntary settlement agreements; minors; approval; effect

Sec. 15. (a) No contract, agreement (written or implied), rule, or other device shall, in any manner, operate to relieve any employer in whole or in part of any obligation created by IC 22-3-2 through IC 22-3-6. However, nothing in IC 22-3-2 through IC 22-3-6 shall be construed as preventing the parties to claims under IC 22-3-2 through IC 22-3-6 from entering into voluntary agreements in settlement thereof, but no agreement by an employee or his dependents to waive his rights under IC 22-3-2 through IC 22-3-6 shall be valid nor shall any agreement of settlement or compromise of any dispute or claim for compensation under IC 22-3-2 through IC 22-3-6 be valid until approved by a member of the board, nor shall a member of the worker's compensation board approve any settlement which is not in accordance with the rights of the parties as given in IC 22-3-2 through IC 22-3-6. No such agreement shall be valid unless made after seven (7) days from the date of the injury or death.

(b) A compromise settlement approved by a member of the worker's compensation board during the employee's lifetime shall extinguish and bar all claims for compensation for the employee's death if the settlement compromises a dispute on any question or issue other than the extent of disability or the rate of compensation.

(c) A minor dependent, by parent or legal guardian, may compromise disputes and may enter into a compromise settlement agreement, and upon approval by a member of the worker's compensation board, the settlement agreement shall have the same force and effect as though the minor had been an adult. The payment of compensation by the employer in accordance with the settlement agreement shall discharge the employer from all further obligation.

(Formerly: Acts 1929, c.172, s.15; Acts 1943, c.136, s.1; Acts 1945, c.284, s.1; Acts 1974, P.L.108, SEC.6.) As amended by P.L.28-1988, SEC.25; P.L.1-1991, SEC.148.

IC 22-3-2-16

Claims for compensation; priorities

Sec. 16. All rights of compensation granted by IC 22-3-2 through IC 22-3-6 shall have the same preference or priority for the whole thereof against the assets of the employer as is allowed by law for

any unpaid wages for labor.
(Formerly: Acts 1929, c.172, s.16.) As amended by P.L.144-1986, SEC.25.

IC 22-3-2-17
Claims for compensation; assignment; creditor claims; child support income withholding

Sec. 17. (a) Except as provided in subsection (b), no claims for compensation under IC 22-3-2 through IC 22-3-6 shall be assignable, and all compensation and claims therefor shall be exempt from all claims of creditors.

(b) Compensation awards under IC 22-3-2 through IC 22-3-6 are subject to child support income withholding under IC 31-16-15 and other remedies available for the enforcement of a child support order. The maximum amount that may be withheld under this subsection is one-half (1/2) of the compensation award.
(Formerly: Acts 1929, c.172, s.17.) As amended by P.L.144-1986, SEC.26; P.L.95-1988, SEC.2; P.L.1-1997, SEC.106; P.L.213-1999, SEC.7.

IC 22-3-2-18
Coal mining; application of law

Sec. 18. The provisions of IC 22-3-2 through IC 22-3-6 shall apply to the state, to all political divisions thereof, to all municipal corporations within the state, to persons, partnerships, limited liability companies, and corporations engaged in mining coal, and to the employees thereof, without any right of exemption from the compensation provisions of IC 22-3-2 through IC 22-3-6, except as provided in section 15 of this chapter.
(Formerly: Acts 1929, c.172, s.18; Acts 1943, c.136, s.2.) As amended by P.L.144-1986, SEC.27; P.L.8-1993, SEC.281.

IC 22-3-2-19
Interstate or foreign commerce; exemptions

Sec. 19. IC 22-3-2 through IC 22-3-6 shall not apply to employees and employers engaged in interstate or foreign commerce wherein the laws of the United States provide for compensation or for liability for injury or death by accident to such employees.
(Formerly: Acts 1929, c.172, s.19; Acts 1963, c.387, s.4.) As amended by P.L.144-1986, SEC.28.

IC 22-3-2-20
Place of accident

Sec. 20. Every employer and employee under IC 22-3-2 through IC 22-3-6 shall be bound by the provisions of IC 22-3-2 through IC 22-3-6 whether injury by accident or death resulting from such injury occurs within the state or in some other state or in a foreign country.
(Formerly: Acts 1929, c.172, s.20.) As amended by P.L.144-1986, SEC.29.

IC 22-3-2-21
Prior injuries; application of law

Sec. 21. The provisions of IC 22-3-2 through IC 22-3-6 shall not apply to injuries or death nor to accident which occurred prior to May 21, 1929.

(Formerly: Acts 1929, c.172, s.21.) As amended by P.L.144-1986, SEC.30.

IC 22-3-2-22
Notice; worker's compensation coverage

Sec. 22. (a) Each employer subject to IC 22-3-2 through IC 22-3-6 shall post a notice in the employer's place of business to inform the employees that their employment is covered by worker's compensation. The notice must also contain the name, address, and telephone number of the employer's insurance carrier or the person responsible for administering the employer's worker's compensation claims if the employer is self insured.

(b) The notice required under this section must be in a form approved by the board and shall be posted at a conspicuous location at the employer's place of business to provide reasonable notice to all employees. If the employer is required by federal law or regulation to post a notice for the employer's employees, the notice required under this section must be posted in the same location or locations where the notice required by federal law or regulation is posted.

(c) An employer who fails to comply with this section is subject to a civil penalty under IC 22-3-4-15.

As added by P.L.170-1991, SEC.2. Amended by P.L.168-2011, SEC.2.

IC 22-3-3

Chapter 3. Worker's Compensation: Notice of Injury; Treatment; Compensation Schedule; Payments

IC 22-3-3-1

Notice of injury; time

Sec. 1. Unless the employer or his representative shall have actual knowledge of the occurrence of an injury or death at the time thereof or shall acquire such knowledge afterward, the injured employee or his dependents, as soon as practicable after the injury or death resulting therefrom, shall give written notice to the employer of such injury or death.

Unless such notice is given or knowledge acquired within thirty (30) days from the date of the injury or death, no compensation shall be paid until and from the date such notice is given or knowledge obtained. No lack of knowledge by the employer or his representative, and no want, failure, defect or inaccuracy of the notice shall bar compensation, unless the employer shall show that he is prejudiced by such lack of knowledge or by such want, failure, defect or inaccuracy of the notice, and then only to the extent of such prejudices.

(Formerly: Acts 1929, c.172, s.22.)

IC 22-3-3-2

Notice of injury; contents; signature

Sec. 2. The notice provided for in the preceding section shall state the name and address of the employee, the time, place, nature and cause of the injury or death, and shall be signed by the injured employee or by some one in his behalf or by one (1) or more of the dependents, in case of death, or by some person in their behalf. Said notice may be served personally upon the employer, or upon any foreman, superintendent or manager of the employer to whose orders the injured or deceased employee was required to conform or upon any agent of the employer upon whom a summons in a civil action may be served under the laws of the state, or may be sent to the employer by registered letter, addressed to his last known residence or place of business.

(Formerly: Acts 1929, c.172, s.23.)

IC 22-3-3-3

Limitation of actions; radiation

Sec. 3. The right to compensation under IC 22-3-2 through IC 22-3-6 shall be forever barred unless within two (2) years after the occurrence of the accident, or if death results therefrom, within two (2) years after such death, a claim for compensation thereunder shall be filed with the worker's compensation board. However, in all cases wherein an accident or death results from the exposure to radiation, a claim for compensation shall be filed with the board within two (2) years from the date on which the employee had knowledge of his injury or by exercise of reasonable diligence should have known of

the existence of such injury and its causal relationship to his employment.

(Formerly: Acts 1929, c.172, s.24; Acts 1947, c.162, s.2; Acts 1961, c.101, s.1.) As amended by P.L.144-1986, SEC.31; P.L.28-1988, SEC.26.

IC 22-3-3-4

Medical treatment pending adjudication of impairment

Sec. 4. (a) After an injury and prior to an adjudication of permanent impairment, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of the employee's injuries, and in addition thereto such services and products as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of the travel by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the state budget agency. If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.

(b) During the period of temporary total disability resulting from the injury, the employer shall furnish the physician, services and products, and the worker's compensation board may, on proper application of either party, require that treatment by the physician and services and products be furnished by or on behalf of the employer as the worker's compensation board may deem reasonably necessary.

(c) After an employee's injury has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27 of this chapter, the employer may continue to furnish a physician or surgeon and other medical services and products, and the worker's compensation board may within the statutory period for review as provided in section 27 of this chapter, on a proper application of either party, require that treatment by that physician and other services and products be furnished by and on behalf of the employer as the worker's compensation board may deem necessary to limit or reduce the amount and extent of the employee's impairment. The refusal of the employee to accept such services and products, when provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the period of the refusal, and the employee's right to prosecute any proceeding under IC 22-3-2 through IC 22-3-6 shall be suspended and abated until the employee's refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's

compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of the impairment, disfigurement, or death which is the result of the failure of the employee to accept the services and products required under this section. However, an employer may at any time permit an employee to have treatment for the employee's injuries by spiritual means or prayer in lieu of the physician or surgeon and other services and products required under this section.

(d) If, because of an emergency, or because of the employer's failure to provide an attending physician or services and products, or treatment by spiritual means or prayer, as required by this section, or because of any other good reason, a physician other than that provided by the employer treats the injured employee during the period of the employee's temporary total disability, or necessary and proper services and products are procured within the period, the reasonable cost of those services and products shall, subject to the approval of the worker's compensation board, be paid by the employer.

(e) An employer or employer's insurance carrier may not delay the provision of emergency medical care whenever emergency medical care is considered necessary in the professional judgment of the attending health care facility physician.

(f) Regardless of when it occurs, where a compensable injury results in the amputation of a body part, the enucleation of an eye, or the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable injury pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

(g) If an accident arising out of and in the course of employment after June 30, 1997, results in the loss of or damage to an artificial member, a brace, an implant, eyeglasses, prosthodontics, or other medically prescribed device, the employer shall repair the artificial member, brace, implant, eyeglasses, prosthodontics, or other medically prescribed device or furnish an identical or a reasonably equivalent replacement.

(h) This section may not be construed to prohibit an agreement between an employer and the employer's employees that has the approval of the board and that binds the parties to:

(1) medical care furnished by medical service providers selected by agreement before or after injury; or

(2) the findings of a medical service provider who was chosen by agreement.

(Formerly: Acts 1929, c.172, s.25; Acts 1937, c.214, s.1; Acts 1943,

c.136, s.5; Acts 1945, c.188, s.3; Acts 1947, c.162, s.3; Acts 1963, c.387, s.5; Acts 1974, P.L.108, SEC.7.) As amended by Acts 1979, P.L.227, SEC.1; P.L.95-1988, SEC.3; P.L.170-1991, SEC.3; P.L.258-1997(ss), SEC.3; P.L.31-2000, SEC.2; P.L.67-2010, SEC.1; P.L.275-2013, SEC.2.

IC 22-3-3-4.5
Repackaged drugs; maximum reimbursement amount

Sec. 4.5. (a) As used in this section, "legend drug" has the meaning set forth in IC 25-26-14-7.

(b) As used in this section, "repackage" has the meaning set forth in IC 25-26-14-9.3.

(c) This subsection does not apply to a retail or mail order pharmacy. Except as provided in subsection (d), whenever a prescription covered by IC 22-3-2 through IC 22-3-6 is filled using a repackaged legend drug, the maximum reimbursement amount for the repackaged legend drug must be computed using the average wholesale price set by the original manufacturer for the legend drug.

(d) If the National Drug Code (established under Section 510 of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. 360) for a legend drug cannot be determined from the medical service provider's billing or statement, the maximum reimbursement amount for the repackaged legend drug under subsection (c) is the lowest cost generic for that legend drug.

As added by P.L.275-2013, SEC.3.

IC 22-3-3-5
Medical treatment; liability of estate; right to order payment; medical service provider claims; attending physician fees

Sec. 5. (a) The pecuniary liability of the employer for a service or product herein required shall be limited to the following:

(1) This subdivision applies before July 1, 2014, to all medical service providers, and after June 30, 2014, to a medical service provider that is not a medical service facility. Such charges as prevail as provided under IC 22-3-6-1(k)(1), in the same community (as defined in IC 22-3-6-1(h)) for a like service or product to injured persons.

(2) This subdivision applies after June 30, 2014, to a medical service facility. The amount provided under IC 22-3-6-1(k)(2).

(b) The employee and the employee's estate do not have liability to a health care provider for payment for services obtained under IC 22-3-3-4.

(c) The right to order payment for all services or products provided under IC 22-3-2 through IC 22-3-6 is solely with the board.

(d) All claims by a medical service provider for payment for services or products are against the employer and the employer's insurance carrier, if any, and must be made with the board under IC 22-3-2 through IC 22-3-6. After June 30, 2011, a medical service provider must file an application for adjustment of a claim for a medical service provider's fee with the board not later than two (2)

years after the receipt of an initial written communication from the employer, the employer's insurance carrier, if any, or an agent acting on behalf of the employer after the medical service provider submits a bill for services or products. To offset a part of the board's expenses related to the administration of medical service provider reimbursement disputes, a medical service facility shall pay a filing fee of sixty dollars ($60) in a balance billing case. The filing fee must accompany each application filed with the board. If an employer, an employer's insurance carrier, or an agent acting on behalf of the employer denies or fails to pay any amount on a claim submitted by a medical service facility, a filing fee is not required to accompany an application that is filed for the denied or unpaid claim. A medical service provider may combine up to ten (10) individual claims into one (1) application whenever:

(1) all individual claims involve the same employer, insurance carrier, or billing review service; and

(2) the amount of each individual claim does not exceed two hundred dollars ($200).

(e) The worker's compensation board may withhold the approval of the fees of the attending physician in a case until the attending physician files a report with the worker's compensation board on the form prescribed by the board.

(Formerly: Acts 1929, c.172, s.26.) As amended by P.L.170-1991, SEC.4; P.L.216-1995, SEC.1; P.L.258-1997(ss), SEC.4; P.L.168-2011, SEC.3; P.L.275-2013, SEC.4.

IC 22-3-3-5.1

Collection of medical expense payments; civil penalties; good faith errors

Sec. 5.1. (a) A medical service provider or a medical service provider's agent, servant, employee, assignee, employer, or independent contractor on behalf of the medical service provider may not knowingly collect or attempt to collect the payment of a charge for medical services or products covered under IC 22 from an employee or the employee's estate or family members.

(b) If after a hearing, the worker's compensation board finds that a medical service provider has violated this section, the worker's compensation board may assess a civil penalty against the medical service provider in an amount that is at least one hundred dollars ($100) but less than one thousand dollars ($1,000) for each violation.

(c) The worker's compensation board may not assess a civil penalty against a medical service provider for a violation of this section that is the result of a good faith error.

As added by P.L.216-1995, SEC.2.

IC 22-3-3-5.2

Billing review service standards

Sec. 5.2. (a) A billing review service shall adhere to the following requirements to determine the pecuniary liability of an employer or an employer's insurance carrier for a specific service or product

covered under worker's compensation provided before July 1, 2014, by all medical service providers, and after June 30, 2014, by a medical service provider that is not a medical service facility:

(1) The formation of a billing review standard, and any subsequent analysis or revision of the standard, must use data that is based on the medical service provider billing charges as submitted to the employer and the employer's insurance carrier from the same community. This subdivision does not apply when a unique or specialized service or product does not have sufficient comparative data to allow for a reasonable comparison.

(2) Data used to determine pecuniary liability must be compiled on or before June 30 and December 31 of each year.

(3) Billing review standards must be revised for prospective future payments of medical service provider bills to provide for payment of the charges at a rate not more than the charges made by eighty percent (80%) of the medical service providers during the prior six (6) months within the same community. The data used to perform the analysis and revision of the billing review standards may not be more than two (2) years old and must be periodically updated by a representative inflationary or deflationary factor. Reimbursement for these charges may not exceed the actual charge invoiced by the medical service provider.

(b) This subsection applies after June 30, 2014, to a medical service facility. The pecuniary liability of an employer or an employer's insurance carrier for a specific service or product covered under worker's compensation and provided by a medical service facility is equal to a reasonable amount, which is established by payment of one (1) of the following:

(1) The amount negotiated at any time between the medical service facility and any of the following:

(A) The employer.

(B) The employer's insurance carrier.

(C) A billing review service on behalf of a person described in clause (A) or (B).

(D) A direct provider network that has contracted with a person described in clause (A) or (B).

(2) Two hundred percent (200%) of the amount that would be paid to the medical service facility on the same date for the same service or product under the medical service facility's Medicare reimbursement rate, if an amount has not been negotiated as described in subdivision (1).

(c) The payment to a medical service provider for an implant furnished to an employee under IC 22-3-2 through IC 22-3-6 may not exceed the invoice amount plus twenty-five percent (25%).

(d) A medical service provider may request an explanation from a billing review service if the medical service provider's bill has been reduced as a result of application of the eightieth percentile or of a Current Procedural Terminology (CPT) or Medicare coding change.

The request must be made not later than sixty (60) days after receipt of the notice of the reduction. If a request is made, the billing review service must provide:

(1) the name of the billing review service used to make the reduction;

(2) the dollar amount of the reduction;

(3) the dollar amount of the service or product at the eightieth percentile; and

(4) in the case of a CPT or Medicare coding change, the basis upon which the change was made;

not later than thirty (30) days after the date of the request.

(e) If, after a hearing, the worker's compensation board finds that a billing review service used a billing review standard that did not comply with subsection (a)(1) through (a)(3), as applicable, in determining the pecuniary liability of an employer or an employer's insurance carrier for a medical service provider's charge for services or products covered under worker's compensation, the worker's compensation board may assess a civil penalty against the billing review service in an amount not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000).

As added by P.L.216-1995, SEC.3. Amended by P.L.202-2001, SEC.4; P.L.275-2013, SEC.5.

IC 22-3-3-6

Physical examination; physician's statement; autopsy

Sec. 6. (a) After an injury and during the period of claimed resulting disability or impairment, the employee, if so requested by the employee's employer or ordered by the worker's compensation board, shall submit to an examination at reasonable times and places by a duly qualified physician or surgeon designated and paid by the employer or by order of the worker's compensation board. The employee shall have the right to have present at any such examination any duly qualified physician or surgeon provided and paid for by the employee. No fact communicated to, or otherwise learned by, any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged, either in the hearings provided for in IC 22-3-2 through IC 22-3-6, or in any action at law brought to recover damages against any employer who is subject to the compensation provisions of IC 22-3-2 through IC 22-3-6. If the employee refuses to submit to or in any way obstructs such examinations, the employee's right to compensation and his right to take or prosecute any proceedings under IC 22-3-2 through IC 22-3-6 shall be suspended until such refusal or obstruction ceases. No compensation shall at any time be payable for the period of suspension unless in the opinion of the worker's compensation board the circumstances justified the refusal or obstruction. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the board.

(b) Any employer requesting an examination of any employee residing within Indiana shall pay, in advance of the time fixed for the examination, sufficient money to defray the necessary expenses of travel by the most convenient means to and from the place of examination, and the cost of meals and lodging necessary during the travel. If the method of travel is by automobile, the mileage rate to be paid by the employer shall be the rate currently being paid by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the budget agency. If such examination or travel to or from the place of examination causes any loss of working time on the part of the employee, the employer shall reimburse the employee for such loss of wages upon the basis of the employee's average daily wage. When any employee injured in Indiana moves outside Indiana, the travel expense and the cost of meals and lodging necessary during the travel payable under this section shall be paid from the point in Indiana nearest to the employee's then residence to the place of examination. No travel and other expense shall be paid for any travel and other expense required outside Indiana.

(c) A duly qualified physician or surgeon provided and paid for by the employee may be present at an examination if the employee so desires. In all cases where the examination is made by a physician or surgeon engaged by the employer and the injured employee has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the injured employee, or the employee's representative, a statement in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by such physician or surgeon to the employer. Such statement shall be furnished to the employee or the employee's representative, as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (e). If such physician or surgeon fails or refuses to furnish the employee or the employee's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and such physician or surgeon shall not be permitted to testify before the worker's compensation board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations requested by the employer.

(d) In all cases where an examination of an employee is made by a physician or surgeon engaged by the employee, and the employer has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the employer or the employer's representative a statement in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by such physician or surgeon to the employee. Such statement shall be furnished to the

employer or the employer's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (e). If such physician or surgeon fails or refuses to furnish the employer, or the employer's representative, with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and such physician or surgeon shall not be permitted to testify before the worker's compensation board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations made by a physician or surgeon engaged by the employee.

(e) All statements of physicians or surgeons required by this section, whether those engaged by employee or employer, shall contain the following information:

(1) The history of the injury, or claimed injury, as given by the patient.

(2) The diagnosis of the physician or surgeon concerning the patient's physical or mental condition.

(3) The opinion of the physician or surgeon concerning the causal relationship, if any, between the injury and the patient's physical or mental condition, including the physician's or surgeon's reasons for the opinion.

(4) The opinion of the physician or surgeon concerning whether the injury or claimed injury resulted in a disability or impairment and, if so, the opinion of the physician or surgeon concerning the extent of the disability or impairment and the reasons for the opinion.

(5) The original signature of the physician or surgeon.

Notwithstanding any hearsay objection, the worker's compensation board shall admit into evidence a statement that meets the requirements of this subsection unless the statement is ruled inadmissible on other grounds.

(f) Delivery of any statement required by this section may be made to the attorney or agent of the employer or employee and such action shall be construed as delivery to the employer or employee.

(g) Any party may object to a statement on the basis that the statement does not meet the requirements of subsection (e). The objecting party must give written notice to the party providing the statement and specify the basis for the objection. Notice of the objection must be given no later than twenty (20) days before the hearing. Failure to object as provided in this subsection precludes any further objection as to the adequacy of the statement under subsection (e).

(h) The employer upon proper application, or the worker's compensation board, shall have the right in any case of death to require an autopsy at the expense of the party requesting the same. If, after a hearing, the worker's compensation board orders an autopsy and such autopsy is refused by the surviving spouse or next

of kin, then any claim for compensation on account of such death shall be suspended and abated during such refusal. The surviving spouse or dependent must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board. No autopsy, except one performed by or on the authority or order of the coroner in the discharge of the coroner's duties, shall be held in any case by any person, without notice first being given to the surviving spouse or next of kin, if they reside in Indiana or their whereabouts can reasonably be ascertained, of the time and place thereof, and reasonable time and opportunity given such surviving spouse or next of kin to have a representative or representatives present to witness same. However, if such notice is not given, all evidence obtained by such autopsy shall be suppressed on motion duly made to the worker's compensation board.

(Formerly: Acts 1929, c.172, s.27; Acts 1943, c.136, s.7; Acts 1945, c.188, s.2; Acts 1947, c.162, s.4; Acts 1949, c.253, s.1; Acts 1963, c.387, s.6; Acts 1975, P.L.235, SEC.4.) As amended by P.L.28-1988, SEC.27; P.L.95-1988, SEC.4; P.L.109-1992, SEC.1; P.L.1-2006, SEC.337.

IC 22-3-3-7

Temporary disability benefits; installment payments; termination; overpayment

Sec. 7. (a) Compensation shall be allowed on account of injuries producing only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for medical benefits provided in section 4 of the chapter. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(b) The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed injury. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days.

More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

(1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;

(2) the status of the investigation on the date the petition is filed;

(3) the facts or circumstances that are necessary to make a determination; and

(4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty under IC 22-3-4-15.

(c) Once begun, temporary total disability benefits may not be terminated by the employer unless:

(1) the employee has returned to any employment;

(2) the employee has died;

(3) the employee has refused to undergo a medical examination under section 6 of this chapter or has refused to accept suitable employment under section 11 of this chapter;

(4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowed under section 22 of this chapter; or

(5) the employee is unable or unavailable to work for reasons unrelated to the compensable injury.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means, and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the

independent medical examiner, the party shall apply to the board for a hearing under IC 22-3-4-5.

(d) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(e) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under section 10 of this chapter and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

(Formerly: Acts 1929, c.172, s.28; Acts 1949, c.243, s.1; Acts 1974, P.L.108, SEC.8.) As amended by P.L.170-1991, SEC.5; P.L.258-1997(ss), SEC.5; P.L.168-2011, SEC.4.

IC 22-3-3-7.5

Average weekly wages of public employee; determination

Sec. 7.5. For purposes of this chapter, the average weekly wages of a public employee shall be determined without regard to any salary reduction agreement under Section 125 of the Internal Revenue Code.

As added by P.L.5-1992, SEC.8.

IC 22-3-3-8

Temporary total disability or total permanent disability; awards

Sec. 8. With respect to injuries occurring prior to April 1, 1951, causing temporary total disability for work there shall be paid to the injured employee during such total disability for work a weekly compensation equal to fifty-five percent (55%) of his average weekly wages for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after April 1, 1951, and prior to July 1, 1971, causing temporary total disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty per cent (60%) of his average weekly wages for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, causing temporary total disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty per cent (60%) of his average weekly wages, as defined in IC 22-3-3-22 a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1974, and before July 1, 1976, causing temporary total disability or total permanent disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of his average weekly wages up to one hundred and thirty-five dollars

($135.00) average weekly wages, as defined in section 22 of this chapter, for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1976, causing temporary total disability or total permanent disability for work, there shall be paid to the injured employee during the total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of his average weekly wages, as defined in IC 22-3-3-22, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.
(Formerly: Acts 1929, c.172, s.29; Acts 1949, c.243, s.2; Acts 1951, c.294, s.1; Acts 1971, P.L.353, SEC.2; Acts 1974, P.L.108, SEC.9.) As amended by Acts 1976, P.L.112, SEC.1.

IC 22-3-3-9
Temporary partial disability; awards

Sec. 9. With respect to injuries occurring prior to April 1, 1951 causing temporary partial disability for work, compensation shall be paid to the injured employee during such disability, as prescribed in section 7 of this chapter, a weekly compensation equal to fifty-five per cent (55%) of the difference between his average weekly wages and the weekly wages at which he is actually employed after the injury, for a period not to exceed three hundred (300) weeks. With respect to injuries occurring on and after April 1, 1951 and prior to July 1, 1974 causing temporary partial disability for work, compensation shall be paid to the injured employee during such disability, as prescribed in section 7 of this chapter, a weekly compensation equal to sixty per cent (60%) of the difference between his average weekly wages and the weekly wages at which he is actually employed after the injury, for a period not to exceed three hundred (300) weeks. With respect to injuries occurring on and after July 1, 1974 causing temporary partial disability for work, compensation shall be paid to the injured employee during such disability as prescribed in section 7 of this chapter, a weekly compensation equal to sixty-six and two-thirds per cent (66 2/3%) of the difference between his average weekly wages and the weekly wages at which he is actually employed after the injury, for a period not to exceed three hundred (300) weeks. In case the partial disability begins after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.
(Formerly: Acts 1929, c.172, s.30; Acts 1937, c.214, s.2; Acts 1951, c.294, s.2; Acts 1974, P.L.108, SEC.10.)

IC 22-3-3-10
Injuries schedule

Sec. 10. (a) With respect to injuries in the schedule set forth in subsection (d) occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not to exceed fifty-two (52) weeks on account of

the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the injury.

(b) With respect to injuries in the schedule set forth in subsection (d) occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the injury.

(c) With respect to injuries in the schedule set forth in subsection (d) occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the injury.

(d) With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the injury.

(1) Amputation: For the loss by separation of the thumb, sixty (60) weeks, of the index finger forty (40) weeks, of the second finger thirty-five (35) weeks, of the third or ring finger thirty (30) weeks, of the fourth or little finger twenty (20) weeks, of the hand by separation below the elbow joint two hundred (200) weeks, or the arm above the elbow two hundred fifty (250) weeks, of the big toe sixty (60) weeks, of the second toe thirty (30) weeks, of the third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks, of the fifth or little toe ten (10) weeks, for loss occurring on and after April 1, 1959, by separation of the foot below the knee joint, one hundred seventy-five (175) weeks and of the leg above the knee joint two hundred twenty-five (225) weeks. The loss of more than one (1) phalange of a thumb or toes shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) the period for the loss of the entire

finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger, shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) For the loss by separation of both hands or both feet or the total sight of both eyes, or any two (2) such losses in the same accident, five hundred (500) weeks.

(3) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred seventy-five (175) weeks.

(4) For the permanent and complete loss of hearing in one (1) ear, seventy-five (75) weeks, and in both ears, two hundred (200) weeks.

(5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of both testicles, one hundred fifty (150) weeks.

(e) With respect to injuries in the schedule set forth in subsection (h) occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not exceeding fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred twenty-five dollars ($125) average weekly wages for the period stated for the injury.

(f) With respect to injuries in the schedule set forth in subsection (h) occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the injury.

(g) With respect to injuries in the schedule set forth in subsection (h) occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the injury.

(h) With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the injury.

(1) Loss of use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and

compensation shall be paid for the same period as for the loss thereof by separation.

(2) Partial loss of use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(3) For injuries resulting in total permanent disability, five hundred (500) weeks.

(4) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (d)(3), compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then in such event compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses, plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(5) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (d)(4), compensation shall be paid for a period proportional to the degree of such permanent reduction.

(6) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(7) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(i) With respect to injuries in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the injury, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the injury occurred.

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the

big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; by separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, and for the loss by separation of any of the body parts described in subdivision (3), (5), or (8), on or after July 1, 1999, the dollar values per degree applying on the date of the injury as described in subsection (j) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation, thirty-five (35) degrees of permanent impairment.

(6) For the reduction of vision to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(7) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(8) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(9) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss

by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(10) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(11) For injuries resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(12) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (h)(4), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(13) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (h)(5), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(14) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(15) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(j) Compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the injury determined under subsection (i) and the following:

(1) With respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars ($500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars ($900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars ($1,500) per degree.

(2) With respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent

impairment from one (1) to twenty (20), five hundred dollars ($500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars ($800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(3) With respect to injuries occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars ($500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars ($700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(4) With respect to injuries occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(5) With respect to injuries occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(6) With respect to injuries occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars ($900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars ($2,000) per degree.

(7) With respect to injuries occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars ($2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars ($2,500) per degree.

(8) With respect to injuries occurring on and after July 1, 2001, and before July 1, 2007, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars ($1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars ($2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars ($3,000) per degree.

(9) With respect to injuries occurring on and after July 1, 2007, and before July 1, 2008, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred forty dollars ($1,340) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred forty-five dollars ($1,545) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred seventy-five dollars ($2,475) per degree; for each degree of permanent impairment above fifty (50), three thousand one hundred fifty dollars ($3,150) per degree.

(10) With respect to injuries occurring on and after July 1, 2008, and before July 1, 2009, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred sixty-five dollars ($1,365) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred seventy dollars ($1,570) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand five hundred twenty-five dollars ($2,525) per degree; for each degree of permanent impairment above fifty (50), three thousand two hundred dollars ($3,200) per degree.

(11) With respect to injuries occurring on and after July 1, 2009, and before July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred eighty dollars ($1,380) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred eighty-five dollars ($1,585) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand six hundred dollars ($2,600) per

degree; for each degree of permanent impairment above fifty (50), three thousand three hundred dollars ($3,300) per degree.

(12) With respect to injuries occurring on and after July 1, 2010, and before July 1, 2014, for each degree of permanent impairment from one (1) to ten (10), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred dollars ($2,700) per degree; for each degree of permanent impairment above fifty (50), three thousand five hundred dollars ($3,500) per degree.

(13) With respect to injuries occurring on and after July 1, 2014, and before July 1, 2015, for each degree of permanent impairment from one (1) to ten (10), one thousand five hundred seventeen dollars ($1,517) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand seven hundred seventeen dollars ($1,717) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand eight hundred sixty-two dollars ($2,862) per degree; for each degree of permanent impairment above fifty (50), three thousand six hundred eighty-seven dollars ($3,687) per degree.

(14) With respect to injuries occurring on and after July 1, 2015, and before July 1, 2016, for each degree of permanent impairment from one (1) to ten (10), one thousand six hundred thirty-three dollars ($1,633) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand eight hundred thirty-five dollars ($1,835) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand twenty-four dollars ($3,024) per degree; for each degree of permanent impairment above fifty (50), three thousand eight hundred seventy-three dollars ($3,873) per degree.

(15) With respect to injuries occurring on and after July 1, 2016, for each degree of permanent impairment from one (1) to ten (10), one thousand seven hundred fifty dollars ($1,750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand nine hundred fifty-two dollars ($1,952) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand one hundred eighty-six dollars ($3,186) per degree; for each degree of permanent impairment above fifty (50), four thousand sixty dollars ($4,060) per degree.

(k) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (i) and (j) shall not exceed the following:

(1) With respect to injuries occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars ($492).

(2) With respect to injuries occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars ($540).
(3) With respect to injuries occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars ($591).
(4) With respect to injuries occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars ($642).
(5) With respect to injuries occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars ($672).
(6) With respect to injuries occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars ($702).
(7) With respect to injuries occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars ($732).
(8) With respect to injuries occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars ($762).
(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars ($822).
(10) With respect to injuries occurring on or after July 1, 2002, and before July 1, 2006, eight hundred eighty-two dollars ($882).
(11) With respect to injuries occurring on or after July 1, 2006, and before July 1, 2007, nine hundred dollars ($900).
(12) With respect to injuries occurring on or after July 1, 2007, and before July 1, 2008, nine hundred thirty dollars ($930).
(13) With respect to injuries occurring on or after July 1, 2008, and before July 1, 2009, nine hundred fifty-four dollars ($954).
(14) With respect to injuries occurring on or after July 1, 2009, and before July 1, 2014, nine hundred seventy-five dollars ($975).
(15) With respect to injuries occurring on or after July 1, 2014, and before July 1, 2015, one thousand forty dollars ($1,040).
(16) With respect to injuries occurring on or after July 1, 2015, and before July 1, 2016, one thousand one hundred five dollars ($1,105).
(17) With respect to injuries occurring on or after July 1, 2016, one thousand one hundred seventy dollars ($1,170).

(Formerly: Acts 1929, c.172, s.31; Acts 1943, c.136, s.8; Acts 1947, c.162, s.5; Acts 1949, c.243, s.5; Acts 1951, c.294, s.3; Acts 1955, c.325, s.1; Acts 1957, c.298, s.1; Acts 1959, c.315, s.1; Acts 1963, c.387, s.7; Acts 1971, P.L.353, SEC.1.) As amended by Acts 1977, P.L.261, SEC.1; Acts 1979, P.L.227, SEC.2; P.L.223-1985, SEC.1; P.L.95-1988, SEC.5; P.L.3-1989, SEC.132; P.L.170-1991, SEC.6; P.L.258-1997(ss), SEC.6; P.L.235-1999, SEC.2; P.L.31-2000, SEC.3; P.L.134-2006, SEC.4; P.L.3-2008, SEC.156; P.L.275-2013, SEC.6.

IC 22-3-3-11

Partial disability; refusing employment; notice

Sec. 11. (a) If an injured employee, only partially disabled, refuses employment suitable to his capacity procured for him, he shall not be entitled to any compensation at any time during the continuance of such refusal unless in the opinion of the worker's compensation board such refusal was justifiable.

(b) Before compensation can be denied under this section the employee must be served with a notice setting forth the consequences of the refusal of employment under this section. The notice must be in a form prescribed by the worker's compensation board.

(Formerly: Acts 1929, c.172, s.32.) As amended by P.L.95-1988, SEC.6.

IC 22-3-3-12

Subsequent permanent injuries; aggravation; awards

Sec. 12. If an employee has sustained a permanent injury either in another employment, or from other cause or causes than the employment in which he received a subsequent permanent injury by accident, such as specified in section 31, he shall be entitled to compensation for the subsequent permanent injury in the same amount as if the previous injury had not occurred: Provided, however, That if the permanent injury for which compensation is claimed, results only in the aggravation or increase of a previously sustained permanent injury or physical condition, regardless of the source or cause of such previously sustained injury or physical condition, the board shall determine the extent of the previously sustained permanent injury or physical condition, as well as the extent of the aggravation or increase resulting from the subsequent permanent injury, and shall award compensation only for that part of such injury, or physical condition resulting from the subsequent permanent injury. Provided further, however, That amputation of any part of the body or loss of any or all of the vision of one or both eyes shall be considered as a permanent injury or physical condition.

(Formerly: Acts 1929, c.172, s.33; Acts 1945, c.284, s.2.)

IC 22-3-3-13

Second injury fund; employee compensation; employer assessments; penalties

Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in

the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(f) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than November 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and

(2) each employer carrying the employer's own risk;

stating that an assessment is necessary. Not later than January 31 of the following year, each entity identified in subdivisions (1) and (2) shall send to the board a statement of total paid losses and premiums (as defined in subsection (d)(4)) paid by employers during the previous calendar year. The board may conduct an assessment under this subsection not more than one (1) time annually. The total amount of the assessment may not exceed two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. The board shall assess a penalty in the amount of ten percent (10%) of the amount owed if payment is not made under this section within thirty (30) days from the date set by the board. If the amount to the credit of the second injury fund on or before November 1 of any year exceeds one hundred thirty-five percent (135%) of the previous year's disbursements, the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before November 1 of any year the amount to the credit of the fund is less than one hundred thirty-five percent (135%) of the previous year's disbursements, the payments of not more than two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment.

(d) The board shall assess all employers for the liabilities, including administrative expenses, of the second injury fund. The assessment also must provide for the repayment of all loans made to the second injury fund for the purpose of paying valid claims. The following applies to assessments under this subsection:

(1) The portion of the total amount that must be collected from self-insured employers equals:

(A) the total amount of the assessment as determined by the board; multiplied by

(B) the quotient of:

(i) the total paid losses on behalf of all self-insured

employers during the preceding calendar year; divided by

(ii) the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year.

(2) The portion of the total amount that must be collected from insured employers equals:

(A) the total amount of the assessment as determined by the board; multiplied by

(B) the quotient of:

(i) the total paid losses on behalf of all insured employers during the preceding calendar year; divided by

(ii) the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year.

(3) The total amount of insured employer assessments under subdivision (2) must be collected by the insured employers' worker's compensation insurers. The amount of employer assessments each insurer shall collect equals:

(A) the total amount of assessments allocated to insured employers under subdivision (2); multiplied by

(B) the quotient of:

(i) the worker's compensation premiums paid by employers to the carrier during the preceding calendar year; divided by

(ii) the worker's compensation premiums paid by employers to all carriers during the preceding calendar year.

(4) For purposes of the computation made under subdivision (3), "premium" means the direct written premium.

(5) The amount of the assessment for each self-insured employer equals:

(A) the total amount of assessments allocated to self-insured employers under subdivision (1); multiplied by

(B) the quotient of:

(i) the paid losses attributable to the self-insured employer during the preceding calendar year; divided by

(ii) paid losses attributable to all self-insured employers during the preceding calendar year.

An employer that has ceased to be a self-insurer continues to be liable for prorated assessments based on paid losses made by the employer in the preceding calendar year during the period that the employer was self-insured.

(e) The board may employ a qualified employee or enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than December 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board

shall pay the costs of the contract under this subsection with money in the fund.

(f) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of insurance producer commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

(g) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of fund liabilities described in subsection (d) and awards of compensation ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(h) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

(1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or

(2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (i).

(i) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(j) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(k) All insurance carriers subject to an assessment under this section are required to provide to the board:

(1) not later than January 31 each calendar year; and

(2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.

(Formerly: Acts 1929, c.172, s.33a; Acts 1949, c.250, s.1; Acts 1957, c.298, s.2; Acts 1963, c.387, s.8; Acts 1969, c.94, s.2; Acts 1974, P.L.108, SEC.11.) As amended by Acts 1979, P.L.227, SEC.3; Acts 1980, P.L.22, SEC.14; P.L.28-1988, SEC.28; P.L.170-1991, SEC.7; P.L.235-1999, SEC.3; P.L.202-2001, SEC.5; P.L.178-2003, SEC.9; P.L.134-2006, SEC.5; P.L.1-2007, SEC.158; P.L.173-2007, SEC.5; P.L.67-2010, SEC.2; P.L.168-2011, SEC.5.

IC 22-3-3-14

Subsequent injuries; two awards

Sec. 14. If an employee receives an injury for which compensation is payable while he is still receiving or entitled to compensation for a previous injury in the same employment, he shall not at the same time be entitled to compensation for both injuries, unless it be for a permanent injury, such as specified in section 10 of this chapter; but he shall be entitled to compensation for that injury and from the time of that injury which will cover the longest period and the largest amount payable under IC 22-3-2 through IC 22-3-6.

(Formerly: Acts 1929, c.172, s.34.) As amended by P.L.144-1986, SEC.32.

IC 22-3-3-15

Subsequent injuries; awards; extending period of payment

Sec. 15. If an employee receives a permanent injury such as specified in section 10 of this chapter after having sustained another permanent injury in the same employment, he shall be entitled to compensation for both injuries, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation, and when such previous and subsequent permanent injuries in combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or permanent total impairment, but payments made for the previous injury shall be deducted from the total payment of compensation due.

(Formerly: Acts 1929, c.172, s.35; Acts 1963, c.387, s.9.) As amended by P.L.144-1986, SEC.33.

IC 22-3-3-16
Death while receiving awards; dependents; payment

Sec. 16. When an employee has been awarded or is entitled to an award of compensation for a definite period under IC 22-3-2 through IC 22-3-6 for an injury occurring prior to April 1, 1945, and dies from any other cause than such injury, payment of the unpaid balance of such compensation, not exceeding three hundred (300) weeks, shall be made to his dependents as defined in section 18 of this chapter; provided that where the compensable injury occurred on and after April 1, 1945, and prior to April 1, 1951, the maximum shall not exceed three hundred fifty (350) weeks. With respect to any such injury occurring on and after April 1, 1951, the maximum shall not exceed three hundred fifty (350) weeks for dependents of the second or third class and the maximum shall not exceed five hundred (500) weeks for dependents of the first class.

(Formerly: Acts 1929, c.172, s.36; Acts 1945, c.188, s.5; Acts 1951, c.294, s.4.) As amended by P.L.144-1986, SEC.34.

IC 22-3-3-17
Death benefits

Sec. 17. On and after April 1, 1965, and prior to April 1, 1969, when death results from an injury within four hundred fifty (450) weeks, there shall be paid to total dependent of said deceased, as determined by IC 22-3-3-18, 19 and 20, a weekly compensation amounting to sixty percent (60%) of the deceased's average weekly wage, until compensation so paid, when added to any compensation paid to deceased employee, shall equal four hundred fifty (450) weeks, and to partial dependents as hereinafter provided.

On and after April 1, 1969, and prior to July 1, 1971, when death results from an injury within five hundred (500) weeks, there shall be paid to the total dependents of said deceased, as determined by the provisions of IC 22-3-3-18, 19 and 20, weekly compensation amounting to sixty percent (60%) of the deceased's average weekly wage, until the compensation so paid, when added to any compensation paid to the deceased employee, shall equal five hundred (500) weeks, and to partial dependents as hereinafter provided.

On and after July 1, 1971, and prior to July 1, 1974, when death results from an injury within five hundred (500) weeks, there shall be paid to the total dependents of said deceased, as determined by the provisions of IC 22-3-3-18, 19 and 20, weekly compensation amounting to sixty percent (60%) of the deceased's average weekly wage, not to exceed one hundred dollars ($100) average weekly wages, until the compensation so paid, when added to any compensation paid to the deceased employee, shall equal five hundred (500) weeks, and to partial dependents as hereinafter provided.

On and after July 1, 1974, and before July 1, 1976, when death results from an injury within five hundred (500) weeks, there shall be paid the total dependents of the deceased, as determined by the

provisions of sections 18, 19 and 20 of this chapter, weekly compensation amounting to sixty-six and two-thirds percent (66 2/3%) of the deceased's average weekly wage, not to exceed a maximum of one hundred thirty-five dollars ($135) average weekly wages, until the compensation so paid, when added to any compensation paid to the deceased employee, shall equal five hundred (500) weeks, and to partial dependents as hereinafter provided. On and after July 1, 1976, when death results from an injury within five hundred (500) weeks, there shall be paid the total dependents of the deceased as determined by sections 18, 19 and 20 of this chapter, weekly compensation amounting to sixty-six and two-thirds percent (66 2/3%) of the deceased's average weekly wage, as defined by IC 22-3-3-22, until the compensation paid, when added to the compensation paid to the deceased employee, equals five hundred (500) weeks, and to partial dependents, as provided in sections 18 and 20 of this chapter.
(Formerly: Acts 1929, c.172, s.37; Acts 1945, c.188, s.6; Acts 1947, c.162, s.6; Acts 1949, c.243, s.3; Acts 1951, c.294, s.5; Acts 1957, c.298, s.3; Acts 1965, c.217, s.1; Acts 1969, c.94, s.3; Acts 1971, P.L.353, SEC.3; Acts 1974, P.L.108, SEC.12.) As amended by Acts 1976, P.L.112, SEC.2.

IC 22-3-3-18
Death resulting from injuries; award; payment to dependents

Sec. 18. (a) Dependents under IC 22-3-2 through IC 22-3-6 shall consist of the following three (3) classes:

(1) Presumptive dependents.
(2) Total dependents in fact.
(3) Partial dependents in fact.

(b) Presumptive dependents shall be entitled to compensation to the complete exclusion of total dependents in fact and partial dependents in fact and shall be entitled to such compensation in equal shares.

(c) Total dependents in fact shall be entitled to compensation to the complete exclusion of partial dependents in fact and shall be entitled to such compensation, if more than one (1) such dependent exists, in equal shares. The question of total dependency shall be determined as of the time of death.

(d) Partial dependents in fact shall not be entitled to any compensation if any other class of dependents exist. The weekly compensation to persons partially dependent in fact shall be in the same proportion to the weekly compensation of persons wholly dependent as the average amount contributed weekly by the deceased to such partial dependent in fact bears to his average weekly wages at the time of the occurrence of the accident. The question of partial dependency in fact shall be determined as of the time of the occurrence of the accident.
(Formerly: Acts 1929, c.172, s.38; Acts 1947, c.162, s.7.) As amended by P.L.144-1986, SEC.35.

IC 22-3-3-19

Presumptive dependents; termination of dependency

Sec. 19. (a) The following persons are conclusively presumed to be wholly dependent for support upon a deceased employee and shall constitute the class known as presumptive dependents in section 18 of this chapter:

(1) A wife upon a husband with whom she is living at the time of his death, or upon whom the laws of the state impose the obligation of her support at such time. The term "wife", as used in this subdivision, shall exclude a common law wife unless such common law relationship was entered into before January 1, 1958, and, in addition, existed openly and notoriously for a period of not less than five (5) years immediately preceding the death.

(2) A husband upon his wife with whom he is living at the time of her death. The term "husband", as used in this subdivision, shall exclude a common law husband unless such common law relationship was entered into before January 1, 1958, and, in addition, existed openly and notoriously for a period of not less than five (5) years immediately preceding the death.

(3) An unmarried child under the age of twenty-one (21) years upon the parent with whom the child is living at the time of the death of such parent.

(4) An unmarried child under twenty-one (21) years upon the parent with whom the child may not be living at the time of the death of such parent, but upon whom, at such time, the laws of the state impose the obligation to support such child.

(5) A child over the age of twenty-one (21) years who has never been married and who is either physically or mentally incapacitated from earning the child's own support, upon a parent upon whom the laws of the state impose the obligation of the support of such unmarried child.

(6) A child over the age of twenty-one (21) years who has never been married and who at the time of the death of the parent is keeping house for and living with such parent and is not otherwise gainfully employed.

(b) As used in this section, the term "child" includes stepchildren, legally adopted children, posthumous children, and acknowledged children born out of wedlock. The term "parent" includes stepparents and parents by adoption.

(c) The dependency of a child under subsections (a)(3) and (a)(4) shall terminate when the child attains the age of twenty-one (21).

(d) The dependency of any person as a presumptive dependent shall terminate upon the marriage of such dependent subsequent to the death of the employee, and such dependency shall not be reinstated by divorce. However, for deaths from injuries occurring on and after July 1, 1977, a surviving spouse who is a presumptive dependent and who is the only surviving dependent of the deceased employee is entitled to receive, upon remarriage before the expiration of the maximum statutory compensation period, a lump

sum settlement equal to the smaller of one hundred four (104) weeks of compensation or the compensation for the remainder of the maximum statutory compensation period.

(e) The dependency of any child under subsection (a)(6) shall be terminated at such time as such dependent becomes gainfully employed or marries.

(Formerly: Acts 1929, c.172, s.38a; Acts 1947, c.162, s.8; Acts 1963, c.387, s.10.) As amended by Acts 1977, P.L.261, SEC.2; P.L.152-1987, SEC.6; P.L.134-1990, SEC.1.

IC 22-3-3-20
Total or partial dependents; eligibility; termination

Sec. 20. Total or partial dependents in fact shall include only those persons related to the deceased employee by blood or by marriage, except an unmarried child under the age of eighteen (18) years. Any such person who is actually totally or partially dependent upon the deceased employee is entitled to compensation as such dependent in fact. The right to compensation of any person totally or partially dependent in fact shall be terminated by the marriage of such dependent subsequent to the death of the employee and such dependency shall not be reinstated by divorce.

(Formerly: Acts 1929, c.172, s.38b; Acts 1947, c.162, s.9.)

IC 22-3-3-21
Burial expenses

Sec. 21. In cases of the death of an employee from an injury by an accident arising out of and in the course of the employee's employment under circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of such employee, not exceeding seven thousand five hundred dollars ($7,500).

(Formerly: Acts 1929, c.172, s.39; Acts 1937, c.214, s.3; Acts 1943, c.136, s.4; Acts 1947, c.162, s.10; Acts 1955, c.231, s.1; Acts 1963, c.387, s.11; Acts 1967, c.312, s.1; Acts 1971, P.L.353, SEC.4.) As amended by P.L.225-1983, SEC.1; P.L.16-1984, SEC.15; P.L.95-1988, SEC.7; P.L.170-1991, SEC.8; P.L.201-2005, SEC.4.

IC 22-3-3-22
Awards; computation

Sec. 22. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

(1) not more than two hundred sixty-seven dollars ($267); and
(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1986, and before

July 1, 1988, the average weekly wages are considered to be:

(1) not more than two hundred eighty-five dollars ($285); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

(1) not more than three hundred eighty-four dollars ($384); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

(1) not more than four hundred eleven dollars ($411); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

(1) not more than four hundred forty-one dollars ($441); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

(1) not more than four hundred ninety-two dollars ($492); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

(1) not more than five hundred forty dollars ($540); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

(1) not more than five hundred ninety-one dollars ($591); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(i) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

(1) not more than six hundred forty-two dollars ($642); and

(2) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(j) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to injuries occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars ($672); and

(B) not less than seventy-five dollars ($75);

(2) with respect to injuries occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars ($702); and

(B) not less than seventy-five dollars ($75);

(3) with respect to injuries occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars ($732); and

(B) not less than seventy-five dollars ($75);

(4) with respect to injuries occurring on and after July 1, 2000, and before July 1, 2001:

(A) not more than seven hundred sixty-two dollars ($762); and

(B) not less than seventy-five dollars ($75);

(5) with respect to injuries occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred twenty-two dollars ($822); and

(B) not less than seventy-five dollars ($75);

(6) with respect to injuries occurring on and after July 1, 2002, and before July 1, 2006:

(A) not more than eight hundred eighty-two dollars ($882); and

(B) not less than seventy-five dollars ($75);

(7) with respect to injuries occurring on and after July 1, 2006, and before July 1, 2007:

(A) not more than nine hundred dollars ($900); and

(B) not less than seventy-five dollars ($75);

(8) with respect to injuries occurring on and after July 1, 2007, and before July 1, 2008:

(A) not more than nine hundred thirty dollars ($930); and

(B) not less than seventy-five dollars ($75);

(9) with respect to injuries occurring on and after July 1, 2008, and before July 1, 2009:

(A) not more than nine hundred fifty-four dollars ($954); and

(B) not less than seventy-five dollars ($75);

(10) with respect to injuries occurring on and after July 1, 2009, and before July 1, 2014:

(A) not more than nine hundred seventy-five dollars ($975); and

(B) not less than seventy-five dollars ($75);

(11) with respect to injuries occurring on and after July 1, 2014, and before July 1, 2015:

(A) not more than one thousand forty dollars ($1,040); and

(B) not less than seventy-five dollars ($75);

(12) with respect to injuries occurring on and after July 1, 2015, and before July 1, 2016:

(A) not more than one thousand one hundred five dollars ($1,105); and

(B) not less than seventy-five dollars ($75); and

(13) with respect to injuries occurring on and after July 1, 2016:

(A) not more than one thousand one hundred seventy dollars ($1,170); and

(B) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(k) With respect to any injury occurring on and after July 1, 1985, and before July 1, 1986, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-nine thousand dollars ($89,000) in any case.

(l) With respect to any injury occurring on and after July 1, 1986, and before July 1, 1988, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed ninety-five thousand dollars ($95,000) in any case.

(m) With respect to any injury occurring on and after July 1, 1988, and before July 1, 1989, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred twenty-eight thousand dollars ($128,000) in any case.

(n) With respect to any injury occurring on and after July 1, 1989, and before July 1, 1990, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred thirty-seven thousand dollars ($137,000) in any case.

(o) With respect to any injury occurring on and after July 1, 1990, and before July 1, 1991, the maximum compensation, exclusive of

medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred forty-seven thousand dollars ($147,000) in any case.

(p) With respect to any injury occurring on and after July 1, 1991, and before July 1, 1992, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred sixty-four thousand dollars ($164,000) in any case.

(q) With respect to any injury occurring on and after July 1, 1992, and before July 1, 1993, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred eighty thousand dollars ($180,000) in any case.

(r) With respect to any injury occurring on and after July 1, 1993, and before July 1, 1994, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred ninety-seven thousand dollars ($197,000) in any case.

(s) With respect to any injury occurring on and after July 1, 1994, and before July 1, 1997, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed two hundred fourteen thousand dollars ($214,000) in any case.

(t) The maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provision of this law or any combination of provisions may not exceed the following amounts in any case:

(1) With respect to an injury occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars ($224,000).

(2) With respect to an injury occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars ($234,000).

(3) With respect to an injury occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars ($244,000).

(4) With respect to an injury occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars ($254,000).

(5) With respect to an injury occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars ($274,000).

(6) With respect to an injury occurring on and after July 1, 2002, and before July 1, 2006, two hundred ninety-four thousand dollars ($294,000).

(7) With respect to an injury occurring on and after July 1, 2006, and before July 1, 2007, three hundred thousand dollars ($300,000).

(8) With respect to an injury occurring on and after July 1, 2007, and before July 1, 2008, three hundred ten thousand dollars ($310,000).

(9) With respect to an injury occurring on and after July 1, 2008, and before July 1, 2009, three hundred eighteen thousand dollars ($318,000).

(10) With respect to an injury occurring on and after July 1, 2009, and before July 1, 2014, three hundred twenty-five thousand dollars ($325,000).

(11) With respect to an injury occurring on and after July 1, 2014, and before July 1, 2015, three hundred forty-seven thousand dollars ($347,000).

(12) With respect to an injury occurring on and after July 1, 2015, and before July 1, 2016, three hundred sixty-eight thousand dollars ($368,000).

(13) With respect to an injury occurring on and after July 1, 2016, three hundred ninety thousand dollars ($390,000).

(Formerly: Acts 1929, c.172, s.40; Acts 1943, c.136, s.3; Acts 1945, c.188, s.1; Acts 1949, c.243, s.4; Acts 1951, c.294, s.6; Acts 1953, c.172, s.1; Acts 1955, c.181, s.1; Acts 1957, c.298, s.4; Acts 1959, c.315, s.2; Acts 1963, c.387, s.12; Acts 1965, c.217, s.2; Acts 1967, c.312, s.2; Acts 1969, c.94, s.4; Acts 1971, P.L.353, SEC.5; Acts 1974, P.L.108, SEC.13.) As amended by Acts 1976, P.L.112, SEC.3; Acts 1977, P.L.261, SEC.3; Acts 1979, P.L.227, SEC.4; Acts 1980, P.L.22, SEC.15; P.L.225-1983, SEC.2; P.L.223-1985, SEC.2; P.L.95-1988, SEC.8; P.L.170-1991, SEC.9; P.L.258-1997(ss), SEC.7; P.L.31-2000, SEC.4; P.L.134-2006, SEC.6; P.L.275-2013, SEC.7.

IC 22-3-3-23

Mistake in payments; deductions; payments to state employees

Sec. 23. (a) Any payments made by the employer to the injured employee during the period of his disability, or to his dependents, which by the terms of IC 22-3-2 through IC 22-3-6 were not due and payable when made, may, subject to the approval of the worker's compensation board, be deducted from the amount to be paid as compensation. However, the deduction shall be made from the distal end of the period during which compensation must be paid, except in cases of temporary disability.

(b) Payments to state employees under the terms of IC 5-10-8-7(d)(5) shall be taken as a credit by the state against payments of compensation for temporary total disability during the time period in which the employee is eligible for compensation under both IC 5-10-8-7(d)(5) and section 8 of this chapter. After a state employee is ineligible for payments under IC 5-10-8-7(d)(5) and if he is still eligible for payments for temporary total disability under section 8 of this chapter, any payments for temporary total disability shall be deducted from the amount of compensation payable under section 10 of this chapter. Payments to state employees under the terms of IC 5-10-8-7(d)(5) may not be deducted from compensation

payable under section 10 of this chapter.
(Formerly: Acts 1929, c.172, s.41.) As amended by Acts 1976, P.L.113, SEC.1; P.L.28-1988, SEC.29; P.L.1-1994, SEC.107.

IC 22-3-3-24
Payments; time of payment

Sec. 24. When so provided in the compensation agreement or in the award of the worker's compensation board, compensation may be paid semimonthly, or monthly, instead of weekly.
(Formerly: Acts 1929, c.172, s.42.) As amended by P.L.28-1988, SEC.30.

IC 22-3-3-25
Lump sum payments; minors; interest rate

Sec. 25. (a) In unusual cases, upon the agreement of the employer and the employee or his dependents, and the insurance carrier, and the approval of the worker's compensation board, compensation may be redeemed, in whole or in part, by the cash payment, in a lump sum, of the commutable value of the installments to be redeemed.

(b) The board may, at any time, in the case of permanently disabling injuries of a minor, require that he be compensated by the cash payment in a lump sum of the commutable value of the unredeemed installments of the compensation to which he is entitled.

(c) In all such cases, the commutable value of the future unpaid installments of compensation shall be the present value thereof, at the rate of three percent (3%) interest, compounded annually.
(Formerly: Acts 1929, c.172, s.43; Acts 1937, c.214, s.4; Acts 1947, c.162, s.11.) As amended by P.L.28-1988, SEC.31.

IC 22-3-3-26
Lump sum payments; trustees

Sec. 26. Whenever the worker's compensation board deems it expedient, any lump sum under section 25 of this chapter shall be paid by the employer to some suitable person or corporation appointed by the circuit or superior court, as trustee, to administer the same for the benefit of the person entitled thereto, in the manner authorized by the court appointing such trustee. The receipt of such trustee for the amount so paid shall discharge the employer or anyone else who is liable therefor.
(Formerly: Acts 1929, c.172, s.44.) As amended by P.L.144-1986, SEC.36; P.L.28-1988, SEC.32.

IC 22-3-3-27
Jurisdiction; modification of award

Sec. 27. (a) The power and jurisdiction of the worker's compensation board over each case shall be continuing and from time to time it may, upon its own motion or upon the application of either party, on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement

or upon hearing, as it may deem just, subject to the maximum and minimum provided for in IC 22-3-2 through IC 22-3-6.

(b) Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder.

(c) The board shall not make any such modification upon its own motion nor shall any application therefor be filed by either party after the expiration of two (2) years from the last day for which compensation was paid. The board may at any time correct any clerical error in any finding or award.

(Formerly: Acts 1929, c.172, s.45; Acts 1947, c.162, s.12; Acts 1963, c.387, s.13.) As amended by P.L.144-1986, SEC.37; P.L.28-1988, SEC.33; P.L.134-2006, SEC.7.

IC 22-3-3-28

Children and minors; direct payments

Sec. 28. (a) When the aggregate payments of compensation, awarded by agreement or upon hearing to an employee or dependent under eighteen (18) years of age, do not exceed one hundred dollars ($100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

(b) Whenever the aggregate payments of compensation, due to any person under eighteen (18) years of age, exceed one hundred dollars ($100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or to a parent upon the order of the worker's compensation board. The payment of compensation, due to any person eighteen (18) years of age or over, may be made directly to such person.

(Formerly: Acts 1929, c.172, s.46.) As amended by P.L.28-1988, SEC.34.

IC 22-3-3-29

Injured employee or dependent under guardianship

Sec. 29. If any injured employee or a dependent is under guardianship at the time when any right or privilege accrues to the employee or dependent under IC 22-3-2, IC 22-3-3, IC 22-3-4, IC 22-3-5, or IC 22-3-6, the employee or dependent's guardian shall claim and exercise the right or privilege of the employee or dependent.

(Formerly: Acts 1929, c.172, s.47.) As amended by P.L.144-1986, SEC.38; P.L.33-1989, SEC.19.

IC 22-3-3-30

Incompetent persons; limitation of actions

Sec. 30. No limitation of time provided in IC 22-3-2 through IC 22-3-6 shall run against any person who is mentally incompetent or a minor so long as he has no guardian or trustee.

(Formerly: Acts 1929, c.172, s.48; Acts 1969, c.94, s.5.) As amended

by P.L.144-1986, SEC.39.

IC 22-3-3-31
Joint service of two or more employers; apportionment of award

Sec. 31. Whenever any employee for whose injury or death compensation is payable under IC 22-3-2 through IC 22-3-6 shall at the time of the injury be in the joint service of two (2) or more employers subject to IC 22-3-2 through IC 22-3-6, such employers shall contribute to the payment of such compensation in proportion to their wage liability to such employees; provided, however, that nothing in this section shall prevent any reasonable arrangements between such employers for a different distribution as between themselves of the ultimate burden of compensation.

(Formerly: Acts 1929, c.172, s.49.) As amended by P.L.144-1986, SEC.40.

IC 22-3-3-32
Construction of article

Sec. 32. The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid and to be paid for temporary total disability, temporary partial disability, or permanent total disability combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person who is permanently totally disabled from applying for an award under IC 22-3-3-13. However, in case of permanent total disability resulting from an injury occurring on or after January 1, 1998, the minimum total benefit shall not be less than seventy-five thousand dollars ($75,000).

As added by P.L.258-1997(ss), SEC.8.

IC 22-3-4

Chapter 4. Worker's Compensation: Administration and Procedures

IC 22-3-4-1

Industrial board; office space; furniture and supplies; meetings

Sec. 1. The board shall be provided with adequate offices in the capitol or some other suitable building in the city of Indianapolis in which the records shall be kept and its official business be transacted during regular business hours; it shall also be provided with necessary office furniture, stationery and other supplies.

The board or any member thereof may hold sessions at any place within the state as may be deemed necessary.

(Formerly: Acts 1929, c.172, s.54.)

IC 22-3-4-2

Rules; subpoenas; service; hearings

Sec. 2. (a) The worker's compensation board may make rules not inconsistent with IC 22-3-2 through IC 22-3-6 for carrying out the provisions of IC 22-3-2 through IC 22-3-6. Processes and procedures under IC 22-3-2 through IC 22-3-6 shall be as summary and simple as reasonably may be. The board or any member of the board shall have the power for the purpose of IC 22-3-2 through IC 22-3-6 to subpoena witnesses, administer or cause to have administered oaths, and to examine or cause to have examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute.

(b) The county sheriff shall serve all subpoenas of the board and shall receive the same fees as provided by law for like service in civil actions. Each witness who appears in obedience to such subpoenas of the board shall receive for attendance the fees and mileage for witnesses in civil cases in the courts.

(c) The circuit or superior court shall, on application of the board or any member of the board, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

(Formerly: Acts 1929, c.172, s.55.) As amended by P.L.144-1986, SEC.41; P.L.28-1988, SEC.35.

IC 22-3-4-3

Inspection of records; confidential information; destruction of records

Sec. 3. (a) The board shall prepare and cause to be printed, and upon request furnish free of charge to any employer or employee, such blank forms and literature as it shall deem requisite to facilitate or promote the efficient administration of this chapter, IC 22-3-2 through IC 22-3-3, and IC 22-3-5 through IC 22-3-6. The accident reports and reports of attending physicians shall be the private records of the board, which shall be open to the inspection of the employer, the employee and their legal representatives, but not the

public unless, in the opinion of the board, the public interest shall so require.

(b) In order to prevent the accumulation of unnecessary and useless files of papers, the board may destroy or otherwise dispose of under IC 5-15-5.1-14 all papers that have been on file for more than two (2) years, when there is no claim for compensation pending, or, when compensation has been awarded either by agreement or upon hearing, and more than one (1) year has elapsed since the termination of the compensation period as fixed by such board.

(Formerly: Acts 1929, c.172, s.56.) As amended by Acts 1979, P.L.17, SEC.33; P.L.121-1995, SEC.2.

IC 22-3-4-4

Awards; private agreements; approval

Sec. 4. If after seven (7) days from the date of the injury or at any time in case of death, the employer and the injured employee or his dependents reach an agreement in regard to compensation under IC 22-3-2 through IC 22-3-6, a memorandum of the agreement in the form prescribed by the worker's compensation board shall be filed with the board; otherwise such agreement shall be voidable by the employee or his dependent. If approved by the board, thereupon the memorandum shall for all purposes be enforceable by court decree as specified in section 9 of this chapter. Such agreement shall be approved by said board only when the terms conform to the provisions of IC 22-3-2 through IC 22-3-6.

(Formerly: Acts 1929, c.172, s.57.) As amended by P.L.144-1986, SEC.42; P.L.28-1988, SEC.36.

IC 22-3-4-4.5

Mediation of claims; fees and charges

Sec. 4.5. (a) In addition to any other method available to the board to resolve a claim for compensation under IC 22-3-2 through IC 22-3-7, the board may, with the consent of all parties, mediate the claim using a mediator certified by the Indiana Continuing Legal Education Forum. The board may not order the mediation of a claim without the consent of all parties.

(b) The board shall establish by rule a schedule of fees and charges for a mediation conducted to resolve a claim for compensation under IC 22-3-2 through IC 22-3-7.

As added by P.L.168-2011, SEC.6.

IC 22-3-4-5

Disputes; hearings

Sec. 5. (a) If the employer and the injured employee or the injured employee's dependents disagree in regard to the compensation payable under IC 22-3-2 through IC 22-3-6 or, if they have reached such an agreement, which has been signed by them, filed with and approved by the worker's compensation board, and afterward disagree as to the continuance of payments under such agreement, or as to the period for which payments shall be made, or to the amount

to be paid, because of a change in conditions since the making of such agreement, either party may then make an application to the board for the determination of the matters in dispute.

(b) Upon the filing of such application, the board shall set the date of hearing, which shall be as early as practicable, and shall notify the employee, employer, and attorneys of record in the manner prescribed by the board of the time and place of all hearings and requests for continuances. The hearing of all claims for compensation, on account of injuries occurring within the state, shall be held in the county in which the injury occurred, in any adjoining county, except when the parties consent to a hearing elsewhere. Claims assigned to an individual board member that are considered to be of an emergency nature by that board member, may be heard in any county within the board member's jurisdiction.

(c) All disputes arising under IC 22-3-2 through IC 22-3-6, if not settled by the agreement of the parties interested therein, with the approval of the board, shall be determined by the board.

(Formerly: Acts 1929, c.172, s.58; Acts 1959, c.360, s.1.) As amended by P.L.144-1986, SEC.43; P.L.28-1988, SEC.37; P.L.95-1988, SEC.9; P.L.170-1991, SEC.10.

IC 22-3-4-6

Disputes; summary proceedings

Sec. 6. The board by any or all of its members shall hear the parties at issue, their representatives and witnesses, and shall determine the dispute in a summary manner. The award shall be filed with the record of proceedings, and a copy thereof shall immediately be sent to each of the employee, employer, and attorney of record in the dispute.

(Formerly: Acts 1929, c.172, s.59.) As amended by P.L.95-1988, SEC.10.

IC 22-3-4-7

Disputes; administrative review

Sec. 7. If an application for review is made to the board within thirty (30) days from the date of the award made by less than all the members, the full board, if the first hearing was not held before the full board, shall review the evidence, or, if deemed advisable, hear the parties at issue, their representatives, and witnesses as soon as practicable and shall make an award and file the same with the finding of the facts on which it is based and send a copy thereof to each of the parties in dispute, in like manner as specified in section 6 of this chapter.

(Formerly: Acts 1929, c.172, s.60; Acts 1969, c.94, s.6.) As amended by P.L.144-1986, SEC.44; P.L.258-1997(ss), SEC.9.

IC 22-3-4-8

Disputes; awards; appeals

Sec. 8. (a) An award of the board by less than all of the members as provided in section 6 of this chapter, if not reviewed as provided

in section 7 of this chapter, shall be final and conclusive.

(b) An award by the full board shall be conclusive and binding as to all questions of the fact, but either party to the dispute may, within thirty (30) days from the date of such award, appeal to the court of appeals for errors of law under the same terms and conditions as govern appeals in ordinary civil actions.

(c) The board of its own motion may certify questions of law to said court of appeals for its decision and determination.

(d) An assignment of errors that the award of the full board is contrary to law shall be sufficient to present both the sufficiency of the facts found to sustain the award and the sufficiency of the evidence to sustain the finding of facts.

(e) All such appeals and certified questions of law shall be submitted upon the date filed in the court of appeals, shall be advanced upon the docket of said court, and shall be determined at the earliest practicable date, without any extensions of time for filing briefs.

(f) An award of the full board affirmed on appeal, by the employer, shall be increased thereby five percent (5%), and by order of the court may be increased ten percent (10%).

(Formerly: Acts 1929, c.172, s.61.) As amended by P.L.144-1986, SEC.45.

IC 22-3-4-9

Contracts; private agreements; appeals

Sec. 9. (a) Upon order of the worker's compensation board made after five (5) days notice is given to the opposite party, any party in interest may file in the circuit or superior court of the county in which the injury occurred a certified copy of the memorandum of agreement approved by the board, or of an order or decision of the board, or of an award of the full board unappealed from, or of an award of the full board affirmed upon an appeal, whereupon said court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though said judgment had been rendered in a suit duly heard and determined by said court.

(b) Any such judgment of said circuit or superior court unappealed from or affirmed on appeal or modified in obedience to the mandate of the court of appeals shall be modified to conform to any decision of the worker's compensation board ending, diminishing, or increasing any weekly payment under the provisions of IC 22-3-3-27 upon the presentation to it of a certified copy of such decision.

(Formerly: Acts 1929, c.172, s.62; Acts 1947, c.162, s.13.) As amended by P.L.144-1986, SEC.46; P.L.28-1988, SEC.38.

IC 22-3-4-10

Actions and proceedings; costs

Sec. 10. In all proceedings before the worker's compensation

board or in a court under IC 22-3-2 through IC 22-3-6, the costs shall be awarded and taxed as provided by law in ordinary civil actions in the circuit court.
(Formerly: Acts 1929, c.172, s.63.) As amended by P.L.144-1986, SEC.47; P.L.28-1988, SEC.39.

IC 22-3-4-11
Medical examination; physician or surgeon

Sec. 11. The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employee and to testify in respect thereto. Said physician or surgeon shall be allowed traveling expenses and a reasonable fee to be fixed by the board.

The fees and expenses of such physician or surgeon shall be paid by the state only on special order of the board or a member thereof.
(Formerly: Acts 1929, c.172, s.64; Acts 1963, c.387, s.14.)

IC 22-3-4-12
Rates and charges; attorney's fees; payment

Sec. 12. Except as provided in section 12.1 of this chapter, the fees of attorneys and physicians and charges of nurses and hospitals for services under IC 22-3-2 through IC 22-3-6 shall be subject to the approval of the worker's compensation board. When any claimant for compensation is represented by an attorney in the prosecution of his claim, the worker's compensation board shall fix and state in the award, if compensation be awarded, the amount of the claimant's attorney's fees. The fee so fixed shall be binding upon both the claimant and his attorney, and the employer shall pay to the attorney out of the award the fee so fixed, and the receipt of the attorney therefor shall fully acquit the employer for an equal portion of the award; provided, that whenever the worker's compensation board shall determine upon hearing of a claim that the employer has acted in bad faith in adjusting and settling said award, or whenever the worker's compensation board shall determine upon hearing of a claim that the employer has not pursued the settlement of said claim with diligence, then the board shall, if compensation be awarded, fix the amount of the claimant's attorney's fees and such attorney fees shall be paid to the attorney and shall not be charged against the award to the claimant.
(Formerly: Acts 1929, c.172, s.65; Acts 1965, c.217, s.3.) As amended by P.L.144-1986, SEC.48; P.L.258-1997(ss), SEC.10; P.L.1-2006, SEC.338.

IC 22-3-4-12.1
Bad faith in adjusting or settling claim for compensation; awards; attorney's fees

Sec. 12.1. (a) The worker's compensation board, upon hearing a claim for benefits, has the exclusive jurisdiction to determine whether the employer, the employer's worker's compensation

administrator, or the worker's compensation insurance carrier has acted with a lack of diligence, in bad faith, or has committed an independent tort in adjusting or settling the claim for compensation.

(b) If lack of diligence, bad faith, or an independent tort is proven under subsection (a), the award to the claimant shall be at least five hundred dollars ($500), but not more than twenty thousand dollars ($20,000), depending upon the degree of culpability and the actual damages sustained.

(c) An award under this section shall be paid by the employer, worker's compensation administrator, or worker's compensation insurance carrier responsible to the claimant for the lack of diligence, bad faith, or independent tort.

(d) The worker's compensation board shall fix in addition to any award under this section the amount of attorney's fees payable with respect to an award made under this section. The attorney's fees may not exceed thirty-three and one-third percent (33 1/3%) of the amount of the award.

(e) If the worker's compensation board makes an award under this section, it shall reduce the award to writing and forward a copy to the department of insurance for review under IC 27-4-1-4.5.

(f) An award or awards to a claimant pursuant to subsection (b) shall not total more than twenty thousand dollars ($20,000) during the life of the claim for benefits arising from an accidental injury.

As added by P.L.258-1997(ss), SEC.11. Amended by P.L.31-2000, SEC.5.

IC 22-3-4-13

Reports of injuries and deaths; violations of article

Sec. 13. (a) Every employer shall keep a record of all injuries, fatal or otherwise, received by or claimed to have been received by the employer's employees in the course of their employment and shall provide a copy of the record to the board upon request. Within seven (7) days after the first day of a disability that arises from a workplace injury and the employer's knowledge of the disability, as provided in IC 22-3-3-1, and that causes an employee's death or absence from work for more than one (1) day, a report thereof shall be made in writing and mailed to the employer's insurance carrier or, if the employer is self insured, delivered to the worker's compensation board in the manner provided in subsections (b) and (c). The insurance carrier shall deliver the report to the worker's compensation board in the manner provided in subsections (b) and (c) not later than seven (7) days after receipt of the report or fourteen (14) days after the employer's knowledge of the injury, whichever is later. An employer or insurance carrier that fails to comply with this subsection is subject to a civil penalty under section 15 of this chapter.

(b) All insurance carriers, companies who carry risk without insurance, and third party administrators reporting accident information to the board in compliance with subsection (a) shall report the information using electronic data interchange standards

prescribed by the board.

(c) The report shall contain the name, nature, and location of the business of the employer, the name, age, sex, wages, occupation of the injured employee, the date and hour of the accident causing the alleged injury, the nature and cause of the injury, and such other information as may be required by the board.

(d) A person who violates any provision of this article, except IC 22-3-5-1, IC 22-3-7-34(b), or IC 22-3-7-34(c), commits a Class C misdemeanor. A person who violates IC 22-3-5-1, IC 22-3-7-34(b), or IC 22-3-7-34(c) commits a Class A misdemeanor. The worker's compensation board in the name of the state may seek relief from any court of competent jurisdiction to enjoin any violation of this article.

(e) The venue of all actions under this section lies in the county in which the employee was injured. The prosecuting attorney of the county shall prosecute all such violations upon written request of the worker's compensation board. Such violations shall be prosecuted in the name of the state.

(f) In an action before the board against an employer who at the time of the injury to or occupational disease of an employee had failed to comply with IC 22-3-5-1, IC 22-3-7-34(b), or IC 22-3-7-34(c), the board may award to the employee or the dependents of a deceased employee:

(1) compensation not to exceed double the compensation provided by this article;

(2) medical expenses; and

(3) reasonable attorney fees in addition to the compensation and medical expenses.

(g) In an action under subsection (d), the court may:

(1) require the employer to obtain coverage and furnish proof of insurance as required by IC 22-3-5-1 and IC 22-3-7-34(b) or IC 22-3-7-34(c) every six (6) months for a period not to exceed three (3) years;

(2) require satisfactory proof of the employer's financial ability to pay any compensation or medical expenses in the amount and manner, and when due, as provided for in IC 22-3, for all injuries which occurred during any period of noncompliance; and

(3) require the employer to deposit with the worker's compensation board an acceptable security, indemnity, or bond to secure the payment of such compensation and medical expense liabilities.

(h) The penalty provision of subsection (d) shall apply only to the employer and shall not apply for a failure to exact a certificate of insurance under IC 22-3-2-14 or IC 22-3-7-34(i) or IC 22-3-7-34(j).

(i) In an action under subsection (d), if a compensable worker's compensation or occupational disease claim has been filed and the employer fails or refuses to pay benefits when due, a court may order the employer to temporarily cease doing business in Indiana until the employer:

(1) furnishes proof of insurance as required by IC 22-3-5-1 and

IC 22-3-7-34(b) or IC 22-3-7-34(c); and

(2) provides any other assurances required by the board to establish that the employer has the ability to meet all worker's compensation liabilities incurred during the employer's period of noncompliance.

(j) An appeal of the court's decision under subsection (i) to enjoin the employer from doing business in Indiana automatically stays the court's order.

(Formerly: Acts 1929, c.172, s.66; Acts 1937, c.214, s.5; Acts 1943, c.136, s.6.) As amended by Acts 1978, P.L.2, SEC.2210; Acts 1982, P.L.135, SEC.1; P.L.145-1986, SEC.1; P.L.28-1988, SEC.40; P.L.170-1991, SEC.11; P.L.75-1993, SEC.3; P.L.1-1994, SEC.108; P.L.235-1999, SEC.4; P.L.1-2007, SEC.159; P.L.1-2010, SEC.85; P.L.168-2011, SEC.7.

IC 22-3-4-14

Awards; termination; reports

Sec. 14. Every employer paying compensation directly without insurance and every insurance carrier paying compensation in behalf of an employer shall, within ten (10) days from the termination of the compensation period fixed in any award against him or its insured, for an injury or death, either by the approval of an agreement or upon hearing, and within ten (10) days from the full redemption of any such award by the cash payment thereof in a lump sum as provided in IC 22-3-2 through IC 22-3-6, make such report or reports as the worker's compensation board may require.

(Formerly: Acts 1929, c.172, s.67.) As amended by P.L.144-1986, SEC.49; P.L.28-1988, SEC.41.

IC 22-3-4-15

Civil penalties; schedule

Sec. 15. (a) In addition to any other remedy available to the board under this article or at law, the board may, after notice and a hearing, assess a civil penalty under this section for any of the following:

(1) Failure to post a notice required by IC 22-3-2-22.

(2) Failure to comply with IC 22-3-3-7 or IC 22-3-7-16.

(3) Failure to file an injury record with the board as required by section 13 of this chapter or to file a report of a disablement by occupational disease as required by IC 22-3-7-37.

(b) For the first violation of an offense listed in subsection (a), the board may assess a civil penalty not to exceed fifty dollars ($50).

(c) For the second unrelated violation of the same offense listed in subsection (a), the board may assess a civil penalty not to exceed one hundred fifty dollars ($150).

(d) For the third or subsequent unrelated violation of the same offense listed in subsection (a), the board may assess a civil penalty not to exceed three hundred dollars ($300).

(e) Civil penalties collected under this section shall be deposited in the worker's compensation supplemental administrative fund established by IC 22-3-5-6.

As added by P.L.168-2011, SEC.8.

IC 22-3-5

Chapter 5. Worker's Compensation: Insurance Requirements

IC 22-3-5-1

Requirements; self-insurance; security; fees

Sec. 1. (a) Every employer under IC 22-3-2 through IC 22-3-6, except those exempted by IC 22-3-2-5, shall:

(1) insure and keep insured the employer's liability under IC 22-3-2 through IC 22-3-6 in some corporation, association, or organization authorized to transact the business of worker's compensation insurance in this state; or

(2) furnish to the worker's compensation board satisfactory proof of the employer's financial ability to pay direct the compensation in the amount and manner and when due as provided in IC 22-3-2 through IC 22-3-6.

(b) Under subsection (a)(2) the board may require the deposit of an acceptable security, indemnity, or bond to secure the payment of compensation liabilities as they are incurred. The board shall charge the following:

(1) An initial application fee of five hundred dollars ($500) to be paid along with the proof of financial ability required under this section.

(2) A renewal fee of two hundred fifty dollars ($250) if the employer holds a certificate of self insurance.

(3) A late filing fee of two hundred fifty dollars ($250).

(Formerly: Acts 1929, c.172, s.68.) As amended by P.L.144-1986, SEC.50; P.L.28-1988, SEC.42; P.L.170-1991, SEC.12.

IC 22-3-5-2

Termination of insurance; filing fees; evidence of compliance

Sec. 2. An employer required to carry insurance under IC 22-3-2-5 and section 1 of this chapter shall file with the worker's compensation board, in the form prescribed by the board, within ten (10) days after the termination of the employer's insurance by expiration or cancellation, evidence of the employer's compliance with section 1 of this chapter and other provisions relating to the insurance under IC 22-3-2 through IC 22-3-6 and shall pay a filing fee in the amount of:

(1) ten dollars ($10) before July 1, 1992;

(2) five dollars ($5) on and after July 1, 1992, and before July 1, 1995; and

(3) two dollars ($2), after July 1, 2013.

This filing fee shall be deposited in the worker's compensation supplemental administrative fund established by section 6 of this chapter and used to offset a part of the board's expenses related to the administration of health care provider reimbursement disputes. Proof of renewal of an existing insurance policy may be filed every three (3) years, but the filing fee for the policy shall be paid annually. An employer coming under the compensation provisions of IC 22-3-2 through IC 22-3-6 shall in a like manner file like evidence of

compliance on the employer's part.
(Formerly: Acts 1929, c.172, s.69; Acts 1937, c.214, s.6.) As amended by Acts 1978, P.L.2, SEC.2211; P.L.28-1988, SEC.43; P.L.170-1991, SEC.13; P.L.275-2013, SEC.8.

IC 22-3-5-2.5
Proof of compliance; notice; civil penalty; Internet posting

Sec. 2.5. (a) The worker's compensation board is entitled to request that an employer provide the board with current proof of compliance with section 2 of this chapter.

(b) If an employer fails or refuses to provide current proof of compliance by the tenth day after the employer receives the board's request under subsection (a), the board:

(1) shall send the employer a written notice that the employer is in violation of section 2 of this chapter; and

(2) may assess a civil penalty against the employer of fifty dollars ($50) per employee per day.

(c) An employer may challenge the board's assessment of a civil penalty under subsection (b)(2) by requesting a hearing in accordance with procedures established by the board.

(d) The board shall waive a civil penalty assessed under subsection (b)(2) if the employer provides the board current proof of compliance by the twentieth day after the date the employer receives the board's notice under subsection (b)(1).

(e) If an employer fails or refuses to:

(1) provide current proof of compliance by the twentieth day after the date the employer receives the board's notice under subsection (b)(1); or

(2) pay a civil penalty assessed under subsection (b)(2);

the board may, after notice to the employer and a hearing, order that the noncompliant employer's name be listed on the board's Internet web site.

(f) A noncompliant employer's name may be removed from the board's Internet web site only after the employer does the following:

(1) Provides current proof of compliance with section 2 of this chapter.

(2) Pays all civil penalties assessed under subsection (b)(2).

(g) The civil penalties provided for in this section are cumulative.

(h) Civil penalties collected under this section shall be deposited in the worker's compensation supplemental administrative fund established by section 6 of this chapter.
As added by P.L.168-2011, SEC.9.

IC 22-3-5-3
Self-insurance; certificates; revocation

Sec. 3. (a) Whenever an employer has complied with the provisions of section 1 of this chapter relating to self-insurance, the worker's compensation board shall issue to such employer a certificate which shall remain in force for a period fixed by the board, but the board may upon at least ten (10) days notice and a

hearing to the employer revoke the certificate upon satisfactory evidence for such revocation having been presented. At any time after such revocation the board may grant a new certificate to the employer upon the employer's petition and satisfactory proof of financial ability.

(b) All such certificates issued by the industrial board before May 21, 1929, shall remain in force for the period for which they were issued unless revoked as in this section provided.

(Formerly: Acts 1929, c.172, s.70.) As amended by P.L.144-1986, SEC.51; P.L.28-1988, SEC.44.

IC 22-3-5-4

Substitute system of insurance

Sec. 4. (a) Subject to the approval of the worker's compensation board, any employer may enter into or continue any agreement with the employer's employees to provide a system of compensation, benefit, or insurance in lieu of the compensation and insurance provided by IC 22-3-2 through IC 22-3-6. No such substitute system shall be approved unless it confers benefits upon injured employees and their dependents at least equivalent to the benefits provided by IC 22-3-2 through IC 22-3-6, nor if it requires contributions from the employees unless it confers benefits in addition to those provided under IC 22-3-2 through IC 22-3-6 at least commensurate with such contributions.

(b) Such substitute system may be terminated by the worker's compensation board on reasonable notice and hearing to the interested parties if it appears that the same is not fairly administered, its operation discloses latent defects threatening its solvency, or if for any substantial reason it fails to accomplish the purpose of IC 22-3-2 through IC 22-3-6. In this case the board shall determine upon the proper distribution of all remaining assets, if any, subject to the right of any party in interest to take an appeal to the court of appeals.

(Formerly: Acts 1929, c.172, s.71.) As amended by P.L.144-1986, SEC.52; P.L.28-1988, SEC.45.

IC 22-3-5-5

Policy provisions; failure to pay claims

Sec. 5. (a) No insurer shall enter into or issue any policy of insurance under IC 22-3-2 through IC 22-3-6 until its policy form shall have been submitted to and approved by the department of insurance.

(b) All policies of insurance companies and of reciprocal insurance associations insuring the payment of compensation under IC 22-3-2 through IC 22-3-6 are conclusively presumed to cover all the employees and the entire compensation liability of the insured. Any provision in any policy attempting to limit or modify the liability of the company or association issuing the same shall be wholly void.

(c) Every policy of any such company or association is deemed to

include the following provisions and any change in the policy which may be required by any statute enacted after May 21, 1929, as fully as if they were written in the policy:

(1) Except as provided in section 5.5 of this chapter, the insurer hereby assumes in full all the obligations to pay physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, compensation, or death benefits imposed upon or accepted by the insured under the provisions of IC 22-3-2 through IC 22-3-6.

(2) This policy is made subject to IC 22-3-2 through IC 22-3-6 relative to the liability of the insured to pay physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, compensation, or death benefits to and for the employees, the acceptance of such liability by the insured, the adjustment, trial, and adjudication of claims for such physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, compensation, or death benefits, and the liability of the insurer to pay the same are and shall be a part of this policy contract as fully and completely as if written in this policy.

(3) As between this insurer and the employee, notice to or knowledge of the occurrence of the injury on the part of the insured (the employer) shall be notice or knowledge thereof, on the part of the insurer. The jurisdiction of the insured (the employer) for the purpose of IC 22-3-2 through IC 22-3-6 shall be the jurisdiction of this insurer. This insurer shall in all things be bound by and shall be subject to the awards, judgments, and decrees rendered against the insured (the employer) under IC 22-3-2 through IC 22-3-6.

(4) This insurer will promptly pay to the person entitled to the same all benefits conferred by IC 22-3-2 through IC 22-3-6, including physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, and all installments of compensation or death benefits that may be awarded or agreed upon under IC 22-3-2 through IC 22-3-6. The obligation of this insurer shall not be affected by any default of the insured (the employer) after the injury or by any default in giving of any notice required by this policy, or otherwise. This policy is a direct promise by this insurer to the person entitled to physician's fees, nurse's charges, fees for hospital services, charges for hospital supplies, charges for burial compensation, or death benefits, and shall be enforceable in the name of the person.

(5) Any termination of this policy by cancellation shall not be effective as to employees of the insured covered hereby unless at least ten (10) days prior to the taking effect of such cancellation, a written notice giving the date upon which such termination is to become effective has been received by the worker's compensation board of Indiana at its office in Indianapolis, Indiana.

(6) This policy shall automatically expire one (1) year from the

effective date of the policy unless:

(A) the policy covers a period of three (3) years, in which event, it shall automatically expire three (3) years from the effective date of the policy;

(B) the policy is issued as a continuous policy, in which event it shall not expire until terminated by the insured or the insurer in accord with applicable state law and applicable policy provisions; or

(C) the policy covers a period permitted in bureau rules under IC 27-7-2-20.

The termination of a policy, as provided in this subdivision, shall be effective as to the employees of the insured covered by the policy.

(d) All claims for compensation, nurse's charges, hospital services, hospital supplies, physician's fees, or burial expenses may be made directly against either the employer or the insurer or both, and the award of the worker's compensation board may be made against either the employer or the insurer or both. If any insurer shall fail or refuse to pay final award or judgment (except during the pendency of an appeal) rendered against it, or its insured, or, if it shall fail or refuse to comply with any provision of IC 22-3-2 through IC 22-3-6, the board shall not accept any further proofs of insurance from it until it shall have paid the award or judgment or complied with the violated provision of IC 22-3-2 through IC 22-3-6.

(Formerly: Acts 1929, c.172, s.72; Acts 1943, c.247, s.1; Acts 1959, c.371, s.1; Acts 1961, c.242, s.1.) As amended by P.L.144-1986, SEC.53; P.L.28-1988, SEC.46; P.L.3-1989, SEC.133; P.L.249-1989, SEC.18; P.L.170-1991, SEC.14; P.L.1-1994, SEC.109; P.L.116-1994, SEC.2; P.L.2-1995, SEC.83; P.L.217-1995, SEC.1; P.L.275-2013, SEC.9.

IC 22-3-5-5.5

Deductibles and co-insurance

Sec. 5.5. (a) Each insurer entering into or issuing an insurance policy under IC 22-3-2 through IC 22-3-7 may, as a part of the policy or as an optional endorsement to the policy, offer deductibles or co-insurance, or both, that are optional to the insured for benefits under IC 22-3-2 through IC 22-3-7. Each insurer may do the following:

(1) Offer deductibles in multiples of five hundred dollars ($500), up to a maximum of five thousand dollars ($5,000) per compensable claim.

(2) Offer co-insurance for each compensable claim. The following apply to co-insurance provided under this subdivision:

(A) The co-insurance must require the insurer to pay eighty percent (80%) and the insured to pay twenty percent (20%) of the amount of benefits due to an employee for an injury compensable under IC 22-3-2 through IC 22-3-7.

(B) An insured employer may not be required to pay more

than four thousand two hundred dollars ($4,200) in co-insurance under this subdivision for each compensable claim.

(b) An insurer shall fully disclose in writing to prospective policyholders the deductibles and co-insurance offered under subsection (a). An insured employer who chooses a deductible under subsection (a):

(1) may choose only one (1) deductible amount; and

(2) is liable for the amount of the deductible for benefits paid for each compensable claim of an employee under IC 22-3-2 through IC 22-3-7.

(c) An insurer shall do the following:

(1) Where a policy provides for a deductible, the insurer shall:

(A) pay all or a part of the deductible amount, whichever is applicable to a compensable claim, to the person or medical service provider entitled to the benefits under IC 22-3-2 through IC 22-3-7; and

(B) seek reimbursement from the employer from the applicable deductible.

(2) Where a policy provides a deductible or co-insurance, the insurance company shall pay the full cost of the claim. The insurance company shall seek reimbursement from the insured employer for its portion of the liability following closing of the claim or when twenty percent (20%) of the benefits paid exceed four thousand two hundred dollars ($4,200).

(d) The payment or nonpayment of a deductible or co-insurance amount by an insured employer to the insurer shall be treated under the policy insuring the liability for worker's compensation in the same manner as payment or nonpayment of premiums is treated.

(e) The premium reduction for deductibles or for co-insurance shall be determined before the application of any experience modifications, premium surcharges, or premium discounts. The applicable premium reduction percentage is the percentage corresponding to the appropriate deductible or co-insurance amount. The premium reduction is obtained by the application of the appropriate reduction percentage, shown under miscellaneous values in the rate pages, to the premium determined before application of any experience or schedule modification, premium discounts, or any retrospective rating plan.

(f) This section does not apply to the following:

(1) An employer that is authorized to self-insure against liability for claims under IC 22-3-2 through IC 22-3-6.

(2) Group self-insurance funds for claims under IC 22-3-2 through IC 22-3-6.

(g) A deductible or co-insurance provided under this section applies against the total of all benefits paid for a compensable claim, including benefits paid under the following:

(1) IC 22-3-3-4.

(2) IC 22-3-3-8 through IC 22-3-3-10.

(3) IC 22-3-3-17.

(4) IC 22-3-3-22.

(h) An employer may not use the employer's election of a deductible or co-insurance under this section or the payment of a deductible or co-insurance under this section in negotiating with the employer's employees on any terms of employment. An employee of an employer that knowingly violates this subsection may file a complaint with the department of labor. The department of labor may impose a civil penalty of not more than one thousand dollars ($1,000) against an employer that knowingly violates this subsection.

(i) This subsection applies to an employee of an employer that has paid a deductible or co-insurance under this section and to the employee's dependents. If an employee or a dependent recovers damages against a third party under IC 22-3-2-13, the insurer shall provide reimbursement to the insured equal to a pro-rata share of the net recovery by the insurer.

As added by P.L.170-1991, SEC.15. Amended by P.L.275-2013, SEC.10.

IC 22-3-5-6

Supplemental administrative fund

Sec. 6. (a) The worker's compensation supplemental administrative fund is established for the purpose of carrying out the administrative purposes and functions of the worker's compensation board.

(b) The fund consists of:

(1) fees collected from employers under sections 1 through 2 of this chapter;

(2) fees collected under IC 22-3-2-14.5, IC 22-3-3-5(d), IC 22-3-7-17(g), and IC 22-3-7-34.5; and

(3) civil penalties assessed under IC 22-3-4-15, section 2.5 of this chapter, and IC 22-3-7-34.3.

(c) The fund shall be administered by the worker's compensation board. Money in the fund is annually appropriated to the worker's compensation board and shall be used for all expenses incurred by the worker's compensation board.

(d) The money in the fund is not to be used to replace funds otherwise appropriated to the board. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

As added by P.L.170-1991, SEC.16. Amended by P.L.75-1993, SEC.4; P.L.202-2001, SEC.6; P.L.168-2011, SEC.10.

IC 22-3-6

Chapter 6. Worker's Compensation: Miscellaneous Provisions

IC 22-3-6-1

Definitions; exemptions

Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the context otherwise requires:

(a) "Employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of IC 22-3-2-6 and IC 22-3-3-31. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5. The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(b) "Employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship, written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer.

(1) An executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation, other than a municipal corporation or governmental subdivision or a charitable, religious, educational, or other nonprofit corporation, is an employee of the corporation under IC 22-3-2 through IC 22-3-6. An officer of a corporation who is the sole officer of the corporation is an employee of the corporation under IC 22-3-2 through IC 22-3-6, but may elect not to be an employee of the corporation under IC 22-3-2 through IC 22-3-6. If an officer makes this election, the officer must serve written notice of the election on the corporation's insurance carrier and the board. An officer of a corporation who is the sole officer of the corporation may not be considered to be excluded as an employee under IC 22-3-2 through IC 22-3-6 until the notice is received by the insurance carrier and the board.

(2) An executive officer of a municipal corporation or other governmental subdivision or of a charitable, religious, educational, or other nonprofit corporation may, notwithstanding any other provision of IC 22-3-2 through IC 22-3-6, be brought within the coverage of its insurance contract by the corporation by specifically including the executive officer in the contract of insurance. The election to bring the executive officer within the coverage shall continue for the period the contract of insurance is in effect, and during this period, the executive officers thus brought within the coverage of the insurance contract are employees of the corporation under IC 22-3-2 through IC 22-3-6.

(3) Any reference to an employee who has been injured, when the employee is dead, also includes the employee's legal representatives, dependents, and other persons to whom compensation may be payable.

(4) An owner of a sole proprietorship may elect to include the owner as an employee under IC 22-3-2 through IC 22-3-6 if the owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If the owner of a sole proprietorship:

(A) is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain a certificate of exemption under IC 22-3-2-14.5; or

(B) is an independent contractor and does not make the election provided under this subdivision, the owner may obtain a certificate of exemption under IC 22-3-2-14.5.

(5) A partner in a partnership may elect to include the partner as an employee under IC 22-3-2 through IC 22-3-6 if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If a partner in a partnership:

(A) is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain a certificate of exemption under IC 22-3-2-14.5; or

(B) is an independent contractor and does not make the election provided under this subdivision, the partner may obtain a certificate of exemption under IC 22-3-2-14.5.

(6) Real estate professionals are not employees under IC 22-3-2 through IC 22-3-6 if:

(A) they are licensed real estate agents;

(B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and

(C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(7) A person is an independent contractor and not an employee under IC 22-3-2 through IC 22-3-6 if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(8) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376 to a motor carrier is not an employee of the motor carrier for purposes of IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(9) A member or manager in a limited liability company may elect to include the member or manager as an employee under IC 22-3-2 through IC 22-3-6 if the member or manager is actually engaged in the limited liability company business. If a member or manager makes this election, the member or manager must serve upon the member's or manager's insurance carrier and upon the board written notice of the election. A member or manager may not be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received.

(10) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth in IC 22-3-2-2.5.

(11) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis is not an employee for purposes of IC 22-3-2 through IC 22-3-6.

(12) An individual who is not an employee of the state or a political subdivision is considered to be a temporary employee of the state for purposes of IC 22-3-2 through IC 22-3-6 while serving as a member of a mobile support unit on duty for training, an exercise, or a response, as set forth in IC 10-14-3-19(c)(2)(B).

(c) "Minor" means an individual who has not reached seventeen (17) years of age.

(1) Unless otherwise provided in this subsection, a minor employee shall be considered as being of full age for all

purposes of IC 22-3-2 through IC 22-3-6.

(2) If the employee is a minor who, at the time of the accident, is employed, required, suffered, or permitted to work in violation of IC 20-33-3-35, the amount of compensation and death benefits, as provided in IC 22-3-2 through IC 22-3-6, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the injury or death of the minor, and the employer shall be liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age and who at the time of the accident is employed, suffered, or permitted to work at any occupation which is not prohibited by law, this subdivision does not apply.

(3) A minor employee who, at the time of the accident, is a student performing services for an employer as part of an approved program under IC 20-37-2-7 shall be considered a full-time employee for the purpose of computing compensation for permanent impairment under IC 22-3-3-10. The average weekly wages for such a student shall be calculated as provided in subsection (d)(4).

(4) The rights and remedies granted in this subsection to a minor under IC 22-3-2 through IC 22-3-6 on account of personal injury or death by accident shall exclude all rights and remedies of the minor, the minor's parents, or the minor's personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of the injury or death. This subsection does not apply to minors who have reached seventeen (17) years of age.

(d) "Average weekly wages" means the earnings of the injured employee in the employment in which the employee was working at the time of the injury during the period of fifty-two (52) weeks immediately preceding the date of injury, divided by fifty-two (52), except as follows:

(1) If the injured employee lost seven (7) or more calendar days during this period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted.

(2) Where the employment prior to the injury extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employee's employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages, as defined in this subsection, regard shall be had to the average

weekly amount which during the fifty-two (52) weeks previous to the injury was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in the same class of employment in the same district.

(3) Wherever allowances of any character made to an employee in lieu of wages are a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

(4) In computing the average weekly wages to be used in calculating an award for permanent impairment under IC 22-3-3-10 for a student employee in an approved training program under IC 20-37-2-7, the following formula shall be used. Calculate the product of:

(A) the student employee's hourly wage rate; multiplied by

(B) forty (40) hours.

The result obtained is the amount of the average weekly wages for the student employee.

(e) "Injury" and "personal injury" mean only injury by accident arising out of and in the course of the employment and do not include a disease in any form except as it results from the injury.

(f) "Billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(g) "Billing review standard" means the data used by a billing review service to determine pecuniary liability.

(h) "Community" means a geographic service area based on ZIP code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by ZIP codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by ZIP codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by ZIP codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by ZIP codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by ZIP codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 ZIP code and ZIP codes with the first three (3) digits 462.

(7) The geographic service area served by ZIP codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by ZIP codes with the first three (3) digits 475, 476, and 477.

(i) "Medical service provider" refers to a person or an entity that provides services or products to an employee under IC 22-3-2 through IC 22-3-6. Except as otherwise provided in IC 22-3-2 through IC 22-3-6, the term includes a medical service facility.

(j) "Medical service facility" means any of the following that provides a service or product under IC 22-3-2 through IC 22-3-6:

(1) A hospital (as defined in IC 16-18-2-179).

(2) A hospital based health facility (as defined in IC 16-18-2-180).

(3) A medical center (as defined in IC 16-18-2-223.4).

The term does not include a professional corporation (as defined in IC 23-1.5-1-10) comprised of health care professionals (as defined in IC 23-1.5-1-8) formed to render professional services as set forth in IC 23-1.5-2-3(a)(4) or a health care professional (as defined in IC 23-1.5-1-8) who bills for a service or product provided under IC 22-3-2 through IC 22-3-6 as an individual or a member of a group practice.

(k) "Pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under IC 22-3-2 through IC 22-3-6, as follows:

(1) This subdivision applies before July 1, 2014, to all medical service providers, and after June 30, 2014, to a medical service provider that is not a medical service facility. Payment of the charges in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

(2) This subdivision applies after June 30, 2014, to a medical service facility. Payment of the charges in a reasonable amount, which is established by payment of one (1) of the following:

(A) The amount negotiated at any time between the medical service facility and any of the following, if an amount has been negotiated:

(i) The employer.

(ii) The employer's insurance carrier.

(iii) A billing review service on behalf of a person described in item (i) or (ii).

(iv) A direct provider network that has contracted with a person described in item (i) or (ii).

(B) Two hundred percent (200%) of the amount that would be paid to the medical service facility on the same date for the same service or product under the medical service facility's Medicare reimbursement rate, if an amount has not been negotiated as described in clause (A).

(l) "Service or product" or "services and products" refers to medical, hospital, surgical, or nursing service, treatment, and supplies provided under IC 22-3-2 through IC 22-3-6.

(Formerly: Acts 1929, c.172, s.73; Acts 1933, c.243, s.1; Acts 1955, c.337, s.1; Acts 1969, c.94, s.7.) As amended by Acts 1979, P.L.228, SEC.1; Acts 1981, P.L.199, SEC.2; P.L.37-1985, SEC.31; P.L.28-1988, SEC.47; P.L.95-1988, SEC.11; P.L.106-1992, SEC.11; P.L.8-1993, SEC.282; P.L.75-1993, SEC.5; P.L.1-1994, SEC.110; P.L.110-1995, SEC.33; P.L.216-1995, SEC.4; P.L.2-1996, SEC.265; P.L.258-1997(ss), SEC.12; P.L.235-1999, SEC.5; P.L.31-2000,

SEC.6; P.L.202-2001, SEC.7; P.L.1-2005, SEC.182; P.L.201-2005, SEC.5; P.L.1-2006, SEC.339; P.L.180-2009, SEC.1; P.L.168-2011, SEC.11; P.L.71-2013, SEC.10; P.L.275-2013, SEC.11.

IC 22-3-6-2
Mutual insurance associations and reciprocal or interinsurance exchanges

Sec. 2. (a) For the purpose of complying with IC 22-3-5-1, groups of employers are hereby authorized to form mutual insurance associations or reciprocal or interinsurance exchanges subject to such reasonable conditions and restrictions as may be fixed by the department of insurance.

(b) Membership in such mutual insurance associations or reciprocal or interinsurance exchanges so approved, together with evidence of the payment of premiums due, shall be evidence of compliance with IC 22-3-5-1.

(c) Subsection (a) does not apply to mutual insurance associations and reciprocal or interinsurance exchanges formed and operating on or before January 1, 1991, which shall continue to operate subject to the provisions of IC 22-3-2 through IC 22-3-6 and to such reasonable conditions and restrictions as may be fixed by the worker's compensation board.

(Formerly: Acts 1929, c.172, s.75.) As amended by P.L.144-1986, SEC.54; P.L.28-1988, SEC.48; P.L.170-1991, SEC.17.

IC 22-3-6-3
Compliance with former law

Sec. 3. Every employer who has complied with the requirements of the provisions of Acts 1915, c.106, or the industrial board or worker's compensation board under that act, which compliance is effective as of May 21, 1929, shall to the same extent be deemed to have complied with the requirements of IC 22-3-2 through IC 22-3-6.

(Formerly: Acts 1929, c.172, s.76.) As amended by P.L.144-1986, SEC.55; P.L.1-2006, SEC.340.

IC 22-3-7

Chapter 7. Worker's Occupational Diseases Compensation

IC 22-3-7-1

Repealed

(Repealed by P.L.28-1988, SEC.118.)

IC 22-3-7-2

Applicability; burden of proof; police and firefighter coverage

Sec. 2. (a) Every employer and every employee, except as stated in this chapter, shall comply with this chapter, requiring the employer and employee to pay and accept compensation for disablement or death by occupational disease arising out of and in the course of the employment, and shall be bound thereby. The burden of proof is on the employee. The proof by the employee of an element of a claim does not create a presumption in favor of the employee with regard to another element of the claim.

(b) This chapter does not apply to the following:

(1) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis.

(2) A nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(c) This chapter does not apply to employees of municipal corporations in Indiana who are members of:

(1) the fire department or police department of any such municipality; and

(2) a firefighters' pension fund or a police officers' pension fund.

However, if the common council elects to purchase and procure worker's occupational disease insurance to insure said employees with respect to medical benefits under this chapter, the medical provisions apply to members of the fire department or police department of any such municipal corporation who are also members of a firefighters' pension fund or a police officers' pension fund.

(d) When any municipal corporation purchases or procures worker's occupational disease insurance covering members of the fire department or police department who are also members of a firefighters' pension fund or a police officers' pension fund and pays the premium or premiums for the insurance, the payment of the premiums is a legal and allowable expenditure of funds of any municipal corporation.

(e) Except as provided in subsection (f), where the common council has procured worker's occupational disease insurance as provided under this section, any member of the fire department or

police department employed in the city carrying the worker's occupational disease insurance under this section is limited to recovery of medical and surgical care, medicines, laboratory, curative and palliative agents and means, x-ray, diagnostic and therapeutic services to the extent that the services are provided for in the worker's occupational disease policy so procured by the city, and may not also recover in addition to that policy for the same benefits provided in IC 36-8-4.

(f) If the medical benefits provided under a worker's occupational disease policy procured by the common council terminate for any reason before the police officer or firefighter is fully recovered, the common council shall provide medical benefits that are necessary until the police officer or firefighter is no longer in need of medical care.

(g) Nothing in this section affects the rights and liabilities of employees and employers had by them prior to April 1, 1963, under this chapter.

(Formerly: Acts 1937, c.69, s.2; Acts 1963, c.388, s.1; Acts 1974, P.L.109, SEC.1.) As amended by Acts 1981, P.L.11, SEC.126; P.L.28-1988, SEC.49; P.L.217-1989, SEC.2; P.L.201-2005, SEC.6; P.L.134-2006, SEC.8.

IC 22-3-7-2.5

School to work student

Sec. 2.5. (a) As used in this section, "school to work student" refers to a student participating in on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).

(b) A school to work student is entitled to the following compensation and benefits under this chapter:

(1) Medical benefits.

(2) Permanent partial impairment compensation under section 16 of this chapter. Permanent partial impairment compensation for a school to work student shall be paid in a lump sum upon agreement or final award.

(3) In the case that death results from the injury:

(A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars ($175,000), payable upon agreement or final award to any dependents of the student under sections 11 through 14 of this chapter, or, if the student has no dependents, to the student's parents; and

(B) burial compensation under section 15 of this chapter.

(c) For the sole purpose of modifying an award under section 27 of this chapter, a school to work student's average weekly wage is presumed to be equal to the federal minimum wage.

(d) A school to work student is not entitled to the following compensation under this chapter:

(1) Temporary total disability compensation under section 16 of this chapter.

(2) Temporary partial disability compensation under section 19 of this chapter.

(e) Except for remedies available under IC 5-2-6.1, recovery under subsection (b) is the exclusive right and remedy for:

(1) a school to work student; and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a school to work student;

on account of disablement or death by occupational disease arising out of and in the course of school to work employment.

As added by P.L.235-1999, SEC.6.

IC 22-3-7-3

Waiver of exemption from act by employer; notice of acceptance; filing

Sec. 3. (a) An employer who is exempt under this section from the operation of the compensation provisions of this chapter may at any time waive such exemption and thereby accept the provisions of this chapter by giving notice as provided in subsection (b).

(b) The notice of acceptance referred to in subsection (a) shall be given thirty (30) days prior to any accident resulting in injury or death, provided that if any such injury occurred less than thirty (30) days after the date of employment, notice of acceptance given at the time of employment shall be sufficient notice thereof. The notice shall be in writing or print in a substantial form prescribed by the worker's compensation board and shall be given by the employer by posting the same in a conspicuous place in the plant, shop, office, room, or place where the employee is employed, or by serving it personally upon the employee. The notice shall be given by the employee by sending the same in registered letter addressed to the employer at his last known residence or place of business, or by giving it personally to the employer, or any of his agents upon whom a summons in civil actions may be served under the laws of the state.

(c) A copy of the notice in prescribed form shall also be filed with the worker's compensation board, within five (5) days after its service in such manner upon the employee or employer.

(Formerly: Acts 1937, c.69, s.3; Acts 1963, c.388, s.2; Acts 1974, P.L.109, SEC.2.) As amended by P.L.28-1988, SEC.50.

IC 22-3-7-4

Repealed

(Repealed by Acts 1974, P.L.109, SEC.8.)

IC 22-3-7-5

Coal mining; application of law

Sec. 5. On and after April 1, 1963, the provisions of this chapter shall apply to the state, to all political divisions thereof, to all municipal corporations within the state, to persons, partnerships, limited liability companies, and corporations engaged in mining coal, and to employees thereof, without any right of exemption from the compensation provisions of this chapter, except as provided in section 34(i) of this chapter.

(Formerly: Acts 1937, c.69, s.4b; Acts 1963, c.388, s.5.) As amended

by P.L.144-1986, SEC.57; P.L.8-1993, SEC.283.

IC 22-3-7-6
Exclusive remedies

Sec. 6. The rights and remedies granted under this chapter to an employee subject to this chapter on account of disablement or death by occupational disease arising out of and in the course of the employment shall exclude all other rights and remedies of such employee, his personal representatives, dependents, or next of kin, at common law or otherwise, on account of such disablement or death.

(Formerly: Acts 1937, c.69, s.4c; Acts 1963, c.388, s.6.) As amended by P.L.144-1986, SEC.58.

IC 22-3-7-7
Statutory duties; application of law

Sec. 7. Nothing in this chapter shall be construed to relieve any employer or employee from penalty for failure or neglect to perform any statutory duty.

(Formerly: Acts 1937, c.69, s.4d; Acts 1963, c.388, s.7.) As amended by P.L.144-1986, SEC.59.

IC 22-3-7-8
Place of exposure; foreign states or foreign countries

Sec. 8. Every employer and employee under this chapter shall be bound by the provisions of this chapter whether exposure and disablement therefrom or death resulting from an occupational disease occurs within the state or in some other state or in a foreign country.

(Formerly: Acts 1937, c.69, s.4e; Acts 1963, c.388, s.8.) As amended by P.L.144-1986, SEC.60.

IC 22-3-7-9
Definitions; applicability of chapter; exemptions

Sec. 9. (a) As used in this chapter, "employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of sections 6 and 33 of this chapter. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of sections 6 and 33 of this chapter. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth under section 2.5 of this chapter. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within

this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(b) As used in this chapter, "employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer. For purposes of this chapter the following apply:

(1) Any reference to an employee who has suffered disablement, when the employee is dead, also includes the employee's legal representative, dependents, and other persons to whom compensation may be payable.

(2) An owner of a sole proprietorship may elect to include the owner as an employee under this chapter if the owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under this chapter unless the notice has been received. If the owner of a sole proprietorship:

(A) is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain a certificate of exemption under section 34.5 of this chapter; or

(B) is an independent contractor and does not make the election provided under this subdivision, the owner may obtain a certificate of exemption under section 34.5 of this chapter.

(3) A partner in a partnership may elect to include the partner as an employee under this chapter if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under this chapter until the notice has been received. If a partner in a partnership:

(A) is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain a certificate of exemption under section 34.5 of this chapter; or

(B) is an independent contractor and does not make the election provided under this subdivision, the partner may obtain a certificate of exemption under section 34.5 of this chapter.

(4) Real estate professionals are not employees under this

chapter if:

(A) they are licensed real estate agents;

(B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and

(C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(5) A person is an independent contractor in the construction trades and not an employee under this chapter if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(6) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376, to a motor carrier is not an employee of the motor carrier for purposes of this chapter. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(7) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth under section 2.5 of this chapter.

(8) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis is not an employee for purposes of this chapter.

(9) An officer of a corporation who is the sole officer of the corporation is an employee of the corporation under this chapter. An officer of a corporation who is the sole officer of the corporation may elect not to be an employee of the corporation under this chapter. If an officer makes this election, the officer must serve written notice of the election on the corporation's insurance carrier and the board. An officer of a corporation who is the sole officer of the corporation may not be considered to be excluded as an employee under this chapter until the notice is received by the insurance carrier and the board.

(10) An individual who is not an employee of the state or a political subdivision is considered to be a temporary employee of the state for purposes of this chapter while serving as a member of a mobile support unit on duty for training, an exercise, or a response, as set forth in IC 10-14-3-19(c)(2)(B).

(c) As used in this chapter, "minor" means an individual who has not reached seventeen (17) years of age. A minor employee shall be

considered as being of full age for all purposes of this chapter. However, if the employee is a minor who, at the time of the last exposure, is employed, required, suffered, or permitted to work in violation of the child labor laws of this state, the amount of compensation and death benefits, as provided in this chapter, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the disability or death of the minor, and the employer shall be wholly liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age, and who at the time of the last exposure is employed, suffered, or permitted to work at any occupation which is not prohibited by law, the provisions of this subsection prescribing double the amount otherwise recoverable do not apply. The rights and remedies granted to a minor under this chapter on account of disease shall exclude all rights and remedies of the minor, the minor's parents, the minor's personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of any disease.

(d) This chapter does not apply to casual laborers as defined in subsection (b), nor to farm or agricultural employees, nor to household employees, nor to railroad employees engaged in train service as engineers, firemen, conductors, brakemen, flagmen, baggagemen, or foremen in charge of yard engines and helpers assigned thereto, nor to their employers with respect to these employees. Also, this chapter does not apply to employees or their employers with respect to employments in which the laws of the United States provide for compensation or liability for injury to the health, disability, or death by reason of diseases suffered by these employees.

(e) As used in this chapter, "disablement" means the event of becoming disabled from earning full wages at the work in which the employee was engaged when last exposed to the hazards of the occupational disease by the employer from whom the employee claims compensation or equal wages in other suitable employment, and "disability" means the state of being so incapacitated.

(f) For the purposes of this chapter, no compensation shall be payable for or on account of any occupational diseases unless disablement, as defined in subsection (e), occurs within two (2) years after the last day of the last exposure to the hazards of the disease except for the following:

(1) In all cases of occupational diseases caused by the inhalation of silica dust or coal dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease.

(2) In all cases of occupational disease caused by the exposure to radiation, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within two (2)

years from the date on which the employee had knowledge of the nature of the employee's occupational disease or, by exercise of reasonable diligence, should have known of the existence of such disease and its causal relationship to the employee's employment.

(3) In all cases of occupational diseases caused by the inhalation of asbestos dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease if the last day of the last exposure was before July 1, 1985.

(4) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1985, and before July 1, 1988, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within twenty (20) years after the last day of the last exposure.

(5) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1988, no compensation shall be payable unless disablement (as defined in subsection (e)) occurs within thirty-five (35) years after the last day of the last exposure.

(g) For the purposes of this chapter, no compensation shall be payable for or on account of death resulting from any occupational disease unless death occurs within two (2) years after the date of disablement. However, this subsection does not bar compensation for death:

(1) where death occurs during the pendency of a claim filed by an employee within two (2) years after the date of disablement and which claim has not resulted in a decision or has resulted in a decision which is in process of review or appeal; or

(2) where, by agreement filed or decision rendered, a compensable period of disability has been fixed and death occurs within two (2) years after the end of such fixed period, but in no event later than three hundred (300) weeks after the date of disablement.

(h) As used in this chapter, "billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(i) As used in this chapter, "billing review standard" means the data used by a billing review service to determine pecuniary liability.

(j) As used in this chapter, "community" means a geographic service area based on ZIP code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by ZIP codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by ZIP codes with the

first three (3) digits 465 and 466.

(3) The geographic service area served by ZIP codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by ZIP codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by ZIP codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 ZIP code and ZIP codes with the first three (3) digits 462.

(7) The geographic service area served by ZIP codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by ZIP codes with the first three (3) digits 475, 476, and 477.

(k) As used in this chapter, "medical service provider" refers to a person or an entity that provides services or products to an employee under this chapter. Except as otherwise provided in this chapter, the term includes a medical service facility.

(l) As used in this chapter, "medical service facility" means any of the following that provides a service or product under this chapter:

(1) A hospital (as defined in IC 16-18-2-179).

(2) A hospital based health facility (as defined in IC 16-18-2-180).

(3) A medical center (as defined in IC 16-18-2-223.4).

The term does not include a professional corporation (as defined in IC 23-1.5-1-10) comprised of health care professionals (as defined in IC 23-1.5-1-8) formed to render professional services as set forth in IC 23-1.5-2-3(a)(4) or a health care professional (as defined in IC 23-1.5-1-8) who bills for a service or product provided under this chapter as an individual or a member of a group practice.

(m) As used in this chapter, "pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under this chapter as follows:

(1) This subdivision applies before July 1, 2014, to all medical service providers, and after June 30, 2014, to a medical service provider that is not a medical service facility. Payment of the charges in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

(2) This subdivision applies after June 30, 2014, to a medical service facility. Payment of the charges in a reasonable amount, which is established by payment of one (1) of the following:

(A) The amount negotiated at any time between the medical service facility and any of the following, if an amount has been negotiated:

(i) The employer.

(ii) The employer's insurance carrier.

(iii) A billing review service on behalf of a person described in item (i) or (ii).

(iv) A direct provider network that has contracted with a

person described in item (i) or (ii).

(B) Two hundred percent (200%) of the amount that would be paid to the medical service facility on the same date for the same service or product under the medical service facility's Medicare reimbursement rate, if an amount has not been negotiated as described in clause (A).

(n) "Service or product" or "services and products" refers to medical, hospital, surgical, or nursing service, treatment, and supplies provided under this chapter.

(Formerly: Acts 1937, c.69, s.5; Acts 1955, c.131, s.1; Acts 1955, c.195, s.1; Acts 1961, c.240, s.1; Acts 1963, c.48, s.16; Acts 1969, c.101, s.1; Acts 1974, P.L.109, SEC.3.) As amended by Acts 1979, P.L.228, SEC.2; P.L.224-1985, SEC.1; P.L.95-1988, SEC.12; P.L.75-1993, SEC.5; P.L.8-1993, SEC.284; P.L.1-1994, SEC.111; P.L.110-1995, SEC.34; P.L.216-1995, SEC.5; P.L.2-1996, SEC.266; P.L.258-1997(ss), SEC.13; P.L.235-1999, SEC.7; P.L.31-2000, SEC.7; P.L.202-2001, SEC.8; P.L.201-2005, SEC.7; P.L.1-2009, SEC.127; P.L.180-2009, SEC.2; P.L.42-2011, SEC.38; P.L.168-2011, SEC.12; P.L.6-2012, SEC.150; P.L.71-2013, SEC.11; P.L.275-2013, SEC.12.

IC 22-3-7-9.2

"Violation of the child labor laws of this state"

Sec. 9.2. As used in section 9(c) of this chapter, the term "violation of the child labor laws of this state" means a violation of IC 20-33-3-35. The term does not include a violation of any other provision of IC 20-33-3.

As added by P.L.37-1985, SEC.32. Amended by P.L.106-1992, SEC.12; P.L.1-2005, SEC.183.

IC 22-3-7-10

Definitions; course of employment

Sec. 10. (a) As used in this chapter, "occupational disease" means a disease arising out of and in the course of the employment. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where such diseases follow as an incident of an occupational disease as defined in this section.

(b) A disease arises out of the employment only if there is apparent to the rational mind, upon consideration of all of the circumstances, a direct causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment, and which can be fairly traced to the employment as the proximate cause, and which does not come from a hazard to which workers would have been equally exposed outside of the employment. The disease must be incidental to the character of the business and not independent of the relation of employer and employee. The disease need not have been foreseen or expected but

after its contraction it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence.
(Formerly: Acts 1937, c.69, s.6.) As amended by P.L.144-1986, SEC.61; P.L.28-1988, SEC.51.

IC 22-3-7-10.5
Average weekly wages of public employee; determination

Sec. 10.5. For purposes of this chapter, the average weekly wages of a public employee shall be determined without regard to any salary reduction agreement under Section 125 of the Internal Revenue Code.
As added by P.L.5-1992, SEC.9.

IC 22-3-7-11
Death benefits; payment

Sec. 11. On and after April 1, 1957, and prior to April 1, 1967, when death results from an occupational disease within four hundred (400) weeks, there shall be paid to total dependents of said deceased, as determined by the provisions of IC 22-3-7-12, IC 22-3-7-13, IC 22-3-7-14, IC 22-3-7-15, a weekly compensation amounting to sixty (60) per centum of the deceased's average weekly wage until the compensation so paid when added to any compensation paid to the deceased employee shall equal four hundred (400) weeks, and to partial dependents as hereinafter provided.

On and after April 1, 1967, and prior to April 1, 1969, when death results from an occupational disease within four hundred fifty (450) weeks, there shall be paid to total dependents of said deceased, as determined by the provisions of IC 22-3-7-12, IC 22-3-7-13, IC 22-3-7-14, IC 22-3-7-15, a weekly compensation amounting to sixty (60) per centum of the deceased's average weekly wage, until the compensation so paid when added to any compensation paid to the deceased employee shall equal four hundred fifty (450) weeks, and to partial dependents as hereinafter provided.

On and after April 1, 1969, and prior to July 1, 1974, when death results from occupational disease within five hundred (500) weeks, there shall be paid to total dependents of said deceased, as determined by the provisions of IC 22-3-7-12, IC 22-3-7-13, IC 22-3-7-14, IC 22-3-7-15, a weekly compensation amounting to sixty (60) per centum of the deceased's average weekly wage, until the compensation so paid when added to any compensation paid to the deceased employee shall equal five hundred (500) weeks, and to partial dependents as hereinafter provided.

On and after July 1, 1974, and before July 1, 1976, when death results from occupational disease within five hundred (500) weeks, there shall be paid to total dependents of said deceased as determined by the provisions of IC 22-3-7-12, IC 22-3-7-13, IC 22-3-7-14, IC 22-3-7-15, a weekly compensation amounting to sixty-six and two-thirds (66 2/3) per centum of the deceased's average weekly wage, up to one hundred thirty-five dollars ($135.00) average weekly

wages, until the compensation so paid when added to any compensation paid to the deceased employee shall equal five hundred (500) weeks, and to partial dependents as hereinafter provided.

On and after July 1, 1976, when death results from occupational disease within five hundred (500) weeks, there shall be paid to total dependents of the deceased, as determined by the provisions of IC 22-3-7-12 through IC 22-3-7-15, a weekly compensation amounting to sixty-six and two-thirds percent (66 2/3%) of the deceased's average weekly wage, as defined in IC 22-3-7-19, until the compensation paid, when added to compensation paid to the deceased employee, equals five hundred (500) weeks, and to partial dependents as provided in this chapter.

(Formerly: Acts 1937, c.69, s.7; Acts 1943, c.115, s.1; Acts 1945, c.290, s.1; Acts 1947, c.164, s.1; Acts 1949, c.242, s.3; Acts 1951, c.250, s.3; Acts 1957, c.353, s.1; Acts 1967, c.313, s.1; Acts 1969, c.101, s.2; Acts 1974, P.L.109, SEC.4.) As amended by Acts 1976, P.L.112, SEC.4.

IC 22-3-7-12
Dependents; classification

Sec. 12. (a) Dependents under this chapter shall consist of the following three (3) classes:

(1) Presumptive dependents.
(2) Total dependents in fact.
(3) Partial dependents in fact.

(b) Presumptive dependents shall be entitled to compensation to the complete exclusion of total dependents in fact and partial dependents in fact and shall be entitled to such compensation in equal shares.

(c) Total dependents in fact shall be entitled to compensation to the complete exclusion of partial dependents in fact and shall be entitled to such compensation, if more than one (1) such dependent exists, in equal shares. The question of total dependency shall be determined as of the time of death.

(d) Partial dependents in fact shall not be entitled to any compensation if any other class of dependents exist. The weekly compensation to persons partially dependent in fact shall be in the same proportion to the weekly compensation of persons wholly dependent as the average amount contributed weekly by the deceased to such partial dependent in fact bears to his average weekly wages at the time of the disablement. The question of partial dependency in fact shall be determined as of the time of the disablement.

(Formerly: Acts 1937, c.69, s.7a; Acts 1947, c.164, s.2.) As amended by P.L.144-1986, SEC.62.

IC 22-3-7-13
Presumptive dependents; termination of dependency

Sec. 13. (a) The following persons are conclusively presumed to be wholly dependent for support upon a deceased employee and shall

constitute the class known as presumptive dependents in section 12 of this chapter:

(1) A wife upon a husband with whom she is living at the time of his death, or upon whom the laws of the state impose the obligation of her support at such time. The term "wife", as used in this subdivision, shall exclude a common law wife unless such common law relationship was entered into before January 1, 1958, and, in addition, existed openly and notoriously for a period of not less than five (5) years immediately preceding the death.

(2) A husband upon his wife with whom he is living at the time of her death. The term "husband", as used in this subdivision, shall exclude a common law husband unless such common law relationship was entered into before January 1, 1958, and, in addition existed openly and notoriously for a period of not less than five (5) years immediately preceding the death.

(3) An unmarried child under the age of twenty-one (21) years upon the parent with whom the child is living at the time of the death of such parent.

(4) An unmarried child under twenty-one (21) years upon the parent with whom the child may not be living at the time of the death of such parent, but upon whom at such time, the laws of the state impose the obligation to support such child.

(5) A child over the age of twenty-one (21) years who has never been married and who is either physically or mentally incapacitated from earning the child's own support, upon a parent upon whom the laws of the state impose the obligation of the support of such unmarried child.

(6) A child over the age of twenty-one (21) years who has never been married and who at the time of the death of the parent is keeping house for and living with such parent and is not otherwise gainfully employed.

(b) As used in this section, the term "child" includes stepchildren, legally adopted children, posthumous children, and acknowledged children born out of wedlock. The term "parent" includes stepparents and parents by adoption.

(c) The dependency of a child under subsections (a)(3) and (a)(4) shall terminate when the child attains the age of twenty-one (21).

(d) The dependency of any person as a presumptive dependent shall terminate upon the marriage of such dependent subsequent to the death of the employee, and such dependency shall not be reinstated by divorce. However, for deaths from injuries occurring on and after July 1, 1977, a surviving spouse who is a presumptive dependent and who is the only surviving dependent of the deceased is entitled to receive, upon remarriage before the expiration of the maximum statutory compensation period, a lump sum settlement equal to the smaller of one hundred four (104) weeks of compensation or the compensation for the remainder of the maximum statutory period.

(e) The dependency of any child under subsection (a)(6) shall be

terminated at such time as such dependent becomes gainfully employed or marries.
(Formerly: Acts 1937, c.69, s.7b; Acts 1947, c.164, s.3; Acts 1963, c.388, s.9.) As amended by Acts 1977, P.L.261, SEC.4; P.L.152-1987, SEC.7; P.L.134-1990, SEC.2.

IC 22-3-7-14
Dependents; total or partial dependents; relatives; termination of dependency

Sec. 14. Total or partial dependents in fact shall include only those persons related to the deceased employee by blood or by marriage, except an unmarried child under eighteen (18) years of age. Any such person who is actually totally or partially dependent upon the deceased employee is entitled to compensation as such dependent in fact. The right to compensation of any person totally or partially dependent in fact shall be terminated by the marriage of such dependent subsequent to the death of the employee and such dependency shall not be reinstated by divorce.
(Formerly: Acts 1937, c.69, s.7c; Acts 1947, c.164, s.4.)

IC 22-3-7-15
Death benefits; burial expenses

Sec. 15. In cases of the death of an employee from an occupational disease arising out of and in the course of the employee's employment under circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of such employee, not exceeding seven thousand five hundred dollars ($7,500).
(Formerly: Acts 1937, c.69, s.7d; Acts 1947, c.164, s.5; Acts 1955, c.241, s.1; Acts 1963, c.388, s.10; Acts 1967, c.313, s.2; Acts 1971, P.L.354, SEC.1.) As amended by P.L.225-1983, SEC.3; P.L.95-1988, SEC.13; P.L.170-1991, SEC.18; P.L.201-2005, SEC.8.

IC 22-3-7-16
Disablements; awards

Sec. 16. (a) Compensation shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the

employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

(1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;

(2) the status of the investigation on the date the petition is filed;

(3) the facts or circumstances that are necessary to make a determination; and

(4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty under IC 22-3-4-15.

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

(1) the employee has returned to work;

(2) the employee has died;

(3) the employee has refused to undergo a medical examination under section 20 of this chapter;

(4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; or

(5) the employee is unable or unavailable to work for reasons unrelated to the compensable disease.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits, and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for

an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under section 27 of this chapter.

(c) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(d) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under this section and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

(e) For disablements occurring on and after July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during the temporary total disability weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(f) For disablements occurring on and after July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(g) For disabilities occurring on and after July 1, 1979, and before July 1, 1988, from occupational disease in the schedule set forth in subsection (j), the employee shall receive in addition to disability

benefits, not exceeding fifty-two (52) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the disabilities.

(h) For disabilities occurring on and after July 1, 1988, and before July 1, 1989, from occupational disease in the schedule set forth in subsection (j), the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the disabilities.

(i) For disabilities occurring on and after July 1, 1989, and before July 1, 1990, from occupational disease in the schedule set forth in subsection (j), the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the disabilities.

(j) For disabilities occurring on and after July 1, 1990, and before July 1, 1991, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the disabilities.

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than two (2) phalanges of a finger shall be considered as the loss of one-half (1/2) the finger and compensation shall be paid for one-half

(1/2) of the period for the loss of the entire finger.

(2) Loss of Use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange and the compensation shall be paid for the same period as for the loss thereof by separation.

(3) Partial Loss of Use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(4) For disablements for occupational disease resulting in total permanent disability, five hundred (500) weeks.

(5) For the loss of both hands, or both feet, or the total sight of both eyes, or any two (2) of such losses resulting from the same disablement by occupational disease, five hundred (500) weeks.

(6) For the permanent and complete loss of vision by enucleation of an eye or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred fifty (150) weeks, and for any other permanent reduction of the sight of an eye, compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(7) For the permanent and complete loss of hearing, two hundred (200) weeks.

(8) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(9) In all cases of permanent disfigurement, which may impair the future usefulness or opportunities of the employee, compensation in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this paragraph where compensation shall be payable under subdivisions (1) through (8). Where compensation for temporary total disability has been paid, this amount of compensation shall be deducted from any compensation due for permanent disfigurement.

(k) With respect to disablements in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the disablement, compensation in an amount determined under the following schedule

to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the disablement occurred:

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; of separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations occurring on or after July 1, 1997: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, the dollar values per degree applying on the date of the injury as described in subsection (l) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(6) For the permanent and complete loss of hearing in one (1)

ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(7) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(8) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(9) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(10) For disablements resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(11) For any permanent reduction of the sight of an eye less than a total loss as specified in subdivision (5), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (6), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(l) With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement

determined under subsection (k) and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars ($500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars ($900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars ($1,500) per degree.

(2) With respect to disablements occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars ($500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars ($800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(3) With respect to disablements occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars ($500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars ($700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(4) With respect to disablements occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(5) With respect to disablements occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred

dollars ($1,700) per degree.
(6) With respect to disablements occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars ($900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars ($2,000) per degree.
(7) With respect to disablements occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars ($2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars ($2,500) per degree.
(8) With respect to disablements occurring on and after July 1, 2001, and before July 1, 2007, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars ($1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars ($2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars ($3,000) per degree.
(9) With respect to disablements occurring on and after July 1, 2007, and before July 1, 2008, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred forty dollars ($1,340) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred forty-five dollars ($1,545) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred seventy-five dollars ($2,475) per degree; for each degree of permanent impairment above fifty (50), three thousand one hundred fifty dollars ($3,150) per degree.
(10) With respect to disablements occurring on and after July 1, 2008, and before July 1, 2009, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred sixty-five dollars ($1,365) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred seventy dollars ($1,570) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand five hundred twenty-five dollars

($2,525) per degree; for each degree of permanent impairment above fifty (50), three thousand two hundred dollars ($3,200) per degree.

(11) With respect to disablements occurring on and after July 1, 2009, and before July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred eighty dollars ($1,380) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred eighty-five dollars ($1,585) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand six hundred dollars ($2,600) per degree; for each degree of permanent impairment above fifty (50), three thousand three hundred dollars ($3,300) per degree.

(12) With respect to disablements occurring on and after July 1, 2010, and before July 1, 2014, for each degree of permanent impairment from one (1) to ten (10), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred dollars ($2,700) per degree; for each degree of permanent impairment above fifty (50), three thousand five hundred dollars ($3,500) per degree.

(13) With respect to disablements occurring on and after July 1, 2014, and before July 1, 2015, for each degree of permanent impairment from one (1) to ten (10), one thousand five hundred seventeen dollars ($1,517) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand seven hundred seventeen dollars ($1,717) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand eight hundred sixty-two dollars ($2,862) per degree; for each degree of permanent impairment above fifty (50), three thousand six hundred eighty-seven dollars ($3,687) per degree.

(14) With respect to disablements occurring on and after July 1, 2015, and before July 1, 2016, for each degree of permanent impairment from one (1) to ten (10), one thousand six hundred thirty-three dollars ($1,633) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand eight hundred thirty-five dollars ($1,835) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand twenty-four dollars ($3,024) per degree; for each degree of permanent impairment above fifty (50), three thousand eight hundred seventy-three dollars ($3,873) per degree.

(15) With respect to disablements occurring on and after July 1, 2016, for each degree of permanent impairment from one (1) to ten (10), one thousand seven hundred fifty dollars ($1,750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand nine hundred fifty-two

dollars ($1,952) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand one hundred eighty-six dollars ($3,186) per degree; for each degree of permanent impairment above fifty (50), four thousand sixty dollars ($4,060) per degree.

(m) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (k) and (l) shall not exceed the following:

(1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars ($492).

(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars ($540).

(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars ($591).

(4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars ($642).

(5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars ($672).

(6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars ($702).

(7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars ($732).

(8) With respect to disablements occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars ($762).

(9) With respect to disablements occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars ($822).

(10) With respect to disablements occurring on or after July 1, 2002, and before July 1, 2006, eight hundred eighty-two dollars ($882).

(11) With respect to disablements occurring on or after July 1, 2006, and before July 1, 2007, nine hundred dollars ($900).

(12) With respect to disablements occurring on or after July 1, 2007, and before July 1, 2008, nine hundred thirty dollars ($930).

(13) With respect to disablements occurring on or after July 1, 2008, and before July 1, 2009, nine hundred fifty-four dollars ($954).

(14) With respect to disablements occurring on or after July 1, 2009, and before July 1, 2014, nine hundred seventy-five dollars ($975).

(15) With respect to disablements occurring on or after July 1,

2014, and before July 1, 2015, one thousand forty dollars ($1,040).

(16) With respect to disablements occurring on or after July 1, 2015, and before July 1, 2016, one thousand one hundred five dollars ($1,105).

(17) With respect to disablements occurring on or after July 1, 2016, one thousand one hundred seventy dollars ($1,170).

(n) If any employee, only partially disabled, refuses employment suitable to the employee's capacity procured for the employee, the employee shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(o) If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which the employee suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

(p) If an employee suffers a disablement from an occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, the employee shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection (k)(1), (k)(4), (k)(5), (k)(8), or (k)(9), but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

(q) If an employee receives a permanent disability from an occupational disease such as specified in subsection (k)(1), (k)(4), (k)(5), (k)(8), or (k)(9) after having sustained another such

permanent disability in the same employment the employee shall be entitled to compensation for both such disabilities, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation and, when such previous and subsequent permanent disabilities, in combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or impairment, but payments made for the previous disability or impairment shall be deducted from the total payment of compensation due.

(r) When an employee has been awarded or is entitled to an award of compensation for a definite period from an occupational disease wherein disablement occurs on and after April 1, 1963, and such employee dies from other causes than such occupational disease, payment of the unpaid balance of such compensation not exceeding three hundred fifty (350) weeks shall be paid to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter and compensation, not exceeding five hundred (500) weeks shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter.

(s) Any payment made by the employer to the employee during the period of the employee's disability, or to the employee's dependents, which, by the terms of this chapter, was not due and payable when made, may, subject to the approval of the worker's compensation board, be deducted from the amount to be paid as compensation, but such deduction shall be made from the distal end of the period during which compensation must be paid, except in cases of temporary disability.

(t) When so provided in the compensation agreement or in the award of the worker's compensation board, compensation may be paid semimonthly, or monthly, instead of weekly.

(u) When the aggregate payments of compensation awarded by agreement or upon hearing to an employee or dependent under eighteen (18) years of age do not exceed one hundred dollars ($100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

(v) Whenever the aggregate payments of compensation, due to any person under eighteen (18) years of age, exceed one hundred dollars ($100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or, upon the order of the worker's compensation board, to a parent or to such minor person. The payment of compensation, due to any person eighteen (18) years of age or over, may be made directly to such person.

(w) If an employee, or a dependent, is mentally incompetent, or a minor at the time when any right or privilege accrues to the employee under this chapter, the employee's guardian or trustee may, in the employee's behalf, claim and exercise such right and privilege.

(x) All compensation payments named and provided for in this

section, shall mean and be defined to be for only such occupational diseases and disabilities therefrom as are proved by competent evidence, of which there are or have been objective conditions or symptoms proven, not within the physical or mental control of the employee.

(Formerly: Acts 1937, c.69, s.8; Acts 1949, c.242, s.1; Acts 1951, c.250, s.1; Acts 1955, c.326, s.1; Acts 1963, c.388, s.11; Acts 1971, P.L.354, SEC.2; Acts 1974, P.L.109, SEC.5.) As amended by Acts 1976, P.L.112, SEC.5; Acts 1977, P.L.261, SEC.5; Acts 1979, P.L.227, SEC.5; P.L.95-1988, SEC.14; P.L.170-1991, SEC.19; P.L.258-1997(ss), SEC.14; P.L.31-2000, SEC.8; P.L.1-2001, SEC.28; P.L.134-2006, SEC.9; P.L.168-2011, SEC.13; P.L.275-2013, SEC.13.

IC 22-3-7-17

Medical attendance and treatment; prosthetic devices; emergency treatment; liability to providers; medical service provider claims

Sec. 17. (a) During the period of disablement, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of the employee's occupational disease, and in addition thereto such services and products as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of the travel by the state of Indiana to its employees. If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.

(b) During the period of disablement resulting from the occupational disease, the employer shall furnish such physician, services and products, and the worker's compensation board may, on proper application of either party, require that treatment by such physician and such services and products be furnished by or on behalf of the employer as the board may deem reasonably necessary. After an employee's occupational disease has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27(i) of this chapter, the employer may continue to furnish a physician or a surgeon and other services and products, and the board may, within such statutory period for review as provided in section 27(i) of this chapter, on a proper application of either party, require that treatment by such physician or surgeon and such services and products be furnished by and on behalf of the employer as the board may deem necessary to limit or reduce the amount and extent of such impairment. The refusal of the employee to accept such services and products when so provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the

period of such refusal and the employee's right to prosecute any proceeding under this chapter shall be suspended and abated until such refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of such impairment, disfigurement, or death which is the result of the failure of such employee to accept such services and products, provided that an employer may at any time permit an employee to have treatment for the employee's disease or injury by spiritual means or prayer in lieu of such physician, services and products.

(c) Regardless of when it occurs, where a compensable occupational disease results in the amputation of a body part, the enucleation of an eye, or the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable occupational disease pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

(d) If an emergency or because of the employer's failure to provide such attending physician or such services and products or such treatment by spiritual means or prayer as specified in this section, or for other good reason, a physician other than that provided by the employer treats the diseased employee within the period of disability, or necessary and proper services and products are procured within the period, the reasonable cost of such services and products shall, subject to approval of the worker's compensation board, be paid by the employer.

(e) An employer or employer's insurance carrier may not delay the provision of emergency medical care whenever emergency medical care is considered necessary in the professional judgment of the attending health care facility physician.

(f) This section may not be construed to prohibit an agreement between an employer and employees that has the approval of the board and that:

(1) binds the parties to medical care furnished by medical service providers selected by agreement before or after disablement; or

(2) makes the findings of a medical service provider chosen in this manner binding upon the parties.

(g) The employee and the employee's estate do not have liability to a medical service provider for payment for services obtained under this section. The right to order payment for all services provided

under this chapter is solely with the board. All claims by a medical service provider for payment for services are against the employer and the employer's insurance carrier, if any, and must be made with the board under this chapter. After June 30, 2011, a medical service provider must file an application for adjustment of a claim for a medical service provider's fee with the board not later than two (2) years after the receipt of an initial written communication from the employer, the employer's insurance carrier, if any, or an agent acting on behalf of the employer after the medical service provider submits a bill for services. To offset a part of the board's expenses related to the administration of medical service provider reimbursement disputes, a medical service facility shall pay a filing fee of sixty dollars ($60) in a balance billing case. The filing fee must accompany each application filed with the board. If an employer, employer's insurance carrier, or an agent acting on behalf of the employer denies or fails to pay any amount on a claim submitted by a medical service facility, a filing fee is not required to accompany an application that is filed for the denied or unpaid claim. A medical service provider may combine up to ten (10) individual claims into one (1) application whenever:

(1) all individual claims involve the same employer, insurance carrier, or billing review service; and

(2) the amount of each individual claim does not exceed two hundred dollars ($200).

(Formerly: Acts 1937, c.69, s.9; Acts 1947, c.164, s.6; Acts 1963, c.388, s.12.) As amended by P.L.144-1986, SEC.63; P.L.28-1988, SEC.52; P.L.95-1988, SEC.15; P.L.170-1991, SEC.20; P.L.258-1997(ss), SEC.15; P.L.31-2000, SEC.9; P.L.67-2010, SEC.3; P.L.168-2011, SEC.14; P.L.275-2013, SEC.14.

IC 22-3-7-17.1

Collection of medical expense payments; civil penalties; good faith errors

Sec. 17.1. (a) A medical service provider or a medical service provider's agent, servant, employee, assignee, employer, or independent contractor on behalf of the medical service provider may not knowingly collect or attempt to collect the payment of a charge for medical services or products covered under IC 22 from an employee or the employee's estate or family members.

(b) If after a hearing, the worker's compensation board finds that a medical service provider has violated this section, the worker's compensation board may assess a civil penalty against the medical service provider in an amount that is at least one hundred dollars ($100) but less than one thousand dollars ($1,000) for each violation.

(c) The worker's compensation board may not assess a civil penalty against a medical service provider for a violation of this section that is the result of a good faith error.

As added by P.L.216-1995, SEC.6.

IC 22-3-7-17.2

Billing review service standards

Sec. 17.2. (a) A billing review service shall adhere to the following requirements to determine the pecuniary liability of an employer or an employer's insurance carrier for a specific service or product covered under this chapter provided before July 1, 2014, by all medical service providers, and after June 30, 2014, by a medical service provider that is not a medical service facility:

(1) The formation of a billing review standard, and any subsequent analysis or revision of the standard, must use data that is based on the medical service provider billing charges as submitted to the employer and the employer's insurance carrier from the same community. This subdivision does not apply when a unique or specialized service or product does not have sufficient comparative data to allow for a reasonable comparison.

(2) Data used to determine pecuniary liability must be compiled on or before June 30 and December 31 of each year.

(3) Billing review standards must be revised for prospective future payments of medical service provider bills to provide for payment of the charges at a rate not more than the charges made by eighty percent (80%) of the medical service providers during the prior six (6) months within the same community. The data used to perform the analysis and revision of the billing review standards may not be more than two (2) years old and must be periodically updated by a representative inflationary or deflationary factor. Reimbursement for these charges may not exceed the actual charge invoiced by the medical service provider.

(b) This subsection applies after June 30, 2014, to a medical service facility. The pecuniary liability of an employer or an employer's insurance carrier for a specific service or product covered under worker's compensation and provided by a medical service facility is equal to a reasonable amount, which is established by payment of one (1) of the following:

(1) The amount negotiated at any time between the medical service facility and any of the following:

(A) The employer.

(B) The employer's insurance carrier.

(C) A billing review service on behalf of a person described in clause (A) or (B).

(D) A direct provider network that has contracted with a person described in clause (A) or (B).

(2) Two hundred percent (200%) of the amount that would be paid to the medical service facility on the same date for the same service or product under the medical service facility's Medicare reimbursement rate, if an amount has not been negotiated as described in subdivision (1).

(c) The payment to a medical service provider for an implant furnished to an employee under this chapter may not exceed the invoice amount plus twenty-five percent (25%).

(d) A medical service provider may request an explanation from a billing review service if the medical service provider's bill has been reduced as a result of application of the eightieth percentile or of a Current Procedural Terminology (CPT) or Medicare coding change. The request must be made not later than sixty (60) days after receipt of the notice of the reduction. If a request is made, the billing review service must provide:

(1) the name of the billing review service used to make the reduction;

(2) the dollar amount of the reduction;

(3) the dollar amount of the medical service at the eightieth percentile; and

(4) in the case of a CPT or Medicare coding change, the basis upon which the change was made;

not later than thirty (30) days after the date of the request.

(e) If, after a hearing, the worker's compensation board finds that a billing review service used a billing review standard that did not comply with subsection (a)(1) through (a)(3), as applicable, in determining the pecuniary liability of an employer or an employer's insurance carrier for a medical service provider's charge for services or products covered under occupational disease compensation, the worker's compensation board may assess a civil penalty against the billing review service in an amount not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000).

As added by P.L.216-1995, SEC.7. Amended by P.L.202-2001, SEC.9; P.L.275-2013, SEC.15.

IC 22-3-7-17.4

Repackaged drugs; maximum reimbursement amount

Sec. 17.4. (a) As used in this section, "legend drug" has the meaning set forth in IC 25-26-14-7.

(b) As used in this section, "repackage" has the meaning set forth in IC 25-26-14-9.3.

(c) This subsection does not apply to a retail or mail order pharmacy. Except as provided in subsection (d), whenever a prescription covered by this chapter is filled using a repackaged legend drug, the maximum reimbursement amount for the repackaged legend drug must be computed using the average wholesale price set by the original manufacturer for the legend drug.

(d) If the National Drug Code (established under Section 510 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 360) for a legend drug cannot be determined from the medical service provider's billing or statement, the maximum reimbursement amount for the repackaged legend drug under subsection (c) is the lowest cost generic for that legend drug.

As added by P.L.275-2013, SEC.16.

IC 22-3-7-18

Awards; lump sum payments

Sec. 18. (a) Any employer or employee or beneficiary who shall

desire to have such compensation, or any unpaid part thereof, paid in a lump sum, may petition the worker's compensation board, asking that such compensation be so paid, and if, upon proper notice to the interested parties, and a proper showing made before the worker's compensation board, or any member thereof, it appears to the best interest of the parties that such compensation be so paid, the worker's compensation board may order the commutation of the compensation to an equivalent lump sum, which commutation shall be an amount which will equal the total sum of the probable future payments capitalized at their present value upon the basis of interest calculated at three percent (3%) per year with annual rests. In cases indicating complete disability, no petition for a commutation to a lump sum basis shall be entertained by the board until after the expiration of six (6) months from the date of the disablement.

(b) Whenever the worker's compensation board deems it expedient, any lump sum under this section shall be paid by the employer to some suitable person or corporation appointed by the circuit or superior court, as trustee, to administer the same for the benefit of the person entitled thereto, in the manner authorized by the court appointing such trustee. The receipt of such trustee for the amount so paid shall discharge the employer or anyone else who is liable therefor.

(Formerly: Acts 1937, c.69, s.10.) As amended by P.L.28-1988, SEC.53; P.L.1-2006, SEC.341.

IC 22-3-7-19

Awards; computation; average weekly wages

Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

(1) not more than two hundred sixty-seven dollars ($267); and

(2) not less than seventy-five dollars ($75).

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

(1) not more than two hundred eighty-five dollars ($285); and

(2) not less than seventy-five dollars ($75).

(c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

(1) not more than three hundred eighty-four dollars ($384); and

(2) not less than seventy-five dollars ($75).

(d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with

respect to occupational diseases occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

(1) not more than four hundred eleven dollars ($411); and

(2) not less than seventy-five dollars ($75).

(e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

(1) not more than four hundred forty-one dollars ($441); and

(2) not less than seventy-five dollars ($75).

(f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

(1) not more than four hundred ninety-two dollars ($492); and

(2) not less than seventy-five dollars ($75).

(g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

(1) not more than five hundred forty dollars ($540); and

(2) not less than seventy-five dollars ($75).

(h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

(1) not more than five hundred ninety-one dollars ($591); and

(2) not less than seventy-five dollars ($75).

(i) In computing compensation for temporary total disability, temporary partial disability and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

(1) not more than six hundred forty-two dollars ($642); and

(2) not less than seventy-five dollars ($75).

(j) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars ($672); and

(B) not less than seventy-five dollars ($75);

(2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars ($702); and
(B) not less than seventy-five dollars ($75);
(3) with respect to occupational diseases occurring on and after July 1, 1999, and before July 1, 2000:
(A) not more than seven hundred thirty-two dollars ($732); and
(B) not less than seventy-five dollars ($75);
(4) with respect to occupational diseases occurring on and after July 1, 2000, and before July 1, 2001:
(A) not more than seven hundred sixty-two dollars ($762); and
(B) not less than seventy-five dollars ($75);
(5) with respect to disablements occurring on and after July 1, 2001, and before July 1, 2002:
(A) not more than eight hundred twenty-two dollars ($822); and
(B) not less than seventy-five dollars ($75);
(6) with respect to disablements occurring on and after July 1, 2002, and before July 1, 2006:
(A) not more than eight hundred eighty-two dollars ($882); and
(B) not less than seventy-five dollars ($75);
(7) with respect to disablements occurring on and after July 1, 2006, and before July 1, 2007:
(A) not more than nine hundred dollars ($900); and
(B) not less than seventy-five dollars ($75);
(8) with respect to disablements occurring on and after July 1, 2007, and before July 1, 2008:
(A) not more than nine hundred thirty dollars ($930); and
(B) not less than seventy-five dollars ($75);
(9) with respect to disablements occurring on and after July 1, 2008, and before July 1, 2009:
(A) not more than nine hundred fifty-four dollars ($954); and
(B) not less than seventy-five dollars ($75);
(10) with respect to disablements occurring on and after July 1, 2009, and before July 1, 2014:
(A) not more than nine hundred seventy-five dollars ($975); and
(B) not less than seventy-five dollars ($75);
(11) with respect to disablements occurring on and after July 1, 2014, and before July 1, 2015:
(A) not more than one thousand forty dollars ($1,040); and
(B) not less than seventy-five dollars ($75);
(12) with respect to disablements occurring on and after July 1, 2015, and before July 1, 2016:
(A) not more than one thousand one hundred five dollars ($1,105); and
(B) not less than seventy-five dollars ($75); and
(13) with respect to disablements occurring on and after July 1,

2016:

(A) not more than one thousand one hundred seventy dollars ($1,170); and

(B) not less than seventy-five dollars ($75).

(k) The maximum compensation with respect to disability or death occurring on and after July 1, 1985, and before July 1, 1986, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed eighty-nine thousand dollars ($89,000) in any case.

(l) The maximum compensation with respect to disability or death occurring on and after July 1, 1986, and before July 1, 1988, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed ninety-five thousand dollars ($95,000) in any case.

(m) The maximum compensation with respect to disability or death occurring on and after July 1, 1988, and before July 1, 1989, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred twenty-eight thousand dollars ($128,000) in any case.

(n) The maximum compensation with respect to disability or death occurring on and after July 1, 1989, and before July 1, 1990, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred thirty-seven thousand dollars ($137,000) in any case.

(o) The maximum compensation with respect to disability or death occurring on and after July 1, 1990, and before July 1, 1991, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred forty-seven thousand dollars ($147,000) in any case.

(p) The maximum compensation with respect to disability or death occurring on and after July 1, 1991, and before July 1, 1992, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred sixty-four thousand dollars ($164,000) in any case.

(q) The maximum compensation with respect to disability or death occurring on and after July 1, 1992, and before July 1, 1993, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred eighty thousand dollars ($180,000) in any case.

(r) The maximum compensation with respect to disability or death occurring on and after July 1, 1993, and before July 1, 1994, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this

chapter may not exceed one hundred ninety-seven thousand dollars ($197,000) in any case.

(s) The maximum compensation with respect to disability or death occurring on and after July 1, 1994, and before July 1, 1997, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed two hundred fourteen thousand dollars ($214,000) in any case.

(t) The maximum compensation that shall be paid for occupational disease and the results of an occupational disease under this chapter or under any combination of the provisions of this chapter may not exceed the following amounts in any case:

(1) With respect to disability or death occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars ($224,000).

(2) With respect to disability or death occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars ($234,000).

(3) With respect to disability or death occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars ($244,000).

(4) With respect to disability or death occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars ($254,000).

(5) With respect to disability or death occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars ($274,000).

(6) With respect to disability or death occurring on and after July 1, 2002, and before July 1, 2006, two hundred ninety-four thousand dollars ($294,000).

(7) With respect to disability or death occurring on and after July 1, 2006, and before July 1, 2007, three hundred thousand dollars ($300,000).

(8) With respect to disability or death occurring on and after July 1, 2007, and before July 1, 2008, three hundred ten thousand dollars ($310,000).

(9) With respect to disability or death occurring on and after July 1, 2008, and before July 1, 2009, three hundred eighteen thousand dollars ($318,000).

(10) With respect to disability or death occurring on and after July 1, 2009, and before July 1, 2014, three hundred twenty-five thousand dollars ($325,000).

(11) With respect to disability or death occurring on and after July 1, 2014, and before July 1, 2015, three hundred forty-seven thousand dollars ($347,000).

(12) With respect to disability or death occurring on and after July 1, 2015, and before July 1, 2016, three hundred sixty-eight thousand dollars ($368,000).

(13) With respect to disability or death occurring on and after July 1, 2016, three hundred ninety thousand dollars ($390,000).

(u) For all disabilities occurring on and after July 1, 1985, "average weekly wages" means the earnings of the injured employee during the period of fifty-two (52) weeks immediately preceding the disability divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts of weeks remaining after the time lost has been deducted. If employment before the date of disability extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts of weeks during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. If by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages for the employee, the employee's average weekly wages shall be considered to be the average weekly amount that, during the fifty-two (52) weeks before the date of disability, was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee instead of wages or a specified part of the wage contract, they shall be considered a part of the employee's earnings.

(v) The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid or to be paid for temporary total disability, temporary partial disability, or permanent total disability benefits combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person from applying for an award under IC 22-3-3-13. However, in case of permanent total disability resulting from a disablement occurring on or after January 1, 1998, the minimum total benefit shall not be less than seventy-five thousand dollars ($75,000).

(Formerly: Acts 1937, c.69, s.11; Acts 1943, c.115, s.2; Acts 1945, c.290, s.2; Acts 1949, c.242, s.2; Acts 1951, c.250, s.2; Acts 1953, c.174, s.1; Acts 1955, c.276, s.1; Acts 1957, c.353, s.2; Acts 1959, c.266, s.1; Acts 1963, c.388, s.19; Acts 1965, c.206, s.1; Acts 1967, c.313, s.3; Acts 1969, c.101, s.3; Acts 1971, P.L.354, SEC.3; Acts 1974, P.L.109, SEC.6.) As amended by Acts 1976, P.L.112, SEC.6; Acts 1977, P.L.261, SEC.6; Acts 1979, P.L.227, SEC.6; P.L.225-1983, SEC.4; P.L.223-1985, SEC.3; P.L.224-1985, SEC.2; P.L.95-1988, SEC.16; P.L.170-1991, SEC.21; P.L.258-1997(ss), SEC.16; P.L.31-2000, SEC.10; P.L.134-2006, SEC.10; P.L.275-2013, SEC.17.

IC 22-3-7-20

Physical examinations; board and lodging; traveling expenses; reports; autopsy

Sec. 20. (a) After disablement and during the period of claimed

resulting disability or impairment, the employee, if so requested by the employee's employer or ordered by the worker's compensation board, shall submit to an examination at reasonable times and places by a duly qualified physician or surgeon designated and paid by the employer or by order of the board. The employee shall have the right to have present at any such examination any duly qualified physician or surgeon provided and paid for by the employee. No fact communicated to or otherwise learned by any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged either in the hearings provided for in this chapter, or in any action at law brought to recover damages against any employer who is subject to the compensation provisions of this chapter. If the employee refuses to submit to, or in any way obstructs the examinations, the employee's right to compensation and right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases. No compensation shall at any time be payable for the period of suspension unless in the opinion of the board, the circumstances justified the refusal or obstruction. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(b) Any employer requesting an examination of any employee residing within Indiana shall pay, in advance of the time fixed for the examination, sufficient money to defray the necessary expenses of travel by the most convenient means to and from the place of examination, and the cost of meals and lodging necessary during the travel. If the method of travel is by automobile, the mileage rate to be paid by the employer shall be the rate as is then currently being paid by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the state budget agency. If the examination or travel to or from the place of examination causes any loss of working time on the part of the employee, the employer shall reimburse the employee for the loss of wages upon the basis of such employee's average daily wage.

(c) When any employee injured in Indiana moves outside Indiana, the travel expense and the cost of meals and lodging necessary during the travel, payable under this section, shall be paid from the point in Indiana nearest to the employee's then residence to the place of examination. No travel and other expense shall be paid for any travel and other expense required outside Indiana.

(d) A duly qualified physician or surgeon provided and paid for by the employee may be present at an examination, if the employee so desires. In all cases, where the examination is made by a physician or surgeon engaged by the employer and the employee who has a disability or is injured has no physician or surgeon present at the examination, it shall be the duty of the physician or surgeon making the examination to deliver to the injured employee, or the employee's representative, a statement in writing of the conditions evidenced by

such examination. The statement shall disclose all facts that are reported by the physician or surgeon to the employer. This statement shall be furnished to the employee or the employee's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (f). If the physician or surgeon fails or refuses to furnish the employee or the employee's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and the physician shall not be permitted to testify before the worker's compensation board as to any facts learned in the examination. All of the requirements of this subsection apply to all subsequent examinations requested by the employer.

(e) In all cases where an examination of an employee is made by a physician or surgeon engaged by the employee, and the employer has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the employer or the employer's representative a statement in writing of the conditions evidenced by such examination. The statement shall disclose all the facts that are reported by such physician or surgeon to the employee. The statement shall be furnished to the employer or the employer's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (f). If the physician or surgeon fails or refuses to furnish the employer or the employer's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and the physician or surgeon shall not be permitted to testify before the worker's compensation board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations made by a physician or surgeon engaged by the employee.

(f) All statements of physicians or surgeons required by this section, whether those engaged by employee or employer, shall contain the following information:

(1) The history of the injury, or claimed injury, as given by the patient.

(2) The diagnosis of the physician or surgeon concerning the patient's physical or mental condition.

(3) The opinion of the physician or surgeon concerning the causal relationship, if any, between the injury and the patient's physical or mental condition, including the physician's or surgeon's reasons for the opinion.

(4) The opinion of the physician or surgeon concerning whether the injury or claimed injury resulted in a disability or impairment and, if so, the opinion of the physician or surgeon

concerning the extent of the disability or impairment and the reasons for the opinion.

(5) The original signature of the physician or surgeon.

Notwithstanding any hearsay objection, the worker's compensation board shall admit into evidence a statement that meets the requirements of this subsection unless the statement is ruled inadmissible on other grounds.

(g) Delivery of any statement required by this section may be made to the attorney or agent of the employer or employee and such an action shall be construed as delivery to the employer or employee.

(h) Any party may object to a statement on the basis that the statement does not meet the requirements of subsection (e). The objecting party must give written notice to the party providing the statement and specify the basis for the objection. Notice of the objection must be given no later than twenty (20) days before the hearing. Failure to object as provided in this subsection precludes any further objection as to the adequacy of the statement under subsection (f).

(i) The employer upon proper application, or the worker's compensation board, shall have the right in any case of death to require an autopsy at the expense of the party requesting the same. If, after a hearing, the board orders an autopsy and the autopsy is refused by the surviving spouse or next of kin, in this event any claim for compensation on account of the death shall be suspended and abated during the refusal. The surviving spouse or dependent must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board. No autopsy, except one performed by or on the authority or order of the coroner in discharge of the coroner's duties, shall be held in any case by any person without notice first being given to the surviving spouse or next of kin, if they reside in Indiana or their whereabouts can reasonably be ascertained, of the time and place thereof, and reasonable time and opportunity shall be given such surviving spouse or next of kin to have a representative or representatives present to witness same. However, if such notice is not given, all evidence obtained by the autopsy shall be suspended on motion duly made to the board.

(Formerly: Acts 1937, c.69, s.12a; Acts 1963, c.388, s.14; Acts 1975, P.L.235, SEC.5.) As amended by P.L.28-1988, SEC.54; P.L.95-1988, SEC.17; P.L.109-1992, SEC.2; P.L.99-2007, SEC.183.

IC 22-3-7-21

Awards; disqualification

Sec. 21. (a) No compensation is allowed for any condition of physical or mental ill-being, disability, disablement, or death for which compensation is recoverable on account of accidental injury under chapters 2 through 6 of this article.

(b) No compensation is allowed for any disease or death knowingly self-inflicted by the employee, or due to his intoxication, his commission of an offense, his knowing failure to use a safety

appliance, his knowing failure to obey a reasonable written or printed rule of the employer which has been posted in a conspicuous position in the place of work, or his knowing failure to perform any statutory duty. The burden of proof is on the defendant.
(Formerly: Acts 1937, c.69, s.14.) As amended by Acts 1978, P.L.2, SEC.2212.

IC 22-3-7-22
Industrial board; expenses; office space; meetings

Sec. 22. (a) The members of the board and its assistants shall be entitled to receive from the state their actual and necessary expenses while traveling on the business of the board, but such expenses shall be sworn to by the person who incurred the same, and shall be approved by the chairman of the board before payment is made. All expenses of the board in connection with this chapter shall be audited and paid out of the state treasury in the manner prescribed for similar expenses in other departments or branches of the state service.

(b) The board shall be provided with adequate offices in the capitol or some other suitable building in the city of Indianapolis in which the records shall be kept and its official business be transacted during regular business hours. It shall also be provided with necessary office furniture, stationery, and other supplies. The board or any member thereof may hold sessions at any place within the state as may be deemed necessary.
(Formerly: Acts 1937, c.69, s.15.) As amended by P.L.144-1986, SEC.64.

IC 22-3-7-23
Jurisdiction; administration

Sec. 23. The worker's compensation board shall have jurisdiction over the operation and administration of the compensation provisions of this chapter, the board shall perform all of the duties imposed upon it by the provisions of this chapter, and such further duties as may be imposed by law and the rules of the board not inconsistent with this chapter.
(Formerly: Acts 1937, c.69, s.16.) As amended by P.L.144-1986, SEC.65; P.L.28-1988, SEC.55.

IC 22-3-7-24
Rules; hearings; subpoenas; production of books and papers; attorney's fees

Sec. 24. (a) The worker's compensation board may make rules not inconsistent with this chapter for carrying out the provisions of this chapter. Processes and procedures under this chapter shall be as summary and simple as reasonably may be. The board, or any member thereof, shall have the power, for the purpose of this chapter, to subpoena witnesses, administer or cause to have administered oaths, and to examine or cause to have examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute. The county sheriff shall serve all subpoenas

of the board and shall receive the same fees as provided by law for like service in civil actions. Each witness who appears in obedience to such subpoena of the board shall receive for attendance the fees and mileage for witnesses in civil cases in the courts. The circuit or superior court shall, on application of the board or any member thereof, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

(b) The fees of attorneys and physicians and charges of nurses and hospitals for services under this chapter shall be subject to the approval of the worker's compensation board. When any claimant for compensation is represented by an attorney in the prosecution of his claim, the board shall fix and state in the award, if compensation be awarded, the amount of the claimant's attorney's fees. The fee so fixed shall be binding upon both the claimant and his attorney, and the employer shall pay to the attorney, out of the award, the fee so fixed, and the receipt of the attorney therefor shall fully acquit the employer for an equal portion of the award.

(c) Whenever the worker's compensation board shall determine upon hearing of a claim that the employer has acted in bad faith in adjusting and settling said award, or whenever the board shall determine upon hearing of a claim that the employer has not pursued the settlement of said claim with diligence, then the board shall, if compensation be awarded, fix the amount of the claimant's attorney's fees and such attorney's fees shall be paid to the attorney and shall not be charged against the award to the claimant. Such fees as are fixed and awarded on account of a lack of diligence or because of bad faith on the part of the employer shall not be less than one hundred fifty dollars ($150).

(d) The worker's compensation board may withhold the approval of the fees of the attending physician in any case until he shall file a report with the board on the form prescribed by such board.

(Formerly: Acts 1937, c.69, s.17; Acts 1965, c.206, s.2.) As amended by P.L.144-1986, SEC.66; P.L.28-1988, SEC.56.

IC 22-3-7-25

Forms and literature; reports; confidential information

Sec. 25. The board shall prepare and cause to be printed, and upon request furnish free of charge to any employer or employee, such blank forms and literature as it shall deem requisite to facilitate or promote the efficient administration of this chapter. The reports of occupational diseases and reports of attending physicians shall be the private records of the board, which shall be open to the inspection of the employer, the employee, and their legal representatives, but not to the public unless, in the opinion of the board, the public interest shall so require.

(Formerly: Acts 1937, c.69, s.18.) As amended by P.L.144-1986, SEC.67.

IC 22-3-7-26

Disputes; settlement

Sec. 26. All disputes arising under this chapter, except section 3 of this chapter, if not settled by the agreement of the parties interested therein, with the approval of the board, shall be determined by the board.

(Formerly: Acts 1937, c.69, s.19.) As amended by P.L.144-1986, SEC.68.

IC 22-3-7-27

Awards; modification; hearings; appeals; investigations

Sec. 27. (a) If the employer and the employee or the employee's dependents disagree in regard to the compensation payable under this chapter, or, if they have reached such an agreement, which has been signed by them, filed with and approved by the worker's compensation board, and afterward disagree as to the continuance of payments under such agreement, or as to the period for which payments shall be made, or as to the amount to be paid, because of a change in conditions since the making of such agreement, either party may then make an application to the board for the determination of the matters in dispute. When compensation which is payable in accordance with an award or by agreement approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned.

(b) The application making claim for compensation filed with the worker's compensation board shall state the following:

(1) The approximate date of the last day of the last exposure and the approximate date of the disablement.

(2) The general nature and character of the illness or disease claimed.

(3) The name and address of the employer by whom employed on the last day of the last exposure, and if employed by any other employer after such last exposure and before disablement, the name and address of such other employer or employers.

(4) In case of death, the date and place of death.

(5) Amendments to applications making claim for compensation which relate to the same disablement or disablement resulting in death originally claimed upon may be allowed by the board in its discretion, and, in the exercise of such discretion, it may, in proper cases, order a trial de novo. Such amendment shall relate back to the date of the filing of the original application so amended.

(c) Upon the filing of such application, the board shall set the date of hearing, which shall be as early as practicable, and shall notify the parties, in the manner prescribed by the board, of the time and place of hearing. The hearing of all claims for compensation on account of occupational disease shall be held in the county in which the last exposure occurred or in any adjoining county, except when the parties consent to a hearing elsewhere. Claims assigned to an individual board member that are considered to be of an emergency nature by that board member, may be heard in any county within the

board member's jurisdiction.

(d) The board by any or all of its members shall hear the parties at issue, their representatives, and witnesses, and shall determine the dispute in a summary manner. The award shall be filed with the record of proceedings, and a copy thereof shall immediately be sent by registered mail to each of the parties in dispute.

(e) If an application for review is made to the board within thirty (30) days from the date of the award made by less than all the members, the full board, if the first hearing was not held before the full board, shall review the evidence, or, if deemed advisable, hear the parties at issue, their representatives, and witnesses as soon as practicable, and shall make an award and file the same with the finding of the facts on which it is based and send a copy thereof to each of the parties in dispute, in like manner as specified in subsection (d).

(f) An award of the board by less than all of the members as provided in this section, if not reviewed as provided in this section, shall be final and conclusive. An award by the full board shall be conclusive and binding unless either party to the dispute, within thirty (30) days after receiving a copy of such award, appeals to the court of appeals under the same terms and conditions as govern appeals in ordinary civil actions. The court of appeals shall have jurisdiction to review all questions of law and of fact. The board, of its own motion, may certify questions of law to the court of appeals for its decision and determination. An assignment of errors that the award of the full board is contrary to law shall be sufficient to present both the sufficiency of the facts found to sustain the award and the sufficiency of the evidence to sustain the finding of facts. All such appeals and certified questions of law shall be submitted upon the date filed in the court of appeals, shall be advanced upon the docket of the court, and shall be determined at the earliest practicable date, without any extensions of time for filing briefs. An award of the full board affirmed on appeal, by the employer, shall be increased thereby five percent (5%), and by order of the court may be increased ten percent (10%).

(g) Upon order of the worker's compensation board made after five (5) days notice is given to the opposite party, any party in interest may file in the circuit or superior court of the county in which the disablement occurred a certified copy of the memorandum of agreement, approved by the board, or of an order or decision of the board, or of an award of the full board unappealed from, or of an award of the full board affirmed upon an appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though such judgment has been rendered in a suit duly heard and determined by the court. Any such judgment of such circuit or superior court, unappealed from or affirmed on appeal or modified in obedience to the mandate of the court of appeals, shall be modified to conform to any decision of the worker's compensation board ending,

diminishing, or increasing any weekly payment under the provisions of subsection (i) upon the presentation to it of a certified copy of such decision.

(h) In all proceedings before the worker's compensation board or in a court under the compensation provisions of this chapter, the costs shall be awarded and taxed as provided by law in ordinary civil actions in the circuit court.

(i) The power and jurisdiction of the worker's compensation board over each case shall be continuing, and, from time to time, it may, upon its own motion or upon the application of either party on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in this chapter. When compensation which is payable in accordance with an award or settlement contract approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned. Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder. The board shall not make any such modification upon its own motion, nor shall any application therefor be filed by either party after the expiration of two (2) years from the last day for which compensation was paid. The board may at any time correct any clerical error in any finding or award.

(j) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employee and to testify in respect thereto. Such physician or surgeon shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such physician or surgeon shall be paid by the state only on special order of the board or a member thereof.

(k) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified industrial hygienist, industrial engineer, industrial physician, or chemist to make any necessary investigation of the occupation in which the employee alleges that the employee was last exposed to the hazards of the occupational disease claimed upon, and testify with respect to the occupational disease health hazards found by such person or persons to exist in such occupation. Such person or persons shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such persons shall be paid by the state, only on special order of the board or a member thereof.

(l) Whenever any claimant misconceives the claimant's remedy and files an application for adjustment of a claim under IC 22-3-2 through IC 22-3-6 and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury or death which was the basis for such application should properly have

been made under the provisions of this chapter, then the application so filed under IC 22-3-2 through IC 22-3-6 may be amended in form or substance or both to assert a claim for such disability or death under the provisions of this chapter, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the worker's compensation board when deemed necessary. Nothing in this section contained shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice or time for filing a claim, but notice of filing of a claim, if given or done, shall be deemed to be a notice or filing of a claim under the provisions of this chapter if given or done within the time required in this chapter.

(Formerly: Acts 1937, c.69, s.20; Acts 1947, c.164, s.8; Acts 1963, c.388, s.15; Acts 1969, c.101, s.4.) As amended by P.L.144-1986, SEC.69; P.L.28-1988, SEC.57; P.L.170-1991, SEC.22; P.L.235-1999, SEC.8; P.L.1-2006, SEC.342; P.L.134-2006, SEC.11.

IC 22-3-7-28

Destruction of records

Sec. 28. In order to prevent the accumulation of unnecessary and useless files of papers, the board, in its discretion, may destroy all papers which have been on file for more than two (2) years when there is no claim for compensation pending, or, when compensation has been awarded either by agreement or upon hearing, and more than one (1) year has elapsed since the termination of the compensation period as fixed by the board, but notices of election or rejection shall not be destroyed. However, all records of insurance coverage shall be maintained for forty-five (45) years.

(Formerly: Acts 1937, c.69, s.21.) As amended by Acts 1979, P.L.17, SEC.34; P.L.224-1985, SEC.3; P.L.95-1988, SEC.18.

IC 22-3-7-29

Priorities and preferences; assignment; claims of creditors; child support income withholding

Sec. 29. (a) All rights of compensation granted by this chapter shall have the same preference or priority for the whole thereof against the assets of the employer as is allowed by law for any unpaid wages for labor.

(b) Except as provided in subsection (c), no claims for compensation under this chapter shall be assignable, and all compensation and claims therefor shall be exempt from all claims of creditors.

(c) Compensation awards under section 16 of this chapter are subject to child support income withholding under IC 31-16-15 and other remedies available for the enforcement of a child support order. The maximum amount that may be withheld under this subsection is one-half (1/2) of the compensation award.

(Formerly: Acts 1937, c.69, s.22.) As amended by P.L.144-1986, SEC.70; P.L.95-1988, SEC.19; P.L.1-1997, SEC.107.

IC 22-3-7-30
Awards; private agreements; filing

Sec. 30. (a) If, after seven (7) days from the date of disablement or any time, in case of death, the employer and the employee or his dependents reach an agreement in regard to compensation under this chapter, a memorandum of the agreement in the form prescribed by the worker's compensation board shall be filed with the board; otherwise such agreement shall be voidable by the employee or his dependent.

(b) If approved by the board, the memorandum shall for all purposes be enforceable by the court decree as specified in this chapter.

(c) An agreement under this section shall be approved by the board only when the terms conform to this chapter.

(Formerly: Acts 1937, c.69, s.23.) As amended by P.L.144-1986, SEC.71; P.L.28-1988, SEC.58.

IC 22-3-7-31
Waiver of compensation; approval; silicosis or asbestosis

Sec. 31. (a) No employee, personal representative, or beneficiary shall have power to waive any of the provisions of this chapter in regard to the amount of compensation which may be payable to such employee, personal representative, or beneficiary except after approval by the worker's compensation board.

(b) Any employee who, prior to June 7, 1937, has contracted silicosis or asbestosis but is not disabled therefrom may, by August 6, 1937, file with the industrial board a request for permission to waive full compensation on account of disability or death resulting from silicosis or asbestosis, or any direct result thereof, supported by medical evidence satisfactory to the industrial board that he has actually contracted silicosis or asbestosis but is not disabled therefrom.

(c) If the industrial board shall approve a waiver filed under subsection (b), the compensation payable for such resulting disability or death of such employee, after further exposure in the employment of any employer shall be fifty percent (50%) of the compensation which but for such waiver would have been payable by any such employer.

(Formerly: Acts 1937, c.69, s.24.) As amended by P.L.144-1986, SEC.72; P.L.28-1988, SEC.59.

IC 22-3-7-32
Actions and proceedings; notice; limitation of actions

Sec. 32. (a) No proceedings for compensation under this chapter shall be maintained unless notice has been given to the employer of disablement arising from an occupational disease as soon as practicable after the date of disablement. No defect or inaccuracy of

such notices shall be a bar to compensation unless the employer proves that he is unduly prejudiced in such proceedings by such defect or inaccuracy.

(b) The notice provided for in subsection (a) shall state the name and address of the employee and the nature and cause of the occupational disease and disablement or death therefrom, and shall be signed by the employee with a disability or by someone in the employee's behalf, or by one (1) or more of the dependents, in case of death, or by some person in their behalf. Such notice may be served personally upon the employer or upon any foreman, superintendent, or manager of the employer to whose orders the employee with a disability or deceased employee was required to conform or upon any agent of the employer upon whom a summons in a civil action may be served under the laws of the state or may be sent to the employer by registered letter, addressed to the employer's last known residence or place of business.

(c) No proceedings by an employee for compensation under this chapter shall be maintained unless claim for compensation shall be filed by the employee with the worker's compensation board within two (2) years after the date of the disablement.

(d) No proceedings by dependents of a deceased employee for compensation for death under this chapter shall be maintained unless claim for compensation shall be filed by the dependents with the worker's compensation board within two (2) years after the date of death.

(e) No limitation of time provided in this chapter shall run against any person who is mentally incompetent or a minor dependent, so long as the person has no guardian or trustee.

(Formerly: Acts 1937, c.69, s.25; Acts 1955, c.195, s.2.) As amended by P.L.144-1986, SEC.73; P.L.28-1988, SEC.60; P.L.99-2007, SEC.184.

IC 22-3-7-33

Exposure; presumptions; joint employers

Sec. 33. (a) An employee shall be conclusively deemed to have been exposed to the hazards of an occupational disease when for any length of time, however short, he is employed in an occupation or process in which the hazard of the disease exists. The employer liable for the compensation provided for in this chapter shall be the employer in whose employment the employee was last exposed to the hazards of the occupational disease claimed upon regardless of the length of time of the last exposure. In cases involving silicosis or asbestos, the only employer liable shall be the last employer in whose employment the employee was last exposed during the period of sixty (60) days or more to the hazard of the occupational disease. In cases involving silicosis or asbestos, an exposure during a period of less than sixty (60) days shall not be considered a last exposure. The insurance carrier liable shall be the carrier whose policy was in effect covering the employer liable on the last day of the exposure rendering the employer liable, in accordance with the provisions of

this chapter.

(b) Whenever any employee for whose disability or death compensation is payable under this chapter shall, at the time of the last exposure, be exposed in the joint service of two (2) or more employers subject to the compensation provisions of this chapter, the employers shall contribute to the payment of the compensation in proportion to their wage liability to the employees. Nothing in this section shall prevent any reasonable arrangements between employers for a different distribution between themselves of the ultimate burden of compensation.

(Formerly: Acts 1937, c.69, s.26; Acts 1957, c.353, s.3.) As amended by P.L.224-1985, SEC.4.

IC 22-3-7-34

Insurance; self-insurance; exemptions

Sec. 34. (a) As used in this section, "person" does not include:

(1) an owner who contracts for performance of work on the owner's owner occupied residential property; or

(2) a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(b) Every employer bound by the compensation provisions of this chapter, except the state, counties, townships, cities, towns, school cities, school towns, school townships, other municipal corporations, state institutions, state boards, and state commissions, shall insure the payment of compensation to the employer's employees and their dependents in the manner provided in this chapter, or procure from the worker's compensation board a certificate authorizing the employer to carry such risk without insurance. While that insurance or certificate remains in force, the employer, or those conducting the employer's business, and the employer's occupational disease insurance carrier shall be liable to any employee and the employee's dependents for disablement or death from occupational disease arising out of and in the course of employment only to the extent and in the manner specified in this chapter.

(c) Every employer who, by election, is bound by the compensation provisions of this chapter, except those exempted from the provisions by subsection (b), shall:

(1) insure and keep insured the employer's liability under this chapter in some corporation, association, or organization authorized to transact the business of worker's compensation insurance in this state; or

(2) furnish to the worker's compensation board satisfactory proof of the employer's financial ability to pay the compensation in the amount and manner and when due as provided for in this chapter.

In the latter case the board may require the deposit of an acceptable security, indemnity, or bond to secure the payment of compensation

liabilities as they are incurred.

(d) Every employer required to carry insurance under this section shall file with the worker's compensation board in the form prescribed by it, within ten (10) days after the termination of the employer's insurance by expiration or cancellation, evidence of the employer's compliance with subsection (c) and other provisions relating to the insurance under this chapter. The venue of all criminal actions under this section lies in the county in which the employee was last exposed to the occupational disease causing disablement. The prosecuting attorney of the county shall prosecute all violations upon written request of the board. The violations shall be prosecuted in the name of the state.

(e) Whenever an employer has complied with subsection (c) relating to self-insurance, the worker's compensation board shall issue to the employer a certificate which shall remain in force for a period fixed by the board, but the board may, upon at least thirty (30) days notice, and a hearing to the employer, revoke the certificate, upon presentation of satisfactory evidence for the revocation. After the revocation, the board may grant a new certificate to the employer upon the employer's petition, and satisfactory proof of the employer's financial ability.

(f)(1) Subject to the approval of the worker's compensation board, any employer may enter into or continue any agreement with the employer's employees to provide a system of compensation, benefit, or insurance in lieu of the compensation and insurance provided by this chapter. A substitute system may not be approved unless it confers benefits upon employees and their dependents at least equivalent to the benefits provided by this chapter. It may not be approved if it requires contributions from the employees unless it confers benefits in addition to those provided under this chapter, which are at least commensurate with such contributions.

(f)(2) The substitute system may be terminated by the worker's compensation board on reasonable notice and hearing to the interested parties, if it appears that the same is not fairly administered or if its operation shall disclose latent defects threatening its solvency, or if for any substantial reason it fails to accomplish the purpose of this chapter. On termination, the board shall determine the proper distribution of all remaining assets, if any, subject to the right of any party in interest to take an appeal to the court of appeals.

(g)(1) No insurer shall enter into or issue any policy of insurance under this chapter until its policy form has been submitted to and approved by the worker's compensation board. The board shall not approve the policy form of any insurance company until the company shall file with it the certificate of the insurance commissioner showing that the company is authorized to transact the business of worker's compensation insurance in Indiana. The filing of a policy form by any insurance company or reciprocal insurance association with the board for approval constitutes on the part of the company or association a conclusive and unqualified acceptance of each of the

compensation provisions of this chapter, and an agreement by it to be bound by the compensation provisions of this chapter.

(g)(2) All policies of insurance companies and of reciprocal insurance associations, insuring the payment of compensation under this chapter, shall be conclusively presumed to cover all the employees and the entire compensation liability of the insured under this chapter in all cases in which the last day of the exposure rendering the employer liable is within the effective period of such policy.

(g)(3) Any provision in any such policy attempting to limit or modify the liability of the company or association insuring the same shall be wholly void.

(g)(4) Every policy of any company or association shall be deemed to include the following provisions:

> "(A) The insurer assumes in full all the obligations to pay physician's fees, nurse's charges, hospital supplies, burial expenses, compensation or death benefits imposed upon or accepted by the insured under this chapter.
>
> (B) This policy is subject to the provisions of this chapter relative to the liability of the insured to pay physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, compensation or death benefits to and for such employees, the acceptance of such liability by the insured, the adjustment, trial and adjudication of claims for such physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, compensation, or death benefits.
>
> (C) Between this insurer and the employee, notice to or knowledge of the occurrence of the disablement on the part of the insured (the employer) shall be notice or knowledge thereof, on the part of the insurer. The jurisdiction of the insured (the employer) for the purpose of this chapter is the jurisdiction of this insurer, and this insurer shall in all things be bound by and shall be subject to the awards, judgments and decrees rendered against the insured (the employer) under this chapter.
>
> (D) This insurer will promptly pay to the person entitled to the same all benefits conferred by this chapter, including all physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, and all installments of compensation or death benefits that may be awarded or agreed upon under this chapter. The obligation of this insurer shall not be affected by any default of the insured (the employer) after disablement or by any default in giving of any notice required by this policy, or otherwise. This policy is a direct promise by this insurer to the person entitled to physician's fees, nurse's charges, fees for hospital services, charges for hospital services, charges for hospital supplies, charges for burial, compensation, or death benefits, and shall be enforceable in the name of the person.
>
> (E) Any termination of this policy by cancellation shall not be effective as to employees of the insured covered hereby unless at least thirty (30) days prior to the taking effect of such

cancellation, a written notice giving the date upon which such termination is to become effective has been received by the worker's compensation board of Indiana at its office in Indianapolis, Indiana.

(F) This policy shall automatically expire one (1) year from the effective date of the policy, unless the policy covers a period of three (3) years, in which event, it shall automatically expire three (3) years from the effective date of the policy. The termination either of a one (1) year or a three (3) year policy, is effective as to the employees of the insured covered by the policy.".

(g)(5) All claims for compensation, nurse's charges, hospital services, hospital supplies, physician's fees, or burial expenses may be made directly against either the employer or the insurer or both, and the award of the worker's compensation board may be made against either the employer or the insurer or both.

(g)(6) If any insurer shall fail to pay any final award or judgment (except during the pendency of an appeal) rendered against it, or its insured, or, if it shall fail to comply with this chapter, the worker's compensation board shall revoke the approval of its policy forms, and shall not accept any further proofs of insurance from it until it shall have paid the award or judgment or complied with this chapter, and shall have resubmitted its policy form and received the approval of the policy by the worker's compensation board.

(h) No policy of insurance covering the liability of an employer for worker's compensation shall be construed to cover the liability of the employer under this chapter for any occupational disease unless the liability is expressly accepted by the insurance carrier issuing the policy and is endorsed in that policy. The insurance or security in force to cover compensation liability under this chapter shall be separate from the insurance or security under IC 22-3-2 through IC 22-3-6. Any insurance contract covering liability under either part of this article need not cover any liability under the other.

(i) For the purpose of complying with subsection (c), groups of employers are authorized to form mutual insurance associations or reciprocal or interinsurance exchanges subject to any reasonable conditions and restrictions fixed by the department of insurance. This subsection does not apply to mutual insurance associations and reciprocal or interinsurance exchanges formed and operating on or before January 1, 1991, which shall continue to operate subject to the provisions of this chapter and to such reasonable conditions and restrictions as may be fixed by the worker's compensation board.

(j) Membership in a mutual insurance association or a reciprocal or interinsurance exchange so proved, together with evidence of the payment of premiums due, is evidence of compliance with subsection (c).

(k) Any person bound under the compensation provisions of this chapter, contracting for the performance of any work exceeding one thousand dollars ($1,000) in value, in which the hazard of an occupational disease exists, by a contractor subject to the

compensation provisions of this chapter without exacting from the contractor a certificate from the worker's compensation board showing that the contractor has complied with subsections (b), (c), and (d), shall be liable to the same extent as the contractor for compensation, physician's fees, hospital fees, nurse's charges, and burial expenses on account of the injury or death of any employee of such contractor, due to occupational disease arising out of and in the course of the performance of the work covered by such contract.

(l) Any contractor who sublets any contract for the performance of any work to a subcontractor subject to the compensation provisions of this chapter, without obtaining a certificate from the worker's compensation board showing that the subcontractor has complied with subsections (b), (c), and (d), is liable to the same extent as the subcontractor for the payment of compensation, physician's fees, hospital fees, nurse's charges, and burial expense on account of the injury or death of any employee of the subcontractor due to occupational disease arising out of and in the course of the performance of the work covered by the subcontract.

(m) A person paying compensation, physician's fees, hospital fees, nurse's charges, or burial expenses, under subsection (k) or (l), may recover the amount paid or to be paid from any person who would otherwise have been liable for the payment thereof and may, in addition, recover the litigation expenses and attorney's fees incurred in the action before the worker's compensation board as well as the litigation expenses and attorney's fees incurred in an action to collect the compensation, medical expenses, and burial expenses.

(n) Every claim filed with the worker's compensation board under this section shall be instituted against all parties liable for payment. The worker's compensation board, in an award under subsection (k), shall fix the order in which such parties shall be exhausted, beginning with the immediate employer and, in an award under subsection (l), shall determine whether the subcontractor has the financial ability to pay the compensation and medical expenses when due and, if not, shall order the contractor to pay the compensation and medical expenses.

(Formerly: Acts 1937, c.69, s.27; Acts 1943, c.248, s.1; Acts 1959, c.359, s.1; Acts 1961, c.312, s.1; Acts 1963, c.388, s.16.) As amended by Acts 1978, P.L.2, SEC.2213; Acts 1982, P.L.135, SEC.2; P.L.28-1988, SEC.61; P.L.170-1991, SEC.23; P.L.258-1997(ss), SEC.17; P.L.202-2001, SEC.10; P.L.201-2005, SEC.9; P.L.1-2006, SEC.343.

IC 22-3-7-34.3

Proof of compliance; notice; civil penalty; Internet posting

Sec. 34.3. (a) The worker's compensation board is entitled to request that an employer provide the board with current proof of compliance with section 34 of this chapter.

(b) If an employer fails or refuses to provide current proof of compliance by the tenth day after the employer receives the board's request under subsection (a), the board:

(1) shall send the employer a written notice that the employer is in violation of section 34 of this chapter; and

(2) may assess a civil penalty against the employer of fifty dollars ($50) per employee per day.

(c) An employer may challenge the board's assessment of a civil penalty under subsection (b)(2) by requesting a hearing in accordance with procedures established by the board.

(d) The board shall waive a civil penalty assessed under subsection (b)(2) if the employer provides the board current proof of compliance by the twentieth day after the date the employer receives the board's notice under subsection (b)(1).

(e) If an employer fails or refuses to:

(1) provide current proof of compliance by the twentieth day after the date the employer receives the board's notice under subsection (b)(1); or

(2) pay a civil penalty assessed under subsection (b)(2);

the board may, after notice to the employer and a hearing, order that the noncompliant employer's name be listed on the board's Internet web site.

(f) A noncompliant employer's name may be removed from the board's Internet web site only after the employer does the following:

(1) Provides current proof of compliance with section 34 of this chapter.

(2) Pays all civil penalties assessed under subsection (b)(2).

(g) The civil penalties provided for in this section are cumulative.

(h) Civil penalties collected under this section shall be deposited in the worker's compensation supplemental administrative fund established by IC 22-3-5-6.

As added by P.L.168-2011, SEC.15.

IC 22-3-7-34.5

Independent contractors seeking exemption from chapter; filing statement; fees; certificate of exemption

Sec. 34.5. (a) As used in this section, "independent contractor" refers to a person described in section 9(b)(5) of this chapter.

(b) As used in this section, "person" means an individual, a proprietorship, a partnership, a joint venture, a firm, an association, a corporation, or other legal entity.

(c) An independent contractor who does not make an election under section 9(b)(2) of this chapter or section 9(b)(3) of this chapter is not subject to the compensation provisions of this chapter and must file a statement with the department of state revenue and obtain a certificate of exemption.

(d) An independent contractor shall file with the department of state revenue, in the form prescribed by the department of state revenue, a statement containing the information required by IC 6-3-7-5.

(e) Together with the statement required in subsection (d), an independent contractor shall file annually with the department documentation in support of independent contractor status before

being granted a certificate of exemption. The independent contractor must obtain clearance from the department of state revenue before issuance of the certificate.

(f) An independent contractor shall pay a filing fee in the amount of fifteen dollars ($15) with the certificate filed under subsection (h). The fees collected under this subsection shall be deposited in the worker's compensation supplemental administrative fund and shall be used for all expenses the board incurs.

(g) The worker's compensation board shall maintain a data base consisting of certificates received under this section and on request may verify that a certificate was filed.

(h) A certificate of exemption must be filed with the worker's compensation board. The board shall indicate that the certificate has been filed by stamping the certificate with the date of receipt and returning a stamped copy to the person filing the certificate. A certificate becomes effective as of midnight seven (7) business days after the date file stamped by the worker's compensation board. The board shall maintain a data base containing information required in subsections (e) and (g).

(i) A person who contracts for services of another person not covered by this chapter to perform work must secure a copy of a stamped certificate of exemption filed under this section from the person hired. A person may not require a person who has provided a stamped certificate to have worker's compensation coverage. The worker's compensation insurance carrier of a person who contracts with an independent contractor shall accept a stamped certificate in the same manner as a certificate of insurance.

(j) A stamped certificate filed under this section is binding on and holds harmless for all claims:

(1) a person who contracts with an independent contractor after receiving a copy of the stamped certificate; and

(2) the worker's compensation insurance carrier of the person who contracts with the independent contractor.

The independent contractor may not collect compensation under this chapter for an injury from a person or the person's worker's compensation carrier to whom the independent contractor has furnished a stamped certificate.

As added by P.L.75-1993, SEC.6. Amended by P.L.202-2001, SEC.11.

IC 22-3-7-35

Contract relieving employer of obligations

Sec. 35. No contract or agreement, written or implied, rule, regulation, or other device shall in any manner operate to relieve any employer, in whole or in part, of any obligation created by this chapter, except as provided in this chapter.

(Formerly: Acts 1937, c.69, s.28.) As amended by P.L.144-1986, SEC.74.

IC 22-3-7-36

Third parties; actions to recover damages; subrogation; limitation of actions

Sec. 36. (a) Whenever disablement or death from an occupational disease arising out of and in the course of the employment for which compensation is payable under this chapter, shall have been sustained under circumstances creating in some other person than the employer and not in the same employ a legal liability to pay damages in respect thereto, the injured employee, or the employee's dependents, in case of death, may commence legal proceedings against such other person to recover damages notwithstanding such employer's or such employer's occupational disease insurance carrier's payment of, or liability to pay, compensation under this chapter. In such case, however, if the action against such other person is brought by the injured employee or the employee's dependents and judgment is obtained and paid and accepted and settlement is made with such other person, either with or without suit, then from the amount received by such employee or dependents there shall be paid to the employer, or such employer's occupational disease insurance carrier, the amount of compensation paid to such employee or dependents, plus the services and products and burial expense paid by the employer or such employer's occupational disease insurance carrier, and the liability of the employer or such employer's occupational disease insurance carrier to pay further compensation or other expenses shall thereupon terminate, whether or not one (1) or all of the dependents are entitled to share in the proceeds of the settlement or recovery and whether or not one (1) or all of the dependents could have maintained the action or claim for wrongful death.

(b) In the event such employee or the employee's dependents, not having received compensation or services and products or death benefits, or such employer's occupational disease insurance carrier, shall procure a judgment against such other party for disablement or death from an occupational disease arising out of and in the course of the employment, which judgment is paid, or if settlement is made with such other person, either with or without suit, then the employer or such employer's occupational disease insurance carrier shall have no liability for payment of compensation or for payment of medical, surgical, hospital, or nurse's services and supplies or death benefits whatsoever, whether or not one (1) or all of the dependents are entitled to share in the proceeds of settlement or recovery and whether or not one (1) or all of the dependents could have maintained the action or claim for wrongful death.

(c) In the event an employee, or in the event of the employee's death, the employee's dependents, shall procure a final judgment against such other person other than by agreement, for disablement or death from an occupational disease arising out of and in the course of the employment and such judgment is for a lesser sum than the amount for which the employer or such employer's occupational disease insurance carrier is liable for compensation and for services and products, as of the date the judgment becomes final, then the

employee, or in the event of the employee's death, the employee's dependents, shall have the option of either collecting such judgment and repaying the employer or such employer's occupational disease insurance carrier for compensation previously drawn, if any, and repaying the employer or such employer's occupational disease insurance carrier for services and products previously paid, if any, and of repaying the employer or such employer's occupational disease insurance carrier, the burial benefits paid, if any, or of assigning all rights under said judgment to the employer or such employer's occupational disease insurance carrier and thereafter receiving all compensation and services and products to which the employee, or in the event of the employee's death, to which the employee's dependents would be entitled if there had been no action brought against such other party.

(d) If the employee or the employee's dependents agree to receive compensation, because of an occupational disease arising out of and in the course of the employment, from the employer or such employer's occupational disease insurance carrier, or to accept from the employer or such employer's occupational disease insurance carrier by loan or otherwise, any payment on account of such compensation or institute proceedings to recover the same, the said employer or such employer's occupational disease insurance carrier shall have a lien upon any settlement award, judgment, or fund out of which such employee might be compensated from the third party.

(e) The employee, or in the event of the employee's death, the employee's dependents, shall institute legal proceedings against such other person for damages within two (2) years after said cause of action accrues. If, after said proceeding is commenced, the same is dismissed, the employer or such employer's occupational disease insurance carrier, having paid compensation or having become liable therefor, may collect in their own name or in the name of the employee with a disability, or in the case of death, in the name of the employee's dependents, from the other person in whom legal liability for damages exists, the compensation paid or payable to the employee with a disability, or the employee's dependents, plus such services and products and burial expense paid by the employer or such employer's occupational disease insurance carrier for which they have become liable. The employer or such employer's occupational disease insurance carrier may commence such action at law for such collection against the other person in whom legal liability for damages exists, not later than one (1) year from the date said action so commenced, has been dismissed, notwithstanding the provisions of any statute of limitations to the contrary.

(f) If said employee, or in the event of the employee's death, the employee's dependents, shall fail to institute legal proceedings, against such other person for damages within two (2) years after said cause of action accrues, the employer or such employer's occupational disease insurance carrier, having paid compensation or having been liable therefor, may collect in their own name or in the name of the employee with a disability, or in the case of the

employee's death, in the name of the employee's dependents, from the other person in whom legal liability for damage exists, the compensation paid or payable to the employee with a disability or to the employee's dependents, plus the services and products and burial expenses, paid by them or for which they have become liable, and the employer or such employer's occupational disease insurance carrier may commence such action at law for such collection against such other person in whom legal liability exists at any time within one (1) year from the date of the expiration of the two (2) years when the action accrued to the employee with a disability or, in the event of the employee's death, to the employee's dependents, notwithstanding the provisions of any statute of limitations to the contrary.

(g) In such actions brought as provided in this section by the employee or the employee's dependents, the employee or the employee's dependents shall, within thirty (30) days after such action is filed, notify the employer or such employer's occupational disease insurance carrier, by personal service or registered or certified mail, of such fact and the name of the court in which suit is brought, filing proof thereof in such action.

(h) If the employer does not join in the action within ninety (90) days after receipt of the notice, then out of any actual money reimbursement received by the employer or such employer's occupational disease insurance carrier pursuant to this section, they shall pay their pro rata share of all costs and reasonably necessary expenses in connection with such third party claim, action, or suit, and to the attorney at law selected by the employee or the employee's dependents, a fee of twenty-five percent (25%), if collected without trial, of the amount of benefits after the expenses and costs in connection with such third party claim have been deducted therefrom, and a fee of thirty-three and one-third percent (33 1/3%), if collected after trial, of the amount of such benefits after deduction of the costs and reasonably necessary expenses in connection with such third party claim, action, or suit. The employer may, within ninety (90) days after receipt of notice of suit from the employee or the employee's dependents, join in the action upon the employee's motion so that all orders of court after hearing and judgment shall be made for the employee's protection.

(i) No release or settlement of claim for damages by reason of such injury or death, and no satisfaction of judgment in such proceedings shall be valid without the written consent of both employer or such employer's occupational disease insurance carrier, and employee, or the employee's dependents. However, in the case of the employer or such employer's occupational disease insurance carrier, such consent shall not be required where the employer or such employer's occupational disease insurance carrier has been fully indemnified or protected by court order.

(Formerly: Acts 1937, c.69, s.29; Acts 1963, c.388, s.17; Acts 1969, c.101, s.5; Acts 1974, P.L.109, SEC.7.) As amended by P.L.28-1988, SEC.62; P.L.99-2007, SEC.185; P.L.275-2013, SEC.18.

IC 22-3-7-37
Reports of disablements; penalties; venue

Sec. 37. (a) Every employer operating under the compensation provisions of this chapter shall keep a record of all disablements by occupational disease, fatal or otherwise, received by the employer's employees in the course of their employment and shall provide a copy of the record to the board upon request. Within seven (7) days after the first day of a disablement by occupational disease and the employer's knowledge of the disablement, as provided in section 32 of this chapter, that causes the employee's death or absence from work for more than one (1) day, a report thereof shall be made in writing and mailed to the employer's insurance carrier or, if the employer is self insured, to the worker's compensation board on blanks to be procured from the board for the purpose. The insurance carrier shall mail the report to the worker's compensation board not later than seven (7) days after receipt or fourteen (14) days after the employer's knowledge of the occurrence, whichever is later. An employer or insurance carrier that fails to comply with this subsection is subject to a civil penalty under IC 22-3-4-15.

(b) The report shall contain the name, nature and location of the business of the employer, the name, age, sex, wages, occupation of the employee, the approximate dates between which exposure occurred, the nature and cause of the occupational disease, and such other information as may be required by the board.

(c) A person who violates this section commits a Class C misdemeanor.

(d) The venue of all criminal actions for the violation of this section lies in the county in which the employee was last exposed to the occupational disease causing disablement. The prosecuting attorney of the county shall prosecute these violations upon written request of the worker's compensation board. These shall be prosecuted in the name of the state.

(Formerly: Acts 1937, c.69, s.30; Acts 1963, c.388, s.18.) As amended by Acts 1978, P.L.2, SEC.2214; P.L.28-1988, SEC.63; P.L.170-1991, SEC.24; P.L.168-2011, SEC.16.

IC 22-3-7-38
Application of law

Sec. 38. Acts 1937, c.69, s.31 does not extinguish or in any way affect any right of action existing on June 7, 1937, and no employer shall be liable for compensation or damages under the provisions of this chapter in any case in which the disablement on which claim is predicated shall have occurred prior to June 7, 1937; but nothing contained in this section shall affect any case in which exposure as defined in this chapter shall have taken place after June 7, 1937.

(Formerly: Acts 1937, c.69, s.32.) As amended by P.L.144-1986, SEC.75.

IC 22-3-8

Chapter 8. Representation Before Worker's Compensation Board

IC 22-3-8-1

Attorneys; qualifications

Sec. 1. Any person representing any plaintiff or defendant in the prosecution or defense of any claim or claims before the worker's compensation board must be admitted to practice law in the circuit or superior courts and supreme court of Indiana.

(Formerly: Acts 1925, c.33, s.1.) As amended by P.L.28-1988, SEC.64.

IC 22-3-8-2

Attorneys; registration; oath; records

Sec. 2. (a) All persons so representing plaintiffs or defendants as provided by section 1 of this chapter shall first register their names with the worker's compensation board in a manner prescribed by the board and shall, before proceeding to represent either plaintiffs or defendants before the board, be required to take oath in writing either before the board or a member thereof that the person is qualified as provided by section 1 of this chapter.

(b) The written oath shall be recorded in the permanent records of the worker's compensation board, and the board or any member thereof shall prohibit any person from so representing plaintiffs or defendants until the person has complied with this chapter.

(Formerly: Acts 1925, c.33, s.2.) As amended by P.L.144-1986, SEC.76; P.L.28-1988, SEC.65.

IC 22-3-9

Chapter 9. Employer Liability

IC 22-3-9-1

Personal injuries or death; damages

Sec. 1. Any person, firm, limited liability company, or corporation while engaged in business, trade or commerce within this state, and employing in such business, trade or commerce five (5) or more persons shall be liable and respond in damages to any person suffering injury while in the employ of such person, firm, limited liability company, or corporation, or in case of the death of such employee, then to his or her personal representative, for the benefit of the surviving widow or husband and children of such employee; and if none, then to such employee's parents; and if none, then to the next of kin dependent upon such employee, where such injury or death resulted in whole or in part from the negligence of such employer or his, its or their agents, servants, employees or officers, or by reason of any defect, mismanagement or insufficiency, due to his, its or their carelessness, negligence, fault or omission of duty.

(Formerly: Acts 1911, c.88, s.1.) As amended by P.L.8-1993, SEC.285.

IC 22-3-9-2

Personal injuries or death; contributory negligence; burden of proof

Sec. 2. In any action prosecuted under the provisions of this chapter the burden of proving that such injured or killed employee did not use due care and diligence at the time of such injury or death shall be upon the defendant, but the same may be proved under the general denial. No such employee who may have been injured or killed shall be held to have been guilty of negligence or contributory negligence by reason of the assumption of the risk thereof in any case where the violation by the employer or his, its, or their agents or employees of any ordinance or statute enacted, or of any rule, regulation, or direction made by any public officer, bureau, or commission, was the cause of the injury or death of such employee. In actions brought against any employer under the provisions of this chapter for the injury or death of any employee, it shall not be a defense that the dangers or hazards inherent or apparent in the employment in which such injured employee was engaged contributed to such injury. No such injured employee shall be held to have been guilty of negligence or contributory negligence where the injury complained of resulted from such employee's obedience or conformity to any order or direction of the employer or of any employee to whose orders or directions he was under obligation to conform or obey, although such order or direction was a deviation from other rules, orders, or directions previously made by such employer.

(Formerly: Acts 1911, c.88, s.2.) As amended by P.L.144-1986, SEC.77.

IC 22-3-9-3
Personal injuries or death; assumption of risk; safe place to work; defective tools

Sec. 3. In any action brought against any employer under or by virtue of this chapter to recover damages for injuries or the death of any of his, its, or their employees, such employee shall not be held to have assumed the risks of the employment in any case where the violation of such employer or his, its, or their agents or employees of any ordinance or statute enacted, or of any rule, direction, or regulation made by any public officer or commission, contributed to the injury or death of such employee; nor shall such injured employee be held to have assumed the risk of the employment where the injury complained of resulted from his obedience to any order or direction of the employer or of any employee to whose orders or directions he was under obligations to conform or obey although such order or direction was a deviation from other orders or directions or rules previously made by such employer. In any action brought against any employer under the provisions of this chapter to recover damages for injury to or the death of any of his, its, or their employees, such employee shall not be held to have assumed the risk of any defect in the place of work furnished to such employee, or in the tool, implement, or appliance furnished him by such employer, where such defect was, prior to such injury, known to such employer, or by the exercise of ordinary care might have been known to him in time to have repaired the same or to have discontinued the use of such defective working place, tool, implement, or appliance. The burden of proving that such employer did not know of such defect or that he was not chargeable with knowledge thereof in time to have repaired the same or to have discontinued the use of such working place, tool, implement, or appliance shall be on the defendant, but the same may be proved under the general denial.

(Formerly: Acts 1911, c.88, s.3.) As amended by P.L.144-1986, SEC.78.

IC 22-3-9-4
Personal injuries or death; survival of actions

Sec. 4. The damages recoverable under this chapter shall be commensurate with the injuries sustained, and in case death results from such injury the action shall survive; provided, that where any such injured person recovers a judgment under the provisions of this chapter and an appeal is taken from such judgment, and pending such appeal the injured person dies and said judgment be thereafter reversed, or where such injured person dies after said judgment is reversed and before trial, the right of action of such person shall survive to his or her personal representative, and such action may be continued in the name of such personal representative for the benefit of the person entitled under this chapter to receive the same.

(Formerly: Acts 1911, c.88, s.4.) As amended by P.L.144-1986, SEC.79.

IC 22-3-9-5
Contracts; rules and regulations; exemption from liability; setoff

Sec. 5. Any contract, rule, regulation, bylaw, or device whatsoever, the purpose, intent, or effect of which would be to enable any employer to exempt himself or itself from any liability created by this chapter, shall to that extent be void; provided, that in any action brought against any such employer under or by virtue of any of the provisions of this chapter, such employer may set off therein by special plea any sum such employer has contributed or paid to any insurance, relief benefit, or indemnity for and on behalf of such injured employee that may have been paid to him or to the person entitled thereto on account of the injury or death for which said action is brought, but in no event shall the amount of such setoff exceed the amount paid to such employee or other person entitled thereto out of such insurance, relief benefit, or indemnity fund.
(Formerly: Acts 1911, c.88, s.5.) As amended by P.L.144-1986, SEC.80.

IC 22-3-9-6
Wrongful death damages; amount

Sec. 6. Where any action is brought on account of the death of any person under this chapter, the liability of any such employer shall not exceed ten thousand dollars ($10,000), and the provisions of the law in force as to parties plaintiff shall apply.
(Formerly: Acts 1911, c.88, s.6.) As amended by P.L.144-1986, SEC.81.

IC 22-3-9-7
Assumption of risk; negligence; contributory negligence; questions of fact

Sec. 7. All questions of assumption of risk, negligence or contributory negligence shall be questions of fact for the jury to decide, unless the cause is being tried without a jury, in which case, such questions shall be questions of fact for the court.
(Formerly: Acts 1911, c.88, s.7.)

IC 22-3-9-8
Limitation of actions

Sec. 8. No action shall be maintained under this chapter unless the same is commenced within two (2) years from the date the cause of action accrued.
(Formerly: Acts 1911, c.88, s.8.) As amended by P.L.144-1986, SEC.82.

IC 22-3-9-9
Definitions

Sec. 9. The term "employer", "persons", "firm", "limited liability company", and "corporation" shall include receivers or other persons charged with the duty of managing, conducting or operating business, trade or commerce.

(Formerly: Acts 1911, c.88, s.9.) As amended by P.L.8-1993, SEC.286.

IC 22-3-9-10
Application of law

Sec. 10. This chapter shall not apply to injuries received by any employee before March 2, 1911, nor affect any suit or legal proceedings pending in any court on March 2, 1911.
(Formerly: Acts 1911, c.88, s.10.) As amended by P.L.144-1986, SEC.83.

IC 22-3-9-11
Supplemental remedies; common law rights

Sec. 11. This chapter shall be construed as supplemental to all statutes in force on March 2, 1911, concerning employers and employees and shall repeal only such statutes as are in direct conflict with the provisions of this chapter. Nothing in this chapter shall be held to limit the duty or liability of employers or to impair the rights of their employees under the common law or any other statute existing on March 2, 1911, or to affect the prosecution of any proceeding or right of action pending on March 2, 1911.
(Formerly: Acts 1911, c.88, s.11.) As amended by P.L.144-1986, SEC.84.

IC 22-3-10

Chapter 10. Ban on Employer Waiver of Liability

IC 22-3-10-1

Negligence; employer; liability for damages

Sec. 1. All contracts between employer and employee releasing the employer from liability for damages arising out of the negligence of the employer by which the employee is injured, or, in case of the employee's death, to his representative, are against public policy, and hereby declared null and void.

(Formerly: Acts 1901, c.225, s.1.)

IC 22-3-10-2

Negligence; third persons; liability for damages

Sec. 2. All contracts between employer and employee releasing third persons, copartnerships or corporations from liability for damages arising out of the negligence of such third persons, copartnerships or corporations by which the employee of such employer is injured, or in case of the death of such employee, to his representative, are against public policy and are hereby declared null and void.

(Formerly: Acts 1901, c.225, s.2.)

IC 22-3-10-3

Negligence; employer; liability for damages; contract between employee and third person

Sec. 3. All contracts between an employee and a third person, copartnership, or corporation in which it is agreed that the employer of such employee shall be released from liability for damages of such employee arising out of the negligence of the employer, or in case of the death of such employee to his representative, are against public policy and are hereby declared null and void; provided, that nothing in this chapter shall apply to voluntary relief departments or associations organized for the purpose of insuring employees. Nothing in this chapter shall be construed to revert back to contracts made prior to March 11, 1901. Nor shall this chapter affect litigation pending on March 11, 1901; provided, that nothing in any section of this chapter shall be so construed as to affect or apply to any contract or agreement that may be made between the employer and employee, or in case of death his next of kin or his representative after an injury to the employee has occurred, but the provisions of this chapter shall apply solely to contracts made prior to any injury.

(Formerly: Acts 1901, c.225, s.3.) As amended by P.L.144-1986, SEC.85.

IC 22-3-11

Chapter 11. Residual Asbestos Injury Fund

IC 22-3-11-1

Creation; administration; use of fund

Sec. 1. (a) There is created a special fund known as the residual asbestos injury fund (referred to as "the fund" in this chapter) for the purpose of providing compensation to employees who become totally and permanently disabled from an exposure to asbestos while in employment within Indiana and who are eligible for benefits under section 3 of this chapter (expired August 1, 2007, and repealed) and not eligible for benefits under IC 22-3-7. The fund shall be administered by the worker's compensation board (referred to as "the board" in this chapter).

(b) The fund is not a part of the general fund. Money in the fund at the end of a particular fiscal year and interest accruing from the investment of the money does not revert to the state general fund. The fund shall be used only for the payment of awards of compensation and expense of medical examinations made and ordered by the board and chargeable against the fund under this section and shall be paid for that purpose by the treasurer of state upon award or order of the board.

As added by P.L.224-1985, SEC.5. Amended by P.L.28-1988, SEC.66; P.L.3-2008, SEC.157.

IC 22-3-11-2

Assessments; deposit in fund

Sec. 2. (a) This section applies to:

(1) each insurance carrier insuring employers who may be or who are liable under IC 22-3-2 through IC 22-3-7 to pay compensation; and

(2) each employer carrying its own risk to pay compensation under IC 22-3-2 through IC 22-3-7.

(b) Before August 1, 1985, and April 10 in all subsequent years, each insurance carrier described in subsection (a)(1) and each employer described in subsection (a)(2) shall pay to the board for deposit in the fund the assessment specified in subsection (c):

(1) until the initial balance in the fund is equal to or greater than two hundred thousand dollars ($200,000); and

(2) after the initial balance in the fund satisfies subdivision (1), only if the balance in the fund on April 1 of the year of the assessment is less than fifty thousand dollars ($50,000).

(c) An assessment required under subsection (b) equals one-half of one percent (0.5%) of the total amount of worker's compensation and occupational diseases benefits paid to injured employees or their beneficiaries during the calendar year immediately preceding the due date of the assessment.

As added by P.L.224-1985, SEC.5. Amended by P.L.28-1988, SEC.67.

IC 22-3-11-3
Repealed
(Repealed by P.L.3-2008, SEC.269.)

IC 22-3-11-4
Repealed
(Repealed by P.L.3-2008, SEC.269.)

IC 22-3-11-5
Expert medical testimony
Sec. 5. The board may secure expert medical testimony as it considers necessary at the expense of the fund to protect the fund against questionable claims for benefits.
As added by P.L.224-1985, SEC.5.

IC 22-3-11-6
Repealed
(Repealed by P.L.3-2008, SEC.269.)

IC 22-3-12

Chapter 12. Vocational Rehabilitation

IC 22-3-12-1

Entitlement to vocational rehabilitation services

Sec. 1. An injured employee, who as a result of an injury or occupational disease is unable to perform work for which the employee has previous training or experience, is entitled to vocational rehabilitation services necessary to restore the employee to useful employment.

As added by P.L.218-1989, SEC.1.

IC 22-3-12-2

Report of injury; copy to central office

Sec. 2. When any compensable injury requires the filing of a first report of injury by an employer, the employer's worker's compensation insurance carrier or the self-insured employer shall forward a copy of the report to the central office of the division of disability and rehabilitative services, rehabilitation services bureau at the earlier of the following occurrences:

(1) When the compensable injury has resulted in temporary total disability of longer than twenty-one (21) days.

(2) When it appears that the compensable injury may be of such a nature as to permanently prevent the injured employee from returning to the injured employee's previous employment.

As added by P.L.218-1989, SEC.1. Amended by P.L.2-1992, SEC.741; P.L.4-1993, SEC.258; P.L.5-1993, SEC.271; P.L.2-2005, SEC.60; P.L.141-2006, SEC.105.

IC 22-3-12-3

Report of injury; copy to local office

Sec. 3. Upon receipt of a report of injury under section 2 of this chapter, the office of vocational rehabilitation shall immediately send a copy of the report to the local office of vocational rehabilitation located nearest to the injured employee's home.

As added by P.L.218-1989, SEC.1.

IC 22-3-12-4

Explanation of services; eligibility determination; plan implementation

Sec. 4. (a) The local office of vocational rehabilitation shall, upon receipt of the report of injury, immediately provide the injured employee with a written explanation of:

(1) the rehabilitation services that are available to the injured employee; and

(2) the method by which the injured employee may make application for those services.

(b) The office of vocational rehabilitation shall determine the eligibility of the injured employee for rehabilitation services and, where appropriate, develop an individualized rehabilitation plan for

the employee.

(c) The office of vocational rehabilitation shall implement the rehabilitation plan. After completion of the rehabilitation program, the office of vocational rehabilitation shall provide job placement services to the rehabilitated employee.

As added by P.L.218-1989, SEC.1.

IC 22-3-12-5

Construction of chapter; employee's benefits

Sec. 5. Nothing contained in this chapter shall be construed to affect an injured employee's status regarding any benefit provided under IC 22-3-2 through IC 22-3-7.

As added by P.L.218-1989, SEC.1.

IC 22-4

ARTICLE 4. UNEMPLOYMENT COMPENSATION SYSTEM

IC 22-4-1

Chapter 1. Declaration of Public Policy

IC 22-4-1-1

Police power

Sec. 1. As a guide to the interpretation and application of this article, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is declared hereby to be a serious menace to the health, morale, and welfare of the people of this state and to the maintenance of public order within this state. Protection against this great hazard of our economic life can be provided in some measure by the required and systematic accumulation of funds during periods of employment to provide benefits to the unemployed during periods of unemployment and by encouragement of desirable stable employment. The enactment of this article to provide for payment of benefits to persons unemployed through no fault of their own, to encourage stabilization in employment, and to provide for integrated employment and training services in support of state economic development programs, and to provide maximum job training and employment opportunities for the unemployed, underemployed, the economically disadvantaged, dislocated workers, and others with substantial barriers to employment, is, therefore, essential to public welfare; and the same is declared to be a proper exercise of the police powers of the state. To further this public policy, the state, through its department of workforce development, will maintain close coordination among all federal, state, and local agencies whose mission affects the employment or employability of the unemployed and underemployed.

(Formerly: Acts 1947, c.208, s.101.) As amended by P.L.144-1986, SEC.86; P.L.18-1987, SEC.16; P.L.21-1995, SEC.61.

IC 22-4-2
Chapter 2. Definitions

IC 22-4-2-1
Benefits
Sec. 1. As used in this article, unless the context clearly requires otherwise, "benefits" means the money payments payable to an eligible individual as provided in this article with respect to his unemployment.
(Formerly: Acts 1947, c.208, s.201.) As amended by P.L.144-1986, SEC.87.

IC 22-4-2-2
Partial benefits
Sec. 2. "Partial benefits" means the weekly benefit amounts of any eligible individual who is partially and/or part-totally unemployed, less the deductible income as hereinafter defined.
(Formerly: Acts 1947, c.208, s.202; Acts 1953, c.177, s.1; Acts 1957, c.299, s.15.)

IC 22-4-2-3
Board
Sec. 3. "Board" means the unemployment insurance board established by this article.
(Formerly: Acts 1947, c.208, s.203.) As amended by P.L.144-1986, SEC.88; P.L.18-1987, SEC.17.

IC 22-4-2-3.5
Commissioner
Sec. 3.5. "Commissioner" refers to the commissioner of workforce development.
As added by P.L.21-1995, SEC.62.

IC 22-4-2-4
Contributions
Sec. 4. "Contributions" means the money payments to the unemployment insurance benefit fund required and provided by the terms of this article.
(Formerly: Acts 1947, c.208, s.204.) As amended by P.L.144-1986, SEC.89; P.L.18-1987, SEC.18.

IC 22-4-2-5
Repealed
(Repealed by P.L.21-1995, SEC.149.)

IC 22-4-2-6
State
Sec. 6. "State" means and includes the several states of the United States of America, the District of Columbia of the United States of America, the Commonwealth of Puerto Rico, the Virgin Islands and

the Dominion of Canada.
(Formerly: Acts 1947, c.208, s.206; Acts 1965, c.190, s.1; Acts 1967, c.310, s.1.) As amended by Acts 1977, P.L.262, SEC.1.

IC 22-4-2-7
Employment office

Sec. 7. "Employment office" means a free public employment office or branch thereof, maintained and operated by this state, any other state or jurisdiction, or by any agency or instrumentality of the United States of America, or where the context allows, maintained by any state as a part of a state-controlled system of public employment offices.
(Formerly: Acts 1947, c.208, s.207.)

IC 22-4-2-8
Employment and training services administration fund

Sec. 8. "Employment and training services administration fund" means the fund established by IC 22-4-24 from which administrative expenses under this article shall be paid, other than those to be paid from the special employment and training services fund, as provided in IC 22-4-25.
(Formerly: Acts 1947, c.208, s.208.) As amended by P.L.144-1986, SEC.90; P.L.18-1987, SEC.20.

IC 22-4-2-9
Fund

Sec. 9. "Fund" means the unemployment insurance benefit fund established by IC 22-4-26-1, in which all contributions required, all payments in lieu of contributions, and all money received from the federal government as reimbursements pursuant to section 204 of the Federal-State Extended Compensation Act of 1970, 26 U.S.C. 3304n, shall be deposited and from which all benefits provided under this article shall be paid.
(Formerly: Acts 1947, c.208, s.209; Acts 1971, P.L.355, SEC.1; Acts 1973, P.L.239, SEC.1.) As amended by P.L.18-1987, SEC.21; P.L.1-2007, SEC.160.

IC 22-4-2-10
Special employment and training services fund

Sec. 10. "Special employment and training services fund" means the special administrative fund created under IC 22-4-25.
(Formerly: Acts 1947, c.208, s.210.) As amended by P.L.144-1986, SEC.91; P.L.18-1987, SEC.22.

IC 22-4-2-11
Department

Sec. 11. "Department" means the department of workforce development.
(Formerly: Acts 1947, c.208, s.211.) As amended by P.L.18-1987, SEC.23; P.L.21-1995, SEC.63.

IC 22-4-2-12
Base period

Sec. 12. "Base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit period: Provided, however, That for a claim computed in accordance with IC 1971, 22-4-22, the base period shall be the base period as outlined in the paying state's law.
(Formerly: Acts 1947, c.208, s.212; Acts 1971, P.L.355, SEC.2.)

IC 22-4-2-12.5
Base period; persons receiving worker's compensation 52 weeks or less

Sec. 12.5. Notwithstanding section 12 of this chapter, for an individual who during the "base period" as defined in that section has received worker's compensation benefits under IC 22-3-3 for a period of fifty-two (52) weeks or less, and as a result has not earned sufficient wage credits to meet the requirements of IC 22-4-14-5, "base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the last day that the individual was able to work, as a result of the individual's injury.
As added by P.L.226-1983, SEC.1. Amended by P.L.28-1988, SEC.68.

IC 22-4-2-13
Calendar quarter

Sec. 13. "Calendar quarter" means the period of three (3) consecutive calendar months ending on March 31, June 30, september 30, or December 31: Provided, That for due dates of state unemployment returns in each instance of quarterly return, the date shall be the last day of the month following the end of the quarter.
(Formerly: Acts 1947, c.208, s.213; Acts 1965, c.202, s.1.)

IC 22-4-2-14
Week

Sec. 14. Except as provided in IC 22-4-5-3, "week" means a calendar week.
(Formerly: Acts 1947, c.208, s.214.) As amended by P.L.241-1987, SEC.1.

IC 22-4-2-15
Weekly benefit amount

Sec. 15. "Weekly benefit amount" means the amount of benefits an eligible individual would be entitled to receive for a particular week of total unemployment.
(Formerly: Acts 1947, c.208, s.215.)

IC 22-4-2-16
Annual payroll

Sec. 16. "Annual payroll" means the total amount of wages for employment paid by an employer during the twelve (12) consecutive

calendar month period ending on the computation date of any calendar year, including wages paid by any other employer whose account has been assumed by such employer in accordance with the provisions of IC 22-4-10-6 or IC 22-4-10-7.
(Formerly: Acts 1947, c.208, s.216; Acts 1957, c.299, s.1.) As amended by P.L.144-1986, SEC.92.

IC 22-4-2-17
Computation date
Sec. 17. Except as provided in IC 22-4-11.5, "computation date" means June 30 of the year preceding the effective date of new rates of contribution, except that in the event, after having been legally terminated, an employer again becomes subject to this article during the last six (6) months of a calendar year and resumes the employer's former position with respect to the resources and liabilities of the experience account, then and in such case the employer's first "computation date" shall mean December 31 of the fourth consecutive calendar year of such subjectivity and thereafter "computation date" for such employer shall mean June 30.
(Formerly: Acts 1947, c.208, s.217; Acts 1957, c.299, s.2.) As amended by P.L.144-1986, SEC.93; P.L.80-1990, SEC.9; P.L.202-1993, SEC.1; P.L.108-2006, SEC.1.

IC 22-4-2-17.5
Determination date
Sec. 17.5. "Determination date" means September 30 of each year.
As added by P.L.202-1993, SEC.2.

IC 22-4-2-18
Balance
Sec. 18. "Balance" means the amount standing to the credit or debit of the experience account as of the computation date.
(Formerly: Acts 1947, c.208, s.218; Acts 1953, c.177, s.2.)

IC 22-4-2-19
Agency
Sec. 19. "Agency" means any officer, board, commission, or other authority designated by an unemployment insurance law in force in any state or in Canada to administer the unemployment insurance fund for which provision is made by such unemployment insurance law.
(Formerly: Acts 1947, c.208, s.219.)

IC 22-4-2-20
Jurisdiction
Sec. 20. "Jurisdiction" means any state or Canada.
(Formerly: Acts 1947, c.208, s.220.)

IC 22-4-2-21
Benefit period

Sec. 21. "Benefit period" with respect to any individual means the fifty-two-consecutive-week period beginning with the first week as of which an insured worker first files an initial claim for determination of his insured status, and thereafter the fifty-two-consecutive-week period beginning with the first week as of which the individual next files an initial claim after the termination of his last preceding benefit period.
(Formerly: Acts 1947, c.208, s.221; Acts 1951, c.295, s.1; Acts 1953, c.177, s.3.) As amended by Acts 1977, P.L.2, SEC.74.

IC 22-4-2-22
Valid claim
Sec. 22. "Valid claim" means a claim filed by an individual who has established qualifying wage credits and who is totally, partially, or part-totally unemployed; Provided, no individual in a benefit period may file a valid claim for a waiting period or benefit period rights with respect to any period subsequent to the expiration of such benefit period.
(Formerly: Acts 1947, c.208, s.222; Acts 1953, c.177, s.4.)

IC 22-4-2-23
Initial claim
Sec. 23. "Initial claim" means a written application, in a form prescribed by the department, made by an individual for the determination of the individual's status as an insured worker.
(Formerly: Acts 1947, c.208, s.223; Acts 1953, c.177, s.5.) As amended by P.L.108-2006, SEC.2.

IC 22-4-2-24
Additional claim
Sec. 24. "Additional claim" means a written application for a determination of benefit eligibility, made by an individual in a form prescribed by the department, to begin a second or subsequent series of claims in a benefit period, by which application the individual certifies to new unemployment resulting from a break in or loss of work which has occurred since the last claim was filed by such individual.
(Formerly: Acts 1947, c.208, s.224; Acts 1953, c.177, s.6.) As amended by P.L.108-2006, SEC.3.

IC 22-4-2-25
Insured worker
Sec. 25. "Insured worker" means an individual who, with respect to a base period, meets the qualifying wage requirements of IC 22-4-14-5.
(Formerly: Acts 1947, c.208, s.225; Acts 1953, c.177, s.7.) As amended by P.L.144-1986, SEC.94.

IC 22-4-2-26
Insured work

Sec. 26. "Insured work" means employment in the service of an employer.
(Formerly: Acts 1947, c.208, s.226; Acts 1953, c.177, s.8.)

IC 22-4-2-27
Repealed
(Repealed by P.L.20-1986, SEC.16.)

IC 22-4-2-28
Repealed
(Repealed by P.L.20-1986, SEC.16.)

IC 22-4-2-29
Insured unemployment
Sec. 29. "Insured unemployment" means unemployment during a given week for which waiting period credit or benefits are claimed under the state employment security program, the unemployment compensation for federal employees program, the unemployment compensation for veterans program, or the railroad unemployment insurance program.
(Formerly: Acts 1947, c.208, s.229; Acts 1967, c.310, s.4.)

IC 22-4-2-30
Hospital
Sec. 30. For all purposes of this article, the term "hospital" means:
(1) an institution defined in IC 16-18-2-179(b) and licensed by the state department of health; or
(2) a state institution (as defined in IC 12-7-2-184).
(Formerly: Acts 1971, P.L.355, SEC.3.) As amended by P.L.2-1992, SEC.742; P.L.2-1993, SEC.131.

IC 22-4-2-31
Eligible postsecondary educational institution
Sec. 31. (a) "Eligible postsecondary educational institution" for the purposes of this article, means an educational institution that:
(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;
(2) is legally authorized in this state to provide a program of education beyond high school;
(3) provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and
(4) is a public or other nonprofit institution.
(b) Notwithstanding subsection (a), the term includes all colleges and universities in Indiana.
(Formerly: Acts 1971, P.L.355, SEC.4.) As amended by P.L.2-2007,

SEC.289.

IC 22-4-2-32
Payment in lieu of contributions

Sec. 32. "Payment in lieu of contributions" means the required reimbursements by employers of benefits paid attributable to services performed for such employers which are liable to make these payments as provided in IC 22-4-10-1. These payments shall equal the full amount of regular benefits and the part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970 paid that are attributable to services in the employ of such liable employers.
(Formerly: Acts 1971, P.L.355, SEC.5.) As amended by P.L.175-2009, SEC.2.

IC 22-4-2-33
New work

Sec. 33. The term "new work" wherever used in this article including IC 1971, 22-4-15-2 means (a) work offered to an individual by an employer with whom he has never had a contract of employment; (b) work offered to an individual by his last employer or any other employer with whom he does not have a contract of employment at the time the offer is made; and (c) work offered to an individual by his present employer of (i) different duties from those he has agreed to perform in his existing contract of employment or (ii) different terms or conditions of employment from those in his existing contract.
(Formerly: Acts 1971, P.L.355, SEC.6.)

IC 22-4-2-34
Extended benefit period; "on" and "off" indicators; additional definitions

Sec. 34. (a) With respect to benefits for weeks of unemployment beginning after August 13, 1981, "extended benefit period" means a period which begins with the third week after a week for which there is a state "on" indicator and ends with the later of the following:

(1) The third week after the first week for which there is a state "off" indicator.

(2) The thirteenth consecutive week of such period.

(b) However, no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

(c) There is a state "on" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve (12) weeks, the rate of insured unemployment (not seasonally adjusted) under this article:

(1) equaled or exceeded one hundred twenty percent (120%) of the average of such rates for the corresponding 13-week period

ending in each of the preceding two (2) calendar years; and

(2) equaled or exceeded five percent (5%).

However, the determination of whether there has been a state "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if it did not contain subdivision (1) if the insured unemployment rate is at least six percent (6%). Any week for which there would otherwise be a state "on" indicator shall continue to be such a week and may not be determined to be a week for which there is a state "off" indicator.

(d) In addition to the test for a state "on" indicator under subsection (c), there is a state "on" indicator for this state for a week if:

(1) the average rate of total unemployment in Indiana, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three (3) months for which data for all states are published before the close of the week, equals or exceeds six and five-tenths percent (6.5%); and

(2) the average rate of total unemployment in Indiana, seasonally adjusted, as determined by the United States Secretary of Labor, for the three (3) month period referred to in subdivision (1) equals or exceeds one hundred ten percent (110%) of the average for either or both of the corresponding three (3) month periods ending in the two (2) preceding calendar years.

There is a state "off" indicator for a week if either of the requirements in subdivisions (1) and (2) are not satisfied. However, any week for which there would otherwise be a state "on" indicator under this section continues to be subject to the "on" indicator and shall not be considered a week for which there is a state "off" indicator. This subsection expires on the later of December 5, 2009, or the week ending four (4) weeks before the last week for which federal sharing is authorized by Section 2005(a) of Division B, Title II (the federal Assistance to Unemployed Workers and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

(e) There is a state "off" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve (12) weeks, the requirements of subsection (c) have not been met.

(f) With respect to benefits for weeks of unemployment beginning after August 13, 1981, "rate of insured unemployment," for purposes of subsection (c), means the percentage derived by dividing:

(1) the average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent 13 consecutive week period (as determined by the board on the basis of this state's reports to the United States Secretary of Labor); by

(2) the average monthly employment covered under this article

for the first four (4) of the most recent six (6) completed calendar quarters ending before the end of such 13-week period.

(g) "Regular benefits" means benefits payable to an individual under this article or under the law of any other state (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. 8501 through 8525) other than extended benefits. "Additional benefits" means benefits other than extended benefits and which are totally financed by a state payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law. If extended compensation is payable to an individual by this state and additional compensation is payable to the individual for the same week by any state, the individual may elect which of the two (2) types of compensation to claim.

(h) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. 8501 through 8525) payable to an individual under the provisions of this article for weeks of unemployment in the individual's "eligibility period". Pursuant to Section 3304 of the Internal Revenue Code extended benefits are not payable to interstate claimants filing claims in an agent state which is not in an extended benefit period, against the liable state of Indiana when the state of Indiana is in an extended benefit period. This prohibition does not apply to the first two (2) weeks claimed that would, but for this prohibition, otherwise be payable. However, only one (1) such two (2) week period will be granted on an extended claim. Notwithstanding any other provisions of this chapter, with respect to benefits for weeks of unemployment beginning after October 31, 1981, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would, but for this clause, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero (0)) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(i) "Eligibility period" of an individual means the period consisting of the weeks in the individual's benefit period which begin in an extended benefit period and, if the individual's benefit period ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period. For any weeks of unemployment beginning after February 17, 2009, and before January 1, 2012, an individual's eligibility period (as described in Section 203(c) of the Federal-State Unemployment Compensation Act of 1970) is, for purposes of any determination of eligibility for extended compensation under state law, considered to include any week that begins:

(1) after the date as of which the individual exhausts all rights to emergency unemployment compensation; and

(2) during an extended benefit period that began on or before the date described in subdivision (1).

(j) "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(1) has received, prior to such week, all of the regular benefits including dependent's allowances that were available to the individual under this article or under the law of any other state (including benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. 8501 through 8525) in the individual's current benefit period that includes such week. However, for the purposes of this subsection, an individual shall be deemed to have received all of the regular benefits that were available to the individual although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in the individual's benefit period or although a nonmonetary decision denying benefits is pending, the individual may subsequently be determined to be entitled to added regular benefits;

(2) may be entitled to regular benefits with respect to future weeks of unemployment but such benefits are not payable with respect to such week of unemployment by reason of seasonal limitations in any state unemployment insurance law; or

(3) having had the individual's benefit period expire prior to such week, has no, or insufficient, wages on the basis of which the individual could establish a new benefit period that would include such week;

and has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Act of 1974, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor, and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law, the individual is considered an exhaustee.

(k) "State law" means the unemployment insurance law of any state, approved by the United States Secretary of Labor under Section 3304 of the Internal Revenue Code.

(l) With respect to compensation for weeks of unemployment beginning after March 1, 2011, and ending on the later of December 10, 2011, or the week ending four (4) weeks before the last week for which federal sharing is authorized by Section 2005(a) of Division B, Title II (the federal Assistance to Unemployed and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5), in addition to the tests for a state "on" indicator under subsections (c) and (d), there is a state "on" indicator for a week if:

(1) the average rate of insured unemployment for the period consisting of the week and the immediately preceding twelve

(12) weeks equals or exceeds five percent (5%); and

(2) the average rate of insured unemployment for the period consisting of the week and the immediately preceding twelve (12) weeks equals or exceeds one hundred twenty percent (120%) of the average rates of insured unemployment for the corresponding thirteen (13) week period ending in each of the preceding three (3) calendar years.

(m) There is a state "off" indicator for a week based on the rate of insured unemployment only if the rate of insured unemployment for the period consisting of the week and the immediately preceding twelve (12) weeks does not result in an "on" indicator under subsection (c)(1).

(n) With respect to compensation for weeks of unemployment beginning after March 1, 2011, and ending on the later of December 10, 2011, or the week ending four (4) weeks before the last week for which federal sharing is authorized by Section 2005(a) of Division B, Title II (the federal Assistance to Unemployed and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5), in addition to the tests for a state "on" indicator under subsections (c), (d), and (l) there is a state "on" indicator for a week if:

(1) the average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent three (3) months for which data for all states are published before the close of the week equals or exceeds six and one-half percent (6.5%); and

(2) the average rate of total unemployment in Indiana (seasonally adjusted), as determined by the United States Secretary of Labor, for the three (3) month period referred to in subdivision (1) equals or exceeds one hundred ten percent (110%) of the average for any or all of the corresponding three (3) month periods ending in the three (3) preceding calendar years.

(o) There is a state "off" indicator for a week based on the rate of total unemployment only if the rate of total unemployment for the period consisting of the most recent three (3) months for which data for all states are published before the close of the week does not result in an "on" indicator under subsection (d)(1).

(Formerly: Acts 1971, P.L.355, SEC.7; Acts 1973, P.L.239, SEC.2.) As amended by Acts 1977, P.L.262, SEC.4; Acts 1981, P.L.209, SEC.3; Acts 1982, P.L.95, SEC.2; P.L.2-1987, SEC.27; P.L.18-1987, SEC.24; P.L.21-1995, SEC.64; P.L.175-2009, SEC.3; P.L.12-2011, SEC.1.

IC 22-4-2-35

Credit reserve ratio

Sec. 35. An employer's credit reserve ratio is determined on the basis of the relationship that the credit balance shown by his experience account as of the computation date bears to the wages

paid by the employer or his predecessors for the employment during the thirty-six (36) months immediately preceding the computation date.
As added by Acts 1977, P.L.262, SEC.5.

IC 22-4-2-36
Debit reserve ratio

Sec. 36. An employer's debit reserve ratio is determined on the basis of the relationship that the debit balance shown by his experience account as of the computation date bears to the wages paid by the employer or his predecessors for employment during the thirty-six (36) months immediately preceding the computation date.
As added by Acts 1977, P.L.262, SEC.6.

IC 22-4-2-37
School

Sec. 37. For the purposes of IC 22-4-8-2(j)(3)(C), "school" means an educational institution that is accredited and approved by the Indiana state board of education and is an academic school system, whereby a student may progressively advance, starting with the first grade through the twelfth grade. This includes all accredited public and parochial schools which are primary, secondary, or preparatory schools. "School" does not include:

(1) a kindergarten, not a part of the public or parochial school system;
(2) a day care center;
(3) an organization furnishing psychiatric care and treatment;
(4) an organization furnishing training or rehabilitation for individuals with mental retardation or a physical disability, which organization is not a part of the public or parochial school system; or
(5) an organization offering preschool training, not a part of the public or parochial school system.

As added by Acts 1977, P.L.262, SEC.7. Amended by P.L.20-1984, SEC.195; P.L.99-1988, SEC.23; P.L.23-1993, SEC.128; P.L.99-2007, SEC.186.

IC 22-4-2-38
Review board

Sec. 38. As used in this article, "review board" means the unemployment insurance review board.
As added by P.L.18-1987, SEC.25.

IC 22-4-2-39
Liability administrative law judge

Sec. 39. As used in this article, "liability administrative law judge" means a person who is:

(1) employed as an administrative law judge under IC 22-4-17-4; and
(2) authorized to hear matters described in IC 22-4-32-1.

As added by P.L.108-2006, SEC.4.

IC 22-4-2-40
"Drug test"

Sec. 40. As used in this article, "drug test" means a test that contains at least a five (5) drug panel that tests for the following:

(1) Amphetamines.
(2) Cocaine.
(3) Opiates (2,000 ng/ml).
(4) PCP.
(5) THC.

A drug test described in this section must be performed at a United States Department of Health and Human Services certified laboratory, with specimen collection performed by a collector certified by the United States Department of Transportation and the cost of the drug test paid by the employer.

As added by P.L.12-2011, SEC.2.

IC 22-4-3

Chapter 3. Unemployment Defined

IC 22-4-3-1

"Totally unemployed" defined

Sec. 1. An individual shall be deemed "totally unemployed" in any week with respect to which no remuneration was payable to him for personal services.

(Formerly: Acts 1947, c.208, s.301; Acts 1953, c.177, s.9.)

IC 22-4-3-2

"Partially unemployed" defined

Sec. 2. An individual is "partially unemployed" when, because of lack of available work, he is working less than his normal customary full-time hours for his regular employer and his remuneration is less than his weekly benefit amount in any calendar week, but no individual shall be deemed totally, part-totally, or partially unemployed in any week which he is regularly and customarily employed full-time on a straight commission basis.

(Formerly: Acts 1947, c.208, s.302.)

IC 22-4-3-3

Exceptions; on call or as needed employment

Sec. 3. An individual is not totally unemployed, part-totally unemployed, or partially unemployed for any week in which the individual:

(1) is regularly and customarily employed on an on-call or as needed basis; and

(2) has:

(A) remuneration for personal services payable to the individual; or

(B) work available from the individual's on-call or as needed employer.

As added by P.L.2-2011, SEC.1.

IC 22-4-3-4

Exception; vacation period with remuneration

Sec. 4. (a) Except as provided in subsection (b), an individual is not totally unemployed, part-totally unemployed, or partially unemployed for any week in which the department finds that the individual:

(1) is on a vacation week; and

(2) is receiving, or has received, remuneration from the employer for that week.

(b) Subsection (a) does not apply to an individual whose employer fails to comply with a department rule or policy regarding the filing of a notice, report, information, or claim in connection with an individual, group, or mass separation arising from the vacation period.

As added by P.L.2-2011, SEC.2. Amended by P.L.6-2012, SEC.151.

IC 22-4-3-5

Exception; vacation period without remuneration by agreement or policy

Sec. 5. (a) Except as provided in subsection (c) and subject to subsection (b), an individual is not totally unemployed, part-totally unemployed, or partially unemployed for any week in which the department finds the individual:

(1) is on a vacation week; and

(2) has not received remuneration from the employer for that week, because of:

(A) a written contract between the employer and the employees; or

(B) the employer's regular vacation policy and practice.

(b) Subsection (a) applies only if the department finds that the individual has a reasonable assurance that the individual will have employment available with the employer after the vacation period ends.

(c) Subsection (a) does not apply to an individual whose employer fails to comply with a department rule or policy regarding the filing of a notice, report, information, or claim in connection with an individual, group, or mass separation arising from the vacation period.

As added by P.L.2-2011, SEC.3. Amended by P.L.6-2012, SEC.152.

IC 22-4-4

Chapter 4. Remuneration, Wages, Wage Credits, and Previously Uncovered Services Defined

IC 22-4-4-1

Definitions; remuneration

Sec. 1. "Remuneration" whenever used in this article, unless the context clearly denotes otherwise, means all compensation for personal services, including but not limited to commissions, bonuses, dismissal pay, vacation pay, sick pay (subject to the provisions of section 2(b)(2) of this chapter) payments in lieu of compensation for services, and cash value of all compensation paid in any medium other than cash. The reasonable cash value of compensation paid in any medium other than cash may be estimated and determined in accordance with rules prescribed by the board. Such term shall not, however, include the value of meals, lodging, books, tuition, or educational facilities furnished to a student while such student is attending an established school, college, university, hospital, or training course for services performed within the regular school term or school year, including the customary vacation days or periods falling within such school term or school year.

(Formerly: Acts 1947, c.208, s.401; Acts 1955, c.317, s.1; Acts 1969, c.300, s.1.) As amended by P.L.144-1986, SEC.95.

IC 22-4-4-2

Definitions; wages

Sec. 2. (a) Except as otherwise provided in this section, "wages" means all remuneration as defined in section 1 of this chapter paid to an individual by an employer, remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code, and includes all remuneration considered as wages under Sections 3301 and 3102 et seq. of the Internal Revenue Code. However, the term shall not include any amounts paid as compensation for services specifically excluded by IC 22-4-8-3 or IC 22-4-8-3.5 from the definition of employment as defined in IC 22-4-8-1 and IC 22-4-8-2. The term shall include, but not be limited to, any payments made by an employer to an employee or former employee, under order of the National Labor Relations Board, or a successor thereto, or agency named to perform the duties thereof, as additional pay, back pay, or for loss of employment, or any such payments made in accordance with an agreement made and entered into by an employer, a union, and the National Labor Relations Board.

(b) The term "wages" shall not include the following:

(1) That part of remuneration which, after remuneration equal to:

(A) seven thousand dollars ($7,000), has been paid in a calendar year to an individual by an employer or the employer's predecessor with respect to employment during any calendar year that begins after December 31, 1982, and

before January 1, 2011; or

(B) nine thousand five hundred dollars ($9,500), has been paid in a calendar year to an individual by an employer or the employer's predecessor for employment during a calendar year that begins after December 31, 2010;

unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subdivision, the term "employment" shall include service constituting employment under any employment security law of any state or of the federal government. However, nothing in this subdivision shall be taken as an approval or disapproval of any related federal legislation.

(2) The amount of any payment (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) made to, or on behalf of, an individual or any of the individual's dependents under a plan or system established by an employer which makes provision generally for individuals performing service for it (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents) on account of:

(A) retirement;

(B) sickness or accident disability;

(C) medical or hospitalization expenses in connection with sickness or accident disability; or

(D) death.

(3) The amount of any payment made by an employer to an individual performing service for it (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) on account of retirement.

(4) The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability made by an employer to, or on behalf of, an individual performing services for it and after the expiration of six (6) calendar months following the last calendar month in which the individual performed services for such employer.

(5) The amount of any payment made by an employer to, or on behalf of, an individual performing services for it or to the individual's beneficiary:

(A) from or to a trust exempt from tax under Section 401(a) of the Internal Revenue Code at the time of such payment unless such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust; or

(B) under or to an annuity plan which, at the time of such payments, meets the requirements of Section 401(a)(3), 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue

Code.

(6) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business.

(7) The amount of any payment (other than vacation or sick pay) made to an individual after the month in which the individual attains the age of sixty-five (65) if the individual did not perform services for the employer in the period for which such payment is made.

(8) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employee under Sections 3101 et seq. of the Internal Revenue Code (Federal Insurance Contributions Act).

(Formerly: Acts 1947, c.208, s.402; Acts 1951, c.295, s.2; Acts 1957, c.299, s.12; Acts 1967, c.310, s.5; Acts 1971, P.L.355, SEC.8.) As amended by Acts 1977, P.L.262, SEC.8; P.L.227-1983, SEC.1; P.L.20-1986, SEC.2; P.L.2-1987, SEC.28; P.L.21-1995, SEC.65; P.L.98-2005, SEC.1; P.L.175-2009, SEC.4; P.L.110-2010, SEC.23.

IC 22-4-4-3
Definitions; wage credits

Sec. 3. (a) For calendar quarters beginning on and after July 1, 1997, and before July 1, 1998, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand four hundred dollars ($5,400) and may not include payments specified in section 2(b) of this chapter.

(b) For calendar quarters beginning on and after July 1, 1998, and before July 1, 1999, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand six hundred dollars ($5,600) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(c) For calendar quarters beginning on and after July 1, 1999, and before July 1, 2000, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand eight hundred dollars ($5,800) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(d) For calendar quarters beginning on and after July 1, 2000, and before July 1, 2001, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not

exceed six thousand seven hundred dollars ($6,700) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(e) For calendar quarters beginning on and after July 1, 2001, and before July 1, 2002, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand three hundred dollars ($7,300) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(f) For calendar quarters beginning on and after July 1, 2002, and before July 1, 2003, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand nine hundred dollars ($7,900) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(g) For calendar quarters beginning on and after July 1, 2003, and before July 1, 2004, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed eight thousand two hundred sixteen dollars ($8,216) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(h) For calendar quarters beginning on and after July 1, 2004, and before July 1, 2005, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed eight thousand seven hundred thirty-three dollars ($8,733) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(i) For calendar quarters beginning on and after July 1, 2005, and before July 1, 2012, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed nine thousand two hundred fifty dollars ($9,250) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(j) For calendar quarters beginning on and after July 1, 2012, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(Formerly: Acts 1947, c.208, s.403; Acts 1957, c.294, s.1; Acts 1959, c.97, s.1; Acts 1965, c.190, s.2; Acts 1967, c.310, s.6; Acts 1971, P.L.355, SEC.9; Acts 1973, P.L.240, SEC.2; Acts 1974, P.L.110, SEC.2.) As amended by Acts 1976, P.L.114, SEC.1; Acts 1977, P.L.262, SEC.9; Acts 1980, P.L.158, SEC.1; P.L.34-1985, SEC.3; P.L.171-1991, SEC.1; P.L.21-1995, SEC.66; P.L.259-1997(ss), SEC.1; P.L.30-2000, SEC.1; P.L.273-2003, SEC.1; P.L.2-2011, SEC.4.

IC 22-4-4-4
Previously uncovered services

Sec. 4. With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work includes wages paid for previously uncovered services. For the purposes of this section, the term "previously uncovered services" means services:

(1) which are not employment as defined in IC 22-4-8-1 and are not services covered pursuant to IC 22-4-9-5 at any time during the one (1) year period ending December 31, 1975; and

(2)(A) which are agricultural labor as defined in IC 22-4-8-2(l) or domestic service as defined in IC 22-4-8-2(m); or

(B) which are services performed by an employee of this state or a political subdivision of this state, as provided in IC 22-4-8-2(i), or by an employee of a not-for-profit educational institution which is not an eligible postsecondary educational institution, as provided in IC 22-4-8-2(j), except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of the services.

As added by Acts 1977, P.L.262, SEC.10. Amended by P.L.2-2007, SEC.290.

IC 22-4-5

Chapter 5. Deductible Income Defined

IC 22-4-5-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 1 of this chapter by P.L.138-2008 apply to initial claims for unemployment filed for weeks that begin after March 14, 2008.

As added by P.L.220-2011, SEC.363.

IC 22-4-5-1

Definition

Sec. 1. (a) "Deductible income" wherever used in this article, means income deductible from the weekly benefit amount of an individual in any week, and shall include, but shall not be limited to, any of the following:

(1) Remuneration for services from employing units, whether or not such remuneration is subject to contribution under this article, except as provided in subsection (c).

(2) Dismissal pay.

(3) Vacation pay.

(4) Pay for idle time.

(5) Holiday pay.

(6) Sick pay.

(7) Traveling expenses granted to an individual by an employing unit and not fully accounted for by such individual.

(8) Net earnings from self-employment.

(9) Payments in lieu of compensation for services.

(10) Awards by the national labor relations board of additional pay, back pay, or for loss of employment, or any such payments made under an agreement entered into by an employer, a union, and the National Labor Relations Board.

(11) Payments made to an individual by an employing unit pursuant to the terms of the Fair Labor Standards Act (Federal Wage and Hour Law, 29 U.S.C. 201 et seq.).

(12) This subdivision applies to initial claims for unemployment filed for a week that begins after March 14, 2008, and before October 1, 2011. For a week in which a payment is actually received by an individual, payments made by an employer to an individual who accepts an offer from the employer in connection with a layoff or a plant closure.

(13) This subdivision applies to initial claims for unemployment filed for a week that begins after March 14, 2008, and before October 1, 2011. Except as provided in subsection (c)(2), the part of a payment made by an employer to an individual who accepts an offer from the employer in connection with a layoff or a plant closure if that part is attributable to a week and the week:

(A) occurs after an individual receives the payment; and

(B) was used under the terms of a written agreement to

compute the payment.

(b) Deductible income shall not include the first three dollars ($3), or twenty percent (20%) of the claimant's weekly benefit amount rounded to the next lowest dollar, whichever is the larger, of remuneration paid or payable to an individual with respect to any week by other than the individual's base period employer or employers.

(c) For the purpose of deductible income only, remuneration for services from employing units does not include:

(1) bonuses, gifts, or prizes awarded to an employee by an employing unit; or

(2) for initial claims for unemployment filed for a week that begins after March 14, 2008, and before October 1, 2011, compensation made under a valid negotiated contract or agreement in connection with a layoff or plant closure, without regard to how the compensation is characterized by the contract or agreement.

(d) Deductible income does not include a supplemental unemployment insurance benefit made under a valid negotiated contract or agreement.

(e) Deductible income does not include any payments made to an individual by a court system under a summons for jury service.

(Formerly: Acts 1947, c.208, s.501; Acts 1953, c.177, s.10; Acts 1957, c.299, s.16; Acts 1967, c.310, s.7.) As amended by P.L.227-1983, SEC.2; P.L.20-1986, SEC.3; P.L.138-2008, SEC.2; P.L.110-2010, SEC.24; P.L.2-2011, SEC.5.

IC 22-4-5-2

Specific items deductible

Sec. 2. (a) Payments in lieu of a vacation awarded to an employee by an employing unit shall be considered as deductible income in and with respect to the week in which the same is actually paid. The payment of accrued vacation pay, dismissal pay, or severance pay to an individual separated from employment by an employing unit shall be allocated to the period of time for which such payment is made immediately following the date of separation, and an individual receiving such payments shall not be deemed unemployed with respect to a week during which such allocated deductible income equals or exceeds the weekly benefit amount of his claim. Pay for idle time; sick pay; traveling expenses granted to an individual by an employing unit and not fully accounted for by such individual; earnings from self-employment; awards by the National Labor Relations Board of additional pay, back pay, or for loss of employment; or any such payments made under an agreement entered into by an employer, a union, and the National Labor Relations Board; and payments to an employee by an employing unit made pursuant to the terms and provisions of the Fair Labor Standards Act shall be deemed to constitute deductible income with respect to the week or weeks for which such payments are made. However, if such payments made pursuant to the provisions of the National Labor

Relations Act or of the Fair Labor Standards Act or through agreement with a union are not, by the terms of the order or agreement under which said payments are made, allocated to any designated week or weeks, then, and in such cases, such payments shall be considered as deductible income in and with respect to the week in which the same is actually paid.

(b) Holiday pay which is paid not later than the normal pay day for the pay period in which the holiday occurred shall be deemed to constitute deductible income with respect to the week for which such payments are made. Holiday pay which is paid after the normal pay day for the pay period in which the holiday occurred shall be considered as deductible income in and with respect to the week in which the same is actually paid.

(c) Payment of vacation pay, if made prior to the vacation period or not later than the normal pay day for the pay period in which the vacation was taken, shall be deemed deductible income with respect to the week or weeks falling within such vacation period for which vacation payment is made. Payment of vacation pay made subsequent to the normal pay day for the pay period in which the vacation was taken shall be deemed deductible income with respect to the week in which such payment is made.

(Formerly: Acts 1947, c.208, s.502; Acts 1953, c.177, s.11; Acts 1967, c.310, s.8; Acts 1971, P.L.355, SEC.10.) As amended by Acts 1981, P.L.209, SEC.4; P.L.20-1986, SEC.4.

IC 22-4-5-3

Work week specified in contract; conditions for use

Sec. 3. (a) This section applies for purposes of deductible income only.

(b) If:

(1) an employee and an employing unit have agreed in a labor contract, that is negotiated on or before May 10, 1987, and any renewals thereafter of such contract, to establish a work week that is a different term of seven (7) days than the calendar week;

(2) the employing unit has filed a written notice with the division on a form prescribed by the division stating that a work week other than the calendar week has been established under the labor contract between the employing unit and its employees; and

(3) the notice has been filed with the division before an employee working on the contractual work week files a claim for unemployment compensation benefits;

the work week specified in the contract may be used for purposes of this chapter.

As added by P.L.241-1987, SEC.2.

IC 22-4-6
Chapter 6. Employing Units Defined

IC 22-4-6-1
Definition

Sec. 1. (a) "Employing unit" means any individual or type of organization, including any partnership, limited liability partnership, association, trust, joint venture, estate, limited liability company, joint stock company, insurance company, corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or successor to any of the foregoing, or the legal representative of a deceased person, which at any time has had one (1) or more individuals performing services for it within this state for remuneration or under any contract of hire, written or oral, expressed or implied. Where any such individual performing services hires a helper to assist in performing such services, each such helper shall be deemed to be performing services for such employing unit for all purposes of this article, whether such helper was hired or paid directly by the employing unit or by the individual, provided the employing unit has actual or constructive knowledge of the services.

(b) All such individuals performing services within this state for any employing unit which maintains two (2) or more separate establishments within this state shall be deemed to be employed by a single employing unit for all purposes of this article.

(Formerly: Acts 1947, c.208, s.601.) As amended by P.L.144-1986, SEC.96; P.L.175-2009, SEC.5.

IC 22-4-6-2
Contributions; determination; remuneration other than money

Sec. 2. For the purpose of determining the liability of an employing unit for the payment of contributions and the number of individuals performing services for remuneration, or under any contract of hire, there shall be included all individuals attending an established school, college, university, hospital or training course, who, in lieu of remuneration for such services, receive either meals, lodging, books, tuition or other educational facilities.

(Formerly: Acts 1947, c.208, s.602.)

IC 22-4-6-3
Concurrent employment by related corporations

Sec. 3. (a) If two (2) or more related entities, including partnerships, limited liability partnerships, associations, trusts, joint ventures, estates, joint stock companies, limited liability companies, insurance companies, or corporations, or a combination of these entities, concurrently employ the same individual and compensate that individual through a common paymaster that is one (1) of the entities, those entities shall be considered to be one (1) employing unit.

(b) For purposes of this section, entities shall be considered related entities if they satisfy any one (1) of the following tests at any

time during the calendar quarter:

(1) The corporations are members of a "controlled group of corporations", as defined in Section 1563 of the Internal Revenue Code (generally parent-subsidiary or brother-sister controlled groups), or would be members if Section 1563(a)(4) and 1563(b) of the Internal Revenue Code did not apply and if the phrase "more than fifty percent (50%)" were substituted for the phrase "at least eighty percent (80%)" wherever it appears in Section 1563(a) of the Internal Revenue Code.

(2) In the case of an entity that does not issue stock, either fifty percent (50%) or more of the members of one (1) entity's board of directors (or other governing body) are members of the other entity's board of directors (or other governing body), or the holders of fifty percent (50%) or more of the voting power to select these members are concurrently the holders of fifty percent (50%) or more of that power with respect to the other entity.

(3) Fifty percent (50%) or more of one (1) entity's officers are concurrently officers of the other entity.

(4) Thirty percent (30%) or more of one (1) entity's employees are concurrently employees of the other entity.

(5) The entities are part of an affiliated group, as defined in Section 1504 of the Internal Revenue Code, except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%).

Entities shall be considered related entities for an entire calendar quarter if they satisfy the requirements of this subsection at any time during the calendar quarter.

(c) For purposes of this section, "concurrent employment" means the contemporaneous existence of an employment relationship between an individual and two (2) or more entities.

As added by P.L.128-1984, SEC.1. Amended by P.L.2-1987, SEC.29; P.L.175-2009, SEC.6.

IC 22-4-6.5

Chapter 6.5. Professional Employer Organizations

IC 22-4-6.5-1

"Client"

Sec. 1. As used in this chapter, "client" has the meaning set forth in IC 27-16-2-3.

As added by P.L.33-2013, SEC.1.

IC 22-4-6.5-2

"Client level reporting method"

Sec. 2. As used in this chapter, "client level reporting method" has the meaning set forth in section 11(a) of this chapter.

As added by P.L.33-2013, SEC.1.

IC 22-4-6.5-3

"Covered employee"

Sec. 3. As used in this chapter, "covered employee" has the meaning set forth in IC 27-16-2-8.

As added by P.L.33-2013, SEC.1.

IC 22-4-6.5-4

"Professional employer agreement"

Sec. 4. As used in this chapter, "professional employer agreement" has the meaning set forth in IC 27-16-2-12.

As added by P.L.33-2013, SEC.1.

IC 22-4-6.5-5

"Professional employer organization"

Sec. 5. As used in this chapter, "professional employer organization" or "PEO" has the meaning set forth in IC 27-16-2-13.

As added by P.L.33-2013, SEC.1.

IC 22-4-6.5-6

"PEO level reporting method"

Sec. 6. As used in this chapter, "PEO level reporting method" has the meaning set forth in section 9(a) of this chapter.

As added by P.L.33-2013, SEC.1.

IC 22-4-6.5-7

Covered employee of PEO is PEO employee for purposes of unemployment compensation insurance

Sec. 7. (a) For purposes of this article, a covered employee of a PEO is an employee of the PEO.

(b) A PEO is responsible for the payment of contributions, surcharges, penalties, and interest assessed under this article on wages paid by the PEO to the PEO's covered employees during the term of the professional employer agreement.

As added by P.L.33-2013, SEC.1.

IC 22-4-6.5-8
PEO reporting methods; limitations

Sec. 8. (a) A PEO shall use the client level reporting method to report and pay all required contributions to the unemployment compensation fund as required by IC 22-4-10, unless the PEO elects the PEO level reporting method under section 9 of this chapter.

(b) A PEO that initially elects the PEO level reporting method under section 9 of this chapter may subsequently elect the client level reporting method under section 11 of this chapter.

(c) A PEO using the client level reporting method may not change its reporting method.

(d) Except as provided by IC 22-4-32-21(d), a PEO and its related entities shall use the same reporting method for all clients.

As added by P.L.33-2013, SEC.1.

IC 22-4-6.5-9
PEO election of PEO level reporting method

Sec. 9. (a) A PEO may elect the PEO level reporting method, which uses the state employer account number and contribution rate of the PEO to report and pay all required contributions to the unemployment compensation fund as required by IC 22-4-10.

(b) A PEO shall make the election required by subsection (a) not later than the following:

(1) December 1, 2013, if the PEO is doing business in Indiana on July 1, 2013.

(2) The first date the PEO is liable to make contributions under this article for at least one (1) covered employee, if the PEO begins doing business in Indiana after July 1, 2013.

(c) The election required by subsection (a) must be made in writing on forms prescribed by the department.

(d) A PEO that does not make an election under this section shall use the client level reporting method.

As added by P.L.33-2013, SEC.1.

IC 22-4-6.5-10
PEO use of PEO level reporting method

Sec. 10. (a) The following apply to a PEO that elects to use the PEO level reporting method:

(1) The PEO shall file all quarterly contribution and wage reports in accordance with IC 22-4-10-1.

(2) Whenever the PEO enters into a professional employer agreement with a client, the PEO:

(A) shall notify the department not later than fifteen (15) days after the end of the quarter in which the professional employer agreement became effective; and

(B) is subject to IC 22-4-10-6 and IC 22-4-11.5, beginning on the effective date of the professional employer agreement.

(3) The PEO shall notify the department in writing on forms prescribed by the department not later than fifteen (15) days

after the date of the following:

(A) The PEO and a client terminate a professional employer agreement.

(B) The PEO elects the client level reporting method under section 11 of this chapter.

After receiving a notice under this subdivision, the department shall make any changes required by IC 22-4-10-6 and IC 22-4-11.5.

(b) Except as provided by IC 22-4-32-21(d), a PEO that elects to use the PEO level reporting method is liable for all contributions, interest, penalties, and surcharges until the effective date of an election under section 11 of this chapter by the PEO to change to the client level reporting method.

As added by P.L.33-2013, SEC.1.

IC 22-4-6.5-11

PEO election of client level reporting method

Sec. 11. (a) A PEO using the PEO level reporting method may elect the client level reporting method, which uses the state employer account number and contribution rate of the client to report and pay all required contributions to the unemployment compensation fund as required by IC 22-4-10.

(b) A PEO shall make an election under subsection (a) not later than December 1 of the calendar year before the calendar year in which the election is effective.

(c) An election under subsection (a) must be made in writing on forms prescribed by the department.

(d) An election under subsection (a) is effective on January 1 of the calendar year immediately following the year in which the department receives the notice described in subsection (c).

As added by P.L.33-2013, SEC.1.

IC 22-4-6.5-12

PEO use of client level reporting method

Sec. 12. The following apply to a PEO that elects to use the client level reporting method:

(1) Whenever the PEO enters into a professional employer agreement with a client, the PEO shall notify the department not later than fifteen (15) days after the end of the quarter in which the professional employer agreement became effective.

(2) If a client is an employing unit on the date the professional employer agreement becomes effective, the client retains its experience balance, liabilities, and wage credits, and IC 22-4-10-6 does not apply to the client.

(3) If a client is not an employing unit on the date the professional employer agreement becomes effective, the client immediately qualifies for an employer experience account under IC 22-4-7-2(f) and is subject to IC 22-4-11-2(b)(2) for purposes of establishing an initial contribution rate.

(4) A client is associated with the PEO's employer experience

account by means of the PEO's primary federal employer identification number (FEIN) for purposes of liability under this article and federal certification.

(5) Upon the termination of a professional employer agreement between the PEO and a client:

(A) the client retains the experience balance, liabilities, and wage credits for the client's employing unit account;

(B) the client's federal employer identification number (FEIN) becomes the primary FEIN on the employing unit's account; and

(C) the PEO's FEIN is not associated with the client's employing unit account after the date:

(i) all outstanding reports are submitted; and

(ii) all outstanding liabilities are paid in full.

As added by P.L.33-2013, SEC.1.

IC 22-4-6.5-13

Client transfers between PEOs; client use of payments in lieu of contributions

Sec. 13. (a) A client that transfers between PEOs is not subject to IC 22-4-10-6 and IC 22-4-11.5 whenever:

(1) the PEOs are not commonly owned, managed, or controlled; and

(2) both PEOs have elected to use the PEO level reporting method.

(b) The client of a PEO that has elected to use the client level reporting method may elect to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32) whenever:

(1) the client is otherwise eligible to make the election; and

(2) the requirements of IC 22-4-10-1 are met.

As added by P.L.33-2013, SEC.1.

IC 22-4-7

Chapter 7. Employers Defined

IC 22-4-7-1

Definition

Sec. 1. Prior to January 1, 1978, "employer" means any employing unit which for some portion of a day, but not necessarily simultaneously, in each of twenty (20) different weeks, whether or not such weeks are or were consecutive within either the current or preceding calendar year, has or had in employment, and/or has incurred liability for wages payable to one (1) or more individuals (irrespective of whether the same individuals are or were employed in each such day), or any employing unit which in any calendar quarter in either the current or preceding calendar year paid for service in employment wages of one thousand five hundred dollars ($1,500) or more, except as provided in IC 22-4-7-2(h). Subsequent to December 31, 1977, "employer" means any employing unit which for some portion of a day, but not necessarily simultaneously, in each of twenty (20) different weeks, whether or not such weeks are or were consecutive within either the current or the preceding year, has or had in employment, and/or has incurred liability for wages payable to, one (1) or more individuals (irrespective of whether the same individual or individuals are or were employed in each such day) or any employing unit which in any calendar quarter in either the current or preceding calendar year paid for service in employment wages of one thousand five hundred dollars ($1,500) or more, except as provided in IC 22-4-7-2(h), (e), and (i). For the purpose of this definition, if any week includes both December 31, and January 1, the days up to January 1 shall be deemed one (1) calendar week and the days beginning January 1 another such week. For purposes of this section, "employment" shall include services which would constitute employment but for the fact that such services are deemed to be performed entirely within another state pursuant to an election under an arrangement entered into by the board (pursuant to IC 22-4-22) and an agency charged with the administration of any other state or federal unemployment compensation law.

(Formerly: Acts 1947, c.208, s.701; Acts 1955, c.317, s.2; Acts 1967, c.310, s.9; Acts 1971, P.L.355, SEC.11.) As amended by Acts 1977, P.L.262, SEC.11.

IC 22-4-7-2

"Employer" further defined

Sec. 2. "Employer" also means the following:

(a) Any employing unit whether or not an employing unit at the time of the acquisition which acquires the organization, trade, or business within this state of another which at the time of such acquisition is an employer subject to this article, and any employing unit whether or not an employing unit at the time of the acquisition which acquires substantially all the assets within this state of such an

employer used in or in connection with the operation of such trade or business, if the acquisition of substantially all such assets of such trade or business results in or is used in the operation or continuance of an organization, trade, or business.

(b) Any employing unit (whether or not an employing unit at the time of acquisition) which acquires a distinct and segregable portion of the organization, trade, or business within this state of another employing unit which at the time of such acquisition is an employer subject to this article only if the employment experience of the disposing employing unit combined with the employment of its predecessor or predecessors would have qualified such employing unit under section 1 of this chapter if the portion acquired had constituted its entire organization, trade, or business and the acquisition results in the operation or continuance of an organization, trade, or business.

(c) Any employing unit which, having become an employer under section 1, 2(a), 2(b), 2(d), 2(f), or 2(h) of this chapter, has not ceased to be an employer by compliance with the provisions of IC 22-4-9-2 and IC 22-4-9-3.

(d) For the effective period of its election pursuant to IC 22-4-9-4 or IC 22-4-9-5, any other employing unit which has elected to become fully subject to this article.

(e) Any employing unit for which service in employment as defined in IC 22-4-8-2(l) is performed. In determining whether an employing unit for which service other than agricultural labor is also performed is an employer under sections 1 or 2 of this chapter, the wages earned or the employment of an employee performing service in agricultural labor may not be taken into account. If an employing unit is determined an employer of agricultural labor, the employing unit shall be determined an employer for the purposes of section 1 of this chapter.

(f) Any employing unit not an employer by reason of any other paragraph of section 2(a) through 2(e) of this chapter inclusive, for which within either the current or preceding calendar year services in employment are or were performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment insurance fund; or which, as a condition for approval of this article for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such Act, to be an "employer" under this article; however, an employing unit subject to contribution solely because of the terms of this subsection may file a written application to cover and insure the employing unit's employees under the unemployment insurance law of another jurisdiction. Upon approval of such application by the department, the employing unit shall not be deemed to be an employer and such service shall not be deemed employment under this article.

(g) Any employing unit for which service in employment, as defined in IC 22-4-8-2(i) or IC 22-4-8-2(i)(1), is performed.

(h) Any employing unit for which service in employment, as

defined in IC 22-4-8-2(j), is performed.

(i) Any employing unit for which service in employment as defined in IC 22-4-8-2(m) is performed. In determining whether an employing unit for which service other than domestic service is also performed is an employer under sections 1 or 2 of this chapter, the wages earned or the employment of an employee performing domestic service may not be taken into account.

(Formerly: Acts 1947, c.208, s.702; Acts 1951, c.295, s.3; Acts 1967, c.310, s.10; Acts 1971, P.L.355, SEC.12.) As amended by Acts 1977, P.L.262, SEC.12; P.L.108-2006, SEC.5.

IC 22-4-7-3

"Seasonal employer"; "seasonal determination"

Sec. 3. (a) As used in this article, "seasonal employer" means an employer that, because of climatic conditions or the seasonal nature of a product or service, customarily operates all or a portion of its business only during a regularly recurring period or periods of less than twenty-six (26) weeks for all seasonal periods during a calendar year. An employer may be a seasonal employer with respect to a portion of its business only if that portion, under the usual and customary practice in the industry, is identifiable as a functionally distinct operation.

(b) As used in this article, "seasonal determination" means a decision made by the department after application on prescribed forms as to the seasonal nature of the employer, the normal seasonal period or periods of the employer, and the seasonal operation of the employer covered by such determination.

As added by P.L.228-1983, SEC.1. Amended by P.L.18-1987, SEC.26.

IC 22-4-8

Chapter 8. Employment Defined

IC 22-4-8-1

Definition

Sec. 1. (a) "Employment," subject to the other provisions of this section, means service, including service in interstate commerce performed for remuneration or under any contract of hire, written or oral, expressed or implied.

(b) Services performed by an individual for remuneration shall be deemed to be employment subject to this article irrespective of whether the common-law relationship of master and servant exists, unless and until all the following conditions are shown to the satisfaction of the department:

(1) The individual has been and will continue to be free from control and direction in connection with the performance of such service, both under the individual's contract of service and in fact.

(2) The service is performed outside the usual course of the business for which the service is performed.

(3) The individual:

(A) is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed; or

(B) is a sales agent who receives remuneration solely upon a commission basis and who is the master of the individual's own time and effort.

(c) The term also includes the following:

(1) Services performed for remuneration by an officer of a corporation in the officer's official corporate capacity.

(2) Services performed for remuneration for any employing unit by an individual:

(A) as an agent-driver or commission-driver engaged in distributing products, including but not limited to, meat, vegetables, fruit, bakery, beverages, or laundry or dry-cleaning services for the individual's principal; or

(B) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, the individual's principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

(d) For purposes of subsection (c)(2), the term "employment" shall include services described in subsection (c)(2)(A) and (c)(2)(B) only if all the following conditions are met:

(1) The contract of service contemplates that substantially all of the services are to be performed personally by such individual.

(2) The individual does not have a substantial investment in

facilities used in connection with the performance of the services (other than in facilities for transportation).

(3) The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(Formerly: Acts 1947, c.208, s.801; Acts 1971, P.L.355, SEC.13.) As amended by P.L.108-2006, SEC.6.

IC 22-4-8-2
Services included

Sec. 2. The term "employment" shall include:

(a) An individual's entire service performed within or both within and without Indiana if the service is localized in Indiana.

(b) An individual's entire service performed within or both within and without Indiana if the service is not localized in any state, but some of the service is performed in Indiana and:

(1) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled is in Indiana;

(2) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in Indiana; or

(3) such service is not covered under the unemployment compensation law of any other state or Canada, and the place from which the service is directed or controlled is in Indiana.

(c) Services not covered under subsections (a) and (b) and performed entirely without Indiana, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the United States, shall be deemed to be employment subject to this article if the department approves the election of the individual performing such services and the employing unit for which such services are performed, that the entire services of such individual shall be deemed to be employment subject to this article.

(d) Services covered by an election duly approved by the department, in accordance with an agreement pursuant to IC 22-4-22-1 through IC 22-4-22-5, shall be deemed to be employment during the effective period of such election.

(e) Service shall be deemed to be localized within a state if:

(1) the service is performed entirely within such state; or

(2) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, such as is temporary or transitory in nature or consists of isolated transactions.

(f) Periods of vacation with pay or leave with pay, other than military leave granted or given to an individual by an employer.

(g) Notwithstanding any other provisions of this article, the term employment shall also include all services performed by an officer or member of the crew of an American vessel or American aircraft,

on or in connection with such vessel or such aircraft, provided that the operating office, from which the operations of such vessel operating on navigable waters within or the operations of such aircraft within, or the operation of such vessel or aircraft within and without the United States are ordinarily and regularly supervised, managed, directed, and controlled, is within this state.

(h) Services performed for an employer which is subject to contribution solely by reason of liability for any federal tax against which credit may be taken for contributions paid into a state unemployment compensation fund.

(i) The following:

(1) Service performed after December 31, 1971, by an individual in the employ of this state or any of its instrumentalities (or in the employ of this state and one (1) or more other states or their instrumentalities) for a hospital or eligible postsecondary educational institution located in Indiana.

(2) Service performed after December 31, 1977, by an individual in the employ of this state or a political subdivision of the state or any instrumentality of the state or a political subdivision, or any instrumentality which is wholly owned by the state and one (1) or more other states or political subdivisions, if the service is excluded from "employment" as defined in Section 3306(c)(7) of the Federal Unemployment Tax Act (26 U.S.C. 3306(c)(7)). However, service performed after December 31, 1977, as the following is excluded:

(A) An elected official.

(B) A member of a legislative body or of the judiciary of a state or political subdivision.

(C) A member of the state national guard or air national guard.

(D) An employee serving on a temporary basis in the case of fire, snow, storm, earthquake, flood, or similar emergency.

(E) An individual in a position which, under the laws of the state, is designated as:

(i) a major nontenured policymaking or advisory position; or

(ii) a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week.

(3) Service performed after March 31, 1981, by an individual whose service is part of an unemployment work relief or work training program assisted or financed in whole by any federal agency or an agency of this state or a political subdivision of this state, by an individual receiving such work relief or work training is excluded.

(j) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational, or other organization, but only if the following conditions are met:

(1) The service is excluded from "employment" as defined in

the Federal Unemployment Tax Act solely by reason of Section 3306(c)(8) of that act (26 U.S.C. 3306(c)(8)).

(2) The organization had four (4) or more individuals in employment for some portion of a day in each of twenty (20) different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.

(3) For the purposes of subdivisions (1) and (2), the term "employment" does not apply to service performed as follows:

(A) In the employ of:

(i) a church or convention or association of churches; or

(ii) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches.

(B) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order.

(C) Before January 1, 1978, in the employ of a school which is not an eligible postsecondary educational institution.

(D) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work.

(E) As part of an unemployment work relief or work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training.

(k) The service of an individual who is a citizen of the United States, performed outside the United States (except in Canada), after December 31, 1971, in the employ of an American employer (other than service which is deemed "employment" under the provisions of subsection (a), (b), or (e) or the parallel provisions of another state's law), if the following apply:

(1) The employer's principal place of business in the United States is located in this state.

(2) The employer has no place of business in the United States, but the employer is:

(A) an individual who is a resident of this state;

(B) a corporation which is organized under the laws of this state;

(C) a partnership, limited liability partnership, or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any

one (1) other state; or

(D) an association, a joint venture, an estate, a limited liability company, a joint stock company, or an insurance company (referred to as an "entity" in this clause), and either:

(i) the entity is organized under the laws of this state; or

(ii) the number of owners, members, or beneficiaries who are residents of this state is greater than the number who are residents of any one (1) other state.

(3) None of the criteria of subdivisions (1) and (2) is met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

(4) An "American employer," for purposes of this subsection, means:

(A) an individual who is a resident of the United States;

(B) a partnership or limited liability partnership, if two-thirds (2/3) or more of the partners are residents of the United States;

(C) a trust, if all of the trustees are residents of the United States; or

(D) a corporation, an association, a joint venture, an estate, a limited liability company, a joint stock company, or an insurance company organized or established under the laws of the United States or of any state.

(l) The term "employment" also includes the following:

(1) Service performed after December 31, 1977, by an individual in agricultural labor (as defined in section 3(c) of this chapter) when the service is performed for an employing unit which:

(A) during any calendar quarter in either the current or preceding calendar year paid cash remuneration of twenty thousand dollars ($20,000) or more to individuals employed in agricultural labor; or

(B) for some portion of a day in each of twenty (20) different calendar weeks, whether or not the weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten (10) or more individuals, regardless of whether they were employed at the same time.

(2) For the purposes of this subsection, any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of the crew leader:

(A) if the crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963, or substantially all the members of the crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment, which is provided by the crew leader; and

(B) if the individual is not an employee of another person within the meaning of section 1 of this chapter.

(3) For the purposes of subdivision (1), in the case of an individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of the crew leader under subdivision (2):

(A) the other person and not the crew leader shall be treated as the employer of the individual; and

(B) the other person shall be treated as having paid cash remuneration to the individual in an amount equal to the amount of cash remuneration paid to the individual by the crew leader (either on the individual's own behalf or on behalf of the other person) for the service in agricultural labor performed for the other person.

(4) For the purposes of this subsection, the term "crew leader" means an individual who:

(A) furnishes individuals to perform service in agricultural labor for any other person;

(B) pays (either on the individual's own behalf or on behalf of the other person) the agricultural laborers furnished by the individual for the service in agricultural labor performed by them; and

(C) has not entered into a written agreement with the other person under which the individual is designated as an employee of the other person.

(m) The term "employment" includes domestic service after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of one thousand dollars ($1,000) or more after December 31, 1977, in the current calendar year or the preceding calendar year to individuals employed in the domestic service in any calendar quarter.

(Formerly: Acts 1947, c.208, s.802; Acts 1971, P.L.355, SEC.14.) As amended by Acts 1977, P.L.262, SEC.13; Acts 1978, P.L.122, SEC.1; Acts 1979, P.L.229, SEC.1; Acts 1981, P.L.209, SEC.5; P.L.18-1987, SEC.27; P.L.2-2007, SEC.291; P.L.3-2008, SEC.158; P.L.175-2009, SEC.7.

IC 22-4-8-3

Services not included; determination of status

Sec. 3. "Employment" shall not include the following:

(1) Except as provided in section 2(i) of this chapter, service performed prior to January 1, 1978, in the employ of this state, any other state, any town or city, or political subdivision, or any instrumentality of any of them, other than service performed in the employ of a municipally owned public utility as defined in this article; or service performed in the employ of the United States of America, or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this article, except that to the extent

that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation statute, all of the provisions of this article shall be applicable to such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services. However, if this state shall not be certified for any year by the Secretary of Labor under Section 3304 of the Internal Revenue Code the payments required of such instrumentalities with respect to such year shall be refunded by the commissioner from the fund in the same manner and within the same period as is provided in IC 22-4-32-19 with respect to contribution erroneously paid or wrongfully assessed.

(2) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; however, the department is authorized to enter into agreements with the proper agencies under such Act of Congress which agreements shall become effective ten (10) days after publication thereof, in accordance with rules adopted by the department under IC 4-22-2, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this article, acquired rights to unemployment compensation under such Act of Congress, or who have, after having acquired potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this article.

(3) "Agricultural labor" as provided in section 2(l)(1) of this chapter shall include only services performed:

(A) on a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;

(B) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(C) in connection with the production or harvesting of any commodity defined as an agricultural commodity in Section 15(g) of the Agricultural Marketing Act (12 U.S.C. 1141j(g)) as amended, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(D) in the employ of:

(i) the operator of a farm in handling, planting, drying,

packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half (1/2) of the commodity with respect to which such service is performed; or

(ii) a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in item (i), but only if such operators produce more than one-half (1/2) of the commodity with respect to which such service is performed;

except the provisions of items (i) and (ii) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(E) on a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

(4) As used in subdivision (3), "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, nurseries, orchards, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities.

(5) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in section 2(m) of this chapter.

(6) Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft, if the employee is employed on and in connection with such vessel or aircraft when outside the United States.

(7) Service performed by an individual in the employ of child or spouse, and service performed by a child under the age of twenty-one (21) in the employ of a parent.

(8) Service not in the course of the employing unit's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for such service is fifty dollars ($50) or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purposes of this subdivision, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if:

(A) on each of some of twenty-four (24) days during such quarter such individual performs such service for some portion of the day; or

(B) such individual was regularly employed (as determined under clause (A)) by such employing unit in the performance

of such service during the preceding calendar quarter.

(9) Service performed by an individual in any calendar quarter in the employ of any organization exempt from income tax under Section 501 of the Internal Revenue Code (except those services included in sections 2(i) and 2(j) of this chapter if the remuneration for such service is less than fifty dollars ($50)).

(10) Service performed in the employ of a hospital, if such service is performed by a patient of such hospital.

(11) Service performed in the employ of a school or eligible postsecondary educational institution if the service is performed:

(A) by a student who is enrolled and is regularly attending classes at the school or eligible postsecondary educational institution; or

(B) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that:

(i) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by the school or eligible postsecondary educational institution; and

(ii) such employment will not be covered by any program of unemployment insurance.

(12) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

(13) Service performed in the employ of a government foreign to the United States of America, including service as a consular or other officer or employee or a nondiplomatic representative.

(14) Service performed in the employ of an instrumentality wholly owned by a government foreign to that of the United States of America, if the service is of a character similar to that performed in foreign countries by employees of the United States of America or of an instrumentality thereof, and if the board finds that the Secretary of State of the United States has certified to the Secretary of the Treasury of the United States that the government, foreign to the United States, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in such country by employees of the United States and of instrumentalities thereof.

(15) Service performed as a student nurse in the employ of a

hospital or nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four (4) year course in a medical school chartered or approved pursuant to state law.

(16) Service performed by an individual as an insurance producer or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission.

(17) Service performed by an individual:

(A) under the age of eighteen (18) in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; or

(B) in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by the individual at a fixed price, the individual's compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to the individual, whether or not the individual is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back.

(18) Service performed in the employ of an international organization.

(19) Except as provided in IC 22-4-7-1, services covered by an election duly approved by the agency charged with the administration of any other state or federal unemployment compensation law in accordance with an arrangement pursuant to IC 22-4-22-1 through IC 22-4-22-5, during the effective period of such election.

(20) If the service performed during one-half (1/2) or more of any pay period by an individual for an employing unit constitutes employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than one-half (1/2) of any pay period by such an individual do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection, "pay period" means a period of not more than thirty-one (31) consecutive days for which a payment of remuneration is ordinarily made to the individual by the employing unit. This subsection shall not be applicable with respect to services performed in a pay period by any such individual where any such service is excepted by subdivision (2).

(21) Service performed by an inmate of a custodial or penal institution.

(22) Service performed as a precinct election officer (as defined

in IC 3-5-2-40.1).

(Formerly: Acts 1947, c.208, s.803; Acts 1951, c.295, s.4; Acts 1957, c.299, s.13; Acts 1959, c.305, s.1; Acts 1967, c.310, s.11; Acts 1971, P.L.355, SEC.15.) As amended by Acts 1977, P.L.262, SEC.14; P.L.227-1983, SEC.3; P.L.2-1987, SEC.30; P.L.18-1987, SEC.28; P.L.3-1995, SEC.147; P.L.21-1995, SEC.67; P.L.2-1996, SEC.267; P.L.1-2003, SEC.70; P.L.178-2003, SEC.10; P.L.108-2006, SEC.7; P.L.2-2007, SEC.292.

IC 22-4-8-3.5

Services not included; owner-operator of motor vehicle

Sec. 3.5. As used in this article, "employment" does not include an owner-operator that provides a motor vehicle and the services of a driver to a motor carrier under a written contract that is subject to IC 8-2.1-24-22, 45 IAC 16-1-13, or 49 CFR 376.

As added by P.L.98-2005, SEC.2.

IC 22-4-8-4

"Seasonal employment"; "seasonal worker"

Sec. 4. (a) As used in this article, "seasonal employment" means services performed for a seasonal employer during the seasonal period in the employer's seasonal operations, after the effective date of a seasonal determination with respect to the seasonal employer.

(b) As used in this article, "seasonal worker" means an individual who:

(1) has been employed by a seasonal employer in seasonal employment during a regularly recurring period or periods of less than twenty-six (26) weeks in a calendar year for all seasonal periods, as determined by the department;

(2) has been hired for a specific temporary seasonal period as determined by the department; and

(3) has been notified in writing at the time hired, or immediately following the seasonal determination by the department, whichever is later:

(A) that the individual is performing services in seasonal employment for a seasonal employer; and

(B) that the individual's employment is limited to the beginning and ending dates of the employer's seasonal period as determined by the department.

As added by P.L.228-1983, SEC.2. Amended by P.L.18-1987, SEC.29.

IC 22-4-9

Chapter 9. Period, Election, and Termination of Employer's Coverage

IC 22-4-9-1

Duration of period

Sec. 1. Any employing unit which is or becomes an employer subject to this article within any calendar year shall be subject to this article during the whole of such calendar year, except as is otherwise provided in section 3 of this chapter.

(Formerly: Acts 1947, c.208, s.901; Acts 1951, c.295, s.5.) As amended by P.L.144-1986, SEC.97.

IC 22-4-9-2

Application for termination of coverage

Sec. 2. Except as otherwise provided in sections 4 and 5 of this chapter, IC 22-4-7-2(f), and IC 22-4-11.5, an employing unit shall cease to be an employer subject to this article only as of January 1 of any calendar year, if it files with the commissioner, prior to January 31 of such year, a written application for termination of coverage, and the commissioner finds that the employment experience of the employer within the preceding calendar year was not sufficient to qualify an employing unit as an employer under IC 22-4-7-1 and IC 22-4-7-2.

(Formerly: Acts 1947, c.208, s.902; Acts 1951, c.295, s.6.) As amended by Acts 1977, P.L.262, SEC.15; P.L.18-1987, SEC.30; P.L.21-1995, SEC.68; P.L.98-2005, SEC.3.

IC 22-4-9-3

Successor employers; period of coverage

Sec. 3. (a) This section is subject to the provisions of IC 22-4-6.5 and IC 22-4-11.5.

(b) Any employer subject to this article as successor to an employer pursuant to the provisions of IC 22-4-7-2(a) or IC 22-4-7-2(b) shall cease to be an employer at the end of the year in which the acquisition occurs only if the department finds that within such calendar year the employment experience of the predecessor prior to the date of disposition combined with the employment experience of the successor subsequent to the date of acquisition would not be sufficient to qualify the successor employer as an employer under the provisions of IC 22-4-7-1. No such successor employer may cease to be an employer subject to this article at the end of the first year of the current period of coverage of the predecessor employer. If all of the resources and liabilities of the experience account of an employer are assumed by another in accordance with the provisions of IC 22-4-10-6 or IC 22-4-10-7, such employer's status as employer and under this article is hereby terminated unless and until such employer subsequently qualifies under the provisions of IC 22-4-7-1 or IC 22-4-7-2 or elects to become an employer under sections 4 or 5 of this chapter.

(c) If no application for termination, as herein provided, is filed by an employer and four (4) full calendar years have elapsed since any contributions have become payable from such employer, then and in such cases the department may terminate such employer's experience account.
(Formerly: Acts 1947, c.208, s.903; Acts 1951, c.295, s.7; Acts 1957, c.299, s.14; Acts 1971, P.L.355, SEC.16.) As amended by P.L.98-2005, SEC.4; P.L.108-2006, SEC.8; P.L.33-2013, SEC.2.

IC 22-4-9-4
Election of coverage for two years
Sec. 4. Any employing unit not otherwise subject to this article which files with the department its written election to become an employer subject to this article for not less than two (2) calendar years shall, with the written approval of such election by the department, become an employer subject to this article to the same extent as all other employers as of the date stated in such approval. However, the voluntary election of any such employer shall become inoperative if such employing unit becomes an employer by reason of IC 22-4-7-1.
(Formerly: Acts 1947, c.208, s.904.) As amended by P.L.144-1986, SEC.98; P.L.108-2006, SEC.9.

IC 22-4-9-5
Services specifically excluded; election of coverage for two years
Sec. 5. An employing unit for which services, as specifically excluded by IC 22-4-8-3 or IC 22-4-8-3.5, are performed, may file with the commissioner its written election to consider all such services for such employing unit in one (1) or more distinct establishments, as employment for all purposes of this article for not less than two (2) calendar years. Upon written approval of such election by the commissioner, such services shall be deemed to constitute employment subject to this article as of the date stated in such approval and shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two (2) calendar years only if prior to January 31 it has filed with the commissioner a written notice to that effect.
(Formerly: Acts 1947, c.208, s.905; Acts 1971, P.L.355, SEC.17.) As amended by Acts 1977, P.L.262, SEC.16; P.L.18-1987, SEC.31; P.L.21-1995, SEC.69; P.L.98-2005, SEC.5.

IC 22-4-9-6
Rights of employees; claims; informational material; display
Sec. 6. Every employer subject to this article or who has ceased to be subject to this article pursuant to section 2 of this chapter shall post and maintain printed notices thereof on its premises of such design, in such numbers, and at such places as the board may determine to be necessary to give such notice to persons in its service and may furnish for such purposes. Such employer shall also cause to be distributed to employees any booklets, pamphlets, leaflets, or

other literature or materials supplied and furnished to such employer by the department and which contain instructions to employees on the filing of claims or which relate to the rights of employees under this article and are deemed by the board to promote the proper and efficient administration of this article.

(Formerly: Acts 1947, c.208, s.906; Acts 1955, c.317, s.3.) As amended by P.L.144-1986, SEC.99; P.L.18-1987, SEC.32.

IC 22-4-10

Chapter 10. Employer Contributions

IC 22-4-10-1

Payments; time; amounts instead of contributions; election; interest and penalties; joint applications

Sec. 1. (a) Contributions shall accrue and become payable from each employer for each calendar year in which it is subject to this article with respect to wages paid during such calendar year. Where the status of an employer is changed by cessation or disposition of business or appointment of a receiver, trustees, trustee in bankruptcy, or other fiduciary, contributions shall immediately become due and payable on the basis of wages paid or payable by such employer as of the date of the change of status. Such contributions shall be paid to the department in such manner as the department may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in an employer's employ. When contributions are determined in accordance with Schedule A as provided in IC 22-4-11-3, the department may prescribe rules to require an estimated advance payment of contributions in whole or in part, if in the judgment of the department such advance payments will avoid a debit balance in the fund during the calendar quarter to which the advance payment applies. An adjustment shall be made following the quarter in which an advance payment has been made to reflect the difference between the estimated contribution and the contribution actually payable. Advance payment of contributions shall not be required for more than one (1) calendar quarter in any calendar year.

(b) Any employer which is, or becomes, subject to this article by reason of IC 22-4-7-2(g) or IC 22-4-7-2(h) shall pay contributions as provided under this article unless it elects to become liable for "payments in lieu of contributions" (as defined in IC 22-4-2-32).

(c) Except as provided in subsection (e), the election to become liable for "payments in lieu of contributions" must be filed with the department on a form prescribed by the department not later than thirty-one (31) days following the date upon which such entity qualifies as an employer under this article, and shall be for a period of not less than two (2) calendar years.

(d) Any employer that makes an election in accordance with subsections (b) and (c) will continue to be liable for "payments in lieu of contributions" until it files with the department a written notice terminating its election. The notice filed by an employer to terminate its election must be filed not later than thirty (30) days prior to the beginning of the taxable year for which such termination shall first be effective.

(e) Any employer that qualifies to elect to become liable for "payments in lieu of contributions" and has been paying contributions under this article, may change to a reimbursable basis by filing with the department not later than thirty (30) days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election

shall not be terminable by the organization for that and the next year.

(f) Employers making "payments in lieu of contributions" under subsections (b) and (c) shall make reimbursement payments monthly. At the end of each calendar month the department shall bill each such employer (or group of employers) for an amount equal to the full amount of regular benefits plus the part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970 paid during such month that is attributable to services in the employ of such employers or group of employers. Governmental entities of this state and its political subdivisions electing to make "payments in lieu of contributions" shall be billed by the department at the end of each calendar month for an amount equal to the full amount of regular benefits plus the part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970 paid during the month that is attributable to service in the employ of the governmental entities.

(g) Payment of any bill rendered under subsection (f) shall be made not later than thirty (30) days after such bill was mailed to the last known address of the employer or was otherwise delivered to it, unless there has been an application for review and redetermination filed under subsection (i).

(h) Payments made by any employer under the provisions of subsections (f) through (j) shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the employer.

(i) The amount due specified in any bill from the department shall be conclusive on the employer unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered to it, the employer files an application for redetermination. If the employer so files, the employer shall have an opportunity to be heard, and such hearing shall be conducted by a liability administrative law judge pursuant to IC 22-4-32-1 through IC 22-4-32-15. After the hearing, the liability administrative law judge shall immediately notify the employer in writing of the finding, and the bill, if any, so made shall be final, in the absence of judicial review proceedings, fifteen (15) days after such notice is issued.

(j) Past due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that, pursuant to IC 22-4-29, apply to past due contributions.

(k) Two (2) or more employers that have elected to become liable for "payments in lieu of contributions" in accordance with subsections (b) and (c) may file a joint application with the department for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Such group account shall be established as provided in regulations prescribed by the commissioner.

(Formerly: Acts 1947, c.208, s.1001; Acts 1955, c.317, s.4; Acts 1971, P.L.355, SEC.18.) As amended by Acts 1977, P.L.262, SEC.17;

Acts 1981, P.L.209, SEC.6; P.L.18-1987, SEC.33; P.L.135-1990, SEC.1; P.L.21-1995, SEC.70; P.L.235-1999, SEC.9; P.L.108-2006, SEC.10; P.L.175-2009, SEC.8.

IC 22-4-10-2
Fractional part of cent

Sec. 2. In the payment of any contribution, a fractional part of a cent shall be disregarded unless it amounts to one-half cent (1/2 cent) or more, in which case it shall be increased to one cent (1 cent).
(Formerly: Acts 1947, c.208, s.1002.)

IC 22-4-10-3
Rates

Sec. 3. (a) This subsection applies before January 1, 2011. Except as provided in section 1(b) through 1(e) of this chapter, each employer shall pay contributions equal to five and six-tenths percent (5.6%) of wages, except as otherwise provided in IC 22-4-11-2, IC 22-4-11-3, IC 22-4-11.5, and IC 22-4-37-3.

(b) This subsection applies after December 31, 2010. Except as provided in section 1(b) through 1(e) of this chapter and IC 22-4-37-3, each employer shall pay contributions equal to the amount determined or estimated by the department under section 6 of this chapter, IC 22-4-11-2, IC 22-4-11-3.5, and IC 22-4-11.5.
(Formerly: Acts 1947, c.208, s.1003; Acts 1971, P.L.355, SEC.19.) As amended by P.L.225-1985, SEC.1; P.L.108-2006, SEC.11; P.L.175-2009, SEC.9; P.L.110-2010, SEC.25; P.L.2-2011, SEC.6.

IC 22-4-10-4
Experience accounts; separate accounts

Sec. 4. (a) Except as provided in section 1(b) through 1(e) of this chapter, the commissioner shall maintain within the fund a separate experience account for each employer and shall credit to such account all contributions paid by such employer on its behalf except as otherwise provided in this article.

(b) The commissioner shall also maintain a separate account for each employer electing to make payments in lieu of contributions as provided in section 1(b) through 1(e) of this chapter and shall charge to such account all benefits chargeable to such employer and credit to such account all reimbursements made by such employer.
(Formerly: Acts 1947, c.208, s.1004; Acts 1951, c.307, s.1; Acts 1965, c.190, s.3; Acts 1971, P.L.355, SEC.20.) As amended by P.L.18-1987, SEC.34; P.L.21-1995, SEC.71; P.L.108-2006, SEC.12.

IC 22-4-10-4.5
Employer surcharge; interest payment on state advances from federal unemployment account

Sec. 4.5. (a) This section applies to a calendar year that begins after December 31, 2010, to an employer:

(1) that is subject to this article for wages paid during the calendar year;

(2) whose contribution rate for the calendar year was determined under this chapter, IC 22-4-11, IC 22-4-11.5, or IC 22-4-37-3; and

(3) that:

(A) has been subject to this article during the preceding thirty-six (36) consecutive calendar months; and

(B) has had a payroll in each of the three (3) preceding twelve (12) month periods;

if, during the calendar year, the state is required to pay interest on the advances made to the state from the federal unemployment account in the federal unemployment trust fund under 42 U.S.C. 1321.

(b) In addition to the contributions determined under this chapter, IC 22-4-11, IC 22-4-11.5, or IC 22-4-37-3 for calendar year 2011, each employer shall pay an unemployment insurance surcharge that is equal to thirteen percent (13%) of the employer's contribution determined under this chapter, IC 22-4-11, IC 22-4-11.5, or IC 22-4-37-3 for the calendar year.

(c) For a calendar year that begins after December 31, 2011, in which employers are required to pay the unemployment insurance surcharge described in subsection (b), the department shall determine, not later than January 31, the surcharge percentage for that year based on factors that include:

(1) the interest rate charged the state for the year determined under 42 U.S.C. 1322(b); and

(2) the state's outstanding loan balance to the federal unemployment account on January 1 of the year.

(d) The unemployment insurance surcharge described in subsection (b) is payable to the department quarterly at the same time as employer contributions are paid under section 1 of this chapter. Failure to pay the unemployment insurance surcharge as specified in this section is considered a delinquency under IC 22-4-11-2.

(e) The department:

(1) may use amounts received under this section to pay interest on the advances made to the state from the federal unemployment account in the federal unemployment trust fund under 42 U.S.C. 1321; and

(2) shall deposit any amounts received under this section and not used for the purposes described in subdivision (1) in the unemployment insurance benefit fund established under IC 22-4-26.

(f) Amounts paid under this section and used as provided in subsection (e)(1) do not affect and may not be charged to the experience account of any employer. Amounts paid under this section and used as provided in subsection (e)(2) must be credited to each employer's experience account in proportion to the amount the employer paid under this section during the preceding four (4) calendar quarters.

As added by P.L.2-2011, SEC.7.

IC 22-4-10-4.6

Unemployment insurance solvency fund; establishment; investment; interest; nonreverting

Sec. 4.6. (a) The unemployment insurance solvency fund is established for the purpose of paying interest on the advances made to the state from the federal unemployment account in the federal unemployment trust fund under 42 U.S.C. 1321. The fund shall be administered by the department.

(b) Money received by the department from the unemployment insurance surcharge that the department elects to use for the purposes described in section 4.5(e)(1) of this chapter shall be deposited in the fund for the purposes of the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited at least quarterly in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.2-2011, SEC.8.

IC 22-4-10-5

Voluntary payments

Sec. 5. Any employer may make voluntary payments in addition to the contributions required under this article, and the same shall be credited to its experience account. Such voluntary contributions shall not be used in the computation of reduced rates unless such contributions are paid prior to the expiration of one hundred twenty (120) days after the beginning of the year for which such rates are effective. Such payments shall be included in the experience account as of the computation date only if they are made within thirty (30) days following the date upon which the department mails notice that such payments may be made with respect to a calendar year. Such voluntary payments when accepted from an employer will not be refunded in whole or in part.

(Formerly: Acts 1947, c.208, s.1006; Acts 1951, c.295, s.8.) As amended by P.L.144-1986, SEC.100; P.L.18-1987, SEC.35.

IC 22-4-10-5.5

Repealed

(Repealed by P.L.110-2010, SEC.38.)

IC 22-4-10-6

Successor employers

Sec. 6. (a) Except as provided by IC 22-4-6.5, when:

(1) an employing unit (whether or not an employing unit at the time of the acquisition) becomes an employer under IC 22-4-7-2(a);

(2) an employer acquires the organization, trade, or business, or substantially all the assets of another employer; or

(3) an employer transfers all or a portion of the employer's trade

or business (including the employer's workforce) to another employer as described in IC 22-4-11.5-7;

the successor employer shall, in accordance with the rules prescribed by the department, assume the position of the predecessor with respect to all the resources and liabilities of the predecessor's experience account.

(b) Except as provided by IC 22-4-6.5 or IC 22-4-11.5, when:

(1) an employing unit (whether or not an employing unit at the time of the acquisition) becomes an employer under IC 22-4-7-2(b); or

(2) an employer acquires a distinct and segregable portion of the organization, trade, or business within this state of another employer;

the successor employer shall assume the position of the predecessor employer with respect to the portion of the resources and liabilities of the predecessor's experience account as pertains to the distinct and segregable portion of the predecessor's organization, trade, or business acquired by the successor. An application for the acquiring employer to assume this portion of the resources and liabilities of the disposing employer's experience account must be filed with the department on prescribed forms not later than thirty (30) days immediately following the disposition date or not later than ten (10) days after the disposing and acquiring employers are mailed or otherwise delivered final notice that the acquiring employer is a successor employer, whichever is the earlier date. This portion of the resources and liabilities of the disposing employer's experience account shall be transferred in accordance with IC 22-4-11.5.

(c) Except as provided by IC 22-4-6.5 or IC 22-4-11.5, the successor employer, if an employer prior to the acquisition, shall pay at the rate of contribution originally assigned to it for the calendar year in which the acquisition occurs, until the end of that year. If not an employer prior to the acquisition, the successor employer shall pay the rate determined under IC 22-4-11-2(b)(2), unless the successor employer assumes all or part of the resources and liabilities of the predecessor employer's experience account, in which event the successor employer shall pay at the rate of contribution assigned to the predecessor employer for the period starting with the first day of the calendar quarter in which the acquisition occurs, until the end of that year. However, if a successor employer, not an employer prior to the acquisition, simultaneously acquires all or part of the experience balance of two (2) or more employers, the successor employer shall pay at the highest rate applicable to the experience accounts totally or partially acquired for the period starting with the first day of the calendar quarter in which the acquisition occurs, until the end of the year. If the successor employer had any employment prior to the date of acquisition upon which contributions were owed under IC 22-4-9-1, the employer's rate of contribution from the first of the year to the first day of the calendar quarter in which the acquisition occurred would be determined under IC 22-4-11-2(b)(2).

(Formerly: Acts 1947, c.208, s.1007; Acts 1951, c.295, s.9; Acts

1955, c.317, s.5; Acts 1967, c.310, s.12; Acts 1969, c.300, s.2; Acts 1971, P.L.355, SEC.21; Acts 1975, P.L.252, SEC.1.) As amended by P.L.20-1986, SEC.5; P.L.18-1987, SEC.36; P.L.21-1995, SEC.72; P.L.98-2005, SEC.6; P.L.108-2006, SEC.13; P.L.33-2013, SEC.3.

IC 22-4-10-7
Successor employers; experience account; benefits; discrepancy in experience accounts

Sec. 7. (a) Except as provided by IC 22-4-6.5 or IC 22-4-11.5, when an employing unit (whether or not an employing unit prior thereto) assumes all of the resources and liabilities of the experience account of a predecessor employer, as provided in section 6 of this chapter, amounts paid by such predecessor employer shall be deemed to have been so paid by such successor employer. The experience of such predecessor with respect to unemployment risk, including but not limited to past payrolls and contributions, shall be credited to the account of such successor.

(b) The payments of benefits to an individual shall not in any case be denied or withheld because the experience account of an employer does not reflect a balance and total of contributions paid to be in excess of benefits charged to such experience account.

(Formerly: Acts 1947, c.208, s.1008; Acts 1951, c.295, s.10; Acts 1971, P.L.355, SEC.22.) As amended by P.L.98-2005, SEC.7; P.L.33-2013, SEC.4.

IC 22-4-10.5
Repealed

(Repealed by P.L.175-2009, SEC.48.)

IC 22-4-11

Chapter 11. Employer Experience Accounts

IC 22-4-11-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 1 of this chapter by P.L.172-1991 apply to individuals who file a disaster unemployment claim or a state unemployment insurance claim after June 1, 1990, and before June 2, 1991, or during a period to be determined by the general assembly.

As added by P.L.220-2011, SEC.364.

IC 22-4-11-1

Experience account; charging

Sec. 1. (a) For the purpose of charging employers' experience or reimbursable accounts with regular benefits paid subsequent to July 3, 1971, to any eligible individual but except as provided in IC 22-4-22 and subsection (f), such benefits paid shall be charged proportionately against the experience or reimbursable accounts of the individual's employers in the individual's base period (on the basis of total wage credits established in such base period) against whose accounts the maximum charges specified in this section shall not have been previously made. Such charges shall be made in the inverse chronological order in which the wage credits of such individuals were established. However, when an individual's claim has been computed for the purpose of determining the individual's regular benefit rights, maximum regular benefit amount, and the proportion of such maximum amount to be charged to the experience or reimbursable accounts of respective chargeable employers in the base period, the experience or reimbursable account of any employer charged with regular benefits paid shall not be credited or recredited with any portion of such maximum amount because of any portion of such individual's wage credits remaining uncharged at the expiration of the individual's benefit period. The maximum so charged against the account of any employer shall not exceed twenty-eight percent (28%) of the total wage credits of such individual with each such employer with which wage credits were established during such individual's base period. Benefits paid under provisions of IC 22-4-22-3 in excess of the amount that the claimant would have been monetarily eligible for under other provisions of this article shall be paid from the fund and not charged to the experience account of any employer. This exception shall not apply to those employers electing to make payments in lieu of contributions who shall be charged for the full amount of regular benefit payments and the part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970 that are attributable to service in their employ. Irrespective of the twenty-eight percent (28%) maximum limitation provided for in this section, the part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment

Compensation Act of 1970 paid to an eligible individual based on service with a governmental entity of this state or its political subdivisions shall be charged to the experience or reimbursable accounts of the employers, and the part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970 paid to an eligible individual shall be charged to the experience or reimbursable accounts of the individual's employers in the individual's base period, other than governmental entities of this state or its political subdivisions, in the same proportion and sequence as are provided in this section for regular benefits paid. Additional benefits paid under IC 22-4-12-4(c) and benefits paid under IC 22-4-15-1(c)(8) shall:

(1) be paid from the fund; and

(2) not be charged to the experience account or the reimbursable account of any employer.

(b) If the aggregate of wages paid to an individual by two (2) or more employers during the same calendar quarter exceeds the maximum wage credits (as defined in IC 22-4-4-3) then the experience or reimbursable account of each such employer shall be charged in the ratio which the amount of wage credits from such employer bears to the total amount of wage credits during the base period.

(c) When wage records show that an individual has been employed by two (2) or more employers during the same calendar quarter of the base period but do not indicate both that such employment was consecutive and the order of sequence thereof, then and in such cases it shall be deemed that the employer with whom the individual established a plurality of wage credits in such calendar quarter is the most recent employer in such quarter and its experience or reimbursable account shall be first charged with benefits paid to such individual. The experience or reimbursable account of the employer with whom the next highest amount of wage credits were established shall be charged secondly and the experience or reimbursable accounts of other employers during such quarters, if any, shall likewise be charged in order according to plurality of wage credits established by such individual.

(d) Except as provided in subsection (f) or section 1.5 of this chapter, if an individual:

(1) voluntarily leaves an employer without good cause in connection with the work; or

(2) is discharged from an employer for just cause;

wage credits earned with the employer from whom the employee has separated under these conditions shall be used to compute the claimant's eligibility for benefits, but charges based on such wage credits shall be paid from the fund and not charged to the experience account of any employer. However, this exception shall not apply to those employers who elect to make payments in lieu of contributions, who shall be charged for all benefit payments which are attributable to service in their employ.

(e) Any nonprofit organization which elects to make payments in

lieu of contributions into the unemployment compensation fund as provided in this article is not liable to make the payments with respect to the benefits paid to any individual whose base period wages include wages for previously uncovered services as defined in IC 22-4-4-4, nor is the experience account of any other employer liable for charges for benefits paid the individual to the extent that the unemployment compensation fund is reimbursed for these benefits pursuant to Section 121 of P.L.94-566. Payments which otherwise would have been chargeable to the reimbursable or contributing employers shall be charged to the fund.

(f) If an individual:

(1) earns wages during the individual's base period through employment with two (2) or more employers concurrently;

(2) is separated from work by one (1) of the employers for reasons that would not result in disqualification under IC 22-4-15-1; and

(3) continues to work for one (1) or more of the other employers after the end of the base period and continues to work during the applicable benefit year on substantially the same basis as during the base period;

wage credits earned with the base period employers shall be used to compute the claimant's eligibility for benefits, but charges based on the wage credits from the employer who continues to employ the individual shall be charged to the experience or reimbursable account of the separating employer.

(g) Subsection (f) does not affect the eligibility of a claimant who otherwise qualifies for benefits nor the computation of benefits.

(h) Unemployment benefits paid shall not be charged to the experience account of a base period employer when the claimant's unemployment from the employer was a direct result of the condemnation of property by a municipal corporation (as defined in IC 36-1-2-10), the state, or the federal government, a fire, a flood, or an act of nature, when at least fifty percent (50%) of the employer's employees, including the claimant, became unemployed as a result. This exception does not apply when the unemployment was an intentional result of the employer or a person acting on behalf of the employer.

(Formerly: Acts 1947, c.208, s.1101; Acts 1965, c.190, s.4; Acts 1967, c.310, s.13; Acts 1971, P.L.355, SEC.23; Acts 1973, P.L.239, SEC.3.) As amended by Acts 1976, P.L.114, SEC.2; Acts 1977, P.L.262, SEC.18; P.L.227-1983, SEC.4; P.L.80-1990, SEC.10; P.L.172-1991, SEC.1; P.L.202-1993, SEC.3; P.L.290-2001, SEC.2; P.L.189-2003, SEC.1; P.L.175-2009, SEC.11; P.L.154-2013, SEC.1.

IC 22-4-11-1.5

Experience account not relieved of erroneous payments if employer establishes pattern of failure to respond to department information requests

Sec. 1.5. (a) As used in this section, "erroneous payment" means a payment that would not have been made but for the failure by an

employer or a person acting on behalf of the employer with respect to a claim for unemployment benefits to which the payment relates.

(b) As used in this section, "pattern of failure" means a repeated and documented failure by an employer or a person acting on behalf of an employer to respond to requests for information made by the department, taking into consideration the number of failures in relation to the total number of requests received by the employer or the person acting on behalf of an employer.

(c) The experience account of an employer may not be relieved of charges for a benefit overpayment from the state's unemployment insurance benefit fund established by IC 22-4-26-1, if the department determines that:

(1) the erroneous payment was made because the employer or a person acting on behalf of the employer was at fault in failing to respond in a timely or adequate manner to the department's written request for information relating to the claim for unemployment benefits; and

(2) the employer or a person acting on behalf of the employer has established a pattern of failure to respond in a timely or adequate manner to department requests described in subdivision (1).

As added by P.L.154-2013, SEC.2.

IC 22-4-11-2

Experience account; debit balance; rate of contributions; construction industry rate; deposits

Sec. 2. (a) Except as provided in IC 22-4-10-6 and IC 22-4-11.5, the department shall for each year determine the contribution rate applicable to each employer.

(b) The balance shall include contributions with respect to the period ending on the computation date and actually paid on or before July 31 immediately following the computation date and benefits actually paid on or before the computation date and shall also include any voluntary payments made in accordance with IC 22-4-10-5 or IC 22-4-10-5.5 (repealed):

(1) for each calendar year, an employer's rate shall be determined in accordance with the rate schedules in section 3.3 or 3.5 of this chapter; and

(2) for each calendar year, an employer's rate shall be two and five-tenths percent (2.5%), except as otherwise provided in subsection (g) or IC 22-4-37-3, unless:

(A) the employer has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date;

(B) there has been some annual payroll in each of the three (3) twelve (12) month periods immediately preceding the computation date; and

(C) the employer has properly filed all required contribution and wage reports, and all contributions, penalties, and interest due and owing by the employer or the employer's

predecessors have been paid.

(c) In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A), (b)(2)(B), and (b)(2)(C), an employer's rate is equal to the sum of the employer's contribution rate determined or estimated by the department under this article plus two percent (2%) unless all required contributions and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessor for periods before and including the computation date have been paid:

(1) within thirty-one (31) days following the computation date; or

(2) within ten (10) days after the department has given the employer a written notice by registered mail to the employer's last known address of:

(A) the delinquency; or

(B) failure to file the reports;

whichever is the later date. The board or the board's designee may waive the imposition of rates under this subsection if the board finds the employer's failure to meet the deadlines was for excusable cause. The department shall give written notice to the employer before this additional condition or requirement shall apply. An employer's rate under this subsection may not exceed twelve percent (12%).

(d) However, if the employer is the state or a political subdivision of the state or any instrumentality of a state or a political subdivision, or any instrumentality which is wholly owned by the state and one (1) or more other states or political subdivisions, the employer may contribute at a rate of one and six-tenths percent (1.6%) until it has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date.

(e) On the computation date every employer who had taxable wages in the previous calendar year shall have the employer's experience account charged with the amount determined under the following formula:

STEP ONE: Divide:

(A) the employer's taxable wages for the preceding calendar year; by

(B) the total taxable wages for the preceding calendar year.

STEP TWO: Multiply the quotient determined under STEP ONE by the total amount of benefits charged to the fund under section 1 of this chapter.

(f) One (1) percentage point of the rate imposed under subsection (c), or the amount of the employer's payment that is attributable to the increase in the contribution rate, whichever is less, shall be imposed as a penalty that is due and shall be deposited upon collection into the special employment and training services fund established under IC 22-4-25-1. The remainder of the contributions paid by an employer pursuant to the maximum rate shall be:

(1) considered a contribution for the purposes of this article; and

(2) deposited in the unemployment insurance benefit fund established under IC 22-4-26.

(g) Except as otherwise provided in IC 22-4-37-3, this subsection, instead of subsection (b)(2), applies to an employer in the construction industry. As used in the subsection, "construction industry" means business establishments whose proper primary classification in the current edition of the North American Industry Classification System Manual - United States, published by the National Technical Information Service of the United States Department of Commerce is 23 (construction). For each calendar year beginning after December 31, 2013, an employer's rate shall be equal to the lesser of four percent (4%) or the average of the contribution rates paid by all employers in the construction industry subject to this article during the twelve (12) months preceding the computation date, unless:

(1) the employer has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date;

(2) there has been some annual payroll in each of the three (3) twelve (12) month periods immediately preceding the computation date; and

(3) the employer has properly filed all required contribution and wage reports, and all contributions, penalties, and interest due and owing by the employer or the employer's predecessors have been paid.

(Formerly: Acts 1947, c.208, s.1102; Acts 1953, c.177, s.12; Acts 1955, c.317, s.6; Acts 1965, c.190, s.5; Acts 1967, c.310, s.14; Acts 1971, P.L.355, SEC.24.) As amended by Acts 1977, P.L.262, SEC.19; P.L.227-1983, SEC.5; P.L.225-1985, SEC.2; P.L.34-1985, SEC.4; P.L.20-1986, SEC.6; P.L.18-1987, SEC.37; P.L.80-1990, SEC.11; P.L.1-1992, SEC.107; P.L.105-1994, SEC.2; P.L.21-1995, SEC.73; P.L.179-1999, SEC.1; P.L.98-2005, SEC.8; P.L.108-2006, SEC.15; P.L.175-2009, SEC.12; P.L.110-2010, SEC.26; P.L.1-2010, SEC.86; P.L.2-2011, SEC.9; P.L.42-2011, SEC.39; P.L.6-2012, SEC.153; P.L.154-2013, SEC.3.

IC 22-4-11-3

Rate schedules for contributions; determination

Sec. 3. (a) The applicable schedule of rates for calendar years before January 1, 2011, shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedule A, B, C, or D, appearing on the line opposite the fund ratio in the schedule below, shall be applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For the purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected to become liable for payments in lieu of contributions

(as defined in IC 22-4-2-32). For the purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	1.0%	A
1.0%	1.5%	B
1.5%	2.25%	C
2.25%		D

(b) Except as provided in subsection (c), the applicable schedule of rates for calendar years after December 31, 2010, shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedules A through I appearing on the line opposite the fund ratio in the schedule below are applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	0.2%	A
0.2%	0.4%	B
0.4%	0.6%	C
0.6%	0.8%	D
0.8%	1.0%	E
1.0%	1.2%	F
1.2%	1.4%	G
1.4%	1.6%	H
1.6%		I

(c) For calendar years 2011 through 2020, Schedule E applies in determining and assigning each employer's contribution rate.

(d) Any adjustment in the amount charged to any employer's experience account made subsequent to the assignment of rates of contributions for any calendar year shall not operate to alter the amount charged to the experience accounts of any other base-period employers.

(Formerly: Acts 1947, c.208, s.1103; Acts 1955, c.317, s.7; Acts 1965, c.190, s.6; Acts 1967, c.310, s.15; Acts 1971, P.L.355, SEC.25.) As amended by Acts 1977, P.L.262, SEC.20; Acts 1982, P.L.136, SEC.1; P.L.225-1985, SEC.3; P.L.171-1991, SEC.2;

P.L.1-1992, SEC.108; P.L.202-1993, SEC.4; P.L.1-1994, SEC.112; P.L.21-1995, SEC.76; P.L.259-1997(ss), SEC.2; P.L.30-2000, SEC.2; P.L.273-2003, SEC.3; P.L.175-2009, SEC.13; P.L.110-2010, SEC.27; P.L.1-2010, SEC.87; P.L.2-2011, SEC.10; P.L.42-2011, SEC.40; P.L.6-2012, SEC.154.

IC 22-4-11-3.1
Repealed

(Repealed by P.L.1-2001, SEC.51.)

IC 22-4-11-3.2
Repealed

(Repealed by P.L.273-2003, SEC.8.)

IC 22-4-11-3.3
Contribution rates before 2011

Sec. 3.3. (a) For calendar years after 2001 and before 2011, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefore according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, D, or E on the line opposite the employer's credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) A	B	C	D	E
3.00		1.10	0.10	0.10	0.10	0.15
2.80	3.00	1.30	0.30	0.10	0.10	0.15
2.60	2.80	1.50	0.50	0.10	0.10	0.15
2.40	2.60	1.70	0.70	0.30	0.10	0.20
2.20	2.40	1.90	0.90	0.50	0.10	0.20
2.00	2.20	2.10	1.10	0.70	0.30	0.40
1.80	2.00	2.30	1.30	0.90	0.50	0.60
1.60	1.80	2.50	1.50	1.10	0.70	0.80
1.40	1.60	2.70	1.70	1.30	0.90	1.00
1.20	1.40	2.90	1.90	1.50	1.10	1.20
1.00	1.20	3.10	2.10	1.70	1.30	1.40
0.80	1.00	3.30	2.30	1.90	1.50	1.60
0.60	0.80	3.50	2.50	2.10	1.70	1.80
0.40	0.60	3.70	2.70	2.30	1.90	2.00
0.20	0.40	3.90	2.90	2.50	2.10	2.20
0.00	0.20	4.10	3.10	2.70	2.30	2.40

(b) For calendar years after 2001 and before 2011, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each

calendar year, to employers whose accounts have a debit balance and who are eligible therefore according to each employer's debit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, D, or E on the line opposite the employer's debit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) A	B	C	D	E
	1.50	4.40	4.30	4.20	4.10	5.40
1.50	3.00	4.70	4.60	4.50	4.40	5.40
3.00	4.50	5.00	4.90	4.70	4.70	5.40
4.50	6.00	5.30	5.20	5.10	5.00	5.40
6.00		5.60	5.50	5.40	5.40	5.40

As added by P.L.290-2001, SEC.4. Amended by P.L.1-2002, SEC.89; P.L.273-2003, SEC.4; P.L.175-2009, SEC.14; P.L.110-2010, SEC.28.

IC 22-4-11-3.5
Contribution rates after 2010

Sec. 3.5. (a) For calendar years after 2010, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are therefore eligible according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A through I on the line opposite the employer's credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) A	B	C	D	E
3.00		0.75	0.70	0.70	0.60	0.50
2.80	3.00	1.00	0.90	0.90	0.80	0.70
2.60	2.80	1.30	1.20	1.10	1.00	0.90
2.40	2.60	1.60	1.50	1.40	1.30	1.20
2.20	2.40	1.90	1.80	1.70	1.50	1.40
2.00	2.20	2.20	2.00	1.90	1.80	1.60
1.80	2.00	2.50	2.30	2.20	2.00	1.80
1.60	1.80	2.80	2.60	2.40	2.20	2.00
1.40	1.60	3.10	2.90	2.70	2.50	2.30
1.20	1.40	3.40	3.20	3.00	2.70	2.50
1.00	1.20	3.70	3.40	3.20	3.00	2.70
0.80	1.00	4.00	3.70	3.50	3.20	2.90
0.60	0.80	4.30	4.00	3.70	3.40	3.10

0.40	0.60	4.60	4.30	4.00	3.70	3.40
0.20	0.40	4.90	4.60	4.30	3.90	3.60
0.00	0.20	5.20	4.80	4.50	4.20	3.80

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) F	G	H	I
3.00		0.40	0.40	0.30	0.00
2.80	3.00	0.60	0.50	0.40	0.00
2.60	2.80	0.80	0.70	0.60	0.10
2.40	2.60	1.10	1.00	0.90	0.10
2.20	2.40	1.30	1.20	1.00	0.10
2.00	2.20	1.40	1.20	1.00	0.10
1.80	2.00	1.60	1.40	1.20	0.10
1.60	1.80	1.80	1.60	1.40	0.20
1.40	1.60	2.10	1.90	1.70	0.20
1.20	1.40	2.20	2.00	1.70	0.20
1.00	1.20	2.40	2.10	1.80	0.20
0.80	1.00	2.60	2.30	2.00	0.20
0.60	0.80	2.80	2.50	2.20	0.20
0.40	0.60	3.10	2.80	2.40	0.30
0.20	0.40	3.20	2.80	2.40	0.30
0.00	0.20	3.40	3.00	2.60	0.30

(b) For calendar years after 2010, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a debit balance and who are therefore eligible according to each employer's debit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A through I on the line opposite the employer's debit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) A	B	C	D	E
0.00	1.50	6.75	6.30	5.90	5.40	4.90
1.50	3.00	7.00	6.50	6.10	5.60	5.10
3.00	4.50	7.25	6.70	6.30	5.80	5.30
4.50	6.00	7.50	7.00	6.50	6.00	5.50
6.00	8.00	7.75	7.20	6.70	6.20	5.70
8.00	10.00	8.25	7.70	7.20	6.60	6.00
10.00	12.00	8.75	8.10	7.60	7.00	6.40
12.00	14.00	9.25	8.60	8.00	7.40	6.80
14.00	16.00	9.75	9.10	8.50	7.80	7.10
16.00		10.20	9.50	8.90	8.20	7.40

RATE SCHEDULE FOR ACCOUNTS

WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) F	G	H	I
0.00	1.50	4.40	3.90	3.40	0.40
1.50	3.00	4.60	4.10	3.60	0.40
3.00	4.50	4.80	4.30	3.80	0.40
4.50	6.00	4.90	4.40	3.80	0.40
6.00	8.00	5.10	4.50	3.90	0.40
8.00	10.00	5.40	4.80	4.20	0.50
10.00	12.00	5.80	5.20	4.50	0.50
12.00	14.00	6.10	5.40	4.70	0.50
14.00	16.00	6.40	5.70	5.00	0.50
16.00		6.70	6.00	5.40	5.40

As added by P.L.175-2009, SEC.15. Amended by P.L.110-2010, SEC.29.

IC 22-4-11-4

Payroll report; inadequate report; correction; contributions

Sec. 4. (a) If the commissioner finds that any employer has failed to file any payroll report or has filed a report which the commissioner finds incorrect or insufficient, the commissioner shall make an estimate of the information required from the employer on the basis of the best evidence reasonably available to the commissioner at the time and notify the employer thereof by mail addressed to the employer's last known address. Except as provided in subsection (b), unless the employer files the report or a corrected or sufficient report, as the case may be, within fifteen (15) days after the mailing of the notice, the commissioner shall compute the employer's rate of contribution on the basis of the estimates, and the rate determined in this manner shall be subject to increase or decrease on the basis of subsequently ascertained and verified information. The estimated amount of contribution is considered prima facie correct.

(b) The commissioner may adjust the amount of contribution estimated in this manner on the basis of information ascertained after the expiration of the notice period if the employer or other interested party:

(1) makes an affirmative showing of all facts alleged as a reasonable cause for the failure to timely file any payroll report; and

(2) submits accurate and reliable payroll reports.

(Formerly: Acts 1947, c.208, s.1104.) As amended by P.L.20-1986, SEC.7; P.L.18-1987, SEC.38; P.L.21-1995, SEC.74; P.L.18-2001, SEC.1; P.L.290-2001, SEC.5; P.L.1-2002, SEC.90; P.L.154-2013, SEC.4.

IC 22-4-11.5

Chapter 11.5. Assignment of Employer Contribution Rates and Transfers of Employer Experience Accounts

IC 22-4-11.5-1

Applicability

Sec. 1. Notwithstanding any other provision of this article, this chapter applies to the assignment of contribution rates and transfers of employer experience accounts after December 31, 2005.

As added by P.L.98-2005, SEC.9.

IC 22-4-11.5-2

"Administrative law judge"

Sec. 2. As used in this chapter, "administrative law judge" means a person employed by the commissioner under IC 22-4-17-4.

As added by P.L.98-2005, SEC.9. Amended by P.L.108-2006, SEC.16.

IC 22-4-11.5-3

"Person"

Sec. 3. As used in this chapter, "person" has the meaning set forth in section 7701(a)(1) of the Internal Revenue Code.

As added by P.L.98-2005, SEC.9.

IC 22-4-11.5-4

"Trade or business"

Sec. 4. As used in this chapter, "trade or business" includes an employer's workforce.

As added by P.L.98-2005, SEC.9.

IC 22-4-11.5-5

"Violates or attempts to violate"

Sec. 5. As used in this chapter, "violates or attempts to violate" includes the intent to evade a higher employer contribution rate in connection with a transfer of a trade or business through misrepresentation or willful nondisclosure of information relevant to the transfer.

As added by P.L.98-2005, SEC.9. Amended by P.L.108-2006, SEC.17.

IC 22-4-11.5-6

"Knowingly"; "recklessly"

Sec. 6. As used in this chapter:

(1) "knowingly" has the meaning set forth in IC 35-41-2-2(b); and

(2) "recklessly" has the meaning set forth in IC 35-41-2-2(c).

As added by P.L.98-2005, SEC.9.

IC 22-4-11.5-7

Transferring all or part of trade or business; successor employers

with substantially common ownership, management, or control

Sec. 7. (a) This section applies to a transfer of a trade or business that meets the following requirements:

(1) An employer transfers all or a portion of the employer's trade or business to another employer.

(2) At the time of the transfer, the two (2) employers have substantially common ownership, management, or control.

(b) The successor employer shall assume the experience account balance of the predecessor employer for the resources and liabilities of the predecessor employer's experience account that are attributable to the transfer.

(c) The contribution rates of both employers shall be recalculated, and the recalculated rate made effective on the effective date of the transfer described in subsection (a).

(d) The payroll of the predecessor employer on the effective date of the transfer, and the benefits chargeable to the predecessor employer's original experience account after the effective date of the transfer, must be divided between the predecessor employer and the successor employer in accordance with rules adopted by the department under IC 4-22-2.

(e) Any written determination made by the department is conclusive and binding on both the predecessor employer and the successor employer unless one (1) employer files or both employers file a written protest with the department setting forth all reasons for the protest. A protest under this section must be filed not later than fifteen (15) days after the date the department sends the initial determination to the employers. The protest shall be heard and determined under this section and IC 22-4-32-1 through IC 22-4-32-15. The predecessor employer, the successor employer, and the department shall be parties to the hearing before the liability administrative law judge and are entitled to receive copies of all pleadings and the decision.

As added by P.L.98-2005, SEC.9. Amended by P.L.108-2006, SEC.18.

IC 22-4-11.5-8

Transfers solely to obtain lower employer contribution rate

Sec. 8. (a) If the department determines that an employing unit or other person that is not an employer under IC 22-4-7 at the time of the acquisition has acquired an employer's trade or business solely or primarily for the purpose of obtaining a lower employer contribution rate, the employing unit or other person:

(1) may not assume the experience account balance of the predecessor employer for the resources and liabilities of the predecessor employer's experience account that are attributable to the acquisition; and

(2) shall pay the applicable contribution rate as determined under this article.

(b) In determining whether an employing unit or other person acquired a trade or business solely or primarily for the purpose of

obtaining a lower employer contribution rate under subsection (a), the department shall consider the following factors:

(1) The cost of acquiring the trade or business.

(2) Whether the employing unit or other person continued the business enterprise of the acquired trade or business, including whether the predecessor employer is no longer performing the same trade or business and the trade or business is performed by the employing unit to whom the workforce is transferred. An employing unit is considered to continue the business enterprise if any one (1) of the following applies:

(A) The predecessor employer and the employing unit are corporations that are members of a "controlled group of corporations", as defined in Section 1563 of the Internal Revenue Code (generally parent-subsidiary or brother-sister controlled groups), or would be members if Section 1563(a)(4) and 1563(b) of the Internal Revenue Code did not apply and if the phrase "more than fifty percent (50%)" were substituted for the phrase "at least eighty percent (80%)" wherever it appears in Section 1563(a) of the Internal Revenue Code.

(B) The predecessor employer and the employing unit are entities that are part of an affiliated group, as defined in Section 1504 of the Internal Revenue Code, except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%).

(C) A predecessor employer and an employing unit are entities that do not issue stock, either fifty percent (50%) or more of the members of one (1) entity's board of directors (or other governing body) are members of the other entity's board of directors (or other governing body), or the holders of fifty percent (50%) or more of the voting power to select these members are concurrently the holders of fifty percent (50%) or more of that power with respect to the other entity.

(D) Fifty percent (50%) or more of one (1) entity's officers are concurrently officers of the other entity.

(E) Thirty percent (30%) or more of one (1) entity's employees are concurrently employees of the other entity.

(3) The length of time the employing unit or other person continued the business enterprise of the acquired trade or business.

(4) Whether a substantial number of new employees were hired to perform duties unrelated to the business enterprise that the trade or business conducted before the trade or business was acquired.

(5) Whether the predecessor employer and the employing unit are united by factors of control, operation, or use.

(6) Whether a new employing unit is being created solely to obtain a lower contribution rate.

(c) Any written determination made by the department is

conclusive and binding on the employing unit or other person, unless the employing unit or other person files a written protest with the department setting forth all reasons for the protest. A protest under this section must be filed not later than fifteen (15) days after the date the department sends the initial determination to the employing unit or other person. The protest shall be heard and determined under this section and IC 22-4-32-1 through IC 22-4-32-15. The department and the employing unit or other person shall be parties to the hearing before the liability administrative law judge and are entitled to receive copies of all pleadings and the decision.

As added by P.L.98-2005, SEC.9. Amended by P.L.108-2006, SEC.19; P.L.175-2009, SEC.16.

IC 22-4-11.5-9

Violation of chapter; civil penalties

Sec. 9. (a) A person who knowingly or recklessly:

(1) violates or attempts to violate:

(A) section 7 or 8 of this chapter; or

(B) any other provision of this article related to determining the assumption or assignment of an employer's contribution rate; or

(2) advises another person in a way that results in a violation of:

(A) section 7 or 8 of this chapter; or

(B) any other provision of this article related to determining the assumption or assignment of an employer's contribution rate;

is subject to a civil penalty under this chapter.

(b) If the department determines that an employer (as defined under IC 22-4-7) is subject to a civil penalty under subsection (a)(1), the department shall assign an employer contribution rate equal to one (1) of the following as a civil penalty:

(1) The highest employer contribution rate assignable under this article for the year in which the violation occurred and the following three (3) years.

(2) An additional employer contribution rate of two percent (2%) of the employer's taxable wages (as defined in IC 22-4-4-2) for the year in which the violation occurred and the following three (3) years, if:

(A) an employer is already paying the highest employer contribution rate at the time of the violation; or

(B) the increase in the contribution rate described in subdivision (1) is less than two percent (2%).

(c) If the department determines that a person who is not an employer (as defined in IC 22-4-7) is subject to a civil penalty under subsection (a)(2), the department shall assess a civil penalty of not more than five thousand dollars ($5,000).

(d) All civil penalties collected under this section shall be deposited in the unemployment insurance benefit fund established by IC 22-4-26-1.

(e) Any written determination made by the department is

conclusive and binding on the employing unit, employer, or person unless the employing unit, employer, or person files a written protest with the department setting forth all reasons for the protest. A protest under this section must be filed not later than fifteen (15) days after the date the department sends the initial determination to the employing unit, employer, or person. The protest shall be heard and determined under this section and IC 22-4-32-1 through IC 22-4-32-15. The employing unit, employer, or person, and the department shall be parties to the hearing before the liability administrative law judge and are entitled to receive copies of all pleadings and the decision.

As added by P.L.98-2005, SEC.9. Amended by P.L.108-2006, SEC.20.

IC 22-4-11.5-10

Violation of chapter; Class C misdemeanor

Sec. 10. In addition to any other penalty imposed, a person who knowingly, recklessly, or intentionally violates this chapter commits a Class C misdemeanor.

As added by P.L.98-2005, SEC.9. Amended by P.L.1-2006, SEC.342; P.L.108-2006, SEC.21.

IC 22-4-11.5-11

Commissioner procedures to identify violators; applicability of federal Department of Labor regulations

Sec. 11. (a) The commissioner shall establish procedures to identify the transfer or acquisition of a business for purposes of this chapter.

(b) The interpretation and application of this chapter must meet the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor.

As added by P.L.98-2005, SEC.9.

IC 22-4-12
Chapter 12. Benefits Schedule

IC 22-4-12-0.1
Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 4 of this chapter by P.L.172-1991 apply to individuals who file a disaster unemployment claim or a state unemployment insurance claim after June 1, 1990, and before June 2, 1991, or during a period to be determined by the general assembly.

As added by P.L.220-2011, SEC.365.

IC 22-4-12-1
Eligibility; payment; death

Sec. 1. Benefits designated as unemployment insurance benefits shall become payable from the fund to any individual who is or becomes unemployed and eligible for benefits under the terms of this article. All benefits shall be paid through the department or such other agencies as the department by rule may designate at such times and in such manner as the department may prescribe. The department may adopt rules to provide for the payment of benefits due and payable on executed vouchers to persons since deceased; benefits so due and payable may be paid to the legal representative, dependents, or next of kin of the deceased as are found to be entitled thereto, which rules need not conform with the laws of the state governing decedent estates, and every such payment shall be deemed a valid payment to the same extent as if made to the legal representative of the deceased.

(Formerly: Acts 1947, c.208, s.1201.) As amended by P.L.144-1986, SEC.101; P.L.108-2006, SEC.22.

IC 22-4-12-2
Rates; prior weekly wage computation

Sec. 2. (a) With respect to initial claims filed for any week beginning on and after July 1, 1997, and before July 1, 2012, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in the individual's benefit period shall be paid for the week, if properly claimed, benefits at the rate of:

(1) five percent (5%) of the first two thousand dollars ($2,000) of the individual's wage credits in the calendar quarter during the individual's base period in which the wage credits were highest; and

(2) four percent (4%) of the individual's remaining wage credits in the calendar quarter during the individual's base period in which the wage credits were highest.

(b) With respect to initial claims filed for any week beginning on and after July 1, 2012, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in the individual's benefit period shall be paid for the week, if properly claimed, an amount equal to forty-seven percent (47%) of the

individual's prior average weekly wage, rounded (if not already a multiple of one dollar ($1)) to the next lower dollar. However, the maximum weekly benefit amount may not exceed three hundred ninety dollars ($390).

(c) For purposes of this section, "prior average weekly wage" means the result of:

(1) the individual's total wage credits during the individual's base period; divided by

(2) fifty-two (52).

(Formerly: Acts 1947, c.208, s.1202; Acts 1951, c.307, s.2; Acts 1955, c.274, s.1; Acts 1957, c.294, s.2; Acts 1959, c.97, s.2; Acts 1965, c.190, s.7; Acts 1967, c.310, s.16; Acts 1971, P.L.355, SEC.26; Acts 1973, P.L.240, SEC.1; Acts 1974, P.L.110, SEC.1.) As amended by Acts 1976, P.L.114, SEC.3; Acts 1977, P.L.262, SEC.21; Acts 1980, P.L.158, SEC.2; P.L.129-1984, SEC.1; P.L.34-1985, SEC.5; P.L.18-1987, SEC.39; P.L.171-1991, SEC.3; P.L.1-1992, SEC.109; P.L.23-1993, SEC.129; P.L.202-1993, SEC.5; P.L.1-1994, SEC.113; P.L.21-1995, SEC.75; P.L.166-1996, SEC.1; P.L.259-1997(ss), SEC.4; P.L.235-1999, SEC.10; P.L.2-2011, SEC.11.

IC 22-4-12-2.1
Repealed

(Repealed by P.L.175-2009, SEC.48.)

IC 22-4-12-3
Amount; inability to work; unavailable for work

Sec. 3. The weekly benefit amount of any otherwise eligible individual shall be reduced by one-third (1/3) thereof, computed to the next lower multiple of one dollar ($1.00), for each normal work day during which such individual is unable to work or is unavailable for work.

(Formerly: Acts 1947, c.208, s.1203.) As amended by P.L.227-1983, SEC.6.

IC 22-4-12-4
Computation; maximum amount

Sec. 4. (a) Benefits shall be computed upon the basis of wage credits of an individual in the individual's base period. Wage credits shall be reported by the employer and credited to the individual in the manner prescribed by the board. With respect to initial claims filed for any week beginning on and after July 7, 1991, the maximum total amount of benefits payable to any eligible individual during any benefit period shall not exceed twenty-six (26) times the individual's weekly benefit, or twenty-eight percent (28%) of the individual's wage credits with respect to the individual's base period, whichever is less. If such maximum total amount of benefits is not a multiple of one dollar ($1), it shall be computed to the next lower multiple of one dollar ($1).

(b) Except as provided in subsection (d), the total extended benefit amount payable to any eligible individual with respect to the

individual's applicable benefit period shall be fifty percent (50%) of the total amount of regular benefits (including dependents' allowances) which were payable to the individual under this article in the applicable benefit year, or thirteen (13) times the weekly benefit amount (including dependents' allowances) which was payable to the individual under this article for a week of total unemployment in the applicable benefit year, whichever is the lesser amount.

(c) This subsection applies to individuals who file a disaster unemployment claim or a state unemployment insurance claim after June 1, 1990, and before June 2, 1991, or during another time specified in another state statute. An individual is entitled to thirteen (13) weeks of additional benefits, as originally determined, if:

(1) the individual has established:

(A) a disaster unemployment claim under the Stafford Disaster Relief and Emergency Assistance Act; or

(B) a state unemployment insurance claim as a direct result of a major disaster;

(2) all regular benefits and all disaster unemployment assistance benefits:

(A) have been exhausted by the individual; or

(B) are no longer payable to the individual due to the expiration of the disaster assistance period; and

(3) the individual remains unemployed as a direct result of the disaster.

(d) For purposes of this subsection, "high unemployment period" means a period during which an extended benefit period would be in effect if IC 22-4-2-34(d)(1) were applied by substituting "eight percent (8%)" for "six and five-tenths percent (6.5%)". Effective with respect to weeks beginning in a high unemployment period, the total extended benefit amount payable to an eligible individual with respect to the applicable benefit year is equal to the least of the following amounts:

(1) Eighty percent (80%) of the total amount of regular benefits that were payable to the eligible individual under this article in the applicable benefit year.

(2) Twenty (20) times the weekly benefit amount that was payable to the eligible individual under this article for a week of total unemployment in the applicable benefit year.

(3) Forty-six (46) times the weekly benefit amount that was payable to the eligible individual under this article for a week of total unemployment in the applicable benefit year, reduced by the regular unemployment compensation benefits paid (or deemed paid) during the benefit year.

This subsection expires on the later of December 5, 2009, or the week ending four (4) weeks before the last week for which federal sharing is authorized by Section 2005(a) of Division B, Title II (the federal Assistance to Unemployed Workers and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

(e) For purposes of this subsection, "high unemployment period" means a period during which an extended benefit period would be in effect if IC 22-4-2-34(n)(1) were applied by substituting "eight percent (8%)" for "six and one-half percent (6.5%)". Effective with respect to weeks of unemployment beginning after March 1, 2011, and ending on the later of December 10, 2011, or the week ending four (4) weeks before the last week for which federal sharing is authorized by Section 2005(a) of Division B, Title II (the federal Assistance to Unemployed and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5), in a high unemployment period, the total extended benefit amount payable to an eligible individual with respect to the applicable benefit year is equal to the lesser of the following amounts:

(1) Eighty percent (80%) of the total amount of regular benefits that were payable to the eligible individual under this article in the applicable benefit year.

(2) Twenty (20) times the weekly benefit amount that was payable to the eligible individual under this article for a week of total unemployment in the applicable benefit year.

(Formerly: Acts 1947, c.208, s.1204; Acts 1959, c.97, s.3; Acts 1967, c.310, s.17; Acts 1971, P.L.355, SEC.27.) As amended by P.L.171-1991, SEC.4; P.L.172-1991, SEC.2; P.L.1-1992, SEC.110; P.L.175-2009, SEC.17; P.L.12-2011, SEC.3.

IC 22-4-12-5
Part-time worker

Sec. 5. (a) As used in this section, the term "part-time worker" means an individual whose normal work is in an occupation in which his services are not required for the customary scheduled full-time hours prevailing in the establishment in which he is employed, or who, owing to personal circumstances, does not customarily work the customary scheduled full-time hours prevailing in the establishment in which he is employed.

(b) The board may prescribe rules applicable to part-time workers for determining their weekly benefit amount and the wage credits required to qualify such individuals for benefits. Such rules shall, with respect to such individuals, supersede any inconsistent provisions of this article, but, so far as practicable, shall secure results reasonably equivalent to those provided in the analogous provisions of this article.

(Formerly: Acts 1947, c.208, s.1205.) As amended by P.L.144-1986, SEC.102.

IC 22-4-13

Chapter 13. Improper Payments

IC 22-4-13-1

Overpayment; fraud; mistake; collection

Sec. 1. (a) Whenever an individual receives benefits or extended benefits to which the individual is not entitled under:

(1) this article; or

(2) the unemployment insurance law of the United States;

the department shall establish that an overpayment has occurred and establish the amount of the overpayment.

(b) An individual described in subsection (a) is liable to repay the established amount of the overpayment.

(c) Any individual who knowingly:

(1) makes, or causes to be made by another, a false statement or representation of a material fact knowing it to be false; or

(2) fails, or causes another to fail, to disclose a material fact; and

as a result thereof has received any amount as benefits to which the individual is not entitled under this article, shall be liable to repay such amount, with interest at the rate of one-half percent (0.5%) per month, to the department for the unemployment insurance benefit fund or to have such amount deducted from any benefits otherwise payable to the individual under this article, within the six (6) year period following the later of the date the department establishes that an overpayment has occurred or the date that the determination of an overpayment becomes final following the exhaustion of all appeals.

(d) Any individual who, for any reason other than misrepresentation or nondisclosure as specified in subsection (c), has received any amount as benefits to which the individual is not entitled under this article or because of the subsequent receipt of income deductible from benefits which is allocable to the week or weeks for which such benefits were paid becomes not entitled to such benefits under this article shall be liable to repay such amount to the department for the unemployment insurance benefit fund or to have such amount deducted from any benefits otherwise payable to the individual under this article, within the three (3) year period following the later of the date the department establishes that the overpayment occurred or the date that the determination that an overpayment occurred becomes final following the exhaustion of all appeals.

(e) When benefits are paid to an individual who was eligible or qualified to receive such payments, but when such payments are made because of the failure of representatives or employees of the department to transmit or communicate to such individual notice of suitable work offered, through the department, to such individual by an employing unit, then and in such cases, the individual shall not be required to repay or refund amounts so received, but such payments shall be deemed to be benefits improperly paid.

(f) Where it is finally determined by a deputy, an administrative

law judge, the review board, or a court of competent jurisdiction that an individual has received benefits to which the individual is not entitled under this article, the department shall relieve the affected employer's experience account of any benefit charges directly resulting from such overpayment. However, an employer's experience account will not be relieved of the charges resulting from an overpayment of benefits which has been created by a retroactive payment by such employer directly or indirectly to the claimant for a period during which the claimant claimed and was paid benefits unless the employer reports such payment by the end of the calendar quarter following the calendar quarter in which the payment was made or unless and until the overpayment has been collected. Those employers electing to make payments in lieu of contributions shall not have their account relieved as the result of any overpayment unless and until such overpayment has been repaid to the unemployment insurance benefit fund.

(g) Where any individual is liable to repay any amount to the department for the unemployment insurance benefit fund for the restitution of benefits to which the individual is not entitled under this article, the amount due may be collectible without interest, except as otherwise provided in subsection (c), by civil action in the name of the state of Indiana, on relation of the department, which remedy by civil action shall be in addition to all other existing remedies and to the methods for collection provided in this article.

(h) Liability for repayment of benefits paid to an individual (other than an individual employed by an employer electing to make payments in lieu of contributions) for any week may be waived upon the request of the individual if:

(1) the benefits were received by the individual without fault of the individual;

(2) the benefits were the result of payments made:

(A) during the pendency of an appeal before an administrative law judge or the review board under IC 22-4-17 under which the individual is determined to be ineligible for benefits; or

(B) because of an error by the employer or the department; and

(3) repayment would cause economic hardship to the individual.

(Formerly: Acts 1947, c.208, s.1301; Acts 1953, c.177, s.13; Acts 1957, c.129, s.1; Acts 1971, P.L.355, SEC.28; Acts 1973, P.L.239, SEC.4.) As amended by Acts 1979, P.L.229, SEC.2; P.L.228-1983, SEC.3; P.L.18-1987, SEC.40; P.L.135-1990, SEC.2; P.L.21-1995, SEC.77; P.L.290-2001, SEC.6; P.L.108-2006, SEC.23.

IC 22-4-13-1.1

Forfeiture of benefits or wage credits; civil penalties

Sec. 1.1. (a) Notwithstanding any other provisions of this article, if an individual knowingly:

(1) fails to disclose amounts earned during any week in the individual's waiting period, benefit period, or extended benefit

period; or

(2) fails to disclose or has falsified any fact;

that would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits, the individual forfeits any wage credits earned or any benefits or extended benefits that might otherwise be payable to the individual for the period in which the failure to disclose or falsification occurs.

(b) In addition to amounts forfeited under subsection (a), an individual is subject to the following civil penalties for each instance in which the individual knowingly fails to disclose or falsifies any fact that if accurately reported to the department would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits:

(1) For the first instance, an amount equal to twenty-five percent (25%) of the benefit overpayment.

(2) For the second instance, an amount equal to fifty percent (50%) of the benefit overpayment.

(3) For the third and each subsequent instance, an amount equal to one hundred percent (100%) of the benefit overpayment.

(c) The department's determination under this section constitutes an initial determination under IC 22-4-17-2(a) and is subject to a hearing and review under IC 22-4-17-3 through IC 22-4-17-15.

(d) Interest and civil penalties collected under this chapter shall be deposited as follows:

(1) Fifteen percent (15%) of the amount collected shall be deposited in the unemployment insurance benefit fund established under IC 22-4-26-1.

(2) The remainder of the amount collected shall be deposited in the special employment and training services fund established under IC 22-4-25-1.

As added by P.L.108-2006, SEC.24. Amended by P.L.175-2009, SEC.18; P.L.154-2013, SEC.5.

IC 22-4-13-2
Repealed

(Repealed by P.L.129-1984, SEC.4.)

IC 22-4-13-3
Overpayments due to retroactive labor awards; offset and remission

Sec. 3. If an overpayment of benefits is created by a retroactive payment by the employer for:

(1) awards by the National Labor Relations Board of additional pay, backpay, or for loss of employment;

(2) any payments made under an agreement entered into by an employer, either a union or an employee, and the National Labor Relations Board; or

(3) payments to an employee by an employing unit made pursuant to the terms and provisions of the Fair Labor

Standards Act;

and the employer offsets all or part of the overpaid benefits against the award, the employer shall remit the amount offset to the division.

As added by P.L.20-1986, SEC.8.

IC 22-4-13-4

Repayment of overpayment amounts

Sec. 4. (a) This section applies to an individual:

(1) for whom the department has established an overpayment by a final written determination under section 1(a) or 1(b) of this chapter; and

(2) whose overpayment amount that is due and payable equals or exceeds:

(A) the individual's weekly benefit amount; multiplied by

(B) four (4).

(b) Notwithstanding any other law and subject to subsection (c), an individual is entitled to repay the established amount of an overpayment over a period:

(1) beginning on the date the determination of the amount of the overpayment is final; and

(2) ending on a date not later than the date occurring thirty-six (36) months after the date specified in subdivision (1).

(c) An individual to whom this section applies may repay an overpayment over time as provided in subsection (b) not more than once during the individual's lifetime.

As added by P.L.172-2011, SEC.128.

IC 22-4-14

Chapter 14. Eligibility for Benefits

IC 22-4-14-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 1 of this chapter by P.L.138-2008 apply to initial claims for unemployment filed for weeks that begin after March 14, 2008.

As added by P.L.220-2011, SEC.366.

IC 22-4-14-1

Claims; inverse seniority layoffs; other layoffs and plant closures

Sec. 1. (a) Except as provided in IC 22-4-5-1 or subsection (b) or (c), an unemployed individual shall be eligible to receive benefits with respect to any week only if the individual has made a claim for benefits in accordance with IC 22-4-17.

(b) A person who:

(1) accepts a layoff under an inverse seniority clause of a validly negotiated contract; and

(2) otherwise meets the eligibility requirements established by this article;

is entitled to receive benefits in the same amounts, under the same terms, and subject to the same conditions as any other unemployed person.

(c) This subsection applies to initial claims for unemployment filed for a week that begins after March 14, 2008, and before October 1, 2011. This subsection does not apply to a person who elects to retire in connection with a layoff or plant closure and receive pension, retirement, or annuity payments. Except as provided in IC 22-4-5-1, a person who:

(1) accepts an offer of payment or other compensation offered by an employer to avert or lessen the effect of a layoff or plant closure; and

(2) otherwise meets the eligibility requirements established by this article;

is entitled to receive benefits in the same amounts, under the same terms, and subject to the same conditions as any other unemployed person.

(Formerly: Acts 1947, c.208, s.1401; Acts 1971, P.L.355, SEC.29.)
As amended by P.L.138-2008, SEC.3; P.L.2-2011, SEC.12.

IC 22-4-14-2

Employment offices; registration; reporting; issuance of warrants; job counseling and training

Sec. 2. (a) An unemployed individual is eligible to receive benefits with respect to any week only if the individual has:

(1) registered for work at an employment office or branch thereof or other agency designated by the commissioner within the time limits that the department by rule adopts; and

(2) subsequently reported with the frequency and in the manner,

either in person or in writing, that the department by rule adopts.

(b) Failure to comply with subsection (a) shall be excused by the commissioner or the commissioner's authorized representative upon a showing of good cause therefor. The department shall waive or alter the requirements of this section as to such types of cases or situations that compliance with such requirements would be oppressive or would be inconsistent with the purposes of this article.

(c) The department shall provide job counseling or training to an individual who remains unemployed for at least four (4) weeks. The manner and duration of the counseling shall be determined by the department.

(d) An individual who is receiving benefits as determined under IC 22-4-15-1(c)(8) is entitled to complete the reporting, counseling, or training that must be conducted in person at a one stop center selected by the individual. The department shall advise an eligible individual that this option is available.

(e) The department may waive the requirements of subsection (a) for a week only when one (1) of the following applies to an individual for that week:

(1) The individual is attending training or retraining approved by the department.

(2) The individual is a job-attached worker with a specific recall date that is not more than sixty (60) days after the individual's separation date.

(3) The individual is using:

(A) a hiring service;

(B) a referral service; or

(C) another job placement service as determined by the department.

(4) Any other situation exists for which the department considers requiring compliance by the individual with this section to be inconsistent with the purposes of this article.

(Formerly: Acts 1947, c.208, s.1402; Acts 1953, c.177, s.14; Acts 1969, c.300, s.3.) As amended by P.L.144-1986, SEC.103; P.L.18-1987, SEC.41; P.L.80-1990, SEC.12; P.L.1-1991, SEC.149; P.L.21-1995, SEC.78; P.L.108-2006, SEC.25; P.L.175-2009, SEC.19.

IC 22-4-14-3

Ability to work; available for work; military service; approved training; reemployment services and reemployment and eligibility assessments

Sec. 3. (a) An individual who is receiving benefits as determined under IC 22-4-15-1(c)(8) may restrict the individual's availability because of the individual's need to address the physical, psychological, or legal effects of being a victim of domestic or family violence (as defined in IC 31-9-2-42).

(b) An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual:

(1) is physically and mentally able to work;
(2) is available for work;
(3) is found by the department to be making an effort to secure full-time work; and
(4) participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services under a profiling system established by the department, and reemployment and eligibility assessment activities when directed by the department, unless the department determines that:
(A) the individual has completed the reemployment services; or
(B) failure by the individual to participate in or complete the reemployment services is excused by the director under IC 22-4-14-2(b).

The term "effort to secure full-time work" shall be defined by the department through rule which shall take into consideration whether such individual has a reasonable assurance of reemployment and, if so, the length of the prospective period of unemployment. However, if an otherwise eligible individual is unable to work or unavailable for work on any normal work day of the week the individual shall be eligible to receive benefits with respect to such week reduced by one-third (1/3) of the individual's weekly benefit amount for each day of such inability to work or unavailability for work.

(c) For the purpose of this article, unavailability for work of an individual exists in, but is not limited to, any case in which, with respect to any week, it is found:
(1) that such individual is engaged by any unit, agency, or instrumentality of the United States, in charge of public works or assistance through public employment, or any unit, agency, or instrumentality of this state, or any political subdivision thereof, in charge of any public works or assistance through public employment;
(2) that such individual is in full-time active military service of the United States, or is enrolled in civilian service as a conscientious objector to military service;
(3) that such individual is suspended for misconduct in connection with the individual's work; or
(4) that such individual is in attendance at a regularly established public or private school during the customary hours of the individual's occupation or is in any vacation period intervening between regular school terms during which the individual is a student. However, this subdivision does not apply to any individual who is attending a regularly established school, has been regularly employed and upon becoming unemployed makes an effort to secure full-time work and is available for suitable full-time work with the individual's last employer, or is available for any other full-time employment deemed suitable.

(d) Notwithstanding any other provisions in this section or IC 22-4-15-2, no otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the department, nor shall such individual be denied benefits with respect to any week in which the individual is in training with the approval of the department by reason of the application of the provisions of this section with respect to the availability for work or active search for work or by reason of the application of the provisions of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept, suitable work. The department shall by rule prescribe the conditions under which approval of such training will be granted.

(e) Notwithstanding subsection (b), (c), or (d), or IC 22-4-15-2, an otherwise eligible individual shall not be denied benefits for any week or determined not able, available, and actively seeking work, because the individual is responding to a summons for jury service. The individual shall:

(1) obtain from the court proof of the individual's jury service; and

(2) provide to the department, in the manner the department prescribes by rule, proof of the individual's jury service.

(f) For purposes of this section, reemployment services and reemployment and eligibility assessment activities provided to an individual:

(1) must include:

(A) orientation to the services available through a one stop center (as defined by IC 22-4.5-2-6);

(B) provision of labor market and career information;

(C) assessment of the individual's workforce and other job related skills; and

(D) a review of the individual's work search efforts; and

(2) may include:

(A) comprehensive and specialized assessments;

(B) individual and group career counseling;

(C) training services;

(D) additional services to assist the individual in becoming reemployed;

(E) job search counseling; and

(F) development and review of the individual's reemployment plan that includes the individual's participation in job search activities and appropriate workshops.

(g) The department may require an individual participating in reemployment and eligibility assessment activities described in this section to provide proof of identity.

(Formerly: Acts 1947, c.208, s.1403; Acts 1951, c.307, s.3; Acts 1955, c.317, s.8; Acts 1967, c.310, s.18; Acts 1971, P.L.355, SEC.30; Acts 1975, P.L.253, SEC.1.) As amended by Acts 1976, P.L.114, SEC.4; Acts 1980, P.L.158, SEC.3; P.L.227-1983, SEC.7; P.L.18-1987, SEC.42; P.L.21-1995, SEC.79; P.L.189-2003, SEC.2;

P.L.108-2006, SEC.26; P.L.175-2009, SEC.20; P.L.110-2010, SEC.30; P.L.154-2013, SEC.6.

IC 22-4-14-4
Waiting period

Sec. 4. As a condition precedent to the payment of benefits to an individual with respect to any week such individual shall be required to serve a waiting period of one (1) week in which he has been totally, partially or part-totally unemployed and with respect to which he has received no benefits, but during which he was eligible for benefits in all other respects and was not otherwise ineligible for benefits under any provisions of this article. Such waiting period shall be a week in the individual's benefit period and during such week such individual shall be physically and mentally able to work and available for work. No individual in a benefit period may file for waiting period or benefit period rights with respect to any subsequent period. Provided, however, That no waiting period shall be required as a prerequisite for drawing extended benefits.
(Formerly: Acts 1947, c.208, s.1404; Acts 1971, P.L.355, SEC.31.)

IC 22-4-14-5
Wage credits

Sec. 5. (a) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after July 1, 1995, but before January 1, 2010:

(1) the individual must have established, after the last day of the individual's last base period, if any, wage credits (as defined in IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at least one and one-quarter (1.25) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and

(2) the individual must have established wage credits in the last two (2) calendar quarters of the individual's base period in a total amount of not less than one thousand six hundred fifty dollars ($1,650) and an aggregate in the four (4) calendar quarters of the individual's base period of not less than two thousand seven hundred fifty dollars ($2,750).

(b) As a further condition precedent to the payment of benefits to an individual with respect to a benefit year established on and after July 1, 1995, an insured worker may not receive benefits in a benefit year unless after the beginning of the immediately preceding benefit year during which the individual received benefits, the individual performed insured work and earned wages in employment under IC 22-4-8 in an amount not less than the individual's weekly benefit amount established for the individual in the preceding benefit year in each of eight (8) weeks.

(c) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after January 1, 2010:

(1) the individual must have established, after the last day of the

individual's last base period, if any, wage credits (as defined in IC 22-4-4-3 and within the meaning of wages under IC 22-4-22-3) equal to at least one and five-tenths (1.5) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and

(2) the individual must have established wage credits in the last two (2) calendar quarters of the individual's base period in a total amount of not less than two thousand five hundred dollars ($2,500) and a total amount in the four (4) calendar quarters of the individual's base period of not less than four thousand two hundred dollars ($4,200).

(Formerly: Acts 1947, c.208, s.1405; Acts 1965, c.190, s.8; Acts 1971, P.L.355, SEC.32; Acts 1974, P.L.110, SEC.3.) As amended by Acts 1980, P.L.158, SEC.4; P.L.34-1985, SEC.6; P.L.171-1991, SEC.5; P.L.21-1995, SEC.80; P.L.166-1996, SEC.2; P.L.175-2009, SEC.21.

IC 22-4-14-6

Extended benefits; eligibility; effect of disqualification

Sec. 6. (a) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in the individual's eligibility period only if the commissioner finds that with respect to such week:

(1) the individual is an "exhaustee" (as defined in IC 22-4-2-34(j)); and

(2) the individual has satisfied the requirements of this article for the receipt of regular benefits that are applicable to extended benefits, including not being subject to a disqualification for the receipt of benefits.

(b) If an individual has been disqualified from receiving extended benefits for failure to actively engage in seeking work under IC 22-4-15-2(c), the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks. For purposes of this subsection, an individual shall be treated as actively engaged in seeking work during any week if:

(1) the individual has engaged in a systematic and sustained effort to obtain work during the week; and

(2) the individual provides tangible evidence to the department of workforce development that the individual has engaged in an effort to obtain work during the week.

(c) For claims for extended benefits established after September 25, 1982, notwithstanding any other provision of this article, an individual shall be eligible to receive extended benefits only if the individual's insured wages in the base period with respect to which the individual exhausted all rights to regular compensation were equal to or exceeded one and one-half (1 1/2) times the individual's insured wages in that calendar quarter of the base period in which the individual's insured wages were the highest.

(Formerly: Acts 1971, P.L.355, SEC.33.) As amended by Acts 1981, P.L.209, SEC.7; Acts 1982, P.L.95, SEC.3; P.L.18-1987, SEC.43; P.L.21-1995, SEC.81; P.L.175-2009, SEC.22.

IC 22-4-14-7
Institutions of higher education and other educational institutions; service providers to or on behalf of educational institutions

Sec. 7. (a) Benefits based on service in employment defined in IC 22-4-8-2(i) and IC 22-4-8-2(j) shall be payable in the same amount, on the terms, and subject to the same conditions as compensation payable on the basis of other service subject to this article, unless otherwise specifically provided, subject to the following exceptions:

(1) With respect to service performed in an instructional, research, or principal administrative capacity for an educational institution, benefits may not be paid based on the service for any week of unemployment commencing during the period between two (2) successive academic years, or terms, or during the period between two (2) regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if the individual performs the services in the first of the academic years or terms and if there is a reasonable assurance that the individual will perform services in an instructional, research, or principal administrative capacity for any educational institution in the second of the academic years or terms.

(2) With respect to services performed in any capacity (other than those listed in subdivision (1) of this section) for an educational institution, benefits may not be paid based on the service of an individual for any week which commences during a period between two (2) successive academic years or terms if the individual performs the service in the first of the academic years or terms and there is reasonable assurance that the individual will perform the service in the second of the academic years or terms. However, with respect to weeks of unemployment beginning on or after January 1, 1984, if compensation is denied to any individual under this subdivision and the individual was not offered an opportunity to perform such services for the educational institution for the second of the academic years or terms, the individual is entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this subdivision.

(3) With respect to any services described in subdivision (1) or (2), compensation payable for these services shall be denied to any individual for any week which commences during an established and customary vacation period or holiday recess if there is reasonable assurance that the individual will perform the services in the period immediately following the vacation

period or holiday recess.

(4) With respect to any services described in subdivisions (1) and (2), benefits shall not be payable on the basis of services in any such capacities as specified in subdivisions (1), (2), and (3), to any individual who performed such services in an educational institution while in the employ of an educational service agency. For purposes of this subdivision, the term "educational service agency" means a governmental agency or governmental entity that is established and operated exclusively for the purpose of providing such services to one (1) or more educational institutions.

(5) For services to which 26 U.S.C. 3309(a)(1) applies, if the services are provided to or on behalf of an educational institution, compensation payable based on the services may be denied as specified in subdivisions (1), (2), (3), and (4).

(b) For purposes of this section, benefits may not be denied during the period between academic years or terms to any individual having wage credits earned with other than an educational institution if the wage credits qualify the individual under section 5 of this chapter and the individual is otherwise eligible. In these cases, the claim shall be computed based on the wage credits earned with employers other than educational institutions reported for the individual during the base period, in accordance with IC 22-4-12-2 and IC 22-4-12-4. Benefits paid based on the computation shall be only for weeks of unemployment occurring between academic years or terms. For any weeks of unemployment claims other than between academic years or terms, the claims of these individuals shall be recomputed to include all base period wages.

(Formerly: Acts 1971, P.L.355, SEC.34.) As amended by Acts 1977, P.L.262, SEC.22; Acts 1978, P.L.122, SEC.2; Acts 1979, P.L.229, SEC.3; P.L.227-1983, SEC.8; P.L.129-1984, SEC.2; P.L.2-2011, SEC.13.

IC 22-4-14-8

Sports; period between seasons

Sec. 8. For weeks of unemployment occurring subsequent to December 31, 1977, benefits may not be paid to any individual on the basis of any service substantially all of which consists of participating in sports or athletic events or training or preparing to participate in these events for any week which commences during the period between two (2) successive sport seasons or similar periods, if the individual performed the services in the first of the seasons or similar periods and there is a reasonable assurance that the individual will perform the services in the second of the seasons or similar periods.

Benefits may not be denied, however, for any week which commences during the period between two (2) successive sport seasons or similar periods if the individual has performed services in employment other than participating in sports or athletic events or training or preparing to participate in these events with wage credits

earned in the other employment during his base period in sufficient amount to qualify under IC 22-4-14-5 and the individual is otherwise eligible. In these cases, the claim shall be computed based on the wage credits earned with employers other than those employing the individual in sports or athletic events reported for the individual during his base period and in accordance with IC 22-4-12-2 and IC 22-4-12-4. Benefits paid based on this computation shall be only for weeks of unemployment occurring between sport seasons or similar periods. For any weeks of unemployment claimed other than between sports seasons or similar periods, the claims of these individuals shall be recomputed to include all base period wages.
As added by Acts 1977, P.L.262, SEC.23.

IC 22-4-14-9
Aliens

Sec. 9. (a) As used in this section, "SAVE program" refers to the Systematic Alien Verification for Entitlements program operated by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security.

(b) For weeks of unemployment occurring subsequent to December 31, 1977, benefits may not be paid on the basis of services performed by an alien unless the alien is an individual who has been lawfully admitted for permanent residence at the time the services are performed, is lawfully present for purposes of performing the services, or otherwise is permanently residing in the United States under color of law at the time the services are performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of Section 207, Section 208, or Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1157 through 1158).

(1) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(2) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of the individual's alien status may be made except upon a preponderance of the evidence.

(3) Any modifications to the provisions of Section 3304(a)(14) of the Federal Unemployment Tax Act, as provided by P.L.94-566, which specify other conditions or other effective date than stated in this section for the denial of benefits based on services performed by aliens and which are required to be implemented under state law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be considered applicable under this section.

(c) If an individual who applies for benefits is not a citizen or national of the United States, the department shall verify the status

of the individual as a qualified alien (as defined in 8 U.S.C. 1641) through the SAVE program to determine the individual's eligibility for benefits. The department shall implement this subsection in accordance with federal law.

As added by Acts 1977, P.L.262, SEC.24. Amended by P.L.135-1990, SEC.3; P.L.171-2011, SEC.14.

IC 22-4-14-10

Repealed

(Repealed by Acts 1982, P.L.137, SEC.1.)

IC 22-4-14-11

Seasonal employment; benefit claims; application for seasonal determination; appeal

Sec. 11. (a) For weeks of unemployment occurring after October 1, 1983, benefits may be paid to an individual on the basis of service performed in seasonal employment (as defined in IC 22-4-8-4) only if the claim is filed within the operating period of the seasonal employment. If the claim is filed outside the operating period of the seasonal employment, benefits may be paid on the basis of nonseasonal wages only.

(b) An employer shall file an application for a seasonal determination (as defined by IC 22-4-7-3) with the department of workforce development. A seasonal determination shall be made by the department within ninety (90) days after the filing of such an application. Until a seasonal determination by the department has been made in accordance with this section, no employer or worker may be considered seasonal.

(c) Any interested party may file an appeal regarding a seasonal determination within fifteen (15) calendar days after the determination by the department and obtain review of the determination in accordance with IC 22-4-32.

(d) Whenever an employer is determined to be a seasonal employer, the following provisions apply:

(1) The seasonal determination becomes effective the first day of the calendar quarter commencing after the date of the seasonal determination.

(2) The seasonal determination does not affect any benefit rights of seasonal workers with respect to employment before the effective date of the seasonal determination.

(e) If a seasonal employer, after the date of its seasonal determination, operates its business or its seasonal operation during a period or periods of twenty-six (26) weeks or more in a calendar year, the employer shall be determined by the department to have lost its seasonal status with respect to that business or operation effective at the end of the then current calendar quarter. The redetermination shall be reported in writing to the employer. Any interested party may file an appeal within fifteen (15) calendar days after the redetermination by the department and obtain review of the redetermination in accordance with IC 22-4-32.

(f) Seasonal employers shall keep account of wages paid to seasonal workers within the seasonal period as determined by the department and shall report these wages on a special seasonal quarterly report form provided by the department.

(g) The board shall adopt rules applicable to seasonal employers for determining their normal seasonal period or periods.

As added by P.L.228-1983, SEC.4. Amended by P.L.18-1987, SEC.44; P.L.21-1995, SEC.82.

IC 22-4-15

Chapter 15. Disqualification for Benefits

IC 22-4-15-1

Grounds for disqualification; modifications

Sec. 1. (a) With respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left the individual's most recent employment without good cause in connection with the work or who was discharged from the individual's most recent employment for just cause is ineligible for waiting period or benefit rights for the week in which the disqualifying separation occurred and until the individual has earned remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by an amount determined as follows:

(1) For the first separation from employment under disqualifying conditions, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim, as initially determined; multiplied by

(B) seventy-five percent (75%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(2) For the second separation from employment under disqualifying conditions, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (1); multiplied by

(B) eighty-five percent (85%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(3) For the third and any subsequent separation from employment under disqualifying conditions, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (2); multiplied by

(B) ninety percent (90%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification

because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and betterment of wages or working conditions and thereafter was employed on said job;

(B) having been simultaneously employed by two (2) employers, the individual leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) the individual left to accept recall made by a base period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be deemed to have left the individual's work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, the individual shall be deemed ineligible as outlined in this section.

(5) An otherwise eligible individual shall not be denied benefits for any week because the individual is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) An individual is not subject to disqualification because of separation from the individual's employment if:

(A) the employment was outside the individual's labor market;

(B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and

(C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

(8) An individual shall not be subject to disqualification if the individual voluntarily left employment or was discharged due to circumstances directly caused by domestic or family violence (as defined in IC 31-9-2-42). An individual who may be entitled to benefits based on this modification may apply to the office of the attorney general under IC 5-26.5 to have an address designated by the office of the attorney general to serve as the individual's address for purposes of this article.

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

(1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;

(2) knowing violation of a reasonable and uniformly enforced rule of an employer, including a rule regarding attendance;

(3) if an employer does not have a rule regarding attendance, an individual's unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;

(4) damaging the employer's property through willful negligence;

(5) refusing to obey instructions;

(6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;

(7) conduct endangering safety of self or coworkers;

(8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction; or

(9) any breach of duty in connection with work which is reasonably owed an employer by an employee.

(e) To verify that domestic or family violence has occurred, an individual who applies for benefits under subsection (c)(8) shall

provide one (1) of the following:

(1) A report of a law enforcement agency (as defined in IC 10-13-3-10).

(2) A protection order issued under IC 34-26-5.

(3) A foreign protection order (as defined in IC 34-6-2-48.5).

(4) An affidavit from a domestic violence service provider verifying services provided to the individual by the domestic violence service provider.

(Formerly: Acts 1947, c.208, s.1501; Acts 1957, c.261, s.1; Acts 1965, c.190, s.9; Acts 1967, c.310, s.19; Acts 1971, P.L.355, SEC.35; Acts 1972, P.L.174, SEC.1; Acts 1974, P.L.110, SEC.4.) As amended by Acts 1977, P.L.262, SEC.25; Acts 1980, P.L.158, SEC.5; Acts 1982, P.L.95, SEC.4; P.L.20-1986, SEC.9; P.L.80-1990, SEC.13; P.L.21-1995, SEC.83; P.L.166-1996, SEC.3; P.L.290-2001, SEC.7; P.L.189-2003, SEC.3; P.L.97-2004, SEC.82; P.L.175-2009, SEC.23.

IC 22-4-15-2

Availability and acceptance of work; exceptions; application to extended benefit rights

Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for waiting period or benefit rights, or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

(1) to apply for available, suitable work when directed by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;

(2) to accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the individual by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service, or an employment unit; or

(3) to return to the individual's customary self-employment when directed by the commissioner or the deputy.

(b) With respect to benefit periods established on and after July 6, 1980, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(c) With respect to extended benefit periods established on and after July 5, 1981, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of

the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by an amount determined as follows:

(1) For the first failure to apply for or accept suitable work, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim, as initially determined; multiplied by

(B) seventy-five percent (75%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(2) For the second failure to apply for or accept suitable work, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (1); multiplied by

(B) eighty-five percent (85%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(3) For the third and any subsequent failure to apply for or accept suitable work, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (2); multiplied by

(B) ninety percent (90%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

(1) the degree of risk involved to such individual's health, safety, and morals;

(2) the individual's physical fitness and prior training and experience;

(3) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and

(4) the distance of the available work from the individual's residence.

However, work under substantially the same terms and conditions under which the individual was employed by a base-period employer, which is within the individual's prior training and experience and physical capacity to perform, shall be considered to be suitable work unless the claimant has made a bona fide change in residence which makes such offered work unsuitable to the individual because of the distance involved. During the fifth through the eighth consecutive week of claiming benefits, work is not considered unsuitable solely because the work pays not less than ninety percent (90%) of the individual's prior weekly wage. After eight (8) consecutive weeks of

claiming benefits, work is not considered unsuitable solely because the work pays not less than eighty percent (80%) of the individual's prior weekly wage. However, work is not considered suitable under this section if the work pays less than Indiana's minimum wage as determined under IC 22-2-2. For an individual who is subject to section 1(c)(8) of this chapter, the determination of suitable work for the individual must reasonably accommodate the individual's need to address the physical, psychological, legal, and other effects of domestic or family violence.

(f) Notwithstanding any other provisions of this article, no work shall be considered suitable and benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.

(2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.

(4) If as a condition of being employed the individual would be required to discontinue training into which the individual had entered with the approval of the department.

(g) Notwithstanding subsection (e), with respect to extended benefit periods established on and after July 5, 1981, "suitable work" means any work which is within an individual's capabilities. However, if the individual furnishes evidence satisfactory to the department that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good, the determination of whether any work is suitable work shall be made as provided in subsection (e).

(h) With respect to extended benefit periods established on and after July 5, 1981, no work shall be considered suitable and extended benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the gross average weekly remuneration payable to the individual for the position would not exceed the sum of:

(A) the individual's average weekly benefit amount for the individual's benefit year; plus

(B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.

(2) If the position was not offered to the individual in writing or was not listed with the department of workforce development.

(3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.

(4) If the position pays wages less than the higher of:

(A) the minimum wage provided by 29 U.S.C. 206(a)(1) (the Fair Labor Standards Act of 1938), without regard to any exemption; or

(B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

(j) An individual is considered to have refused an offer of suitable work under subsection (a) if an offer of work is withdrawn by an employer after an individual:

(1) tests positive for drugs after a drug test given on behalf of the prospective employer as a condition of an offer of employment; or

(2) refuses, without good cause, to submit to a drug test required by the prospective employer as a condition of an offer of employment.

(k) For purposes of this article, a drug test is not found to be positive unless:

(1) a second confirmation test:

(A) renders a positive result that has been performed by a SAMHSA (as defined in IC 22-10-15-3) certified laboratory on the same sample used for the first screen test using gas chromatography mass spectrometry for the purposes of confirming or refuting the screen test results; and

(B) has been reviewed by a licensed physician and:

(i) the laboratory results described in clause (A);

(ii) the individual's medical history; and

(iii) other relevant biomedical information;

confirm a positive result of the drug tests; or

(2) the individual who has submitted to the drug test has no valid medical reason for testing positive for the substance found in the drug test.

(l) The department's records concerning the results of a drug test described in subsection (j) may not be admitted against a defendant in a criminal proceeding.

(Formerly: Acts 1947, c.208, s.1502; Acts 1953, c.177, s.15; Acts 1957, c.261, s.2; Acts 1971, P.L.355, SEC.36; Acts 1974, P.L.110, SEC.5.) As amended by Acts 1977, P.L.262, SEC.26; Acts 1980, P.L.158, SEC.6; Acts 1981, P.L.209, SEC.8; Acts 1982, P.L.95, SEC.5; P.L.20-1986, SEC.10; P.L.2-1987, SEC.31; P.L.18-1987, SEC.45; P.L.21-1995, SEC.84; P.L.290-2001, SEC.8; P.L.189-2003, SEC.4; P.L.97-2004, SEC.83; P.L.175-2009, SEC.24; P.L.12-2011, SEC.4.

IC 22-4-15-3

Labor disputes; financing; sympathy strikes

Sec. 3. (a) An individual shall be ineligible for waiting period or benefit rights for any week with respect to which his total or partial or part-total unemployment is due to a labor dispute at the factory,

establishment, or other premises at which he was last employed.

(b) This section shall not apply to an individual if he has terminated his employment, or his employment has been terminated, with the employer involved in the labor dispute; or if the labor dispute which caused his unemployment has terminated and any period necessary to resume normal activities at his place of employment has elapsed; or if all of the following conditions exist: He is not participating in or financing or directly interested in the labor dispute which caused his unemployment: and he does not belong to a grade or class of workers of which, immediately before the commencement of his unemployment, there were members employed at the same premises as he, any of whom are participating in or financing or directly interested in the dispute; and he has not voluntarily stopped working, other than at the direction of his employer, in sympathy with employees in some other establishment or factory in which a labor dispute is in progress.

(c) If in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this section, be deemed to be a separate factory, establishment, or other premises.

(d) Upon request of any claimant or employer involved in an issue arising under this section, the deputy shall, and in any other case the deputy may, refer claims of individuals with respect to whom there is an issue of the application of this section to an administrative law judge who shall make the initial determination with respect thereto, in accordance with the procedure in IC 22-4-17-3.

(e) Notwithstanding any other provisions of this article, an individual shall not be ineligible for waiting period or benefit rights under this section solely by reason of his failure or refusal to apply for or to accept recall to work or reemployment with an employer during the continuance of a labor dispute at the factory, establishment, or other premises of the employer, if the individual's last separation from the employer occurred prior to the start of the labor dispute and was permanent or for an indefinite period.

(Formerly: Acts 1947, c.208, s.1504; Acts 1953, c.177, s.16; Acts 1971, P.L.355, SEC.37; Acts 1974, P.L.110, SEC.6.) As amended by Acts 1980, P.L.158, SEC.7; P.L.135-1990, SEC.4.

IC 22-4-15-4

Retirement; annuities; Social Security

Sec. 4. (a) An individual shall be ineligible for waiting period or benefit rights for any week with respect to which the individual receives, is receiving, or has received payments equal to or exceeding the individual's weekly benefit amount in the form of:

(1) deductible income as defined and applied in IC 22-4-5-1 and IC 22-4-5-2; or

(2) any pension, retirement or annuity payments, under any plan of an employer whereby the employer contributes a portion or all of the money. The following apply to a disqualification

under this subdivision:

(A) The disqualification shall apply only if some or all of the benefits otherwise payable:

(i) are chargeable to the experience or reimbursable account of such employer; or

(ii) would have been chargeable except for the application of this chapter.

(B) Notwithstanding clause (A), the disqualification does not apply to a distribution from a pension, retirement, or annuity plan of an employer when an individual uses the distribution to satisfy a severe financial hardship resulting from an unforeseeable emergency that is the result of events beyond the individual's control.

(C) Federal old age, survivors, and disability insurance benefits are not considered payments under a plan of an employer whereby the employer maintains the plan or contributes a portion or all of the money to the extent required by federal law.

(b) If the payments described in subsection (a) are less than an individual's weekly benefit amount an otherwise eligible individual shall not be ineligible and shall be entitled to receive for such week benefits reduced by the amount of such payments.

(c) This section does not preclude an individual from delaying a claim to pension, retirement, or annuity payments until the individual has received the benefits to which the individual would otherwise be eligible under this chapter. Weekly benefits received before the date the individual elects to retire shall not be reduced by any pension, retirement, or annuity payments received on or after the date the individual elects to retire.

(Formerly: Acts 1947, c.208, s.1505; Acts 1953, c.177, s.17; Acts 1967, c.310, s.20; Acts 1971, P.L.355, SEC.38.) As amended by Acts 1981, P.L.209, SEC.9; P.L.3-1998, SEC.1; P.L.290-2001, SEC.9; P.L.2-2011, SEC.14.

IC 22-4-15-5

Receiving benefits from another state; federal employees' benefits

Sec. 5. Except as provided in IC 1971, 22-4-22, an individual shall be ineligible for waiting period or benefit rights: For any week with respect to which or a part of which he receives, is receiving, has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States: Provided, That this disqualification shall not apply if the appropriate agency of such other state or of the United States finally determines that he is not entitled to such employment benefits, including benefits to federal civilian employees and ex-servicemen pursuant to 5 U.S.C. Chapter 85.

(Formerly: Acts 1947, c.208, s.1506; Acts 1953, c.177, s.18; Acts 1955, c.317, s.9; Acts 1971, P.L.355, SEC.39.)

IC 22-4-15-6

Repealed

(Repealed by P.L.1-1991, SEC.150.)

IC 22-4-15-6.1

Gross misconduct

Sec. 6.1. (a) Notwithstanding any other provisions of this article, all of the individual's wage credits established prior to the day upon which the individual was discharged for gross misconduct in connection with work are canceled.

(b) As used in this section, "gross misconduct" means any of the following committed in connection with work, as determined by the department by a preponderance of the evidence:

(1) A felony.

(2) A Class A misdemeanor.

(3) Working, or reporting for work, in a state of intoxication caused by the individual's use of alcohol or a controlled substance (as defined in IC 35-48-1-9).

(4) Battery on another individual while on the employer's property or during working hours.

(5) Theft or embezzlement.

(6) Fraud.

(c) An employer:

(1) has the burden of proving by a preponderance of the evidence that a discharged employee's conduct was gross misconduct; and

(2) may present evidence that the employer filled or maintained the position or job held by the discharged employee after the employee's discharge.

(d) Evidence that a discharged employee's conduct did not result in:

(1) a prosecution for an offense; or

(2) a conviction of an offense;

may be presented.

(e) If evidence is presented that an action or requirement of the employer may have caused the conduct that is the basis for the employee's discharge, the conduct is not gross misconduct under this section.

(f) Lawful conduct not otherwise prohibited by an employer is not gross misconduct under this section.

As added by P.L.1-1991, SEC.151. Amended by P.L.175-2009, SEC.25.

IC 22-4-15-7

Repealed

(Repealed by Acts 1971, P.L.355, SEC.47.)

IC 22-4-15-8

Private unemployment benefit plans

Sec. 8. Notwithstanding any other provisions of this article, benefits otherwise payable for any week under this article shall not

be denied or reduced on account of any payment or payments the claimant receives, has received, will receive, or accrues right to receive with respect to or based upon such week under a private unemployment benefit plan financed in whole or part by the claimant's employer or former employer. No claim for repayment of benefits and no deduction from benefits otherwise payable under this article shall be made under IC 22-4-13-1(d) and IC 22-4-13-1(e) because of payments which have been or will be made under such private unemployment benefit plans.

(Formerly: Acts 1947, c.208, s.1509; Acts 1957, c.129, s.2; Acts 1959, c.241, s.1.) As amended by P.L.144-1986, SEC.104; P.L.108-2006, SEC.27.

IC 22-4-16
Chapter 16. Failure to Disclose Earnings

IC 22-4-16-1
Repealed
(Repealed by P.L.108-2006, SEC.66.)

IC 22-4-17

Chapter 17. Claims for Benefits

IC 22-4-17-1

Rules; mass layoffs; extended benefits; posting

Sec. 1. (a) Claims for benefits shall be made in accordance with rules adopted by the department. The department shall adopt reasonable procedures consistent with the provisions of this article for the expediting of the taking of claims of individuals for benefits in instances of mass layoffs by employers, the purpose of which shall be to minimize the amount of time required for such individuals to file claims upon becoming unemployed as the result of such mass layoffs.

(b) Except when the result would be inconsistent with the other provisions of this article, as provided in the rules of the department, the provisions of this article which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

(c) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the commissioner shall make an appropriate public announcement.

(d) Computations required by the provisions of IC 22-4-2-34(f) shall be made by the department in accordance with regulations prescribed by the United States Department of Labor.

(e) Each employer shall display and maintain in places readily accessible to all employees posters concerning its regulations and shall make available to each such individual at the time the individual becomes unemployed printed benefit rights information furnished by the department.

(Formerly: Acts 1947, c.208, s.1801; Acts 1957, c.147, s.1; Acts 1971, P.L.355, SEC.41.) As amended by Acts 1982, P.L.95, SEC.6; P.L.18-1987, SEC.46; P.L.21-1995, SEC.85; P.L.108-2006, SEC.28; P.L.175-2009, SEC.26.

IC 22-4-17-2

Filing; determination of status; disputed claims; hearings

Sec. 2. (a) When an individual files an initial claim, the department shall promptly make a determination of the individual's status as an insured worker in a form prescribed by the department. A written notice of the determination of insured status shall be furnished to the individual promptly. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the

individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ten (10) days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) The department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. The notice shall contain the date, the name and Social Security account number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit period. The notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer within ten (10) days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

(c) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the department of such facts within ten (10) days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the department.

(d) In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in section 3 of this chapter.

(e) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for waiting period credit or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof.

(f) Except as otherwise hereinafter provided in this section regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ten (10) days after the notification required by subsection (e), was mailed to the claimant's

or the employer's last known address or otherwise delivered to the claimant or the employer, asks for a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith.

(g) For a notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless the claimant or employer, within fifteen (15) days after the notification required by subsection (e), was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks for a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith.

(h) If a claimant or an employer requests a hearing under subsection (f) or (g), the request therefor shall be filed with the department in writing within the prescribed periods as above set forth in this section and shall be in such form as the department may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(i) A person may not participate on behalf of the department in any case in which the person is an interested party.

(j) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (c).

(k) Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

(l) If an allegation of the applicability of IC 22-4-15-1(c)(8) is made by the individual at the time of the claim for benefits, the department shall not notify the employer of the claimant's current address or physical location.

(Formerly: Acts 1947, c.208, s.1802; Acts 1953, c.177, s.22; Acts 1955, c.317, s.10; Acts 1965, c.190, s.11; Acts 1969, c.300, s.5; Acts 1971, P.L.355, SEC.42; Acts 1972, P.L.174, SEC.2.) As amended by Acts 1977, P.L.262, SEC.27; P.L.18-1987, SEC.47; P.L.135-1990, SEC.6; P.L.1-1991, SEC.152; P.L.21-1995, SEC.86; P.L.290-2001,

SEC.10; P.L.189-2003, SEC.5; P.L.273-2003, SEC.5; P.L.97-2004, SEC.84; P.L.108-2006, SEC.29; P.L.175-2009, SEC.27; P.L.110-2010, SEC.31; P.L.1-2010, SEC.88; P.L.42-2011, SEC.41; P.L.154-2013, SEC.7.

IC 22-4-17-2.5
Filing; income taxes

Sec. 2.5. (a) When an individual files an initial claim, the individual shall be advised of the following:

(1) Unemployment compensation is subject to federal, state, and local income taxes.

(2) Requirements exist concerning estimated tax payments.

(3) The individual may elect to have income taxes withheld from the individual's payment of unemployment compensation. If an election is made, the department shall withhold federal income tax at the applicable rate provided in the Internal Revenue Code.

(4) After December 31, 2011, the individual may elect to have state adjusted gross income tax imposed under IC 6-3 and local taxes imposed under IC 6-3.5 deducted and withheld from the individual's payment of unemployment compensation. If an election is made, the department shall withhold state adjusted gross income tax imposed under IC 6-3 and local taxes imposed under IC 6-3.5 at the applicable rate prescribed in withholding instructions issued by the department of state revenue.

(5) An individual is allowed to change an election made under this section.

(b) Money withheld from unemployment compensation under this section shall remain in the unemployment fund until transferred to the federal taxing authority or the state (as appropriate) for payment of income taxes.

(c) The commissioner shall follow all procedures of the United States Department of Labor, the Internal Revenue Service, and the department of state revenue concerning the withholding of income taxes.

(d) Money shall be deducted and withheld in accordance with the priorities established in regulations developed by the commissioner.
As added by P.L.166-1996, SEC.4. Amended by P.L.3-2008, SEC.159; P.L.2-2011, SEC.15.

IC 22-4-17-3
Administrative appeal; disputed claims

Sec. 3. (a) Unless such request for hearing is withdrawn, an administrative law judge, after providing the notice required under section 6 of this chapter and affording the parties a reasonable opportunity for fair hearing, shall affirm, modify, or reverse the findings of fact and decision of the deputy.

(b) The parties shall be duly notified of the decision made under subsection (a) and the reasons therefor, which shall be deemed to be the final decision of the review board, unless within fifteen (15) days

after the date of notification or mailing of such decision, an appeal is taken by the commissioner or by any party adversely affected by such decision to the review board.
(Formerly: Acts 1947, c.208, s.1803; Acts 1957, c.299, s.4.) As amended by P.L.18-1987, SEC.48; P.L.135-1990, SEC.7; P.L.21-1995, SEC.87; P.L.175-2009, SEC.28.

IC 22-4-17-4
Administrative law judges; training; discipline; disputed claims; hearings

Sec. 4. (a) The department shall employ one (1) or more administrative law judges to hear and decide disputed claims. Administrative law judges employed under this section are not subject to IC 4-21.5 or any other statute regulating administrative law judges, unless specifically provided.

(b) The department shall provide at least annually to all administrative law judges, review board members, and other individuals who adjudicate claims training concerning:

(1) unemployment compensation law;
(2) rules for the conduct of hearings and appeals; and
(3) rules of conduct for administrative law judges, review board members, and other individuals who adjudicate claims during a hearing or other adjudicative process.

(c) The department regularly shall monitor the hearings and decisions of its administrative law judges, review board members, and other individuals who adjudicate claims to ensure that the hearings and decisions strictly comply with the law and the rules described in subsection (b).

(d) An individual who does not strictly comply with the law and the rules described in subsection (b), including the rules of conduct for administrative law judges, review board members, and other individuals who adjudicate claims during a hearing or other adjudicative process, is subject to disciplinary action by the department, up to and including suspension from or termination of employment.
(Formerly: Acts 1947, c.208, s.1804.) As amended by P.L.18-1987, SEC.49; P.L.135-1990, SEC.8; P.L.21-1995, SEC.88; P.L.290-2001, SEC.11; P.L.108-2006, SEC.30; P.L.175-2009, SEC.29.

IC 22-4-17-5
Review board; appointments; hearings

Sec. 5. (a) The governor shall appoint a review board composed of three (3) members, not more than two (2) of whom shall be members of the same political party, with salaries to be fixed by the governor. The review board shall consist of the chairman and the two (2) members who shall serve for terms of three (3) years. At least one (1) member must be admitted to the practice of law in Indiana.

(b) Any claim pending before an administrative law judge, and all proceedings therein, may be transferred to and determined by the review board upon its own motion, at any time before the

administrative law judge announces a decision. Any claim pending before either an administrative law judge or the review board may be transferred to the board for determination at the direction of the board. If the review board considers it advisable to procure additional evidence, it may direct the taking of additional evidence within a time period it shall fix. An employer that is a party to a claim transferred to the review board or the board under this subsection is entitled to receive notice in accordance with section 6 of this chapter of the transfer or any other action to be taken under this section before a determination is made or other action concerning the claim is taken.

(c) Any proceeding so removed to the review board shall be heard by a quorum of the review board in accordance with the requirements of section 3 of this chapter. The review board shall notify the parties to any claim of its decision, together with its reasons for the decision.

(d) Members of the review board, when acting as administrative law judges, are subject to section 15 of this chapter.

(e) The review board may on the board's own motion affirm, modify, set aside, remand, or reverse the findings, conclusions, or orders of an administrative law judge on the basis of any of the following:

(1) Evidence previously submitted to the administrative law judge.

(2) The record of the proceeding after the taking of additional evidence as directed by the review board.

(3) A procedural error by the administrative law judge.

(Formerly: Acts 1947, c.208, s.1805; Acts 1965, c.190, s.12.) As amended by P.L.34-1985, SEC.7; P.L.135-1990, SEC.9; P.L.173-1991, SEC.1; P.L.175-2009, SEC.30.

IC 22-4-17-6

Disputed claims; conduct of hearings and appeals

Sec. 6. (a) The manner in which disputed claims shall be presented and the conduct of hearings and appeals, including the conduct of administrative law judges, review board members, and other individuals who adjudicate claims during a hearing or other adjudicative process, shall be in accordance with rules adopted by the department for determining the rights of the parties, whether or not the rules conform to common law or statutory rules of evidence and other technical rules of procedure.

(b) A full and complete record shall be kept of all proceedings in connection with a disputed claim. The testimony at any hearing upon a disputed claim need not be transcribed unless the disputed claim is further appealed.

(c) Each party to a hearing before an administrative law judge held under section 3 of this chapter shall be mailed a notice of the hearing at least ten (10) days before the date of the hearing specifying the date, place, and time of the hearing, identifying the issues to be decided, and providing complete information about the rules of evidence and standards of proof that the administrative law

judge will use to determine the validity of the claim.

(d) If a hearing so scheduled has not commenced within at least sixty (60) minutes of the time for which it was scheduled, then a party involved in the hearing may request a continuance of the hearing. Upon submission of a request for continuance of a hearing under circumstances provided in this section, the continuance shall be granted unless the party requesting the continuance was responsible for the delay in the commencement of the hearing as originally scheduled. In the latter instance, the continuance shall be discretionary with the administrative law judge. Testimony or other evidence introduced by a party at a hearing before an administrative law judge or the review board that another party to the hearing:

(1) is not prepared to meet; and

(2) by ordinary prudence could not be expected to have anticipated;

shall be good cause for continuance of the hearing and upon motion such continuance shall be granted.

(Formerly: Acts 1947, c.208, s.1806; Acts 1963, c.208, s.1.) As amended by P.L.144-1986, SEC.105; P.L.219-1989, SEC.1; P.L.135-1990, SEC.10; P.L.108-2006, SEC.31; P.L.175-2009, SEC.31.

IC 22-4-17-7

Disputed claims; hearings; subpoenas; production of books and papers

Sec. 7. In the discharge of the duties imposed by this article, any member of the board, the department, the review board, or an administrative law judge, or any duly authorized representative of any of them, shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue and serve subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with the disputed claim or the administration of this article.

(Formerly: Acts 1947, c.208, s.1807.) As amended by P.L.144-1986, SEC.106; P.L.135-1990, SEC.11; P.L.108-2006, SEC.32.

IC 22-4-17-8

Disputed claims; subpoenas; contempt

Sec. 8. In case of contumacy by, or refusal to obey a subpoena issued to, any person in the administration of this article, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the board, the department, or the review board or a duly authorized representative of any of these, shall have jurisdiction to issue to such person an order requiring such person to appear before the board, the department, the review board, an administrative law judge, or the duly authorized representative of any of these, there to produce evidence if so ordered, or there to give testimony touching

the matter in question or under investigation. Any failure to obey such order of the court may be punished by said court as a contempt thereof.

(Formerly: Acts 1947, c.208, s.1808.) As amended by P.L.135-1990, SEC.12; P.L.108-2006, SEC.33.

IC 22-4-17-8.5

Disputed claims; hearing by telephone

Sec. 8.5. (a) As used in this section, "interested party" has the meaning set forth in 646 IAC 3-12-1.

(b) An administrative law judge or the review board may hold a hearing under this chapter by telephone if any of the following conditions exist:

(1) The claimant or the employer is not located in Indiana.

(2) An interested party requests without an objection being filed as provided in 646 IAC 3-12-21 that the hearing be held by telephone.

(3) An interested party cannot appear in person because of an illness or injury to the party.

(4) In the case of a hearing before an administrative law judge, the administrative law judge determines without any interested party filing an objection as provided in 646 IAC 3-12-21 that a hearing by telephone is proper and just.

(5) In the case of a hearing before the review board, the issue to be adjudicated does not require both parties to be present.

(6) In the case of a hearing before the review board, the review board has determined that a hearing by telephone is proper and just.

As added by P.L.173-1991, SEC.2. Amended by P.L.108-2006, SEC.34.

IC 22-4-17-9

Disputed claims; self-incrimination; privileges and immunities

Sec. 9. No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the board, the department, the review board, an administrative law judge, or the duly authorized representative of any of them in obedience to the subpoena of any of them in any cause or proceeding before any of them on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture, but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled after having claimed the privilege against self-incrimination to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. Any testimony or evidence submitted in due course before the board, the department, the review board, an administrative law judge, or any duly authorized

representative of any of them shall be deemed a communication presumptively privileged with respect to any civil action except actions to enforce the provisions of this article.
(Formerly: Acts 1947, c.208, s.1809.) As amended by P.L.144-1986, SEC.107; P.L.135-1990, SEC.13; P.L.108-2006, SEC.35.

IC 22-4-17-10
Repealed
(Repealed by P.L.175-2009, SEC.48.)

IC 22-4-17-11
Disputed claims; appeal; notice; stay of proceedings
Sec. 11. (a) Any decision of the review board, in the absence of appeal as provided in this section, shall become final fifteen (15) days after the date the decision is mailed to the interested parties. The review board shall mail with the decision a notice informing the interested parties of their right to appeal the decision to the court of appeals of Indiana. The notice shall inform the parties that they have fifteen (15) days from the date of mailing within which to file a notice of intention to appeal, and that in order to perfect the appeal they must request the preparation of a transcript in accordance with section 12 of this chapter.

(b) If the commissioner or any party adversely affected by the decision files with the review board a notice of an intention to appeal the decision, that action shall stay all further proceedings under or by virtue of the review board decision for a period of thirty (30) days from the date of the filing of the notice, and, if the appeal is perfected, further proceedings shall be further stayed pending the final determination of the appeal. However, if an appeal from the decision of the review board is not perfected within the time provided for by this chapter, no action or proceeding shall be further stayed.
(Formerly: Acts 1947, c.208, s.1811; Acts 1957, c.299, s.5.) As amended by P.L.34-1985, SEC.8; P.L.21-1995, SEC.89.

IC 22-4-17-12
Disputed claims; appeal; errors of law; parties; transcript; expenses; assignment; disposition; findings of fact or conclusions
Sec. 12. (a) Any decision of the review board shall be conclusive and binding as to all questions of fact. Either party to the dispute or the commissioner may, within thirty (30) days after notice of intention to appeal as provided in this section, appeal the decision to the court of appeals of Indiana for errors of law under the same terms and conditions as govern appeals in ordinary civil actions.

(b) In every appeal the review board shall be made a party appellee, and the review board shall, at the written request of the appellant and after payment of the uniform average fee required in subsection (c) is made, prepare a transcript of all the proceedings had before the administrative law judge and review board, which shall contain a transcript of all the testimony, together with all objections

and rulings thereon, documents and papers introduced into evidence or offered as evidence, and all rulings as to their admission into evidence. The transcript shall be certified by the chairman of the review board and shall constitute the record upon appeal.

(c) All expenses incurred in the preparation of the transcript shall be charged to the appellant. The fee for a transcript shall be the actual cost of preparation that may include the cost of materials, reproduction, postage, handling, and hours of service rendered by the preparer. The commissioner shall establish a uniform average fee to be paid by the appellant before the transcript is prepared. After the transcript is completed, the actual cost shall be determined and the appellant shall either pay the amount remaining above the uniform average fee or be refunded the amount the uniform average fee exceeds the actual cost of preparation. The commissioner shall establish the procedure by which transcript fees are determined and paid.

(d) Notwithstanding subsections (b) and (c), the appellant may request that a transcript of all proceedings had before the administrative law judge and review board be prepared at no cost to the appellant by filing with the review board, under oath and in writing, a statement:

(1) declaring that the appellant is unable to pay for the preparation of the transcript because of the appellant's poverty;

(2) setting forth the facts that render the appellant unable to pay for the preparation of the transcript; and

(3) declaring that the appellant is entitled to redress on appeal.

Upon finding that the appellant is unable to pay for the preparation of the transcript because of the appellant's poverty, the review board shall prepare a transcript at no cost to the appellant.

(e) The review board may, upon its own motion, or at the request of either party upon a showing of sufficient reason, extend the limit within which the appeal shall be taken, not to exceed fifteen (15) days. In every case in which an extension is granted, the extension shall appear in the record of the proceeding filed in the court of appeals.

(f) The appellant shall attach to the transcript an assignment of errors. An assignment of errors that the decision of the review board is contrary to law shall be sufficient to present both the sufficiency of the facts found to sustain the decision and the sufficiency of the evidence to sustain the findings of facts. In any appeal under this section, no bond shall be required for entering the appeal.

(g) All appeals shall be considered as submitted upon the date filed in the court of appeals, shall be advanced upon the docket of the court, and shall be determined without delay in the order of priority. Upon the final determination of the appeal, the review board shall enter an order in accordance with the determination, and the decision shall be final. The court of appeals may in any appeal remand the proceeding to the review board for the taking of additional evidence, setting time limits therefor, and ordering the additional evidence to be certified by the review board to the court of appeals to be used in

the determination of the cause.

(h) Any finding of fact, judgment, conclusion, or final order made by a person with the authority to make findings of fact or law in an action or proceeding under this article is not conclusive or binding and shall not be used as evidence in a separate or subsequent action or proceeding between an individual and the individual's present or prior employer in an action or proceeding brought before an arbitrator, a court, or a judge of this state or the United States regardless of whether the prior action was between the same or related parties or involved the same facts.

(Formerly: Acts 1947, c.208, s.1812; Acts 1957, c.299, s.6.) As amended by P.L.34-1985, SEC.9; P.L.20-1986, SEC.11; P.L.18-1987, SEC.50; P.L.135-1990, SEC.14; P.L.21-1995, SEC.90.

IC 22-4-17-13

Disputed claims; certifying questions of law; priorities

Sec. 13. The review board, on its own motion, may certify questions of law to the supreme court or the court of appeals for a decision and determination. All such certified questions of law shall be considered submitted upon the date filed in the supreme court or the court of appeals and shall be advanced upon the docket of the court to be determined without delay in the order of priority.

(Formerly: Acts 1947, c.208, s.1813.) As amended by P.L.3-1989, SEC.134.

IC 22-4-17-14

Notices

Sec. 14. (a) This section applies to notices given under sections 2, 3, 11, and 12 of this chapter. This section does not apply to rules adopted by the board or the department, unless specifically provided.

(b) As used in this section, "notices" includes mailings of notices, determinations, decisions, orders, motions, or the filing of any document with the appellate division or review board.

(c) If a notice is served through the United States mail, three (3) days must be added to a period that commences upon service of that notice.

(d) The filing of a document with the appellate division or review board is complete on the earliest of the following dates that apply to the filing:

(1) The date on which the document is delivered to the appellate division or review board.

(2) The date of the postmark on the envelope containing the document if the document is mailed to the appellate division or review board by the United States Postal Service.

(3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the appellate division or review board by a private carrier.

As added by P.L.135-1990, SEC.15. Amended by P.L.173-1991, SEC.3; P.L.108-2006, SEC.36.

IC 22-4-17-15

Impartial administrative law judge

Sec. 15. (a) An administrative law judge may not preside over or otherwise participate in the hearing or disposition of an appeal in which the judge's impartiality might reasonably be questioned, including instances where the judge:

(1) has:

(A) personal bias or prejudice concerning a party; or

(B) personal knowledge of disputed evidentiary facts concerning the appeal;

(2) has served as a lawyer in the matter in controversy; or

(3) knows that the judge has any direct or indirect financial or other interest in the subject matter of an appeal or in a party to the appeal.

(b) Disqualification of an administrative law judge shall be in accordance with the rules adopted by the Indiana unemployment insurance board.

(c) This subsection does not apply to the disposition of ex parte matters specifically authorized by statute or rule. An administrative law judge may not communicate, directly or indirectly, regarding any substantive issue in the appeal while the appeal is pending, with any party to the appeal, or with any individual who has a direct or indirect interest in the outcome of the appeal, without notice and opportunity for all parties to participate in the communication.

As added by P.L.135-1990, SEC.16.

IC 22-4-18

Chapter 18. Department of Workforce Development; Indiana Unemployment Insurance Board

IC 22-4-18-1

Creation of department; powers and duties

Sec. 1. (a) There is created a department under IC 22-4.1-2-1 which shall be known as the department of workforce development.

(b) The department of workforce development may:

(1) Administer the unemployment insurance program, the Wagner-Peyser program, the Workforce Investment Act, a free public labor exchange, and related federal and state employment and training programs as directed by the governor.

(2) Formulate and implement an employment and training plan as required by the Workforce Investment Act (29 U.S.C. 2801 et seq.), including reauthorizations of the Act, and the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(3) Coordinate activities with all state agencies and departments that either provide employment and training related services or operate appropriate resources or facilities, to maximize Indiana's efforts to provide employment opportunities for economically disadvantaged individuals, dislocated workers, and others with substantial barriers to employment.

(4) Apply for, receive, disburse, allocate, and account for all funds, grants, gifts, and contributions of money, property, labor, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government.

(5) Enter into agreements with the United States government that may be required as a condition of obtaining federal funds related to activities of the department.

(6) Enter into contracts or agreements and cooperate with local governmental units or corporations, including profit or nonprofit corporations, or combinations of units and corporations to carry out the duties of the department imposed by this chapter, including contracts for the establishment and administration of employment and training offices and the delegation of the department's administrative, monitoring, and program responsibilities and duties set forth in this article.

(7) Perform other services and activities that are specified in contracts for payments or reimbursement of the costs made with the Secretary of Labor, any federal, state, or local public agency or administrative entity, or a private for-profit or nonprofit organization under the Workforce Investment Act (29 U.S.C. 2801 et seq.), including reauthorizations of the Act.

(8) Enter into contracts or agreements and cooperate with entities that provide career and technical education to carry out the duties imposed by this chapter.

(c) The payment of unemployment insurance benefits must be made in accordance with 26 U.S.C. 3304.

(d) The department of workforce development may do all acts and things necessary or proper to carry out the powers expressly granted under this article, including the adoption of rules under IC 4-22-2.

(e) The department of workforce development may not charge any claimant for benefits for providing services under this article, except as provided in IC 22-4-17-12.

(f) The department of workforce development shall distribute federal funds made available for employment training in accordance with:

(1) 29 U.S.C. 2801 et seq., including reauthorizations of the Act, and other applicable federal laws; and

(2) the plan prepared by the department under subsection (g)(1).

(g) In addition to the duties prescribed in subsections (a) through (f), the department of workforce development shall do the following:

(1) Implement the postsecondary career and technical education programming plan prepared by the council under IC 22-4.1-19-4.

(2) Upon request of the budget director, prepare a legislative budget request for state and federal funds for employment training. The budget director shall determine the period to be covered by the budget request.

(3) Make or cause to be made studies of the needs for various types of programs that are related to employment training and authorized under the Workforce Investment Act, including reauthorizations of the Act.

(4) Distribute state funds made available for employment training that have been appropriated by the general assembly in accordance with the general assembly appropriation.

(5) Establish, implement, and maintain a training program in the nature and dynamics of domestic and family violence for training of all employees of the department who interact with a claimant for benefits to determine whether the claim of the individual for unemployment benefits is valid and to determine that employment separations stemming from domestic or family violence are reliably screened, identified, and adjudicated and that victims of domestic or family violence are able to take advantage of the full range of job services provided by the department. The training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including using the staff of shelters for battered women in the presentation of the training. The initial training shall consist of instruction of not less than six (6) hours. Refresher training shall be required annually and shall consist of instruction of not less than three (3) hours.

(Formerly: Acts 1947, c.208, s.1901.) As amended by P.L.18-1987, SEC.51; P.L.220-1989, SEC.1; P.L.21-1995, SEC.91; P.L.290-2001, SEC.12; P.L.189-2003, SEC.6; P.L.1-2005, SEC.184; P.L.161-2006, SEC.5; P.L.234-2007, SEC.141; P.L.7-2011, SEC.17.

IC 22-4-18-1.5

Repealed

(Repealed by P.L.38-1993, SEC.61.)

IC 22-4-18-2

Unemployment insurance board; duties; membership; term of office; compensation; traveling expenses; meetings

Sec. 2. (a) The Indiana unemployment insurance board is created. The board is responsible for the oversight of the unemployment insurance program. The board shall report annually to the governor on the status of unemployment insurance together with recommendations for maintaining the solvency of the unemployment insurance benefit fund. The department staff shall provide support to the board. The unemployment insurance board shall consist of nine (9) members, who shall be appointed by the governor, as follows:

(1) Four (4) members shall be appointed as representatives of labor and its interests.

(2) One (1) member shall be appointed as a representative of the state and its interest and of the public at large.

(3) Two (2) members shall be appointed as representatives of the large employers of the state.

(4) Two (2) members shall be appointed as representatives of the independent merchants and small employers of the state.

All appointments shall be made for terms of four (4) years. All appointments to full terms or to fill vacancies shall be made so that all terms end on March 31.

(b) Every Indiana unemployment insurance board member so appointed shall serve until a successor shall have been appointed and qualified. Before entering upon the discharge of official duties, each member of the board shall take and subscribe to an oath of office, which shall be filed in the office of the secretary of state. Any vacancy occurring in the membership of the board for any cause shall be filled by appointment by the governor for the unexpired term. The governor may, at any time, remove any member of the board for misconduct, incapacity, or neglect of duty. Each member of the board shall be entitled to receive as compensation for the member's services the sum of one hundred dollars ($100) per month for each and every month which the member devotes to the actual performance of the member's duties, as prescribed in this article, but the total amount of such compensation shall not exceed the sum of twelve hundred dollars ($1,200) per year. In addition to the compensation hereinbefore prescribed, each member of the board shall be entitled to receive the amount of traveling and other necessary expenses actually incurred while engaged in the performance of official duties.

(c) The board may hold one (1) regular meeting each month and such called meetings as may be deemed necessary by the commissioner or the board. The April meeting shall be known as the annual meeting. Five (5) members of the board constitute a quorum for the transaction of business. At its first meeting and at each annual meeting held thereafter, the board shall organize by the election of a president and vice president from its own number, each of whom,

except those first elected, shall serve for a term of one (1) year and until a successor is elected.
(Formerly: Acts 1947, c.208, s.1902; Acts 1971, P.L.355, SEC.43.) As amended by P.L.18-1987, SEC.53; P.L.21-1995, SEC.92; P.L.108-2006, SEC.37.

IC 22-4-18-3
Repealed
(Repealed by P.L.105-1994, SEC.6.)

IC 22-4-18-4
Administration of programs
Sec. 4. The department of workforce development established under IC 22-4.1-2-1 shall administer job training and placement services and unemployment insurance.
(Formerly: Acts 1947, c.208, s.1904; Acts 1955, c.317, s.11.) As amended by P.L.144-1986, SEC.109; P.L.18-1987, SEC.55; P.L.21-1995, SEC.93; P.L.290-2001, SEC.13; P.L.175-2009, SEC.32.

IC 22-4-18-4.2
Requirement that administrative law judges be licensed attorneys
Sec. 4.2. Each administrative law judge employed or used by the department of workforce development must be an attorney who is licensed to practice law in Indiana.
As added by P.L.110-2010, SEC.32.

IC 22-4-18-4.5
Annual report of claims involving domestic or family violence
Sec. 4.5. (a) Before March 1 of each year, the department shall determine the number of claims filed, the number of individuals entitled to receive unemployment benefits under this article, and the amount of benefits charged to the fund for those individuals who qualified for benefits due to:
(1) discharge; or
(2) leaving employment;
for circumstances resulting from domestic or family violence.
(b) The department shall submit its determination from the prior calendar year to the legislative council before June 30 of each year.
As added by P.L.189-2003, SEC.7.

IC 22-4-18-5
Repealed
(Repealed by P.L.2-1995, SEC.140.)

IC 22-4-18-6
Workforce skills, strengths, and weaknesses; uniform assessment system
Sec. 6. (a) The department shall develop a uniform system for assessing workforce skills, strengths, and weaknesses in individuals.

(b) The uniform assessment system shall be used at the following:

(1) One stop centers under IC 22-4-42, if established.

(2) Career and technical education (as defined in IC 20-20-38-1) programs at the secondary level.

As added by P.L.19-1992, SEC.51. Amended by P.L.5-1995, SEC.36; P.L.21-1995, SEC.95; P.L.1-2005, SEC.185; P.L.127-2005, SEC.28; P.L.161-2006, SEC.6; P.L.234-2007, SEC.142; P.L.6-2012, SEC.155.

IC 22-4-18-7

Training projects

Sec. 7. (a) The department annually shall prepare a written report of its training activities and the training activities of the various workforce investment boards during the immediately preceding state fiscal year. The department's annual report for a particular state fiscal year must include information for each training project for which either the department or a workforce development board provided any funding during that state fiscal year. At a minimum, the following information must be provided for such a training project:

(1) A description of the training project, including the name and address of the training provider.

(2) The amount of funding that either the department or a workforce investment board provided for the project and an indication of which entity provided the funding.

(3) The number of trainees who participated in the project.

(4) Demographic information about the trainees, including the age of each trainee, the education attainment level of each trainee, and for those training projects that have specific gender requirements, the gender of each trainee.

(5) The results of the project, including skills developed by trainees, any license or certification associated with the training project, the extent to which trainees have been able to secure employment or obtain better employment, and descriptions of the specific jobs which trainees have been able to secure or to which trainees have been able to advance.

(b) With respect to trainees that have been able to secure employment or obtain better employment, the department of workforce development shall compile data on the retention rates of those trainees in the jobs which the trainees secured or to which they advanced. The department shall include information concerning those retention rates in each of its annual reports.

(c) On or before October 1 of each state fiscal year, each workforce investment board shall provide the department with a written report of its training activities for the immediately preceding state fiscal year. The workforce development board shall prepare the report in the manner prescribed by the department. However, at a minimum, the workforce development board shall include in its report the information required by subsection (a) for each training project for which the workforce development board provided any funding during the state fiscal year covered by the report. In addition,

the workforce development board shall include in each report retention rate information as set forth in subsection (b).

(d) The department shall provide a copy of its annual report for a particular state fiscal year to the:

(1) governor;

(2) legislative council; and

(3) unemployment insurance board;

on or before December 1 of the immediately preceding state fiscal year. An annual report provided under this subsection to the legislative council must be in an electronic format under IC 5-14-6.
As added by P.L.179-1999, SEC.2. Amended by P.L.28-2004, SEC.159.

IC 22-4-18-8
Repealed

(Repealed by P.L.100-2012, SEC.58.)

IC 22-4-18.1

Chapter 18.1. State Workforce Innovation Council

IC 22-4-18.1-1

"Applicable federal program" defined

Sec. 1. As used in this chapter, "applicable federal program" refers to the federal human resource programs for which the council has authority to make recommendations as listed in section 4 of this chapter.

As added by P.L.38-1993, SEC.58.

IC 22-4-18.1-2

"Council" defined

Sec. 2. As used in this chapter, "council" refers to the state workforce innovation council established by section 3 of this chapter.

As added by P.L.38-1993, SEC.58. Amended by P.L.161-2006, SEC.7.

IC 22-4-18.1-3

Council; establishment; purpose and duties

Sec. 3. The state workforce innovation council is established under the applicable federal programs to do the following:

(1) Review the services and use of funds and resources under applicable federal programs and advise the governor on methods of coordinating the services and use of funds and resources consistent with the laws and regulations governing the particular applicable federal programs.

(2) Advise the governor on:

(A) the development and implementation of state and local standards and measures; and

(B) the coordination of the standards and measures;

concerning the applicable federal programs.

(3) Perform the duties as set forth in federal law of the particular advisory bodies for applicable federal programs described in section 4 of this chapter.

(4) Identify the workforce needs in Indiana and recommend to the governor goals to meet the investment needs.

(5) Recommend to the governor goals for the development and coordination of the human resource system in Indiana.

(6) Prepare and recommend to the governor a strategic plan to accomplish the goals developed under subdivisions (4) and (5).

(7) Monitor the implementation of and evaluate the effectiveness of the strategic plan described in subdivision (6).

(8) Advise the governor on the coordination of federal, state, and local education and training programs and on the allocation of state and federal funds in Indiana to promote effective services, service delivery, and innovative programs.

(9) Administer the minority training grant program established by section 11 of this chapter.

(10) Administer the back home in Indiana program established

by section 12 of this chapter.

(11) Any other function assigned to the council by the governor with regard to the study and evaluation of Indiana's workforce development delivery system.

(12) Administer postsecondary proprietary educational institution accreditation under IC 22-4.1-21.

As added by P.L.38-1993, SEC.58. Amended by P.L.96-2004, SEC.19; P.L.161-2006, SEC.8; P.L.107-2012, SEC.59.

IC 22-4-18.1-4

Council; designated as state advisory body under specified federal laws; administration of programs

Sec. 4. (a) The council shall serve as the state advisory body required under the following federal laws:

(1) The Workforce Investment Act of 1998 under 29 U.S.C. 2801 et seq., including reauthorizations of the Act.

(2) The Wagner-Peyser Act under 29 U.S.C. 49 et seq.

(3) The Carl D. Perkins Vocational and Applied Technology Act under 20 U.S.C. 2301 et seq.

(4) The Adult Education and Family Literacy Act under 20 U.S.C. 9201 et seq.

(b) In addition, the council may be designated to serve as the state advisory body required under any of the following federal laws upon approval of the particular state agency directed to administer the particular federal law:

(1) The National and Community Service Act of 1990 under 42 U.S.C. 12501 et seq.

(2) Part A of Title IV of the Social Security Act under 42 U.S.C. 601 et seq.

(3) The employment and training programs established under the Food Stamp Act of 1977 under 7 U.S.C. 2011 et seq.

(c) The council shall administer the minority training grant program established by section 11 of this chapter and the back home in Indiana program established by section 12 of this chapter.

As added by P.L.38-1993, SEC.58. Amended by P.L.96-2004, SEC.20; P.L.161-2006, SEC.9.

IC 22-4-18.1-5

Council membership

Sec. 5. (a) Subject to subsections (b) and (c), the membership of the state workforce innovation council established under section 3 of this chapter consists of the representatives required by the Workforce Investment Act (29 U.S.C. 2801 et seq.), including reauthorizations of the Act, and must represent the diverse regions of Indiana.

(b) The state superintendent of public instruction or the superintendent's designee serves as a member of the state workforce innovation council.

(c) An individual designated by the governor who has been nominated by a recognized adult education organization serves as a member of the state workforce innovation council.

As added by P.L.38-1993, SEC.58. Amended by P.L.179-1999, SEC.3; P.L.161-2006, SEC.10; P.L.7-2011, SEC.18.

IC 22-4-18.1-6
Council; members; term of office; vacancies

Sec. 6. (a) The governor shall appoint members to the council for two (2) year terms. The terms must be staggered so that the terms of half of the members expire each year.

(b) The governor shall promptly make an appointment to fill any vacancy on the council, but only for the duration of the unexpired term.

As added by P.L.38-1993, SEC.58. Amended by P.L.161-2006, SEC.11.

IC 22-4-18.1-6.5
Repealed

(Repealed by P.L.134-2012, SEC.27.)

IC 22-4-18.1-7
Employment of professional, technical, and clerical personnel; contracting for services; financial oversight

Sec. 7. (a) Except as provided in subsection (b) and subject to the approval of the commissioner of the department of workforce development, the state personnel department, and the budget agency, the council may employ professional, technical, and clerical personnel necessary to carry out the duties imposed by this chapter using the following:

(1) Funds available under applicable federal and state programs.

(2) Appropriations by the general assembly for this purpose.

(3) Funds in the state technology advancement and retention account established by IC 4-12-12-1.

(4) Other funds (other than federal funds) available to the council for this purpose.

(b) Subject to the approval of the commissioner of the department of workforce development and the budget agency, the council may contract for services necessary to implement this chapter.

(c) The council is subject to:

(1) the allotment system administered by the budget agency; and

(2) financial oversight by the office of management and budget.

As added by P.L.38-1993, SEC.58. Amended by P.L.21-1995, SEC.96; P.L.96-2004, SEC.21; P.L.161-2006, SEC.13.

IC 22-4-18.1-8
Council members; per diem and reimbursement of expenses

Sec. 8. (a) Any member of the council who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for traveling expenses under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the

state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Any member of the council who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Any member of the council who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

As added by P.L.38-1993, SEC.58.

IC 22-4-18.1-9

Bylaws and rules; advisory committees

Sec. 9. The council shall adopt bylaws and rules governing the council's organization and operation, including bylaws and rules governing the establishment of advisory committees considered necessary by the council, scheduling of council meetings, and other activities necessary to implement this chapter.

As added by P.L.38-1993, SEC.58.

IC 22-4-18.1-10

Certification to federal official of establishment and membership of council

Sec. 10. The state shall certify to:

(1) the United States Secretary of Labor the establishment and membership of the council at least ninety (90) days before the beginning of each period of two (2) program years for which a job training plan is submitted under this chapter; and

(2) any other appropriate United States Secretary charged with administering a particular applicable federal program the establishment and membership of the council.

As added by P.L.38-1993, SEC.58.

IC 22-4-18.1-11

Grants for minority training programs

Sec. 11. (a) For purposes of this section, "minority student" means a student who is a member of at least one (1) of the following groups:

(1) Blacks.

(2) American Indians.

(3) Hispanics.

(4) Asian Americans.

(5) Other similar racial groups.

(b) The council shall develop a program to provide grants from the state technology advancement and retention account established by IC 4-12-12-1 for minority training programs for minority students. The grants must be used as follows:

(1) Thirty-five percent (35%) for programs designed to enhance training in technology advancement for minority students.

(2) Sixty-five percent (65%) for generalized training programs for minority students.

(c) The council shall adopt policies under which recipients may apply for and receive the grants.

(d) Grants issued under this section are subject to approval by the budget agency.

As added by P.L.96-2004, SEC.22.

IC 22-4-18.1-12

Back home in Indiana program; grants

Sec. 12. (a) The council shall develop a program to provide for grants from the state technology advancement and retention account established by IC 4-12-12-1 or contracts to develop a back home in Indiana program. The program must provide a system to track students who have graduated from private and public colleges and universities in Indiana. The program must include a means of periodically contacting these graduates to inform them of job opportunities in Indiana.

(b) The council shall work with the colleges and universities in Indiana to develop the tracking system.

(c) Grants issued under this section are subject to approval by the budget agency.

As added by P.L.96-2004, SEC.23.

IC 22-4-18.3
Repealed

(Repealed by P.L.202-2005, SEC.8.)

IC 22-4-19

Chapter 19. Administration of Department of Workforce Development

IC 22-4-19-1

Rules and regulations; investigations; change of rates

Sec. 1. The board shall have the power and authority to adopt, amend, or rescind such rules and regulations to employ such persons, make such expenditures, require such reports, make such investigations and take such other action as it may deem necessary or suitable for the proper administration of this article. All rules and regulations issued under the provisions of this article shall be effective upon publication in the manner hereinafter provided and shall have the force and effect of law. The board may prescribe the extent, if any, to which any rule or regulation so issued or legal interpretation of this article shall be with or without retroactive effect. Whenever the board believes that a change in contribution or benefit rates will become necessary to protect the solvency of the unemployment insurance benefit fund, it shall promptly so inform the governor and the general assembly, and make recommendations with respect thereto.

(Formerly: Acts 1947, c.208, s.2001.) As amended by Acts 1978, P.L.6, SEC.32; P.L.108-2006, SEC.38.

IC 22-4-19-2

Repealed

(Repealed by P.L.108-2006, SEC.66.)

IC 22-4-19-3

Repealed

(Repealed by P.L.108-2006, SEC.66.)

IC 22-4-19-4

Professional employees; compensation; bond

Sec. 4. Subject to the further provisions of this article, the board is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties. All positions shall be filled by persons selected and appointed as provided in this section. The board may authorize any such person so appointed to do any act or acts which would lawfully be done by the board and may, in its discretion, require suitable bond from any person charged with the custody of any money or securities.

(Formerly: Acts 1947, c.208, s.2004.) As amended by P.L.144-1986, SEC.111.

IC 22-4-19-5

Training; public works; use of unemployed

Sec. 5. The board, through its appropriate activities, shall take all appropriate steps to reduce and prevent unemployment; to encourage

and assist in the adoption of practical methods of career and technical training, retraining, and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipal corporations, counties, school districts, and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the re-employment of unemployed workers throughout the state in every way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

(Formerly: Acts 1947, c.208, s.2005.) As amended by P.L.234-2007, SEC.143.

IC 22-4-19-6

Records; inspection; reports; confidentiality; violations; processing fee

Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

(1) open to inspection; and

(2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The department, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in subsections (d) and (f), information obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant or an employer at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The department may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

(d) The department may release the following information:

(1) Summary statistical data may be released to the public.

(2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the Indiana economic development corporation only for the following purposes:

(A) The purpose of conducting a survey.

(B) The purpose of aiding the officers or employees of the

Indiana economic development corporation in providing economic development assistance through program development, research, or other methods.

(C) Other purposes consistent with the goals of the Indiana economic development corporation and not inconsistent with those of the department, including the purposes of IC 5-28-6-7.

(3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency and the legislative services agency only for aiding the employees of the budget agency or the legislative services agency in forecasting tax revenues.

(4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:

(A) department of state revenue; or

(B) state or local law enforcement agencies;

only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.

(e) The department may make information available under subsection (d)(1), (d)(2), or (d)(3) only:

(1) if:

(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released to the Indiana economic development corporation, the budget agency, or the legislative services agency will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) In addition to the confidentiality provisions of subsection (b), the fact that a claim has been made under IC 22-4-15-1(c)(8) and any information furnished by the claimant or an agent to the department to verify a claim of domestic or family violence are confidential. Information concerning the claimant's current address or physical location shall not be disclosed to the employer or any other person. Disclosure is subject to the following additional restrictions:

(1) The claimant must be notified before any release of information.

(2) Any disclosure is subject to redaction of unnecessary identifying information, including the claimant's address.

(g) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), (e), or (f); or

(2) of any governmental entity listed in subsection (d)(4) who recklessly violates subsection (d)(4);

commits a Class B misdemeanor.

(h) An employee of the Indiana economic development corporation, the budget agency, or the legislative services agency who violates subsection (d) or (e) commits a Class B misdemeanor.

(i) An employer or agent of an employer that becomes aware that a claim has been made under IC 22-4-15-1(c)(8) shall maintain that information as confidential.

(j) The department may charge a reasonable processing fee not to exceed two dollars ($2) for each record that provides information about an individual's last known employer released in compliance with a court order under subsection (b).

(Formerly: Acts 1947, c.208, s.2006.) As amended by Acts 1978, P.L.2, SEC.2217; P.L.17-1984, SEC.6; P.L.18-1987, SEC.57; P.L.135-1990, SEC.17; P.L.110-1992, SEC.1; P.L.21-1995, SEC.97; P.L.235-1999, SEC.11; P.L.290-2001, SEC.15; P.L.189-2003, SEC.8; P.L.4-2005, SEC.131; P.L.108-2006, SEC.39; P.L.175-2009, SEC.33; P.L.182-2009(ss), SEC.367; P.L.110-2010, SEC.33.

IC 22-4-19-6.5

Information available through enhanced electronic access system

Sec. 6.5. (a) The department may make available through the enhanced electronic access system established by the office of technology established by IC 4-13.1-2-1 secure electronic access for creditors to employer provided information on the amount of wages paid by an employer to an employee.

(b) The enhanced electronic access system established by the office of technology may enter into a contract with one (1) or more private entities to allow private entities to provide secure electronic access to employer provided information held by the department on the amount of wages paid by an employer to an employee.

(c) A creditor may obtain wage report information from a private entity if the creditor first obtains written consent from the employee whose information the creditor seeks to obtain. A creditor that has entered into a contract with the enhanced electronic access system must retain a written consent received under this section for at least three (3) years or for the length of the loan if the loan is for less than three (3) years.

(d) Written consent from the employee must include the following:

(1) A statement that the written consent is the authorization for the creditor to obtain information on the employee's employment and wage history.

(2) A statement that the information is obtained solely for the purpose of reviewing a specific application for credit.

(3) Notification that state agency files containing employment and wage history will be accessed to provide the information.

(4) A listing of all parties that will receive the information obtained.

(e) Information under this section may only be released to a creditor for the purpose of satisfying the standard underwriting requirements of the creditor or a client of the creditor for one (1) credit transaction per employee written consent.

(f) The costs of implementing and administering the release of information must be paid by the private entity or entities that contract with the enhanced electronic access system established by the office of technology.

(g) For employee information under this section, a private entity that enters a contract with the enhanced electronic access system established by the office of technology for release of employee information must comply with:

(1) the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

(2) all state and federal privacy laws; and

(3) the rules regarding the release of information adopted by the United States Department of Labor.

(h) A private entity that has entered into a contract with the enhanced electronic access system under subsection (b) must maintain a consent verification system that audits at least five percent (5%) of daily transactions and must maintain a file of audit procedures and results.

(i) A person who violates this section commits a Class A infraction.

As added by P.L.226-1999, SEC.1. Amended by P.L.177-2005, SEC.43.

IC 22-4-19-7

Records; examination

Sec. 7. In any case where an employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, shall fail or refuse upon demand by the board, the department, the review board, or an administrative law judge, or the duly authorized representative of any of them, to produce or permit the examination or copying of any book, paper, account, record, or other data pertaining to payrolls or employment or ownership of interests or stock in any employing unit, or bearing upon the correctness of any contribution report, or for the purpose of making a report as required by this article where none has been made, then and in that event the board, the department, the review board, or the administrative law judge, or the duly authorized representative of any of them, may by issuance of a subpoena require the attendance of such employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, and take testimony with respect to any such matter and may require any such person to produce any books or records specified in such subpoena.

(Formerly: Acts 1947, c.208, s.2007.) As amended by P.L.144-1986, SEC.112; P.L.135-1990, SEC.18; P.L.290-2001, SEC.16; P.L.108-2006, SEC.40; P.L.175-2009, SEC.34.

IC 22-4-19-8
Records; subpoenas; enforcement

Sec. 8. (a) The board, the department, the review board, or the administrative law judge, or the duly authorized representative of any of them, at any such hearing shall have power to administer oaths to any such person or persons. When any person called as a witness by such subpoena, duly signed, and served upon the witness by any duly authorized person or by the sheriff of the county of which such person is a resident, or wherein is located the principal office of such employing unit or wherein such records are located or kept, shall fail to obey such subpoena to appear before the board, the department, the review board, or the administrative law judge, or the authorized representative of any of them, or shall refuse to testify or to answer any questions, or to produce any book, record, paper, or other data when notified and demanded so to do, such failure or refusal shall be reported to the attorney general for the state of Indiana who shall thereupon institute proceedings by the filing of a petition in the name of the state of Indiana on the relation of the board, in the circuit court or superior or other court of competent jurisdiction of the county where such witness resides, or wherein such records are located or kept, to compel obedience of and by such witness.

(b) Such petition shall set forth the facts and circumstances of the demand for and refusal or failure to permit the examination or copying of such records or the failure or refusal of such witness to testify in answer to such subpoena or to produce the records so required by such subpoena. Such court, upon the filing and docketing of such petition shall thereupon promptly issue an order to the defendants named in said petition, to produce forthwith in such court or at a place in such county designated in such order, for the examination or copying by the board, the department, the review board, an administrative law judge, or the duly authorized representative of any of them, the records, books, or documents so described and to testify concerning matters described in such petition. Unless such defendants to such petition shall appear in said court upon a day specified in such order, which said day shall be not more than ten (10) days after the date of issuance of such order, and offer, under oath, good and sufficient reasons why such examination or copying should not be permitted, or why such subpoena should not be obeyed, such court shall thereupon deliver to the board, the department, the review board, the administrative law judge, or representative of any of them, for examination or copying, the records, books and documents so described in said petition and so produced in such court and shall order said defendants to appear in answer to the subpoena, and to testify concerning the subject matter of the inquiry. Any employing unit, or any officer, member, or agent thereof, or any other persons having possession of the records thereof who shall willfully disobey such order of the court after the same shall have been served upon him, shall be guilty of indirect contempt of such court from which such order shall have issued and may be adjudged in contempt of said court and punished therefor as provided

by law.
(Formerly: Acts 1947, c.208, s.2008.) As amended by P.L.135-1990, SEC.19; P.L.108-2006, SEC.41.

IC 22-4-19-9
Payroll reports; preparation

Sec. 9. If any employing unit fails to make any payroll report required by this article, the commissioner shall give written notice by mail to the employing unit to make and file the report within ten (10) days from the date of the notice. If the employing unit, by its proper members, officers, or agents, fails or refuses to make and file the report within such time, the report shall be made by the department from the best information available, and the amount of contribution due shall be computed thereon and the report shall be prima facie correct for the purposes of this article.
(Formerly: Acts 1947, c.208, s.2009; Acts 1951, c.295, s.11.) As amended by P.L.20-1986, SEC.13; P.L.18-1987, SEC.58; P.L.21-1995, SEC.98; P.L.290-2001, SEC.17; P.L.42-2011, SEC.42.

IC 22-4-19-10
Reports; failure to file; penalties

Sec. 10. Any employing unit which negligently or wilfully fails to submit any report of information required for the proper administration of this article demanded by the commissioner within ten (10) days after request for the same is sent to the employing unit by registered mail shall be assessed a penalty of twenty-five dollars ($25).
(Formerly: Acts 1947, c.208, s.2010; Acts 1971, P.L.355, SEC.44.) As amended by P.L.21-1995, SEC.99.

IC 22-4-19-11
Records; destruction

Sec. 11. The commissioner may destroy or otherwise dispose of under IC 5-15-5.1-14 such reports or records as have been properly recorded or summarized in the records of the department.
(Formerly: Acts 1947, c.208, s.2011.) As amended by P.L.144-1986, SEC.113; P.L.18-1987, SEC.59; P.L.121-1995, SEC.3; P.L.21-1995, SEC.100.

IC 22-4-19-12
Records; foreign states and foreign countries; criminal actions

Sec. 12. Records, with any necessary authentication thereof, required in the prosecution of any criminal action brought by another state or foreign government for misrepresentation or failure to disclose a material fact to obtain benefits under the law of this state, shall be made available to the agency administering the employment security law of any such state or foreign government for the purpose of such prosecution.
(Formerly: Acts 1947, c.208, s.2012; Acts 1951, c.295, s.11 1/2.)

IC 22-4-19-13

Benefits; charges to experience accounts; change of rates; notice

Sec. 13. (a) Where an employer makes an offer of employment directly to a claimant, promptly giving written notice to the department of such offer, or when any such employer makes such offer of employment in writing through the department, the commissioner, the deputy, or an authorized representative of the state or the United States employment service, which offer shall specify such claimant by name, and when such claimant thereafter fails to register subsequent to the receipt of such offer of employment by the department, the commissioner, the deputy, or an authorized representative of the state or the United States employment service, then a notice in writing shall promptly be mailed to such employer of such claimant's said failure to return and to register. If such claimant thereafter, in the claimant's benefit period, again registers or renews and continues the claimant's claim for benefits, such employer shall promptly be mailed notice of such fact in order that the employer may have an opportunity to renew and remake an offer of employment to such claimant.

(b) Upon the filing by an individual of an additional claim for benefits, a notice in writing or a carbon copy of such additional claim shall be mailed promptly to the base period employer or employers and to the employing unit including an employer from whose employ the individual claims to have been last separated.

(c) Upon the filing by an individual of an initial claim for benefits, a notice in writing or a carbon copy of such initial claim shall be mailed promptly to the employing unit including an employer from whose employ the individual claims to have been last separated. The computation of the benefit rights of such individual shall be made as promptly as possible and, if such claim is deemed valid, then a notice of benefit liability shall be mailed to each employer whose experience account is potentially chargeable with benefits to be paid to such individual. Such notice shall contain the date, the name and social security number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit year. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience account in ratio to the earnings of such individual from such employer and shall advise such employer of the employer's right to protest such claim and the payment of any benefits thereon and of the place and time within which protest must be made and the form and contents thereof.

(d) Whenever a determination is made with respect to the validity of any claim for benefits, or the eligibility of any claimant for benefits, which involves the cancellation of wage credits or benefit rights, the imposition of any disqualification, period of ineligibility or penalty, or the denial thereof, a notice in writing shall promptly be mailed to such claimant and to each employer directly involved or connected with the issue raised as to the validity of such claim, the eligibility of such claimant for benefits, or the imposition of a

disqualification period of ineligibility or penalty, or the denial thereof. Such employer or such claimant may protest any such determination within such time limits and in such manner as provided in IC 22-4-17-2 and upon said protest shall be entitled to a hearing as provided in IC 22-4-17-2 and IC 22-4-17-3.

(e) Every employer shall be mailed a monthly report of benefit charges which shall contain an itemized statement showing the names of individuals to whom benefits were paid and charged to the experience account of such employer, the weeks with respect to which each such individual received benefits, the amount thereof, and the total amount of benefits charged to such employer's said account during the period covered by such report.

(f) Following the computation of rates of contribution for employers for each calendar year, each employer shall be mailed not later than ninety (90) days after the effective date of such rates a notice in writing setting out the employer's rate of contribution for such year, computed by the department as of the preceding June 30, together with sufficient information for such employer to determine and compute the amount of a voluntary payment required from such employer in order to qualify for and obtain a lower rate of contribution for such year and also advising such employer of the length of time within which or last date upon which said voluntary payment will be received or can be made.

(Formerly: Acts 1947, c.208, s.2013; Acts 1951, c.307, s.4; Acts 1953, c.177, s.24; Acts 1957, c.261, s.4; Acts 1967, c.310, s.21.) As amended by P.L.144-1986, SEC.114; P.L.11-1987, SEC.25; P.L.18-1987, SEC.60; P.L.21-1995, SEC.101.

IC 22-4-19-14

Federal laws; invalidity or stay; suspension of article

Sec. 14. If the board determines that Public Law 94-566 or the federal laws it amends have been adjudged unconstitutional or invalid in its application to, or have been stayed pendente lite as to, a state or a political subdivision or an instrumentality which is wholly owned by the state and one (1) or more other states or political subdivisions and its employees by any court of competent jurisdiction, the board shall suspend the enforcement of this article with respect to these employers and employees to the extent of the adjudged unconstitutionality or inapplicability or of the stay.

As added by Acts 1977, P.L.262, SEC.28.

IC 22-4-20

Chapter 20. Uncollectible Claims Against Employers for Contributions

IC 22-4-20-1

Cancellation; records

Sec. 1. (a) Whenever the commissioner shall consider any account or claim for contributions against an employer, and any penalty or interest due thereon, or any part thereof, to be uncollectible, written notification containing appropriate information shall be furnished to the attorney general by the commissioner setting forth the reasons therefor and the extent to which collection proceedings have been taken. The attorney general may review such notice and may undertake additional investigation as to the facts relating thereto, and shall thereupon certify to the commissioner an opinion as to the collectibility of such account or claim. If the attorney general consents to the cancellation of such claim for delinquent contributions, and any interest or penalty due thereon, the board may then cancel all or any part of such claim.

(b) In addition to the procedure for cancellation of claims for delinquent contributions set out in subsection (a), the board may cancel all or any part of a claim for delinquent contributions against an employer if all of the following conditions are met:

(1) The employer's account has been delinquent for at least seven (7) years.

(2) The commissioner has determined that the account is uncollectible and has recommended that the board cancel the claim for delinquent contributions.

(c) When any such claim or any part thereof is cancelled by the board, there shall be placed in the files and records of the department, in the appropriate place for the same, a statement of the amount of contributions, any interest or penalty due thereon, and the action of the board taken with relation thereto, together with the reasons therefor.

(Formerly: Acts 1947, c.208, s.2101; Acts 1957, c.299, s.7.) As amended by P.L.18-1987, SEC.61; P.L.80-1990, SEC.15; P.L.21-1995, SEC.102; P.L.290-2001, SEC.18; P.L.175-2009, SEC.35.

IC 22-4-21

Chapter 21. Intergovernmental Cooperation

IC 22-4-21-1

Reports

Sec. 1. In the administration of this article the board shall cooperate to the fullest extent consistent with the provisions of this article with the federal Department of Labor, shall make such reports in such form and containing such information as the federal Department of Labor may from time to time require and shall comply with such provisions as the federal Department of Labor may from time to time find necessary to insure the correctness and verification of such reports, and shall comply with the regulations prescribed by the Secretary of Labor governing the expenditures of such sums as may be allotted and paid to the state of Indiana under 42 U.S.C. 501 through 504 or any other federal statute for the purpose of assisting in the administration of this article.

(Formerly: Acts 1947, c.208, s.2201; Acts 1951, c.295, s.12.) As amended by P.L.144-1986, SEC.115.

IC 22-4-21-2

Public works or assistance; administration; reports

Sec. 2. Upon request therefor the board shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this article.

(Formerly: Acts 1947, c.208, s.2202.) As amended by P.L.144-1986, SEC.116.

IC 22-4-21-3

Availability of records to railroad retirement board

Sec. 3. The commissioner may make the records of the department relating to the administration of this article available to the railroad retirement board created by 45 U.S.C. 228j, or any amendments thereto, and may furnish the railroad retirement board, at the expense of such railroad retirement board, such copies thereof as the railroad retirement board deems necessary for its purposes.

(Formerly: Acts 1947, c.208, s.2203.) As amended by P.L.144-1986, SEC.117; P.L.18-1987, SEC.62; P.L.21-1995, SEC.103.

IC 22-4-21-4

Foreign states; cooperation

Sec. 4. The board may afford reasonable cooperation with every agency of the United States of America, or with any state charged with the administration of any unemployment compensation law.

(Formerly: Acts 1947, c.208, s.2204.)

IC 22-4-22

Chapter 22. Administration of Intergovernmental Cooperation

IC 22-4-22-1

Benefits; payments

Sec. 1. The board shall enter into arrangements with the appropriate agencies of other states or jurisdictions or the United States of America whereby individuals performing services in this and other states or jurisdictions for a single employing unit under circumstances not specifically provided for in IC 1971, 22-4-8-2(b) of this article, or under similar provisions in the unemployment compensation laws of such other states or jurisdictions, shall be deemed to be employment performed entirely within this state or within one (1) of such other states or jurisdictions, and whereby potential rights to benefits accumulated under the unemployment compensation laws of several states or jurisdictions, or under such a law of the United States of America, or both, may constitute the basis for the payment of benefits through a single appropriate agency under the terms which the board finds will be fair and reasonable to all affected interests and will not result in substantial loss to the Fund.

(Formerly: Acts 1947, c.208, s.2301; Acts 1971, P.L.355, SEC.45.)

IC 22-4-22-2

Contributions; payments

Sec. 2. The board is authorized to enter into reciprocal arrangements with the appropriate agencies of other states or jurisdictions or the United States of America, adjusting the collection and payment of contributions by employers with respect to employment not localized within this state.

(Formerly: Acts 1947, c.208, s.2302.)

IC 22-4-22-3

Secretary of state; filing agreement

Sec. 3. The commissioner is authorized to enter into reciprocal agreements with the proper agencies under the laws of other states or jurisdictions or of the United States, which agreements shall become effective after filing with the secretary of state in accordance with rules adopted by the department under IC 4-22-2, by the terms of which agreements:

(1) potential rights to benefits accumulated under the unemployment compensation laws of one (1) or more states or jurisdictions or of the United States, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the commissioner finds will be fair and reasonable to all affected interests and which will not result in any substantial loss to the fund; and

(2) wages or services in employment subject to an unemployment compensation law of another state or of the

United States shall be deemed to be wages in employment for employers for the purpose of determining an individual's rights to unemployment compensation benefits under this article, and wages in employment for employers as defined in this article shall be deemed to be wages or services on the basis of which unemployment compensation under the law of another state or of the United States is payable, but no such arrangement shall be entered into unless it contains provisions for reimbursements to the unemployment insurance benefit fund for such of the unemployment compensation benefits paid under this part upon the basis of such wages or services, and provisions for reimbursements from the unemployment insurance benefit fund for such of the compensation paid under such other law upon the basis of wages for employment as defined in this article as the commissioner finds will be fair and reasonable to all affected interests.

(Formerly: Acts 1947, c.208, s.2303; Acts 1953, c.177, s.25; Acts 1965, c.190, s.14.) As amended by P.L.144-1986, SEC.118; P.L.18-1987, SEC.63; P.L.21-1995, SEC.104; P.L.108-2006, SEC.42.

IC 22-4-22-4
Agencies; acting as agent for other jurisdictions

Sec. 4. The board is authorized to enter into reciprocal agreements with the agencies of other states or jurisdictions administering unemployment compensation laws whereby the board and such other agencies or jurisdictions may act as agents for each other for the purpose of accepting contributions on each other's behalf. Such contributions upon remittance to the state or jurisdiction on whose behalf such contributions were received, shall be deemed contributions required and paid into the unemployment compensation fund of such state or jurisdiction as of the date received by the agent, state or jurisdiction.

(Formerly: Acts 1947, c.208, s.2304.)

IC 22-4-22-5
Investigations; reports

Sec. 5. In order that the administration of this article and the unemployment insurance laws of other states or jurisdictions or of the United States of America will be promoted by cooperation between this state and such other states or jurisdictions or the appropriate agencies of the United States in exchanging services and making available facilities and information, the board and the department are authorized to make such investigations, secure and transmit such information, make available such services and facilities, and exercise such of the other powers provided in this article with respect to the administration of this article as deemed necessary or appropriate to facilitate the administration of any unemployment insurance law and in like manner to accept and utilize information, services, and facilities made available to this state by

the agency or jurisdiction charged with the administration of any such other unemployment insurance law.
(Formerly: Acts 1947, c.208, s.2305.) As amended by P.L.144-1986, SEC.119; P.L.108-2006, SEC.43.

IC 22-4-22-6
Fraud; repayments; collection

Sec. 6. (a) On request of an agency which administers an employment security law of another state or of a foreign government, and which has found in accordance with the provisions of such law that a claimant is liable to repay benefits received under such law by reason of having knowingly made a false statement or misrepresentation of a material fact, or who has knowingly failed to disclose a material fact, with respect to a claim taken in this state as an agent for such agency, the department may collect from such claimant for the liable state the amount of such benefits to be refunded to such agency.

(b) In any case in which under this subsection a claimant is liable to repay any amount to the agency of another state, or of a foreign government, such amounts may be collected without interest by civil action in the name of the department acting as agent for such agency.
(Formerly: Acts 1947, c.208, s.2306; Acts 1951, c.295, s.12 1/2.) As amended by P.L.108-2006, SEC.44.

IC 22-4-23

Chapter 23. Employment Referral Service

IC 22-4-23-1

Establishment; United States; cooperation

Sec. 1. (a) The department shall establish and maintain free public employment and training offices in such number and in such places as may be necessary for the proper administration of this article and for the purpose of performing such duties as are within the purview of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014 and any amendments thereto. The provisions of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014 are hereby declared accepted by the state in conformity with the terms of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014, and the state commits itself to the observation of and compliance with the requirements of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014, and the department is constituted the agency of the state for all purposes of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014. All duties and powers conferred upon any other department, agency, or officer of the state relating to the establishment, maintenance, and operation of free public employment offices shall be vested in the department. The department being charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014, shall be and is authorized and empowered to do and perform all things necessary to secure to this state the benefits of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014. The department may cooperate with or enter into agreements with the railroad retirement board with respect to the establishment, maintenance, and use of free employment service facilities.

(b) The department may do all acts and things necessary or proper to carry out the powers expressly granted under this article.

(Formerly: Acts 1947, c.208, s.2401; Acts 1951, c.295, s.13; Acts 1953, c.177, s.26.) As amended by P.L.144-1986, SEC.120; P.L.18-1987, SEC.64; P.L.108-2006, SEC.45.

IC 22-4-23-2

Agreements; United States; political subdivisions; nonprofit corporations; appropriations

Sec. 2. (a) All money received by this state under the said acts of Congress shall be paid into the employment and training services administration fund, and said money is hereby made available to the department to be expended as provided by this section and by said acts of Congress. For the purpose of establishing and maintaining free public employment and training offices, the department is authorized to enter into agreements with the railroad retirement board or any other agency of the United States charged with the administration of an unemployment compensation law, with any political subdivision of this state or with any private, nonprofit organization, and as a part of any such agreement the department

may accept money, services, or quarters as a contribution to the employment and training services administration fund.

(b) The general assembly shall appropriate and make available to the department annually an amount sufficient to ensure the state's receiving its full share of funds under the acts of Congress in this section referred to. Such money shall be deposited in the employment and training services administration fund.

(Formerly: Acts 1947, c.208, s.2402.) As amended by P.L.18-1987, SEC.65.

IC 22-4-23-3
Repealed

(Repealed by P.L.18-1987, SEC.112.)

IC 22-4-24

Chapter 24. Employment and Training Services Administration Fund

IC 22-4-24-1

Creation; appropriations

Sec. 1. (a) There is created in the state treasury a special fund to be known as the employment and training services administration fund. All money which is deposited or paid into this fund is hereby appropriated and made available to the department. All money in this fund shall be expended for the purpose and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of this article and for no other purpose whatsoever. The fund shall consist of all money appropriated by this state and all money received from the United States, any agency thereof, or from any other source for such defined purposes. Money received from the railroad retirement board as compensation for services or facilities supplied to said board shall be paid into this fund on the same basis as expenditures are made for such services or facilities from such fund. All money in this fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the state treasury. Any balances in this fund shall not lapse at any time but shall be continuously available to the department for expenditure consistent with this article.

(b) Notwithstanding any provision of this section, all money requisitioned and deposited in this fund pursuant to IC 22-4-26-5 shall remain part of the unemployment insurance benefit fund and shall be used only in accordance with the conditions specified in IC 22-4-26-5.

(Formerly: Acts 1947, c.208, s.2501; Acts 1951, c.295, s.15; Acts 1957, c.299, s.17.) As amended by P.L.144-1986, SEC.121; P.L.18-1987, SEC.66.

IC 22-4-24.5
Chapter 24.5. Skills 2016 Training Fund

IC 22-4-24.5-1
Repealed
(Repealed by P.L.202-2005, SEC.8.)

IC 22-4-25

Chapter 25. Special Employment and Training Services Fund (Unemployment Trust Fund)

IC 22-4-25-1

Creation; use of funds

Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. The board shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as provided in this article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

(b) Whenever the balance in the special employment and training services fund exceeds eight million five hundred thousand dollars ($8,500,000), the board shall order payment of the amount that exceeds eight million five hundred thousand dollars ($8,500,000) into the unemployment insurance benefit fund.

(c) Subject to the approval of the board and the availability of funds, on July 1, 2008, and each subsequent July 1, the commissioner shall release:

(1) one million dollars ($1,000,000) to the state educational institution established under IC 21-25-2-1 for training provided to participants in apprenticeship programs approved by the United States Department of Labor, Bureau of Apprenticeship and Training;

(2) four million dollars ($4,000,000) to the state educational institution instituted and incorporated under IC 21-22-2-1 for training provided to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor, Bureau of Apprenticeship and Training;

(3) two hundred fifty thousand dollars ($250,000) for journeyman upgrade training to each of the state educational institutions described in subdivisions (1) and (2);

(4) four hundred thousand dollars ($400,000) annually for training and counseling assistance:

(A) provided by Hometown Plans under 41 CFR 60-4.5; and

(B) approved by the United States Department of Labor, Bureau of Apprenticeship and Training;

to individuals who have been unemployed for at least four (4) weeks or whose annual income is less than twenty thousand dollars ($20,000); and

(5) three hundred thousand dollars ($300,000) annually for training and counseling assistance provided by the state institution established under IC 21-25-2-1 to individuals who have been unemployed for at least four (4) weeks or whose annual income is less than twenty thousand dollars ($20,000) for the purpose of enabling those individuals to apply for admission to apprenticeship programs offered by providers approved by the United States Department of Labor, Bureau of Apprenticeship and Training.

(d) The funds released under subsection (c)(4) through (c)(5):

(1) shall be considered part of the amount allocated under section 2.5 of this chapter; and

(2) do not limit the amount that an entity may receive under section 2.5 of this chapter.

(e) Each state educational institution described in subsection (c) is entitled to keep ten percent (10%) of the funds released under subsection (c) for the payment of costs of administering the funds. On each June 30 following the release of the funds, any funds released under subsection (c) not used by the state educational institutions under subsection (c) shall be returned to the special employment and training services fund.

(Formerly: Acts 1947, c.208, s.2601; Acts 1955, c.317, s.12; Acts 1963, c.373, s.1; Acts 1967, c.310, s.22.) As amended by P.L.144-1986, SEC.122; P.L.18-1987, SEC.67; P.L.105-1994, SEC.3; P.L.21-1995, SEC.105; P.L.163-1997, SEC.1; P.L.52-1998, SEC.1; P.L.179-1999, SEC.4; P.L.290-2001, SEC.20; P.L.273-2003, SEC.7; P.L.202-2005, SEC.5; P.L.47-2006, SEC.46; P.L.2-2007, SEC.293; P.L.138-2008, SEC.4; P.L.175-2009, SEC.36; P.L.182-2009(ss), SEC.368.

IC 22-4-25-2
Remployment training accounts for department employees

Sec. 2. (a) As used in this section, "fund" refers to the special employment and training services fund created under section 1 of this chapter.

(b) The commissioner may allocate an amount not to exceed two million dollars ($2,000,000) annually from the fund to establish reemployment training accounts to provide training and reemployment services to department employees dislocated by:

(1) a reduction of funding for;
(2) a centralization or decentralization of; or
(3) the implementation of a more efficient technology or service delivery method in connection with;

the programs and services provided under this article.
As added by P.L.108-2006, SEC.46.

IC 22-4-25-2.5
Expired

(Expired 12-31-2012 by P.L.47-2006, SEC.47.)

IC 22-4-26

Chapter 26. Unemployment Insurance Benefit Fund

IC 22-4-26-1

Establishment; source of funds

Sec. 1. There is established a special fund to be known as the unemployment insurance benefit fund which shall be administered separate and apart from all public money or funds of the state. This fund shall consist of:

(1) all contributions, all payments in lieu of contributions, all money received from the federal government as reimbursements pursuant to section 204 of the Federal-State Extended Compensation Act of 1970, and all money paid into and received by it as provided in this article;

(2) any property or securities and the earnings thereof acquired through the use of money belonging to the fund;

(3) all other money received for the fund from any other source;

(4) all money credited to this state's account in the unemployment trust fund pursuant to 42 U.S.C. 1103, as amended; and

(5) interest earned from all money in the fund.

Subject to the provisions of this article, the board is vested with full power, authority, and jurisdiction over the fund, including all money and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated in this article which are necessary or convenient in the administration thereof consistent with the provisions of this article and the Depository Act. The money in this fund shall be used only for the payment of unemployment compensation benefits.

(Formerly: Acts 1947, c.208, s.2701; Acts 1957, c.299, s.8; Acts 1973, P.L.239, SEC.5.) As amended by P.L.18-1987, SEC.68.

IC 22-4-26-2

Administration of fund

Sec. 2. The fund shall be administered exclusively for the purpose of this article, and money withdrawn therefrom, except for deposit in the unemployment insurance benefit fund and for refund, as provided in this article, and except for amounts credited to the account of this state pursuant to 42 U.S.C. 1103, as amended, which shall be used exclusively as provided in section 5 of this chapter, shall be used solely for the payment of benefits. Payment of benefits and refunds shall be made in accordance with the rules prescribed by the department consistent with the provisions of this article. Withdrawals from the fund except as provided in section 5 of this chapter shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody.

(Formerly: Acts 1947, c.208, s.2702; Acts 1957, c.299, s.9.) As amended by P.L.144-1986, SEC.123; P.L.18-1987, SEC.69; P.L.108-2006, SEC.47.

IC 22-4-26-3
Treasurer of fund; depositories; investments

Sec. 3. The treasurer of state shall be ex officio treasurer and custodian of the fund and shall administer the fund in accordance with the provisions of this article and the directions of the commissioner and shall pay all warrants drawn upon it in accordance with such rules as the board may prescribe. All contributions provided for in this article shall be paid to and collected by the department. All contributions and other money payable to the fund as provided in this article upon receipt thereof by the department shall be paid to and deposited with the treasurer of state to the credit of the unemployment insurance benefit fund. The commissioner shall immediately order the auditor of state to issue the auditor's warrant on the treasurer of state immediately to forward such money and deposit it, together with any money earned thereby while in the treasurer's custody and any other money received by the treasurer for the payment of benefits from any source other than the unemployment trust fund, with the Secretary of the Treasury of the United States of America to the credit of the unemployment trust fund. All money belonging to the unemployment insurance benefit fund and not otherwise deposited, invested, or paid over pursuant to the provisions of this article may be deposited by the treasurer of state under the direction of the commissioner in any banks or public depositories in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of money in the unemployment insurance benefit fund, any other provisions of law to the contrary notwithstanding. The treasurer of state shall, if required by the Social Security Administration, give a separate bond conditioned upon the faithful performance of the treasurer's duties as custodian of the fund in an amount and with such sureties as shall be fixed and approved by the governor. Premiums for the said bond shall be paid as provided in IC 22-4-24.
(Formerly: Acts 1947, c.208, s.2703.) As amended by P.L.144-1986, SEC.124; P.L.18-1987, SEC.70; P.L.21-1995, SEC.106.

IC 22-4-26-4
Federal aid; requisition; disposition of balance

Sec. 4. The commissioner, through the treasurer of state acting as its fiscal agent, shall requisition from time to time from the unemployment trust fund such amounts not exceeding the amount standing to its account therein as it deems necessary for the payment of benefits for a reasonable future period and for refunds, but for no other purpose. Upon receipt thereof, the treasurer of state shall deposit such money in the unemployment insurance benefit fund in a special benefit account, and upon order of the commissioner, the auditor of state or the auditor's duly authorized agent shall issue the auditor's warrants for the payment of benefits and refunds by the treasurer of state. Any balance of money so requisitioned which remains unclaimed or unpaid in the special benefit account of the unemployment insurance benefit fund after the expiration of the

period for which such sums are requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits and refunds during succeeding periods, or in the discretion of the commissioner shall be redeposited with the Secretary of the Treasury of the United States to the credit of the unemployment trust fund as provided in section 3 of this chapter.
(Formerly: Acts 1947, c.208, s.2704.) As amended by P.L.144-1986, SEC.125; P.L.18-1987, SEC.71; P.L.21-1995, SEC.107.

IC 22-4-26-5
Use of money from federal unemployment trust fund; appropriations

Sec. 5. (a) Money credited to the account of this state in the unemployment trust fund by the Secretary of the Treasury of the United States pursuant to 42 U.S.C. 1103, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this article and public employment offices pursuant to a specific appropriation by the general assembly, provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation statute which:

(1) specifies the purposes for which such money is appropriated and the amounts appropriated therefor;

(2) except as provided in subsection (i), limits the period within which such money may be obligated to a period ending not more than two (2) years after the date of the enactment of the appropriation statute; and

(3) limits the total amount which may be obligated during a twelve (12) month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which:

(A) the aggregate of the amounts credited to the account of this state pursuant to 42 U.S.C. 1103, as amended, during such twelve (12) month period and the twenty-four (24) preceding twelve (12) month periods; exceeds

(B) the aggregate of the amounts obligated by this state pursuant to this section and amounts paid out for benefits and charged against the amounts credited to the account of this state during such twenty-five (25) twelve (12) month periods.

(b) For the purposes of this section, amounts obligated by this state during any such twelve (12) month period shall be charged against equivalent amounts which were first credited and which have not previously been so charged, except that no amount obligated for administration of this article and public employment offices during any such twelve (12) month period may be charged against any amount credited during such twelve (12) month period earlier than the fourteenth preceding such twelve (12) month period.

(c) Amounts credited to the account of this state pursuant to 42 U.S.C. 1103, as amended, may not be obligated except for the payment of cash benefits to individuals with respect to their

unemployment and for the payment of expenses incurred for the administration of this article and public employment offices pursuant to this section.

(d) Money appropriated as provided in this section for the payment of expenses incurred for the administration of this article and public employment offices pursuant to this section shall be requisitioned as needed for payment of obligations incurred under such appropriation and upon requisition shall be deposited in the employment and training services administration fund but, until expended, shall remain a part of the unemployment insurance benefit fund. The commissioner shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. If any money so deposited is for any reason not to be expended for the purpose for which it was appropriated, or if it remains unexpended at the end of the period specified by the statute appropriating such money, it shall be withdrawn and returned to the Secretary of the Treasury of the United States for credit to this state's account in the unemployment trust fund.

(e) There is appropriated out of the funds made available to Indiana under Section 903 of the Social Security Act, as amended by Section 209 of the Temporary Extended Unemployment Compensation Act of 2002 (which is Title II of the federal Jobs Creation and Worker Assistance Act of 2002, Pub.L107-147), seventy-two million two hundred thousand dollars ($72,200,000) to the department of workforce development. Unencumbered money at the end of a state fiscal year does not revert to the state general fund.

(f) Money appropriated under subsection (e) is subject to the requirements of IC 22-4-37-1.

(g) Money appropriated under subsection (e) may be used only for the following purposes:

(1) The administration of the Unemployment Insurance (UI) program and the Wagner Peyser public employment office program.

(2) Acquiring land and erecting buildings for the use of the department of workforce development.

(3) Improvements, facilities, paving, landscaping, and equipment repair and maintenance that may be required by the department of workforce development.

(h) In accordance with the requirements of subsection (g), the department of workforce development may allocate up to the following amounts from the amount described in subsection (e) for the following purposes:

(1) Thirty-nine million two hundred thousand dollars ($39,200,000) to be used for the modernization of the Unemployment Insurance (UI) system beginning July 1, 2003, and ending June 30, 2013.

(2) For:

(A) the state fiscal year beginning after June 30, 2003, and ending before July 1, 2004, five million dollars ($5,000,000);

(B) the state fiscal year beginning after June 30, 2004, and ending before July 1, 2005, five million dollars ($5,000,000);

(C) the state fiscal year beginning after June 30, 2005, and ending before July 1, 2006, five million dollars ($5,000,000);

(D) the state fiscal year beginning after June 30, 2006, and ending before July 1, 2007, five million dollars ($5,000,000);

(E) the state fiscal year beginning after June 30, 2007, and ending before July 1, 2008, five million dollars ($5,000,000); and

(F) state fiscal years beginning after June 30, 2008, and ending before July 1, 2012, the unused part of any amount allocated in any year for any purpose under this subsection;

for the JOBS proposal to meet the workforce needs of Indiana employers in high wage, high skill, high demand occupations.

(3) For:

(A) the state fiscal year beginning after June 30, 2003, and ending before July 1, 2004, four million dollars ($4,000,000); and

(B) the state fiscal year beginning after June 30, 2004, and ending before July 1, 2005, four million dollars ($4,000,000);

to be used by the workforce investment boards in the administration of Indiana's public employment offices.

(i) The amount appropriated under subsection (e) for the payment of expenses incurred in the administration of this article and public employment is not required to be obligated within the two (2) year period described in subsection (a)(2).

(Formerly: Acts 1947, c.208, s.2705; Acts 1957, c.299, s.10; Acts 1965, c.190, s.15; Acts 1969, c.300, s.6; Acts 1973, P.L.239, SEC.6.) As amended by P.L.144-1986, SEC.126; P.L.18-1987, SEC.72; P.L.21-1995, SEC.108; P.L.224-2003, SEC.120; P.L.234-2007, SEC.68; P.L.3-2008, SEC.160; P.L.205-2013, SEC.337.

IC 22-4-27

Chapter 27. Management of Funds Upon Discontinuance of Unemployment Trust Fund

IC 22-4-27-1

Investments; disposal of securities

Sec. 1. The provisions of IC 22-4-26-1, IC 22-4-26-2, IC 22-4-26-3, and IC 22-4-26-4, to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist and so long as the Secretary of the Treasury of the United States continues to maintain for this state a separate book account of all funds deposited therein by the state for benefit purposes, together with the state's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist or such separate book account is no longer maintained, all money, properties, or securities therein belonging to the unemployment insurance benefit fund of this state shall be transferred to the treasurer of the unemployment insurance benefit fund who shall hold, invest, transfer, sell, deposit, and release such money, properties, or securities in a manner approved by the department in accordance with the provisions of this article. The money shall be invested in the following readily marketable classes of securities:

(1) Bonds or other interest bearing obligations of the United States.

(2) Any bonds guaranteed as to principal and interest by the United States government.

The treasurer of state shall dispose of securities or other properties belonging to the unemployment insurance benefit fund under the direction of the commissioner.

(Formerly: Acts 1947, c.208, s.2801.) As amended by P.L.144-1986, SEC.127; P.L.18-1987, SEC.73; P.L.21-1995, SEC.109.

IC 22-4-28

Chapter 28. Lost or Illegally Expended Federal Grants

IC 22-4-28-1

Appropriations

Sec. 1. If any money received after June 30, 1941, from the Social Security Administration under 42 U.S.C. 501 through 504, or any unencumbered balances in the employment and training services administration fund as of June 30, 1941, or any money granted after June 30, 1941 to this state under 29 U.S.C. 49 et seq. or any money made available by this state or its political subdivisions and matched by such money granted to this state under 29 U.S.C. 49 et seq. is found by the Secretary of Labor because of any action or contingency to have been lost or been expended for purposes other than or in amounts in excess of those found necessary by the Secretary of Labor for the proper administration of this article, it is the policy of this state that upon receipt of notice of such a finding by the Secretary of Labor the board shall promptly report the amount required for such replacement to the governor, and the governor shall at the earliest opportunity submit to the general assembly a request for the appropriation of such amount. This section shall not be construed to relieve this state of its obligation with respect to funds received prior to July 1, 1941, under 49 U.S.C. 501 through 504.
(Formerly: Acts 1947, c.208, s.2901; Acts 1951, c.295, s.16.) As amended by P.L.144-1986, SEC.128; P.L.18-1987, SEC.74.

IC 22-4-29

Chapter 29. Collection of Contributions, Interest, and Penalties

IC 22-4-29-1

Delinquent contributions; interest and penalties

Sec. 1. (a) Contributions unpaid on the date on which they are due and payable, as prescribed by the commissioner, shall bear interest at the rate of one percent (1%) per month or fraction thereof from and after such date until payment, plus accrued interest, is received by the department. The board may prescribe fair and reasonable regulations pursuant to which such interest shall not accrue.

(b) If the failure to pay any part or all of the delinquent contributions is due to negligence or intentional disregard of authorized rules, regulations, or notices, but without intent to defraud, there shall be added, as a penalty, ten percent (10%) of the total amount of contributions unpaid, which penalty shall become due and payable upon notice and demand by the commissioner.

(c) If the commissioner finds that the failure to pay any part or all of delinquent contributions is due to fraud with intent to evade the payment of contributions, there shall be added, as a penalty, fifty percent (50%) of the total amount of delinquent contributions, which penalty shall become due and payable upon notice and demand by the commissioner.

(d) Interest and penalties collected pursuant to this section shall be paid into the special employment and training services fund.

(Formerly: Acts 1947, c.208, s.3001.) As amended by P.L.228-1983, SEC.5; P.L.18-1987, SEC.75; P.L.21-1995, SEC.110.

IC 22-4-29-2

Assessments; limitation

Sec. 2. In addition to all other powers granted to the commissioner by this article, the commissioner or the commissioner's authorized representatives shall have the power to make assessments against any employing unit which fails to pay contributions, interest, or penalties as required by this article, or for additional contributions due and unpaid, which assessment is considered prima facie correct. Such assessments shall consist of contributions and any interest or penalties which may be due by reason of section 1 of this chapter. Such assessment must be made not later than four (4) calendar years subsequent to the date that said contributions, interest, or penalties would have become due, except that this limitation shall not apply to any contributions, interest, or penalties which should have been paid with respect to any incorrect report filed with the department which report was known or should have been known to be incorrect by the employing unit.

(Formerly: Acts 1947, c.208, s.3002.) As amended by P.L.144-1986, SEC.129; P.L.18-1987, SEC.76; P.L.21-1995, SEC.111; P.L.290-2001, SEC.21; P.L.175-2009, SEC.37.

IC 22-4-29-3
Assessments; notice

Sec. 3. The commissioner, or the commissioner's duly authorized representative, shall immediately notify the employing unit of the assessment in writing by mail, and such assessment shall be final unless the employing unit protests such assessment within fifteen (15) days after the mailing of the notice.

(Formerly: Acts 1947, c.208, s.3003.) As amended by P.L.20-1986, SEC.14; P.L.18-1987, SEC.77; P.L.21-1995, SEC.112.

IC 22-4-29-4
Assessments; protest; hearings

Sec. 4. If the employing unit protests such assessment, upon written request it shall have an opportunity to be heard, and such hearing shall be conducted by a liability administrative law judge pursuant to the provisions of IC 22-4-32-1 through IC 22-4-32-15. After the hearing the liability administrative law judge shall immediately notify the employing unit in writing of the finding, and the assessment, if any, so made shall be final, in the absence of judicial review proceedings as provided in this article, thirty (30) days after such notice of appeal is issued.

(Formerly: Acts 1947, c.208, s.3004; Acts 1951, c.295, s.17.) As amended by P.L.144-1986, SEC.130; P.L.18-1987, SEC.78; P.L.135-1990, SEC.20; P.L.108-2006, SEC.48.

IC 22-4-29-5
Assessments; judicial review; stay of proceedings

Sec. 5. The finality of such decision of the liability administrative law judge may be stayed for a period of thirty (30) days from the date of service of notice on the department of the appeal of said decision as provided in this article. Such notice must be served within thirty (30) days after notice of the decision of the liability administrative law judge is issued. If judicial review proceedings are not instituted within the time provided for in this article, the finality of said decision shall not be further stayed.

(Formerly: Acts 1947, c.208, s.3005.) As amended by P.L.144-1986, SEC.131; P.L.135-1990, SEC.21; P.L.108-2006, SEC.49.

IC 22-4-29-6
Assessments; nonpayment; warrants; levy; garnishment; lien

Sec. 6. (a) Unless an assessment is paid in full within seven (7) days after it becomes final, the commissioner or the commissioner's representative may file with the clerk of the circuit court of any county in the state a warrant in duplicate, directed to the sheriff of such county, commanding the sheriff to levy upon and sell the property, real and personal, tangible and intangible, of the employing unit against whom the assessment has been made, in sufficient quantity to satisfy the amount thereof, plus damages to the amount of ten percent (10%) of such assessment, which shall be in addition to the penalties prescribed in this article for delinquent payment, and

in addition to the interest at the rate of one percent (1%) per month upon the unpaid contribution from the date it was due, to the date of payment of the warrant, and in addition to all costs incident to the recording and execution thereof. The remedies by garnishment and proceedings supplementary to execution as provided by law shall be available to the board to effectuate the purposes of this chapter. Within five (5) days after receipt of a warrant under this section, the clerk shall:

(1) retain the duplicate copy of the warrant;

(2) enter in the judgment record in the column for judgment debtors the name of the employing unit stated in the warrant, or if the employing unit is a partnership, the names of the partners;

(3) enter the amount sought by the warrant;

(4) enter the date the warrant was received; and

(5) certify the original warrant and return it to the department.

(b) Five (5) days after the clerk receives a warrant under subsection (a), the amount sought in the warrant, the damages to an amount of ten percent (10%) of the assessment as provided in subsection (a), penalties, and interest described in subsection (a), become a lien upon the title to and interest in the real and personal property of the employing unit.

(Formerly: Acts 1947, c.208, s.3006.) As amended by P.L.20-1986, SEC.15; P.L.18-1987, SEC.79; P.L.21-1995, SEC.113; P.L.52-1998, SEC.2.

IC 22-4-29-7

Assessments; issuance of warrant to sheriff

Sec. 7. The clerk shall return the original, certified copy of the warrant to the department together with all recording information concerning the warrant. Upon receipt of the warrant from the clerk, the department shall issue the warrant to the sheriff of the county.

(Formerly: Acts 1947, c.208, s.3007.) As amended by P.L.21-1995, SEC.114; P.L.52-1998, SEC.3.

IC 22-4-29-8

Assessments; warrants; return; fees and costs

Sec. 8. (a) If the clerk fails to record the warrant and issue the same to the department within five (5) days after it has been received by the clerk as herein provided, the clerk shall forfeit to the state for each such failure the sum of twenty dollars ($20), which shall be deposited in the unemployment insurance benefit fund.

(b) Within one hundred twenty (120) days from the date of receipt of the warrant (or immediately after service if the warrant is fully satisfied or found to be wholly uncollectible) the sheriff shall return it to the department, together with the money collected, less fees and costs.

(c) "Costs" as referred to in this subsection includes the fees of the clerk and sheriff as are specifically provided for and costs of storage, appraisal, publication, and other necessary and properly chargeable expenses incurred in the sale of property on execution.

The costs herein specifically prescribed for the clerk and sheriff shall be as follows:

(1) Clerk's fee of three dollars ($3) to be charged on the warrant and paid to the clerk for recording the warrant.

(2) Sheriff's fee of:

(A) six dollars ($6) to be charged on the warrant and paid to the sheriff in every instance in which the warrant has been duly and properly served and the schedules and affidavits hereinafter provided for have been executed and signed; or

(B) ten dollars ($10) for sale of property on execution or decree, including making a deed or certificate of sale, to be charged on the warrant.

(Formerly: Acts 1947, c.208, s.3008; Acts 1951, c.295, s.18; Acts 1969, c.300, s.7.) As amended by P.L.18-1987, SEC.80; P.L.21-1995, SEC.115; P.L.52-1998, SEC.4.

IC 22-4-29-9

Assessments; fees and costs; collection; disposition

Sec. 9. (a) The fees and charges provided in section 8 of this chapter for the clerk and sheriff shall be the property of the clerk and sheriff, and, excepting additional payments to the sheriff provided for in this section, shall be the only fees and charges payable for their services relating to the warrants herein and shall be in lieu of all fees and charges provided for in other statutes for services relating to recording and serving of warrants and levying of executions, whether such other statutes relate to clerks, sheriffs, governmental units, or subdivisions thereof. Such costs shall be charged against the employing unit and collected from it by the sheriff.

(b) In case the amount collected is sufficient to satisfy the entire amount of the warrant and all costs thereon, the sheriff shall retain an amount equal to ten percent (10%) of the assessment in addition to the fees provided in section 8 of this chapter. If such amount is not collected in full, the sheriff shall retain an amount equal to five percent (5%) of the amount collected.

(c) However, in instances wherein the sheriff makes no collection upon a warrant and it has been returned to the department as uncollectible and the warrant is thereafter paid voluntarily in whole or in part by the employing unit to the clerk or to the department, the sheriff shall not be entitled to either of the payments mentioned in subsection (b), and the damages assessed in the warrant shall be deposited in the unemployment insurance benefit fund.

(Formerly: Acts 1947, c.208, s.3009.) As amended by P.L.18-1987, SEC.81; P.L.21-1995, SEC.116.

IC 22-4-29-10

Assessments; return; subsequent warrants; fees; attempts to collect

Sec. 10. (a) The return by the sheriff to the department of the warrants shall be made monthly on or before the fifth day of the month. All money so returned to the department shall be receipted for by the department and its endorsement upon the check

transmitted by the sheriff shall be conclusive evidence of such payment by the sheriff and no other receipt shall be necessary.

(b) If a warrant is not satisfied within the one hundred twenty (120) days specified in section 8 of this chapter, nothing herein shall operate to prevent the department from issuing subsequent warrants upon the identical amount of the unpaid assessment. Subsequent warrants shall not be recorded by the clerk, and no fees shall be chargeable by the clerk. Upon any subsequent warrant, the sheriff shall be entitled to a sum for mileage equal to that sum per mile paid to state officers and employees, with the rate changing each time the state government changes its rate per mile, but shall not be entitled to any other fee if the same has been paid the sheriff for services upon the original warrant, except that in case collection is made in part or in full with respect to any such subsequent warrant, the sheriff is entitled to the five percent (5%) or ten percent (10%) as provided in section 9(b) of this chapter.

(c) In every instance in which the sheriff shall return any warrant unsatisfied, the sheriff shall attach to the warrant a summary of all relative information regarding the attempts to collect the warrant and the reason the warrant is being returned unsatisfied.

(Formerly: Acts 1947, c.208, s.3010; Acts 1975, P.L.15, SEC.30.) As amended by P.L.18-1987, SEC.82; P.L.21-1995, SEC.117; P.L.52-1998, SEC.5.

IC 22-4-29-11

Assessments; failure to locate employing unit

Sec. 11. In the event the sheriff is unable to locate the employing unit after diligent search, the sheriff shall file with the department a statement sworn to by the sheriff that a diligent search has been made and the employing unit cannot be located within the sheriff's bailiwick.

(Formerly: Acts 1947, c.208, s.3011.) As amended by Acts 1978, P.L.2, SEC.2218; P.L.18-1987, SEC.83; P.L.52-1998, SEC.6.

IC 22-4-29-12

Applicability of exemption laws for relief of debtors

Sec. 12. The liability for any contributions, interest, penalties, and damages imposed by this chapter, or costs incidental to execution of warrants, shall not be subject to any of the provisions of the exemption laws of the state of Indiana for the relief of debtors.

(Formerly: Acts 1947, c.208, s.3012.) As amended by P.L.131-1983, SEC.5; P.L.52-1998, SEC.7; P.L.290-2001, SEC.22; P.L.42-2011, SEC.43.

IC 22-4-29-13

Notices

Sec. 13. (a) This section applies to notices given under sections 3, 4, and 5 of this chapter.

(b) As used in this section, "notices" includes mailings of assessments, notice of intention to seek judicial review, and warrants.

(c) If a notice is served through the United States Postal Service, three (3) days must be added to a period that commences upon service of that notice.

(d) The filing of a document with the appellate division or review board is complete on the earliest of the following dates that apply to the filing:

(1) The date on which the document is delivered to the appellate division or review board.

(2) The date of the postmark on the envelope containing the document if the document is mailed to the appellate division or review board by the United States Postal Service.

(3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the appellate division or review board by a private carrier.

As added by P.L.135-1990, SEC.22.

IC 22-4-29-14

Data match system for collection of final assessments; financial institutions

Sec. 14. (a) The department may operate a data match system with each financial institution doing business in Indiana.

(b) If the department operates a data match system, each financial institution doing business in Indiana shall provide information to the department on all employers:

(1) that hold one (1) or more accounts with the financial institution; and

(2) that are subject to a warrant issued by the commissioner for failure to pay a final assessment for contributions, interest, penalties, and any associated collection costs.

(c) To provide the information required under subsection (b), a financial institution shall do one (1) of the following:

(1) Identify employers by comparing records maintained by the financial institution with records provided by the department by:

(A) name; and

(B) either:

(i) Social Security number; or

(ii) federal tax identification number.

(2) Comply with IC 31-25-4-31(c)(2). The child support bureau established by IC 31-25-3-1 shall regularly make reports submitted under IC 31-25-4-31(c)(2) accessible to the department or its agents for use only in the collection of unpaid final assessments described in subsection (b)(2).

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include:

(A) the name;

(B) the address of record; and

(C) either:

(i) the Social Security number; or

(ii) the federal tax identification number;

of the employers identified under subsection (b).

(e) When the department determines that the information required under subsection (d)(2) is identical for an employer that holds an account with a financial institution and an employer that is subject to a warrant issued by the commissioner for failure to pay a final assessment for contributions, interest, penalties, and any associated collection costs, the department or its agents shall provide a notice of the match to the financial institution if action is to be initiated to issue a warrant to levy upon or encumber the account.

(f) This section does not preclude a financial institution from exercising its right to:

(1) charge back or recoup a deposit to an account; or

(2) set off from an account held by the financial institution in which the employer has an interest any debts owed to the financial institution that existed before:

(A) the department's warrant; and

(B) notification to the financial institution of the department's warrant.

(g) A financial institution ordered to block or encumber an account under this section is entitled to collect its normally scheduled account activity fees to maintain the account during the period the account is blocked or encumbered.

(h) All information provided by a financial institution under this section is confidential and is available only to the department or its agents for use only in the collection of unpaid final assessments described in subsection (b)(2).

(i) A financial institution providing information required under this section is not liable for:

(1) disclosing the required information to the department or the child support bureau established by IC 31-25-3-1;

(2) blocking or surrendering an individual's assets in response to a levy imposed under this section by:

(A) the department; or

(B) a person or an entity acting on behalf of the department; or

(3) any other action taken in good faith to comply with this section.

(j) A person or an entity that is acting on behalf of the department is not liable for any action taken under this section in good faith to collect unpaid final assessments described in subsection (b)(2) unless:

(1) the action is contrary to the department's direction to the person or entity; or

(2) for information provided under this section, the person or entity acts with:

(A) deliberate ignorance of the truth or falsity of the information; or

(B) reckless disregard for the truth or falsity of the

information.

(k) The department or its agents shall pay a financial institution performing the data match under this section a reasonable fee, as determined by the department, of at least five dollars ($5) for each warrant issued to the financial institution.

(l) This section does not prevent the department or its agents from encumbering an employer's account with a financial institution by any other remedy available under the law.

(m) An:

(1) officer or employee of the department; or

(2) officer or employee of a person or entity that is acting on behalf of the department;

who knowingly or intentionally discloses for a purpose other than the collection of unpaid final assessments described in subsection (b)(2) information provided by a financial institution that is confidential under this section commits a Class A misdemeanor.

As added by P.L.138-2008, SEC.5.

IC 22-4-30

Chapter 30. Procedures for Collection of Funds Due

IC 22-4-30-1

Delinquent contributions; continuing in business

Sec. 1. Any employer against whom contributions shall be assessed as provided in this article shall be restrained and enjoined upon the order of the department by proper proceedings instituted in the name of the state of Indiana, brought by the attorney general for the state of Indiana or any prosecuting attorney at the request of the department, from engaging or continuing in business in this state until the contributions, interest, penalties, and damages shall have been paid and until such employer shall have complied with the provisions of this article; and such attorneys shall prosecute violations of criminal provisions of this article upon request of the department.

(Formerly: Acts 1947, c.208, s.3101.) As amended by P.L.144-1986, SEC.132; P.L.108-2006, SEC.50.

IC 22-4-31

Chapter 31. Additional Remedies for Collection of Delinquent Contributions; Jeopardy Assessments

IC 22-4-31-1

Powers and duties

Sec. 1. (a) If any contributions, interest, penalties, or damages assessed under this article, or any portion thereof, be not paid within one hundred twenty (120) days after the same is found to be due, a receiver may be appointed by the circuit or superior court of the county in which such employer resides or in which the employer is doing business or in which the employer's resident agent is located in a proceeding requesting such appointment instituted against the said employer in the name of the state of Indiana, brought by the attorney general for the state of Indiana at the request of the department.

(b) The court shall appoint a receiver when it finds that the employer has not paid the contributions or amounts due imposed by this article within one hundred twenty (120) days after the same is found to be due, and that contributions, interest, penalties, or damages, or any portion thereof, is unpaid and delinquent. Such cause for the appointment of a receiver shall be in addition to all other causes or grounds provided by law for the appointment of receivers and shall be in addition to all other methods for the enforcement of this article.

(c) Each such receiver shall give bond and be sworn as provided for by law and shall have power under the control of the court to bring and defend actions, to take and keep possession of the property of the employer, to receive all funds and collect any debts due to the employer, in the receiver's name, and generally to do such acts respecting the property as the court shall authorize, and shall have all the powers granted to, or shall be subject to all the duties of, receivers under the laws of this state.

(Formerly: Acts 1947, c.208, s.3201.) As amended by P.L.144-1986, SEC.133; P.L.108-2006, SEC.51.

IC 22-4-31-2

Appeal; bond; suspension of power

Sec. 2. In all proceedings instituted after April 1, 1947, under the provisions of section 1 of this chapter in which a receiver may be appointed or refused, the party aggrieved may, within ten (10) days thereafter, appeal from the decision of the court to the supreme court without awaiting the final determination of such proceedings. In cases where a receiver has been appointed, upon the appellant filing an appeal bond with sufficient surety in such sum as may have been required of such receiver conditioned upon the due prosecution of such appeal and the payment of all costs or damages that may accrue to any officer or person by reason thereof, the authority of such receiver shall be suspended until the final determination of such appeal.

(Formerly: Acts 1947, c.208, s.3202.) As amended by P.L.144-1986, SEC.134.

IC 22-4-31-3
Injunction; collection of contributions

Sec. 3. No injunction to restrain or delay the collection of any contributions or other amounts claimed to be due under the provisions of this article shall be issued by any court.
(Formerly: Acts 1947, c.208, s.3203.) As amended by P.L.144-1986, SEC.135; P.L.290-2001, SEC.23; P.L.175-2009, SEC.38.

IC 22-4-31-4
Jeopardy assessments; delinquent contributions; liens

Sec. 4. If the department finds that the collection of any contributions will be jeopardized by delaying, it shall enter such finding of record and thereupon, whether or not such contributions are due, immediately assess such contributions with interest and notify the employer thereof and simultaneously demand payment of the amount due in writing. If such payment is not made on demand, the commissioner shall immediately issue a warrant to the sheriff of any county in the state commanding the sheriff to immediately levy upon and sell sufficient of the employer's property found within the sheriff's bailiwick to satisfy said warrant. The sheriff shall file the warrant in the office of the clerk of the circuit court within twenty-four (24) hours after the sheriff has levied upon the property of the employer, and the lien of the department shall begin with the date upon which the warrant comes into the possession of the sheriff. The lien shall have the same effect as any other lien created by this article.
(Formerly: Acts 1947, c.208, s.3204.) As amended by P.L.144-1986, SEC.136; P.L.18-1987, SEC.84; P.L.21-1995, SEC.118.

IC 22-4-31-5
Jeopardy assessments; delinquent contributions; stay pending hearing

Sec. 5. The collection of the whole or any part of the amount of such assessment may be stayed for not exceeding sixty (60) days, by filing with the board a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties as the board considers necessary, conditioned upon payment of the amount which may finally be found to be due after notice and opportunity to be heard as herein provided.
(Formerly: Acts 1947, c.208, s.3205.)

IC 22-4-31-6
Actions and proceedings; delinquent contributions; costs

Sec. 6. (a) If, after due notice, any employing unit defaults in the payment of any contributions or other money payments required by this article, the amount due may be collected by civil action in the name of the state of Indiana on the relation of the department. Such

civil action is not to be considered as the exclusive method for collection of the contributions or money payments but is in addition to the method provided in IC 22-4-29-2 through IC 22-4-29-14 and is to be brought only in such cases as the department may deem advisable in the interest of necessity and convenience.

(b) Unless the employing unit prevails in a civil action brought under this chapter, the court may award costs, including reasonable attorney's fees, incurred by the state in bringing the action.

(Formerly: Acts 1947, c.208, s.3206.) As amended by P.L.144-1986, SEC.137; P.L.18-1987, SEC.85; P.L.21-1995, SEC.119; P.L.290-2001, SEC.24; P.L.108-2006, SEC.52; P.L.138-2008, SEC.6.

IC 22-4-31-7

Remedies; cumulative remedies

Sec. 7. It is expressly provided that the foregoing remedies shall be cumulative and shall be in addition to all other existing remedies, and that no action taken by the department or its duly authorized representative, the attorney general for the state of Indiana, or any other officer shall be construed to be an election on the part of the state or any of its officers to pursue any remedy to the exclusion of any other remedy.

(Formerly: Acts 1947, c.208, s.3207.) As amended by P.L.108-2006, SEC.53.

IC 22-4-31-8

Repealed

(Repealed by Acts 1978, P.L.2, SEC.2251.)

IC 22-4-32

Chapter 32. Employer Liability, Rights, and Remedies

IC 22-4-32-1

Disputes; hearings

Sec. 1. A liability administrative law judge shall hear all matters pertaining to:

(1) the assessment of contributions, penalties, and interest;

(2) which accounts, if any, benefits paid, or finally ordered to be paid, should be charged;

(3) successorships, and related matters arising therefrom, including but not limited to:

(A) the transfer of accounts;

(B) the determination of rates of contribution; and

(C) determinations under IC 22-4-11.5; and

(4) claims for refunds of contributions or adjustments thereon in connection with subsequent contribution payments;

for which an employing unit has timely filed a protest under section 4 of this chapter.

(Formerly: Acts 1947, c.208, s.3301.) As amended by P.L.135-1990, SEC.23; P.L.290-2001, SEC.25; P.L.108-2006, SEC.54; P.L.42-2011, SEC.44.

IC 22-4-32-2

Disputes; subpoenas; interlocutory orders

Sec. 2. In addition to all other powers conferred upon the liability administrative law judge in accordance with this article and the rules issued pursuant to this article, the liability administrative law judge shall have the power to:

(1) administer oaths and affirmations;

(2) issue such subpoenas as are provided for by IC 22-4-17-7;

(3) rule upon offers of proof and receive relevant oral or documentary evidence;

(4) take or cause depositions to be taken whenever the ends of justice would be served thereby;

(5) regulate the course of a hearing and the conduct of the parties;

(6) hold informal prehearing conferences for the settlement or simplification of the issues by consent of the parties;

(7) examine or cause to have examined by order such parts of the books and records of the parties to a proceeding as relate to the questions in dispute;

(8) dispose of procedural motions, requests for adjustment;

(9) continue any hearing upon his own motion, or upon application of any interested party for good cause shown; and

(10) make such interlocutory and final orders as are necessary for the resolving or determination of the issues arising in the cause.

(Formerly: Acts 1947, c.208, s.3302.) As amended by P.L.144-1986, SEC.138; P.L.135-1990, SEC.24.

IC 22-4-32-3
Disputes; rules of practice and procedure; qualifications of person representing employer

Sec. 3. The proceedings before a liability administrative law judge shall be conducted in accordance with such rules of practice and procedure as the department may adopt under its rulemaking authority under IC 22-4-18-1. Any person representing any interested party in the prosecution or defense of any proceedings before a liability administrative law judge must be admitted to practice law in the courts of the state of Indiana, except that persons admitted to practice before the courts of other states may on special order be permitted to appear in any proceeding before the liability administrative law judge. This section shall not be construed to prohibit an interested party from electing to be heard in his own cause without counsel.

(Formerly: Acts 1947, c.208, s.3303.) As amended by P.L.144-1986, SEC.139; P.L.135-1990, SEC.25; P.L.108-2006, SEC.55.

IC 22-4-32-4
Disputes; protest; time limit

Sec. 4. An employing unit shall have fifteen (15) calendar days, beginning on the date an initial determination is mailed to the employing unit, within which to protest in writing an initial determination of the department with respect to:

(1) the assessments of contributions, penalties, and interest;
(2) the transfer of charges from an employer's account;
(3) merit rate calculations;
(4) successorships;
(5) the denial of claims for refunds and adjustments; and
(6) a determination under IC 22-4-11.5.

(Formerly: Acts 1947, c.208, s.3304.) As amended by P.L.18-1987, SEC.86; P.L.21-1995, SEC.120; P.L.108-2006, SEC.56.

IC 22-4-32-5
Disputes; protest; hearing

Sec. 5. Upon receipt of such protest in writing, the commissioner promptly shall refer the written protest to the liability administrative law judge who shall set a date for a hearing before the liability administrative law judge and notify the interested parties thereof by registered mail. Unless such written protest is withdrawn, the liability administrative law judge, after affording the parties a reasonable opportunity for a fair hearing, shall make findings and conclusions, and, on the basis thereof, affirm, modify, or reverse the initial determination of the board.

(Formerly: Acts 1947, c.208, s.3305.) As amended by P.L.18-1987, SEC.87; P.L.135-1990, SEC.26; P.L.21-1995, SEC.121.

IC 22-4-32-6
Disputes; parties

Sec. 6. Any interested party to the dispute shall mean and include

the protesting employing unit, the commissioner, and any person appearing to the liability administrative law judge to be necessary or indispensable to the determination of the issues involved in the hearing.
(Formerly: Acts 1947, c.208, s.3306; Acts 1957, c.299, s.11.) As amended by P.L.18-1987, SEC.88; P.L.135-1990, SEC.27; P.L.21-1995, SEC.122.

IC 22-4-32-7
Disputes; finding and decision; notice of appeal
Sec. 7. After the hearing the liability administrative law judge shall as soon as practicable notify the interested parties in writing of the finding and decision of the liability administrative law judge, which shall become final thirty (30) days thereafter in the absence of the filing of a notice of appeal as provided in this chapter.
(Formerly: Acts 1947, c.208, s.3307.) As amended by P.L.18-1987, SEC.89; P.L.135-1990, SEC.28; P.L.108-2006, SEC.57.

IC 22-4-32-8
Disputes; appeals; notice
Sec. 8. A notice of appeal shall be served on the adverse party at any time before the decision of the liability administrative law judge becomes final, and shall stay the finality of the decision for thirty (30) days from the service of such notice. If such appeal is perfected, further proceedings shall be stayed pending the final determination of said appeal. If an appeal from the decision of the liability administrative law judge is not perfected within the time provided for by this article, no action or proceeding shall be further stayed.
(Formerly: Acts 1947, c.208, s.3308; Acts 1951, c.295, s.19.) As amended by P.L.144-1986, SEC.140; P.L.135-1990, SEC.29; P.L.108-2006, SEC.58.

IC 22-4-32-9
Disputes; appeals; use of evidence in separate or subsequent actions
Sec. 9. (a) Any decision of the liability administrative law judge shall be conclusive and binding as to all questions of fact. An interested party to the dispute may, within thirty (30) days after notice of intention to appeal as herein provided, appeal the decision to the supreme court or the court of appeals solely for errors of law under the same terms and conditions as govern appeals in ordinary civil actions.

(b) Any finding of fact, judgment, conclusion, or final order made by a person with the authority to make findings of fact or law in an action or proceeding under this article is not conclusive or binding and shall not be used as evidence in a separate or subsequent action or proceeding between an individual and the individual's present or prior employer in an action or proceeding brought before an arbitrator, a court, or a judge of this state or the United States regardless of whether the prior action was between the same or

related parties or involved the same facts.
(Formerly: Acts 1947, c.208, s.3309; Acts 1951, c.295, s.20.) As amended by P.L.3-1989, SEC.135; P.L.135-1990, SEC.30; P.L.21-1995, SEC.123.

IC 22-4-32-10
Disputes; hearings; transcript of record

Sec. 10. A full and complete record shall be kept of all proceedings had before the liability administrative law judge, and all testimony shall be retained in a suitable media such as an audio recording or a transcription by a court reporter. The liability administrative law judge shall, at the timely written request of the appellant, have a transcript prepared of all the proceedings had before the liability administrative law judge, which shall contain a transcript of all the testimony, together with all objections and rulings thereon, documents and papers introduced as evidence or offered as evidence, and all rulings as to their admission into evidence, which said transcript shall be certified by the liability administrative law judge and shall constitute the record on appeal.
(Formerly: Acts 1947, c.208, s.3310; Acts 1951, c.295, s.21.) As amended by P.L.135-1990, SEC.31; P.L.105-1994, SEC.4.

IC 22-4-32-11
Disputes; appeals; deposit

Sec. 11. The department, by rule, may require the appellant to deposit with the department an amount sufficient to pay the actual costs of preparing the transcript of the record of the proceedings before the liability administrative law judge before preparing the same.
(Formerly: Acts 1947, c.208, s.3311; Acts 1951, c.295, s.22.) As amended by P.L.18-1987, SEC.90; P.L.135-1990, SEC.32; P.L.108-2006, SEC.59.

IC 22-4-32-12
Disputes; assignment of errors

Sec. 12. The appellant shall attach to said transcript an assignment of errors. An assignment of errors that the decision of the liability administrative law judge is contrary to law shall be sufficient to present both the sufficiency of the facts found to sustain the decision, and the sufficiency of the evidence to sustain the finding of facts.
(Formerly: Acts 1947, c.208, s.3312; Acts 1951, c.295, s.23.) As amended by P.L.135-1990, SEC.33.

IC 22-4-32-13
Disputes; appeals; priorities

Sec. 13. All appeals shall be submitted upon the date filed in the supreme court or the court of appeals, shall be advanced upon the docket of the court, and shall be determined without delay in the order of priority. The supreme court or the court of appeals may in any such appeal remand the proceedings to the liability

administrative law judge for the taking of additional evidence, setting time limits therefor, and ordering such additional evidence to be certified by the liability administrative law judge to the remanding court to be used in the determination of the cause.
(Formerly: Acts 1947, c.208, s.3313; Acts 1951, c.295, s.24.) As amended by P.L.3-1989, SEC.136; P.L.135-1990, SEC.34.

IC 22-4-32-14
Repealed
(Repealed by Acts 1972, P.L.8, SEC.9.)

IC 22-4-32-15
Assessment of contribution; appeal; security for cost
Sec. 15. No judicial review proceeding shall be entertained by the court with respect to the assessment of any contributions, interest or penalties, unless the court finds that the payment of such assessment is secured by bond, deposit or otherwise as the court may approve. The bond shall be in such an amount necessary to insure the payment of the assessment stayed, and court costs, if any, which may be incurred in this action.
(Formerly: Acts 1947, c.208, s.3315; Acts 1955, c.317, s.13.)

IC 22-4-32-16
Insolvency proceedings; delinquent contributions; priorities
Sec. 16. In the event of any distribution of any employer's assets pursuant to an order of any court under the laws of this state including but not necessarily limited to any receivership, assignment for benefit of creditors, adjudicated insolvency, composition or similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims except claims for remuneration.
(Formerly: Acts 1947, c.208, s.3318.) As amended by P.L.290-2001, SEC.26; P.L.175-2009, SEC.39.

IC 22-4-32-17
Fiduciaries; final report; notice of payment of contribution
Sec. 17. No final report or act of any executor, administrator, receiver, other fiduciary, or other officer engaged in administering the assets of any employer subject to the payment of contributions under this article and acting under the authority and supervision of any court shall be allowed or approved by the court unless such report or account shows and the court finds that all contributions, interest, and penalties imposed by this article have been paid pursuant to this section, and that all contributions which may become due under this article are secured by bond or deposit.
(Formerly: Acts 1947, c.208, s.3319.) As amended by P.L.144-1986, SEC.141; P.L.290-2001, SEC.27; P.L.175-2009, SEC.40.

IC 22-4-32-18
Dissolution of companies; payment of contributions; certificate
Sec. 18. To the end that the purposes of this article may be

effectively enforced and administered, it is the declared intention of the general assembly that in all cases of legal distributions and dissolutions the commissioner shall have actual notice before any fiduciary administering the affairs of an employer subject to the payment of contributions under this article may file the fiduciary's final report with the court under whose authority and supervision such fiduciary acts. From and after April 1, 1947, no such final report shall be filed unless a copy thereof has been served upon the commissioner by mailing a copy thereof by registered mail to the commissioner at the commissioner's office in Indianapolis at least ten (10) days prior to the filing of the same with the court. Such final report shall contain a statement that a copy thereof was served in the manner provided in this section upon the commissioner, and before such final report may be approved by the court there shall be filed in said cause a certificate from the commissioner that this section has been fully complied with in the administration of the affairs of said employer. In the event that the commissioner shall not have been served with a copy of the final report as provided in this section and the fiduciary or other officer of the court administering the affairs of any such employer shall have been discharged and the fiduciary's or other officer's final report approved, the commissioner may at any time within one (1) year from the date upon which such final report was approved file a petition with the court alleging that there was not full compliance with this section and the court, upon being satisfied that the commissioner was not fully advised of the proceedings relative to the filing and approval of the final report as provided in this section, shall set aside its approval of said final report with the result that the proceedings shall be reinstated as though no final report had been filed in the first instance and shall proceed from that point in the manner provided by law and not inconsistent with the provisions of this section.

(Formerly: Acts 1947, c.208, s.3320.) As amended by P.L.144-1986, SEC.142; P.L.18-1987, SEC.91; P.L.21-1995, SEC.124; P.L.290-2001, SEC.28; P.L.42-2011, SEC.45.

IC 22-4-32-19

Adjustments or refunds; application; time limit

Sec. 19. (a) The department may grant an application for adjustment or refund, make an adjustment or refund, or set off a refund as follows:

(1) Not later than four (4) years after the date upon which any contributions or interest thereon were paid, an employing unit which has paid such contributions or interest thereon may make application for an adjustment or a refund of such contributions or an adjustment thereon in connection with subsequent contribution payments. The department shall thereupon determine whether or not such contribution or interest or any portion thereof, was erroneously paid or wrongfully assessed.

(2) The department may grant such application in whole or in part and may make an adjustment, without interest, in

connection with subsequent contribution payments or refund such amounts, without interest, from the fund. Adjustments or refund may be made on the commissioner's own initiative.

(3) Any adjustments or refunds of interest or penalties collected for contributions due under IC 22-4-10-1 shall be charged to and paid from the special employment and training services fund created by IC 22-4-25.

(4) The department may set off any refund available to an employer under this section against any delinquent contributions, payments in lieu of contributions, and the interest and penalties, if any, related to the delinquent payments and assessments.

(b) Any decision by the department to:

(1) grant an application for adjustment or refund;

(2) make an adjustment or refund on its own initiative; or

(3) set off a refund;

constitutes the initial determination referred to in section 4 of this chapter and is subject to hearing and review as provided in sections 1 through 15 of this chapter.

(c) If any assessment has become final by virtue of a decision of a liability administrative law judge with the result that no proceeding for judicial review as provided in this article was instituted, no refund or adjustment with respect to such assessment shall be made.

(Formerly: Acts 1947, c.208, s.3321; Acts 1967, c.310, s.23.) As amended by P.L.144-1986, SEC.143; P.L.18-1987, SEC.92; P.L.135-1990, SEC.35; P.L.21-1995, SEC.125; P.L.290-2001, SEC.29; P.L.202-2005, SEC.6; P.L.108-2006, SEC.60; P.L.175-2009, SEC.41.

IC 22-4-32-20

Contributions; penalties; personal liability of employer

Sec. 20. The contributions, penalties, and interest due from any employer under the provisions of this article from the time they shall be due shall be a personal liability of the employer to and for the benefit of the fund and the employment and training services administration fund.

(Formerly: Acts 1947, c.208, s.3322.) As amended by P.L.144-1986, SEC.144; P.L.18-1987, SEC.93; P.L.290-2001, SEC.30; P.L.175-2009, SEC.42.

IC 22-4-32-21

Successor employer; notice of purchase; account clearance statements; liability for contributions; liens

Sec. 21. (a) Any individual, group of individuals, or other legal entity, whether or not an employing unit which acquires all or part of the organization, trade, or business within this state of an employer or which acquires all or part of the assets of such organization, trade or business, shall notify the commissioner in writing by registered mail not later than five (5) days prior to the acquisition.

(b) Unless such notice is given, the commissioner shall have the

right to proceed against either the predecessor or successor, in personam or in rem, for the collection of contributions and interest due or accrued and unpaid by the predecessor, as of the date of such acquisition, and the amount of such liability shall, in addition, be a lien against the property or assets so acquired which shall be prior to all other liens. However, the lien shall not be valid as against one who acquires from the successor any interest in the property or assets in good faith, for value and without notice of the lien.

(c) On written request after the acquisition is completed, the commissioner shall furnish the successor with a written statement of the amount of contributions and interest due or accrued and unpaid by the predecessor as of the date of such acquisition, and the liability of the successor and the amount of the lien shall in no event exceed the reasonable value of the property or assets acquired by the successor from the predecessor or the amount disclosed by such statement, whichever is the lesser.

(d) An acquirer described in subsection (a) or a professional employer organization under IC 22-4-6.5 may file a request for clearance in the manner prescribed by the department at least five (5) business days before an acquisition or transfer. After filing a request, the acquirer or professional employer organization is entitled to receive a statement indicating whether an account being acquired or transferred is in good standing with the department as of the date of the transfer. If the statement shows that the account that is being acquired or transferred is in good standing with the department at the time of the transfer, and the department later discovers an outstanding liability associated with the acquired or transferred account, the department:

(1) may not assess a delinquent employer rate modification under IC 22-4-11-2 based on the account for which a statement was made under this subsection; and

(2) in the case of a PEO, shall administratively separate the acquired or transferred client account from the PEO until the liability is recovered.

(e) The remedies prescribed by this section are in addition to all other existing remedies against the predecessor or successor.

(Formerly: Acts 1947, c.208, s.3323; Acts 1951, c.295, s.24 1/2.) As amended by P.L.18-1987, SEC.94; P.L.5-1988, SEC.114; P.L.21-1995, SEC.126; P.L.33-2013, SEC.5.

IC 22-4-32-22
Repealed

(Repealed by P.L.107-1987, SEC.50.)

IC 22-4-32-23
Dissolution, liquidation, or withdrawal of corporation; notification; clearance

Sec. 23. (a) As used in this section:

(1) "Dissolution" refers to dissolution of a corporation under IC 23-1-45 through IC 23-1-48 or dissolution under Indiana law

of an association, a joint venture, an estate, a partnership, a limited liability partnership, a limited liability company, a joint stock company, or an insurance company (referred to as a "noncorporate entity" in this section).

(2) "Liquidation" means the operation or act of winding up a corporation's or entity's affairs, when normal business activities have ceased, by settling its debts and realizing upon and distributing its assets.

(3) "Withdrawal" refers to the withdrawal of a foreign corporation from Indiana under IC 23-1-50.

(b) The officers and directors of a corporation effecting dissolution, liquidation, or withdrawal or the appropriate individuals of a noncorporate entity shall do the following:

(1) File all necessary documents with the department in a timely manner as required by this article.

(2) Make all payments of contributions to the department in a timely manner as required by this article.

(3) File with the department a form of notification within thirty (30) days of the adoption of a resolution or plan. The form of notification shall be prescribed by the department and may require information concerning:

(A) the corporation's or noncorporate entity's assets;

(B) the corporation's or noncorporate entity's liabilities;

(C) details of the plan or resolution;

(D) the names and addresses of corporate officers, directors, and shareholders or the noncorporate entity's owners, members, or trustees;

(E) a copy of the minutes of the shareholders' meeting or the noncorporate entity's meeting at which the plan or resolution was formally adopted; and

(F) such other information as the board may require.

The commissioner may accept, in lieu of the department's form of notification, a copy of Form 966 that the corporation filed with the Internal Revenue Service.

(c) Unless a clearance is issued under subsection (g), for a period of one (1) year following the filing of the form of notification with the department, the corporate officers and directors of a corporation and the chief executive of a noncorporate entity remain personally liable, subject to IC 23-1-35-1(e), for any acts or omissions that result in the distribution of corporate or noncorporate entity assets in violation of the interests of the state. An officer or director of a corporation or a chief executive of a noncorporate entity held liable for an unlawful distribution under this subsection is entitled to contribution:

(1) from every other director who voted for or assented to the distribution, subject to IC 23-1-35-1(e); and

(2) from each shareholder, owner, member, or trustee for the amount the shareholder, owner, member, or trustee accepted.

(d) The corporation's officers' and directors' and the noncorporate entity's chief executive's personal liability includes all contributions,

penalties, interest, and fees associated with the collection of the liability due the department. In addition to the penalties provided elsewhere in this article, a penalty of up to thirty percent (30%) of the unpaid contributions may be imposed on the corporate officers and directors and the noncorporate entity's chief executive for failure to take reasonable steps to set aside corporate assets to meet the liability due the department.

(e) If the department fails to begin a collection action against a corporate officer or director or a noncorporate entity's chief executive within one (1) year after the filing of a completed form of notification with the department, the personal liability of the corporate officer or director or noncorporate entity's chief executive expires. The filing of a substantially blank form of notification or a form containing misrepresentation of material facts does not constitute filing a form of notification for the purpose of determining the period of personal liability of the officers and directors of the corporation or the chief executive of the noncorporate entity.

(f) In addition to the remedies contained in this section, the department is entitled to pursue corporate assets that have been distributed to shareholders or noncorporate entity assets that have been distributed to owners, members, or beneficiaries, in violation of the interests of the state. The election to pursue one (1) remedy does not foreclose the state's option to pursue other legal remedies.

(g) The department may issue a clearance to a corporation or noncorporate entity effecting dissolution, liquidation, or withdrawal if:

(1) the:

(A) officers and directors of the corporation have; or

(B) chief executive of the noncorporate entity has;

met the requirements of subsection (b); and

(2) request for the clearance is made in writing by the officers and directors of the corporation or chief executive of the noncorporate entity within thirty (30) days after the filing of the form of notification with the department.

(h) The issuance of a clearance by the department under subsection (g) releases the officers and directors of a corporation and the chief executive of a noncorporate entity from personal liability under this section.

As added by P.L.107-1987, SEC.2. Amended by P.L.21-1995, SEC.127; P.L.290-2001, SEC.31; P.L.1-2002, SEC.93; P.L.175-2009, SEC.43; P.L.42-2011, SEC.46.

IC 22-4-32-24

Notices

Sec. 24. (a) This section applies to notices given under sections 4, 7, 8, and 9 of this chapter.

(b) As used in this section, "notices" includes mailings pertaining to:

(1) the assessment of contributions, penalties, and interest;

(2) the transfer of charges from an employer's account;

(3) successorships and related matters arising from successorships;
(4) claims for refunds and adjustments;
(5) violations under IC 22-4-11.5;
(6) decisions; and
(7) notices of intention to appeal or seek judicial review.

(c) If a notice under this chapter is served through the United States Postal Service, three (3) days must be added to a period that commences upon service of that notice.

(d) The filing of a document with the unemployment insurance appeals division or review board is complete on the earliest of the following dates that apply to the filing:

(1) The date on which the document is delivered to the unemployment insurance appeals division or review board.
(2) The date of the postmark on the envelope containing the document if the document is mailed to the unemployment insurance appeals division or review board by the United States Postal Service.
(3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the unemployment insurance appeals division or review board by a private carrier.

As added by P.L.135-1990, SEC.36. Amended by P.L.290-2001, SEC.32; P.L.108-2006, SEC.61; P.L.175-2009, SEC.44.

IC 22-4-33

Chapter 33. Protection of Rights and Benefits

IC 22-4-33-1

Waiver, release, or commutation of rights; payment of employer's contributions

Sec. 1. Except as provided in IC 22-4-39, any agreement by an individual to waive, release or commute the individual's rights to benefits or any other rights under this article is void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions required under this article from the employer is void. No employer may make or require or accept any deduction from the remuneration of individuals in the employer's employ to finance the employer's contributions required from the employer, or require or accept any waiver by any individual in the employer's employ of any right under this article.

(Formerly: Acts 1947, c.208, s.3401.) As amended by Acts 1978, P.L.2, SEC.2219; Acts 1982, P.L.95, SEC.7; P.L.290-2001, SEC.33; P.L.175-2009, SEC.45.

IC 22-4-33-2

Benefits; fees for claiming benefits; attorney's fees

Sec. 2. (a) Except for fees charged under IC 22-4-17-12, no individual claiming benefits may be charged fees of any kind in a proceeding by the board, the review board, an administrative law judge, or the representative of any of them or by any court or any officer thereof.

(b) An individual claiming benefits in a proceeding before the board, the review board, an administrative law judge, or a court may be represented by counsel or other authorized agent, but no counsel or agent may charge or receive for his service more than an amount approved by the board or review board.

(Formerly: Acts 1947, c.208, s.3402.) As amended by Acts 1978, P.L.2, SEC.2220; P.L.34-1985, SEC.10; P.L.135-1990, SEC.37.

IC 22-4-33-3

Assignment or pledge of rights to benefits; levy; execution; exemptions

Sec. 3. Except as provided in IC 22-4-39, any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this article shall be void; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt until such benefits are actually received by the recipient. Any waiver of any exemption provided for in this section shall be void.

(Formerly: Acts 1947, c.208, s.3403.) As amended by Acts 1982, P.L.95, SEC.8.

IC 22-4-34
Chapter 34. Penalties

IC 22-4-34-1
Repealed
(Repealed by Acts 1978, P.L.2, SEC.2251.)

IC 22-4-34-2
False statements or representations; failure to disclose; violation of contributions, payments, reports, or records
Sec. 2. An employing unit or other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject to this article or to avoid or reduce any contribution or other payment required from an employing unit under this article, or under the employment security law of any other state, or of the federal government or of a foreign government, or who knowingly fails to make any such contributions or other payment or to keep or furnish any reports required under this article or to produce or permit the inspection or copying of records as required under this article, commits a Class C misdemeanor. Each day of a failure constitutes a separate offense.
(Formerly: Acts 1947, c.208, s.3502; Acts 1951, c.295, s.26.) As amended by Acts 1978, P.L.2, SEC.2221.

IC 22-4-34-3
Waiver of rights; encouragement or inducement
Sec. 3. It is a Class C misdemeanor for an employing unit or other person to recklessly encourage or induce any individual to waive or forego any accrued or potential benefit rights under this article.
(Formerly: Acts 1947, c.208, s.3503.) As amended by Acts 1978, P.L.2, SEC.2222.

IC 22-4-34-4
Violations
Sec. 4. A person who knowingly violates this article commits a Class C misdemeanor, except as otherwise provided. Each day a violation continues constitutes a separate offense.
(Formerly: Acts 1947, c.208, s.3504.) As amended by Acts 1978, P.L.2, SEC.2223.

IC 22-4-34-5
Subpoenas; disobedience
Sec. 5. A person who knowingly fails to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, in obedience to a subpoena of the board, the department, the review board, an administrative law judge, or any duly authorized representative of any of them, commits a Class C misdemeanor. Each day a violation

continues constitutes a separate offense.
(Formerly: Acts 1947, c.208, s.3505.) As amended by Acts 1978, P.L.2, SEC.2224; P.L.135-1990, SEC.38; P.L.108-2006, SEC.62.

IC 22-4-35

Chapter 35. Representation of State in Legal Actions

IC 22-4-35-1

Civil actions; attorneys representing state

Sec. 1. In any civil action to enforce the provisions of this article, the department, commissioner, state workforce innovation council, unemployment insurance board, unemployment insurance review board, and the state may be represented by any qualified attorney who is a regular salaried employee of the department and is designated by it for this purpose or, at the director's request, by the attorney general of the state. In case the governor designates special counsel to defend, on behalf of the state, the validity of this article, the expenses and compensation of such special counsel and of any experts employed by the commissioner in connection with such proceedings may be charged to the employment and training services administration fund.

(Formerly: Acts 1947, c.208, s.3601.) As amended by P.L.144-1986, SEC.145; P.L.18-1987, SEC.95; P.L.38-1993, SEC.59; P.L.21-1995, SEC.128; P.L.161-2006, SEC.14.

IC 22-4-35-2

Criminal actions; prosecution

Sec. 2. All criminal actions for violations of this article shall be prosecuted by the prosecuting attorney of any county, or with the assistance of the attorney general or a United States attorney, if requested by the commissioner, in which the employer has a place of business or the alleged violator resides.

(Formerly: Acts 1947, c.208, s.3602.) As amended by Acts 1978, P.L.2, SEC.2225; P.L.18-1987, SEC.96; P.L.21-1995, SEC.129; P.L.108-2006, SEC.63.

IC 22-4-36

Chapter 36. Miscellaneous Provisions

IC 22-4-36-1

Benefits; payment

Sec. 1. Benefits shall be deemed to be due and payable under this article only to the extent provided in this article and to the extent that money is available therefor to the credit of the unemployment insurance benefit fund, and neither the state nor the department shall be liable for any amount in excess of such sums.

(Formerly: Acts 1947, c.208, s.3701.) As amended by P.L.144-1986, SEC.146; P.L.18-1987, SEC.97.

IC 22-4-36-2

Vested right; privileges and immunities; legislative prerogative

Sec. 2. The general assembly reserves the right to amend or repeal all or any part of this article at any time, and there shall be no vested private rights of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this article or by acts done pursuant thereto shall exist subject to the power of the general assembly to amend or repeal this article at any time.

(Formerly: Acts 1947, c.208, s.3702.) As amended by P.L.144-1986, SEC.147.

IC 22-4-36-3

Federal aid; use of funds; lease of quarters

Sec. 3. All money received from the United States government and paid into the state treasury, as provided in this article, is appropriated and shall be expended by the commissioner for the respective purposes for which such money was allocated and paid to the state. The department is authorized to rent or lease such rooms or quarters as may be necessary, from time to time, to accommodate the department and its several activities.

(Formerly: Acts 1947, c.208, s.3703.) As amended by P.L.144-1986, SEC.148; P.L.18-1987, SEC.98; P.L.21-1995, SEC.130.

IC 22-4-36-4

Severability of act

Sec. 4. The provisions of this article are severable in the manner provided by IC 1-1-1-8(b).

(Formerly: Acts 1947, c.208, s.3704.) As amended by P.L.144-1986, SEC.149.

IC 22-4-36-5

Destruction of central office; records and equipment; carrying on business

Sec. 5. In the event of the destruction of the central office of the department and the records and equipment contained therein, the commissioner shall at the direction of the governor institute such policies or procedures without regard to any particular provision or

provisions of this article as will in the commissioner's judgment be possible to perform and best suited to carry out the general intent and purposes of this article during the emergency created by the destruction of said central office.

(Formerly: Acts 1947, c.208, s.3705; Acts 1955, c.317, s.14.) As amended by P.L.144-1986, SEC.150; P.L.18-1987, SEC.99; P.L.21-1995, SEC.131.

IC 22-4-37

Chapter 37. Relationship of Federal Law to State Law

IC 22-4-37-1

Purpose; securing benefits; rules

Sec. 1. It is declared to be the purpose of this article to secure to the state of Indiana and to employers and employees therein all the rights and benefits which are conferred under the provisions of 42 U.S.C. 501 through 504, 42 U.S.C. 1101 through 1109, 26 U.S.C. 3301 through 3311, and 29 U.S.C. 49 et seq., and the amendments thereto. Whenever the department shall find it necessary, it shall have power to formulate rules after public hearing and opportunity to be heard whereof due notice is given as is provided in this article for the adoption of rules pursuant to IC 4-22-2, and with the approval of the governor of Indiana, to adopt such rules as shall effectuate the declared purposes of this article.

(Formerly: Acts 1947, c.208, s.3801; Acts 1971, P.L.355, SEC.46.) As amended by P.L.144-1986, SEC.151; P.L.108-2006, SEC.64.

IC 22-4-37-2

Amendment or repeals; contributions and benefits; suspension of payment

Sec. 2. (a) If at any time the governor of Indiana shall find that the tax imposed by 42 U.S.C. 1101 through 1109, as amended, has been amended or repealed by Congress or has been held unconstitutional by the Supreme Court of the United States with the result that no portion of the contributions required by this article may be credited against such tax, or if this article is declared inoperative by the supreme court of Indiana, the governor of Indiana shall publicly so proclaim, and upon the date of such proclamation the provisions of this article requiring the payment of contributions and benefits shall be suspended for a period ending not later than the last day of the next following regular or special session of the general assembly of the state of Indiana. The board shall thereupon requisition from the unemployment trust fund all moneys therein standing to its credit and shall direct the treasurer of state of Indiana to deposit such moneys, together with any other moneys in the fund, as a special fund in any banks or public depositories in this state in which general funds of the state may be deposited.

(b) Unless prior to the expiration of such period, the general assembly of the state of Indiana has made provision for an employment security law in this state and has directed that the funds so deposited shall be used for the payment of benefits in this state, the provisions of this article shall cease to be operative, and the board shall, under rules prescribed by it, refund without interest to each person by whom contributions have been paid its pro rata share of the total contributions paid under this article.

(Formerly: Acts 1947, c.208, s.3802.) As amended by P.L.144-1986, SEC.152.

IC 22-4-37-3
Invalidity of federal acts; contribution rate

Sec. 3. (a) Should:

(1) the Congress of the United States amend, repeal, or authorize the implementation of a demonstration project under 29 U.S.C. 49 et seq., 26 U.S.C. 3301 through 3311, 42 U.S.C. 301 et seq., or 26 U.S.C. 3101 through 3504, or any statute or statutes supplemental to or in lieu thereof or any part or parts of said statutes, or should any or all of said statutes or any part or parts thereof be held invalid, to the end and with such effect that appropriations of funds by the said Congress and grants thereof to the state for the payment of costs of administration of the department are or no longer shall be available for such purposes;

(2) the primary responsibility for the administration of 26 U.S.C. 3301 through 26 U.S.C. 3311 be transferred to the state as a demonstration project authorized by Congress; or

(3) employers in Indiana subject to the payment of tax under 26 U.S.C. 3301 through 3311 be granted full credit upon such tax for contributions or taxes paid to the department;

then, beginning with the effective date of such change in liability for payment of such federal tax and for each year thereafter, the normal contribution rate under this article shall be established by the department and may not exceed three and one-half percent (3.5%) per year of each employer's payroll subject to contribution. With respect to each employer having a rate of contribution for such year pursuant to terms of IC 22-4-11-2(b)(2)(A), IC 22-4-11-2(b)(2)(B), IC 22-4-11-2(c), IC 22-4-11-3, IC 22-4-11-3.3, IC 22-4-11-3.5, and IC 22-4-11.5, to the rate of contribution, as determined for such year in which such change occurs, shall be added not more than eight-tenths percent (0.8%) as prescribed by the department.

(b) The amount of the excess of tax for which such employer is or may become liable by reason of this section over the amount which such employer would pay or become liable for except for the provisions of this section, together with any interest or earnings thereon, shall be paid and transferred into the employment and training services administration fund to be disbursed and paid out under the same conditions and for the same purposes as is other money provided to be paid into such fund. If the commissioner shall determine that as of January 1 of any year there is an excess in said fund over the money and funds required to be disbursed therefrom for the purposes thereof for such year, then and in such cases an amount equal to such excess, as determined by the commissioner, shall be transferred to and become part of the unemployment insurance benefit fund, and such funds shall be deemed to be and are hereby appropriated for the purposes set out in this section.

(Formerly: Acts 1947, c.208, s.3803; Acts 1967, c.310, s.25.) As amended by P.L.144-1986, SEC.153; P.L.18-1987, SEC.100; P.L.21-1995, SEC.132; P.L.214-2005, SEC.65; P.L.108-2006, SEC.65; P.L.175-2009, SEC.46.

IC 22-4-38

Chapter 38. Captions, Short Title, and Saving Provisions

IC 22-4-38-1

Interpretation of article; captions

Sec. 1. No caption of any section, subsection, or part of Acts 1947, c.208 shall in any way affect the interpretation of this article or any part thereof.

(Formerly: Acts 1947, c.208, s.3901.) As amended by P.L.144-1986, SEC.154.

IC 22-4-38-2

Short title

Sec. 2. This article shall be known as and may be cited as the Indiana Employment and Training Services Act.

(Formerly: Acts 1947, c.208, s.3902.) As amended by P.L.144-1986, SEC.155; P.L.18-1987, SEC.101.

IC 22-4-38-3

Repealed

(Repealed by P.L.34-1985, SEC.11.)

IC 22-4-39

Chapter 39. Deduction of Child Support Obligations

IC 22-4-39-1

Definitions

Sec. 1. As used in this chapter:

(1) "Child support obligations" includes only obligations which are being enforced pursuant to a plan described in Section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under Title IV-D of the Social Security Act.

(2) "Legal process" means a writ, an order, a summons, or other process in the nature of garnishment that is issued by:

(A) a court with jurisdiction in a state, territory, or possession of the United States;

(B) a court with jurisdiction in a foreign country with which the United States has entered into an agreement that requires the United States to honor the process; or

(C) an authorized official acting under an order of a court with jurisdiction or under state or local law.

(3) "State or local child support enforcement agency" means any agency of any state or a political subdivision of the state operating pursuant to a plan described in subdivision (1).

(4) "Unemployment compensation" means any compensation payable under this article (including amounts payable by the department pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment).

As added by Acts 1982, P.L.95, SEC.9. Amended by P.L.18-1987, SEC.102; P.L.235-1999, SEC.12.

IC 22-4-39-2

Disclosure of obligations; notification of child support enforcement agency

Sec. 2. An individual filing a new claim for unemployment compensation shall, at the time of filing the claim, disclose whether the individual owes child support obligations as defined in section 1 of this chapter. If the individual discloses that the individual owes child support obligations and is determined to be eligible for unemployment compensation, the department shall notify the state or local child support enforcement agency enforcing that obligation that the individual has been determined to be eligible for unemployment compensation.

As added by Acts 1982, P.L.95, SEC.9. Amended by P.L.18-1987, SEC.103.

IC 22-4-39-3

Deductions; amount

Sec. 3. The department shall deduct and withhold from any unemployment compensation payable to an individual that owes

child support obligations:

(1) the amount specified by the individual to the department to be deducted and withheld under this section, if neither subdivision (2) nor (3) is applicable;

(2) the amount (if any) determined pursuant to an agreement submitted to the department under Section 454(20)(B)(1) of the Social Security Act by the state or local child support enforcement agency, unless subdivision (3) is applicable; or

(3) any amount otherwise required to be so deducted and withheld from the unemployment compensation pursuant to legal process properly served upon the department.

As added by Acts 1982, P.L.95, SEC.9. Amended by P.L.18-1987, SEC.104; P.L.235-1999, SEC.13.

IC 22-4-39-4

Deductions; payment to child support enforcement agency

Sec. 4. (a) Any amount deducted and withheld under section 3 of this chapter shall be paid by the department to the appropriate state or local child support enforcement agency.

(b) Any amount deducted and withheld under section 3 of this chapter shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the state or local child support enforcement agency as a payment on the individual's child support obligations.

As added by Acts 1982, P.L.95, SEC.9. Amended by P.L.18-1987, SEC.105.

IC 22-4-39-5

Application of chapter

Sec. 5. This chapter applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the department under this chapter which are attributable to child support obligations being enforced by the state or local child support enforcement agency.

As added by Acts 1982, P.L.95, SEC.9. Amended by P.L.18-1987, SEC.106.

IC 22-4-39.5

Chapter 39.5. Reimbursements by Employers of Unauthorized Aliens

IC 22-4-39.5-1

"E-Verify program"

Sec. 1. As used in this chapter, "E-Verify program" means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s. 403(a), as amended, operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603).

As added by P.L.171-2011, SEC.15.

IC 22-4-39.5-2

"Knowingly employ an unauthorized alien"

Sec. 2. As used in this chapter, "knowingly employ an unauthorized alien" has the meaning prescribed in 8 U.S.C. 1324a as in effect on July 1, 2011. This term shall be interpreted consistently with 8 U.S.C. 1324a and any applicable federal rules or regulations.

As added by P.L.171-2011, SEC.15.

IC 22-4-39.5-3

Civil action to obtain reimbursement from employer that knowingly employed an unauthorized alien; filing; federal government verification; awards; deposit

Sec. 3. (a) The department may file a civil action to obtain reimbursement of amounts paid by the department as unemployment insurance benefits from an employer that has knowingly employed an unauthorized alien.

(b) The action must be filed in the county in which the employer employed the unauthorized alien.

(c) In determining whether an individual is an unauthorized alien for purposes of this chapter, a court may consider only the federal government's verification or status information under 8 U.S.C. 1373(c).

(d) After holding a hearing and making a finding that the employer knowingly employed an unauthorized alien, the court shall award the following to the department:

(1) The reimbursement of unemployment insurance benefits paid by the department computed using the salary of the position held by the unauthorized alien during the period the unauthorized alien was employed by the employer.

(2) Reasonable costs and attorney's fees.

(e) The department shall deposit the reimbursement awarded under subsection (d)(1) in the unemployment insurance benefit fund

established by IC 22-4-26-1.
As added by P.L.171-2011, SEC.15.

IC 22-4-39.5-4
Prohibited from filing an action

Sec. 4. (a) The department may not file an action under section 3 of this chapter against an employer that has knowingly employed an unauthorized alien if the alien was employed by the employer before July 1, 2011.

(b) The department may not file an action under section 3 of this chapter against an employer who used the E-Verify program to verify the employment eligibility of an individual who is determined to be an unauthorized alien.
As added by P.L.171-2011, SEC.15.

IC 22-4-39.5-5
Department powers

Sec. 5. The department has the power to:

(1) administer oaths and affirmations;
(2) take depositions; and
(3) issue and serve subpoenas that compel:
    (A) the attendance of witnesses; and
    (B) the production of books, papers, correspondence, memoranda, and other records;

as necessary for the department to administer this chapter.
As added by P.L.171-2011, SEC.15.

IC 22-4-40
Repealed

(Repealed by P.L.161-2006, SEC.33.)

IC 22-4-41

Chapter 41. Indiana Jobs Training Program

IC 22-4-41-1

Purpose

Sec. 1. The purpose of this chapter is to create the Indiana jobs training program to provide job training and related services to dislocated workers.

As added by P.L.18-1987, SEC.111.

IC 22-4-41-2

"Dislocated workers" defined

Sec. 2. As used in this chapter, "dislocated workers" means workers who:

(1) have been terminated or laid off or who have received a notice of termination or layoff from employment, are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation;

(2) have been terminated, or who have received a notice of termination of employment, as a result of any permanent closure of a plant or facility;

(3) are long term unemployed individuals and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individuals reside, including any older individuals who may have substantial barriers to employment by reason of age;

(4) were self-employed (including farmers) and are unemployed as a result of general economic conditions in the community in which they reside or because of natural disasters; or

(5) are in danger of becoming dislocated due to a permanent closure of a plant or facility or a significant reduction in the workforce.

As added by P.L.18-1987, SEC.111. Amended by P.L.21-1995, SEC.133.

IC 22-4-41-3

Repealed

(Repealed by P.L.161-2006, SEC.33.)

IC 22-4-41-4

Appropriations

Sec. 4. Any appropriations made by the general assembly under this chapter shall be used for the provision of training and services for dislocated workers and may be used as matching funds for any future applicable federal program administered by the department.

As added by P.L.18-1987, SEC.111. Amended by P.L.161-2006, SEC.15.

IC 22-4-41-5

Administration; approval for grant or program

Sec. 5. The department shall administer this chapter. Each grant or program requires the approval of the governor and the state budget agency.

As added by P.L.18-1987, SEC.111.

IC 22-4-41-6

Rules

Sec. 6. The department may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.18-1987, SEC.111.

IC 22-4-41-7

Money appropriated to department to remain for expenditure consistent with chapter

Sec. 7. All money appropriated to the department under this chapter does not revert to the state general fund at the close of any fiscal year, but remains available to the department for expenditure consistent with this chapter.

As added by P.L.18-1987, SEC.111.

IC 22-4-42

Chapter 42. Workforce Development Centers

IC 22-4-42-1

Establishing one stop centers

Sec. 1. The department may establish at least one (1) one stop center within each workforce service area.

As added by P.L.19-1992, SEC.52. Amended by P.L.21-1995, SEC.134; P.L.161-2006, SEC.16.

IC 22-4-42-2

Duties

Sec. 2. If established, each one stop center shall do the following:

(1) Provide the uniform assessment developed by the department under IC 22-4-18-6 of an individual's strengths and weaknesses with regard to workforce and other skills and offer job counseling that is relevant to the assessment results.

(2) Provide information concerning training, retraining, employment, and career opportunities.

(3) Assist employers in analyzing the correlation between a particular job opening and the training required to perform at that job.

As added by P.L.19-1992, SEC.52. Amended by P.L.38-1993, SEC.60; P.L.21-1995, SEC.135; P.L.340-1995, SEC.104; P.L.2-1996, SEC.268; P.L.161-2006, SEC.17.

IC 22-4-42-3

Repealed

(Repealed by P.L.161-2006, SEC.33.)

IC 22-4-42-4

Repealed

(Repealed by P.L.161-2006, SEC.33.)

IC 22-4-43

Chapter 43. Hoosier Workers First Training Program

IC 22-4-43-1

"Fund"

Sec. 1. As used in this chapter, "fund" refers to the Hoosier workers first training fund established by section 5 of this chapter.

As added by P.L.175-2009, SEC.47.

IC 22-4-43-2

Program established; purposes

Sec. 2. The Hoosier workers first training program is established for the following purposes:

(1) To improve manufacturing productivity levels in Indiana.

(2) To enable firms to become competitive by making workers more productive through training.

(3) To create a competitive economy by creating and retaining jobs.

(4) To encourage the increased training necessary because of an aging workforce.

(5) To avoid potential payment of unemployment compensation by providing workers with enhanced job skills.

As added by P.L.175-2009, SEC.47.

IC 22-4-43-3

Program administration

Sec. 3. The department shall administer the Hoosier workers first training program.

As added by P.L.175-2009, SEC.47.

IC 22-4-43-4

Annual report

Sec. 4. For each state fiscal year, the department shall prepare an annual report on the use of the fund as a part of the report required by IC 22-4-18-7.

As added by P.L.175-2009, SEC.47.

IC 22-4-43-5

Fund established; purposes; worker training grants; administration; investments

Sec. 5. (a) The Hoosier workers first training fund is established to do the following:

(1) Administer the costs of the Hoosier workers first training program established by section 2 of this chapter.

(2) Undertake any program or activity that furthers the purposes of this chapter.

(b) The money in the fund shall be allocated to employers or consortiums for worker training grants that enable workers who reside in Indiana to obtain recognizable credentials or certifications and transferable employment skills that improve employer

competitiveness.

(c) Special consideration shall be given to Ivy Tech Community College (as defined in IC 21-7-13-22) to be the provider of the training funded under this chapter whenever the state educational institution:

(1) meets the identified training needs of an employer or a consortium with an existing credentialing or certification program; and

(2) is the most cost effective provider.

(d) For the worker training grants described in subsection (b), the department shall do the following:

(1) Provide grant applications to interested employers and consortiums.

(2) Accept completed applications for the grants.

(3) Obtain all information necessary or appropriate to determine whether an applicant qualifies for a grant, including information concerning:

(A) the applicant;

(B) the training to be offered;

(C) the training provider; and

(D) the workers to be trained.

(4) Allocate the money in the fund in accordance with subsections (b) and (c).

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) The fund consists of the following:

(1) Appropriations from the general assembly.

(2) Earnings acquired through the use of money belonging to the fund.

(3) Money deposited in the fund from any other source.

(h) Any balance in the fund does not lapse but is available continuously to the department for expenditures for the program established by this chapter.

As added by P.L.175-2009, SEC.47.

IC 22-4.1

ARTICLE 4.1. DEPARTMENT OF WORKFORCE DEVELOPMENT

IC 22-4.1-1

Chapter 1. Definitions

IC 22-4.1-1-1

Applicability of definitions

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.105-1994, SEC.5.

IC 22-4.1-1-2

"Commissioner"

Sec. 2. "Commissioner" refers to the commissioner of the department of workforce development appointed under IC 22-4.1-3-1.

As added by P.L.105-1994, SEC.5. Amended by P.L.21-1995, SEC.136.

IC 22-4.1-1-2.5

"Council"

Sec. 2.5. "Council" refers to the state workforce innovation council established by IC 22-4-18.1-3.

As added by P.L.7-2011, SEC.19.

IC 22-4.1-1-3

"Department"

Sec. 3. "Department" refers to the department of workforce development established under IC 22-4.1-2.

As added by P.L.105-1994, SEC.5. Amended by P.L.21-1995, SEC.137.

IC 22-4.1-1-4

"Fund"

Sec. 4. "Fund", except as provided in IC 22-4.1-21-7, refers to the state workforce development fund established under IC 22-4.1-6-1.

As added by P.L.235-1999, SEC.14. Amended by P.L.107-2012, SEC.60.

IC 22-4.1-2

Chapter 2. Department of Workforce Development

IC 22-4.1-2-1

Establishment of department

Sec. 1. The department of workforce development is established. Notwithstanding any other law, the department is the sole agency to plan, coordinate, implement, monitor, and make recommendations regarding initiatives designed to prepare Indiana's workforce for effective participation in the competitive and global economy.

As added by P.L.105-1994, SEC.5. Amended by P.L.21-1995, SEC.138.

IC 22-4.1-2-2

Composition of department

Sec. 2. The department is comprised of the following entities reorganized within the department:

(1) The department of employment and training services, including the following:

(A) The unemployment insurance board.

(B) The unemployment insurance review board.

(2) The office of workforce literacy established by IC 22-4.1-10-1.

As added by P.L.105-1994, SEC.5. Amended by P.L.21-1995, SEC.139; P.L.1-2005, SEC.186; P.L.140-2007, SEC.6; P.L.234-2007, SEC.144; P.L.3-2008, SEC.161; P.L.7-2011, SEC.20.

IC 22-4.1-2-3

Cooperation for workforce development activities

Sec. 3. The entities listed in section 2 of this chapter shall cooperate to facilitate the coordination, consolidation, and promotion of workforce development activities statewide.

As added by P.L.105-1994, SEC.5. Amended by P.L.21-1995, SEC.140.

IC 22-4.1-3

Chapter 3. Commissioner of the Department

IC 22-4.1-3-1

Appointment; compensation

Sec. 1. (a) The governor shall appoint a commissioner of the department. The commissioner serves at the pleasure of the governor as the chief administrative officer of the department.

(b) The governor shall fix the commissioner's salary.

As added by P.L.105-1994, SEC.5.

IC 22-4.1-3-2

Staff

Sec. 2. The commissioner may do the following:

(1) Employ staff necessary to perform the duties of the department imposed by this article.

(2) Fix the compensation and terms of staff employment, subject to the approval of the budget agency.

As added by P.L.105-1994, SEC.5.

IC 22-4.1-3-3

Adoption of rules

Sec. 3. The commissioner shall adopt rules under IC 4-22-2 necessary to implement this article.

As added by P.L.105-1994, SEC.5.

IC 22-4.1-3-4

Appropriation of additional funds

Sec. 4. Funds necessary to support the operating costs of the department of workforce development beyond those approved and appropriated by the United States Congress or approved by federal agencies for the operation of the department and specifically authorized by other provisions of IC 22-4:

(1) must be specifically appropriated from the state general fund for this purpose; and

(2) may not be derived from other state or federal funds directed for unemployment insurance programs under IC 22-4, including funds under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), any other grants or funds that are passed through for job training programs, the Carl D. Perkins Vocational and Applied Technology Act (20 U.S.C. 2301 et seq.), and any other grant or funds for career and technical education.

As added by P.L.105-1994, SEC.5. Amended by P.L.21-1995, SEC.141; P.L.161-2006, SEC.18; P.L.234-2007, SEC.145.

IC 22-4.1-4
Chapter 4. Duties

IC 22-4.1-4-1
Duties regarding workforce development initiatives

Sec. 1. The department may undertake duties identified by the commissioner as related to workforce development initiatives that were required of or authorized to be undertaken before July 1, 1994, by:

(1) the department of employment and training services;
(2) the office of workforce literacy established by IC 22-4.1-10-1; or
(3) the Indiana commission for career and technical education established by IC 22-4.1-13-6.

As added by P.L.105-1994, SEC.5. Amended by P.L.21-1995, SEC.142; P.L.1-2005, SEC.187; P.L.140-2007, SEC.7; P.L.234-2007, SEC.146; P.L.3-2008, SEC.162.

IC 22-4.1-4-2
Mandatory one stop partners; Indiana directory of hires and rehires

Sec. 2. (a) This section applies only to an employer who employs individuals within the state.

(b) As used in this section, "date of hire" is:
(1) the first date that an employee provides labor or services to an employer; or
(2) the first date that an employee resumes providing labor or services to an employer after a separation from service with the employer of at least sixty (60) days.

(c) As used in this section, "employee":
(1) has the meaning set forth in Chapter 24 of the Internal Revenue Code of 1986; and
(2) includes any individual:
(A) required under Internal Revenue Service regulations to complete a federal form W-4; and
(B) who has provided services to an employer.

The term does not include an employee of a federal or state agency who performs intelligence or counter intelligence functions if the head of the agency determines that the reporting information required under this section could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(d) As used in this section, "employer" has the meaning set forth in Section 3401(d) of the Internal Revenue Code of 1986. The term includes:
(1) governmental agencies;
(2) labor organizations; or
(3) a person doing business in the state as identified by:
(A) the person's federal employer identification number; or
(B) if applicable, the common paymaster, as defined in Section 3121 of the Internal Revenue Code or the payroll

reporting agent of the employer, as described in IRS Rev. Proc. 70-6, 1970-1, C.B. 420.

(e) As used in this section, "labor organization" has the meaning set forth in 42 U.S.C. 653A(a)(2)(B)(ii).

(f) As used in this section, "newly hired employee" means an employee who:

(1) has not previously been employed by an employer; or

(2) resumes service with an employer after a separation from service of at least sixty (60) days.

(g) The department shall maintain the Indiana directory of new hires as required under 42 U.S.C. 653A.

(h) The directory under subsection (g) must contain the information for each newly hired employee that an employer must provide to the department under subsection (k).

(i) An employer must transmit the information required under subsection (k):

(1) within twenty (20) business days of the employee's date of hire; or

(2) if the information is transmitted magnetically or electronically, in two (2) monthly transactions that are:

(A) not less than twelve (12) days apart; and

(B) not more than sixteen (16) days apart.

(j) A report containing the information required under subsection (k) is considered timely:

(1) if it is postmarked on or before the due date, whenever the report is mailed; or

(2) if it is received on or before the due date, whenever the report is transmitted by:

(A) facsimile machine; or

(B) electronic or magnetic media.

(k) The employer shall provide the information required under this section on an employee's withholding allowance certificate (Internal Revenue Service form W-4) or, at the employer's option, an equivalent form. The report must include at least the following:

(1) The name, address, and Social Security number of the employee.

(2) The name, address, and federal tax identification number of the employer.

(3) The date of hire of the employee.

(l) An employer that has employees in two (2) or more states and that transmits reports under this section electronically or magnetically may comply with this section by doing the following:

(1) Designating one (1) state to receive each report.

(2) Notifying the Secretary of the United States Department of Health and Human Services which state will receive the reports.

(3) Transmitting the reports to the agency in the designated state that is charged with receiving the reports.

(m) The department may impose the following as a civil penalty:

(1) Twenty-five dollars ($25) on an employer that fails to comply with this section.

(2) Five hundred dollars ($500) on an employer that fails to comply with this section if the failure is a result of a conspiracy between the employer and the employee to:

(A) not provide the required report; or

(B) provide a false or an incomplete report.

(n) The department shall do the following with information received from an employer regarding newly hired employees:

(1) Enter the information into the state's new hire directory within five (5) business days of receipt.

(2) Forward the information to the national directory of new hires not later than three (3) business days after the information is entered into the state's new hire directory.

The state shall use quality control standards established by the Administrators of the National Directory of New Hires.

(o) The information contained in the Indiana directory of new hires is available only for use by the department for purposes required by 42 U.S.C. 653A, unless otherwise provided by law.

(p) The department of child services (established under IC 31-25-1-1) shall:

(1) reimburse the department for any costs incurred in carrying out this section; and

(2) enter into a purchase of service agreement with the department that establishes procedures necessary to administer this section.

As added by P.L.257-1997(ss), SEC.35. Amended by P.L.290-2001, SEC.34; P.L.131-2009, SEC.4; P.L.154-2013, SEC.8.

IC 22-4.1-4-3

Training program priority for National Guard members and spouses

Sec. 3. (a) As used in this section, "active duty" means full-time service in the National Guard for more than thirty (30) consecutive days in a calendar year.

(b) As used in this section, "National Guard" means:

(1) the Indiana Army National Guard; or

(2) the Indiana Air National Guard.

(c) This section applies to a member of the National Guard who:

(1) is a resident of Indiana; and

(2) serves on active duty.

(d) Unless otherwise provided by federal law, the department shall give a member of the National Guard or the spouse of a member of the National Guard priority for placement in any federal or state employment or training program administered by the department if the member or the member's spouse:

(1) submits documentation satisfactory to the department establishing the dates of the member's active service; and

(2) meets the eligibility requirements for the program.

(e) The priority status under subsection (d) for a member of the National Guard expires one (1) year after the date the member is discharged or released from active duty.

(f) The priority status under subsection (d) for the spouse of a member of the National Guard expires on the date the member is discharged or released from active duty.
As added by P.L.11-2007, SEC.1.

IC 22-4.1-4-4
Information sharing concerning construction workers misclassified as independent contractors

Sec. 4. (a) This section applies after December 31, 2009.

(b) As used in this section, "contractor" means:

(1) a sole proprietor;
(2) a partnership;
(3) a firm;
(4) a corporation;
(5) a limited liability company;
(6) an association; or
(7) another legal entity;

that engages in construction and is authorized by law to do business in Indiana. The term includes a general contractor, a subcontractor, and a lower tiered contractor. The term does not include the state, the federal government, or a political subdivision.

(c) The department shall cooperate with the:

(1) department of labor created by IC 22-1-1-1;
(2) department of state revenue established by IC 6-8.1-2-1; and
(3) worker's compensation board of Indiana created by IC 22-3-1-1(a);

by sharing information concerning any suspected improper classification by a contractor of an individual as an independent contractor (as defined in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).

(d) For purposes of IC 5-14-3-4, information shared under this section is confidential, may not be published, and is not open to public inspection.

(e) An officer or employee of the department who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor.
As added by P.L.164-2009, SEC.4.

IC 22-4.1-4-5
Coordination with commission for higher education and department of workforce development to develop entrepreneurship education

Sec. 5. The department shall coordinate with the commission for higher education (IC 21-18-1) and the Indiana state board of education (IC 20-19-2) to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force.
As added by P.L.172-2011, SEC.129.

IC 22-4.1-5

Chapter 5. Limitation on Grant Authority

IC 22-4.1-5-1

"Discretionary grant" defined

Sec. 1. As used in this chapter, "discretionary grant" means a grant awarded by the department as a result of an open bid process.

As added by P.L.21-1995, SEC.143.

IC 22-4.1-5-2

Duties prior to awarding grant

Sec. 2. Before awarding a discretionary grant, the department shall do the following:

(1) Submit for review and comment a list to the governor, the treasurer of state, and the auditor of state of all such grants to be awarded.

(2) Receive within ten (10) working days of submitting the list, any comments from the governor, the treasurer of state, and the auditor of state. If no comments are received within ten (10) working days the department may award any grant included on the list.

(3) Respond to all comments and not award a grant until comments have been addressed and issues resolved between reviewing parties.

As added by P.L.21-1995, SEC.143.

IC 22-4.1-5-3

Annual reports

Sec. 3. All discretionary grants awarded by the department must be reported annually in an electronic format under IC 5-14-6 to the legislative council.

As added by P.L.21-1995, SEC.143. Amended by P.L.28-2004, SEC.160.

IC 22-4.1-5-4

Exempted grantees

Sec. 4. This chapter does not apply to grants awarded to:

(1) workforce investment boards (as defined in IC 22-4.5-2-13.5);

(2) public schools and school corporations (as defined in IC 20-18-2); or

(3) state educational institutions.

As added by P.L.21-1995, SEC.143. Amended by P.L.161-2006, SEC.19; P.L.2-2007, SEC.294.

IC 22-4.1-6

Chapter 6. State Workforce Development Fund

IC 22-4.1-6-1

Establishment of fund; administration of programs; reversion of money

Sec. 1. (a) The state workforce development fund is established to receive and disburse workforce development funds under this chapter. The department shall administer the fund.

(b) Money appropriated for the programs described in section 2 of this chapter may be used for the costs of administering those programs.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains available to the department for expenditure consistent with this chapter.

As added by P.L.235-1999, SEC.15.

IC 22-4.1-6-2

Purposes of fund

Sec. 2. Money in the fund may be used for the following purposes at the discretion of the department, based upon the priorities necessary to achieve the department's goals:

(1) To build the capacity and strengthen the quality of services of programs offering basic skills services and having a substantial volunteer component, including staff and volunteer development, outreach, equipment, software, training materials, and community linkages.

(2) For workforce literacy programs providing essential and basic education skills training to raise skills and productivity in the workplace.

(3) For technical assistance to providers of workplace literacy and basic education to enhance the providers' capacity to link with employers and document productivity gains resulting from training.

(4) To establish a common data base, reporting system, and evaluation system related to workforce literacy and other incumbent worker programs, and to develop performance standards.

(5) To provide training for dislocated workers under IC 22-4-41.

(6) To provide training for workers who are at risk of becoming dislocated workers because of a lack of skills.

(7) To provide comprehensive job training and related services for economically disadvantaged, unemployed, and underemployed individuals, including recruitment, counseling, remedial education, career and technical training, job development, job placement, and other appropriate services to enable each individual to secure and retain employment at the individual's maximum capacity.

(8) To attract federal funds in order to increase the resources

available to carry out the purposes of this section.

As added by P.L.235-1999, SEC.15. Amended by P.L.234-2007, SEC.147.

IC 22-4.1-7

Chapter 7. Certified Internship Programs and Grants

IC 22-4.1-7-1

"Certified internship program" defined

Sec. 1. As used in this chapter, "certified internship program" refers to an internship program that is certified by the department, in consultation with the department of education, under section 5 of this chapter.

As added by P.L.96-2004, SEC.24.

IC 22-4.1-7-2

"Employer" defined

Sec. 2. As used in this chapter, "employer" has the meaning set forth in IC 22-8-1.1-1.

As added by P.L.96-2004, SEC.24.

IC 22-4.1-7-3

"Approved postsecondary educational institution" defined

Sec. 3. As used in this chapter, "approved postsecondary educational institution" has the meaning set forth in IC 21-12-1-6(b).

As added by P.L.96-2004, SEC.24. Amended by P.L.2-2007, SEC.295.

IC 22-4.1-7-4

"Student" defined

Sec. 4. As used in this chapter, "student" means an individual who is enrolled at an approved postsecondary educational institution on at least a part-time basis.

As added by P.L.96-2004, SEC.24. Amended by P.L.2-2007, SEC.296.

IC 22-4.1-7-5

Certification of program; application

Sec. 5. (a) An approved postsecondary educational institution that seeks certification for an internship program under this chapter shall submit an application for certification to the department on a form prescribed by the department.

(b) The department, in consultation with the department of education, shall certify an internship program under this chapter if the program:

(1) is operated or administered by an approved postsecondary educational institution or a department, school, or program within an approved postsecondary educational institution;

(2) integrates a particular curriculum or course of study offered at the approved postsecondary educational institution with career internships provided by employers;

(3) places students in career internships provided by employers;

(4) requires participating students to meet certain academic standards established by rule by the department in consultation

with the department of education;

(5) requires employers to provide to participating students the:

(A) supervision; and

(B) payroll and personnel services;

that the employers provide to their regular part-time employees;

(6) is designed to provide an internship experience that enriches and enhances the classroom experience of participating students;

(7) requires employers to comply with all state and federal laws pertaining to the workplace; and

(8) complies with any other requirement adopted by rule by the department after consultation with the department of education.

As added by P.L.96-2004, SEC.24. Amended by P.L.2-2007, SEC.297.

IC 22-4.1-7-6
Student participation in internship

Sec. 6. A certified internship program may allow a student to participate in an internship at any time during the year, including the summer, as long as the student remains enrolled at the approved postsecondary educational institution that operates or administers the certified internship program.

As added by P.L.96-2004, SEC.24. Amended by P.L.2-2007, SEC.298.

IC 22-4.1-7-7
Grants

Sec. 7. (a) The department may issue a grant from the state technology advancement and retention account established by IC 4-12-12-1 to an employer that employs at least one (1) student through a certified internship program.

(b) The department shall determine the amount of a grant issued under subsection (a).

(c) A grant issued under this section is subject to approval by the budget agency.

As added by P.L.96-2004, SEC.24.

IC 22-4.1-7-8
Adoption of rules

Sec. 8. The department, in consultation with the department of education, may adopt rules under IC 4-22-2 to implement this chapter. However, the department shall adopt rules under IC 4-22-2 to implement section 7 of this chapter.

As added by P.L.96-2004, SEC.24.

IC 22-4.1-8

Chapter 8. Certified School to Career Programs and Grants

IC 22-4.1-8-1

"Certified program" defined

Sec. 1. As used in this chapter, "certified program" means a school to career program approved by the department, in conjunction with the department of education, that is conducted under an agreement under this chapter and that:

(1) integrates a secondary school curriculum with private sector job training;

(2) places students in job internships; and

(3) is designed to continue into postsecondary education and to result in teaching new skills, adding value to the wage earning potential of participants and increasing their long term employability in Indiana.

As added by P.L.96-2004, SEC.25.

IC 22-4.1-8-2

"Approved postsecondary educational institution" defined

Sec. 2. As used in this chapter, "approved postsecondary educational institution" has the meaning set forth in IC 21-12-1-6(b).

As added by P.L.96-2004, SEC.25. Amended by P.L.2-2007, SEC.299.

IC 22-4.1-8-3

"Participant" defined

Sec. 3. As used in this chapter, "participant" means an individual who:

(1) is at least sixteen (16) years of age and less than twenty-four (24) years of age;

(2) is enrolled in a public or private secondary school or postsecondary educational institution; and

(3) participates in a certified program as part of the individual's secondary school or postsecondary educational institution education.

As added by P.L.96-2004, SEC.25. Amended by P.L.2-2007, SEC.300.

IC 22-4.1-8-4

"Sponsor" defined

Sec. 4. As used in this chapter, "sponsor" means an individual, a person, an association, a committee, an organization, or other entity operating a certified program and in whose name the certified program is registered or approved.

As added by P.L.96-2004, SEC.25.

IC 22-4.1-8-5

Duties of department of workforce development; applications; fees; rules

Sec. 5. (a) The department shall do the following:

(1) Accept applications from entities interested in sponsoring certified programs on forms prescribed by the department.

(2) Investigate each applicant to determine the suitability of the applicant to sponsor a certified program.

(3) Impose an application fee in an amount sufficient to pay the costs incurred in processing the application and investigating the applicant.

(b) The department may adopt rules under IC 4-22-2 to administer this chapter.

As added by P.L.96-2004, SEC.25.

IC 22-4.1-8-6

Duties of department of education

Sec. 6. (a) The department of education shall review the secondary school curriculum component of each proposed certified program. The department may not approve a proposed certified program unless the department of education approves the applicant's proposed secondary school curriculum.

(b) Upon the request of the department, the department of education shall:

(1) consult with the department before the adoption of rules under section 5 of this chapter; and

(2) provide any other assistance to the department.

As added by P.L.96-2004, SEC.25.

IC 22-4.1-8-7

Approval of programs

Sec. 7. The department may not approve a certified program unless the following requirements are met:

(1) The program must be conducted under a written plan embodying the terms and conditions of employment, job training, classroom instruction, and supervision of one (1) or more participants, subscribed to by a sponsor who has undertaken to carry out the certified program.

(2) The program must comply with all state and federal laws pertaining to the workplace.

(3) The certified program agreement must provide that the sponsor or an employer participating in the program in cooperation with the sponsor agrees to assign an employee to serve as a mentor for a participant. The mentor's occupation must be in the same career pathway as the career interests of the participant.

(4) The program must comply with any other requirement adopted by rule by the department.

As added by P.L.96-2004, SEC.25.

IC 22-4.1-8-8

Written agreement required; required terms

Sec. 8. (a) A certified program must comply with the terms of a

written agreement among the sponsor, each participant, and each cooperating employer. Except as provided in sections 9 and 10 of this chapter, each agreement must contain the following:

(1) The names and signatures of:

(A) the sponsor;

(B) the employer (if the employer is an entity other than the sponsor); and

(C) the participant and the participant's parent or guardian if the participant is a minor.

(2) A description of the career field in which the participant is to be trained and the beginning date and duration of the training.

(3) The employer's agreement to provide paid employment for the participant at a base wage that may not be less than the minimum wage prescribed by the federal Fair Labor Standards Act during the participant's junior and senior years in high school.

(4) The employer's agreement to assign an employee to serve as a mentor for a participant. The mentor's occupation must be in the same career pathway as the career interests of the participant.

(5) An agreement between the participant and employer concerning specified minimum academic standards that must be maintained throughout the participant's secondary education.

(6) The participant's agreement to work for the employer for at least two (2) years following the completion of the participant's secondary education.

(b) An agreement described in subsection (a)(6) may be modified to defer the participant's employment with the employer until after the participant completes an appropriate amount of postsecondary education as agreed to by the participant and the employer.

As added by P.L.96-2004, SEC.25.

IC 22-4.1-8-9

Modification of agreements

Sec. 9. (a) If a participant's desired career pathway requires postsecondary education, an agreement required under section 8 of this chapter may be modified to include the following:

(1) The employer's agreement to provide paid employment for the participant at a base wage that may not be less than the minimum wage prescribed by the federal Fair Labor Standards Act during the participant's postsecondary education.

(2) An agreement that, in addition to the base wage paid to the participant, the employer shall pay an additional sum to be held in trust to be applied toward the participant's postsecondary education.

(3) The participant's agreement to work for the employer for at least two (2) years following the completion of the participant's postsecondary education.

(b) The additional amount described in subsection (a)(2) must not

be less than an amount determined by the department to be sufficient to provide payment of tuition expenses toward completion of not more than two (2) academic years at an approved postsecondary educational institution. The amount shall be held in trust for the benefit of the participant under rules adopted by the department. Payment into a fund approved under the federal Employee Retirement Income Security Act of 1974 for the benefit of the participant satisfies this requirement. The approved fund must be specified in the agreement.

As added by P.L.96-2004, SEC.25. Amended by P.L.2-2007, SEC.301.

IC 22-4.1-8-10

Modification of agreements after completion of secondary education

Sec. 10. (a) If a participant enters a certified program following the completion of the participant's secondary education, an agreement required under section 8 of this chapter must be modified to include the following:

(1) The employer's agreement to provide paid employment for the participant at a base wage that may not be less than the minimum wage prescribed by the federal Fair Labor Standards Act during the participant's postsecondary education.

(2) An agreement that, in addition to the base wage paid to the participant, the employer shall pay an additional sum to be applied toward the participant's postsecondary education. This amount may be paid directly to the participant's approved postsecondary educational institution on behalf of the participant.

(3) The participant's agreement to work for the employer for at least two (2) years following the completion of the participant's postsecondary education.

(b) The additional amount described in subsection (a)(2) must not be less than an amount determined by the department to be sufficient to provide payment of tuition expenses toward completion of not more than two (2) academic years at an approved postsecondary educational institution.

As added by P.L.96-2004, SEC.25. Amended by P.L.2-2007, SEC.302.

IC 22-4.1-8-11

Repayment of money if participant does not complete program before postsecondary education

Sec. 11. If a participant does not complete the certified program contemplated by the agreement before entering a postsecondary education program, the money being held in trust for the participant's postsecondary education must be paid back to the employer.

As added by P.L.96-2004, SEC.25.

IC 22-4.1-8-12

Repayment of money after participant begins postsecondary education

Sec. 12. If a participant does not complete the certified program contemplated by an agreement described in section 8, 9, or 10 of this chapter after entering a postsecondary education program, any unexpended funds being held in trust for the participant's postsecondary education must be paid back to the employer. In addition, the participant shall repay to the employer amounts paid from the trust that were expended on the participant's behalf for the participant's postsecondary education.

As added by P.L.96-2004, SEC.25.

IC 22-4.1-8-13

Repayment of money if employment obligation not fulfilled

Sec. 13. If a participant does not complete the two (2) year employment obligation required under an agreement described in section 8, 9, or 10 of this chapter, the participant shall repay to the employer the amount paid by the employer toward the participant's postsecondary education expenses under this chapter.

As added by P.L.96-2004, SEC.25.

IC 22-4.1-8-14

Grants; adoption of rules

Sec. 14. (a) The department may issue a grant from the state technology advancement and retention account established by IC 4-12-12-1 to an employer (as defined in IC 22-8-1.1-1) in an amount determined by the department.

(b) A grant issued under this section is subject to approval by the budget agency.

(c) The department shall adopt rules to implement this section.

As added by P.L.96-2004, SEC.25.

IC 22-4.1-9

Chapter 9. Smart Partnership Grants

IC 22-4.1-9-1

Guidelines for making grants

Sec. 1. The department shall establish guidelines for making grants to the Indiana schools smart partnership, which is established to create partnerships between schools and local businesses to make the curricula of math and science relevant to students.

As added by P.L.96-2004, SEC.26.

IC 22-4.1-9-2

Grants to coordinating organizations and participating schools

Sec. 2. The department may make grants from the state technology advancement and retention account established by IC 4-12-12-1 to coordinating organizations and participating schools.

As added by P.L.96-2004, SEC.26.

IC 22-4.1-9-3

Approval of grants by budget agency

Sec. 3. A grant issued under this chapter is subject to approval by the budget agency.

As added by P.L.96-2004, SEC.26.

IC 22-4.1-10

Chapter 10. Office of Workforce Literacy

IC 22-4.1-10-1

Governor shall establish; purposes

Sec. 1. The governor shall establish an office of workforce literacy within the department to:

(1) oversee the development of workforce literacy programs in Indiana;

(2) target available funds for workforce basic skill improvement programs;

(3) develop methods for motivating adults and employers in workforce literacy and basic skill improvement; and

(4) provide a clearinghouse of information pertaining to workforce literacy.

As added by P.L.1-2005, SEC.40.

IC 22-4.1-10-2

Duties

Sec. 2. The office of workforce literacy has the following duties:

(1) Develop certain performance standards as the standards relate to workforce literacy initiatives.

(2) Develop a common data base, reporting system, and evaluation system relating to basic skills programs.

(3) Establish an application process for basic skills training providers that emphasizes performance based outcomes.

As added by P.L.1-2005, SEC.40.

IC 22-4.1-11
Chapter 11. Adult Literacy Programs

IC 22-4.1-11-1
"Eligible entity"
Sec. 1. As used in this chapter, "eligible entity" means a nonprofit organization that has been approved by the department.
As added by P.L.1-2005, SEC.41.

IC 22-4.1-11-2
"Program"
Sec. 2. As used in this chapter, "program" refers to the adult literacy program established by section 3 of this chapter.
As added by P.L.1-2005, SEC.41.

IC 22-4.1-11-3
Program established; purpose; administration
Sec. 3. The adult literacy program is established to provide financial assistance to private industry councils to provide adult literacy programs. The program shall be administered by the department.
As added by P.L.1-2005, SEC.41.

IC 22-4.1-11-4
Private industry council funding; annual job training plan; required information
Sec. 4. (a) To receive funding under this chapter, a private industry council shall apply for funding as prescribed by the department in the department's annual job training plan.
(b) The following information must be included in the plan:
(1) The nature of the adult literacy program being proposed.
(2) The number of adults being served under the program, including adults who have graduated from high school but who demonstrate a deficiency in reading and writing skills.
(3) The number of instructors, students, or volunteers who participate in the program.
(4) The amount of money requested to administer the program.
(5) Other information required by the department.
As added by P.L.1-2005, SEC.41.

IC 22-4.1-11-5
Program implementation guidelines
Sec. 5. The department shall develop guidelines to implement this chapter.
As added by P.L.1-2005, SEC.41.

IC 22-4.1-12

Chapter 12. Indiana Education Employment Program

IC 22-4.1-12-1

"Eligible student"

Sec. 1. As used in this chapter, "eligible student" means:

(1) a student who is:

(A) enrolled in a public high school as a senior;

(B) at risk of withdrawing from school before graduation; and

(C) at risk under the criteria for determining the at risk index (as defined in IC 21-3-1.6-1.1(l) before its repeal July 1, 2006); or

(2) a student who is enrolled in the final year of a special education program.

As added by P.L.1-2005, SEC.42. Amended by P.L.2-2006, SEC.179.

IC 22-4.1-12-2

"Job specialist"

Sec. 2. As used in this chapter, "job specialist" means a person employed by the school corporation who:

(1) has knowledge in job placement counseling;

(2) has tutoring skills; and

(3) meets the criteria established by the department to act as a job specialist.

As added by P.L.1-2005, SEC.42.

IC 22-4.1-12-3

"Program"

Sec. 3. As used in this chapter, "program" refers to the Indiana education employment program established under section 4 of this chapter.

As added by P.L.1-2005, SEC.42.

IC 22-4.1-12-4

Department shall establish; purpose; goals

Sec. 4. (a) The department shall establish the Indiana education employment program to:

(1) assist eligible students to successfully make the transition from school to the work or employment setting; and

(2) provide financial assistance to private industry councils (as defined in 29 U.S.C. 1501 et seq.) to involve school corporations that agree to jointly participate in the program.

(b) The goals of the program are as follows:

(1) The program will prevent withdrawal from school before graduation.

(2) Eligible students, through the program, will:

(A) attain high school graduation;

(B) receive job placement assistance;

(C) receive follow-up services for one (1) year after job

placement; and

(D) receive recognition in the form of a pay raise or promotion within one (1) year after beginning employment.

As added by P.L.1-2005, SEC.42. Amended by P.L.1-2006, SEC.345.

IC 22-4.1-12-5

Job specialist duties

Sec. 5. Each job specialist has the following duties:

(1) Meet with each participating eligible student:

(A) to provide tutoring services;

(B) for counseling; or

(C) for other student services required under the program.

(2) Actively seek employment positions for the participating eligible student in fields that are consistent with the student's abilities and strengths.

(3) Keep accurate and complete records of all student services offered and the results attained.

As added by P.L.1-2005, SEC.42.

IC 22-4.1-12-6

Eligible student participation in after school organization

Sec. 6. Each participating eligible student shall participate in an after school organization formed particularly for all eligible students participating in the program.

As added by P.L.1-2005, SEC.42.

IC 22-4.1-12-7

Rules; guidelines

Sec. 7. (a) The department shall adopt rules, under IC 4-22-2 to implement this chapter.

(b) The department shall develop guidelines necessary to implement the program, including guidelines governing the qualifications required of a job specialist.

As added by P.L.1-2005, SEC.42.

IC 22-4.1-13
Repealed

(Repealed by P.L.7-2011, SEC.26.)

IC 22-4.1-14

Chapter 14. Workforce Partnership Plans

IC 22-4.1-14-1

"Institution"

Sec. 1. As used in this chapter, "institution" means:

(1) a campus of a state educational institution;

(2) a school corporation; or

(3) an area career and technical education center or school;

as described in section 2 or 3 of this chapter.

As added by P.L.1-2005, SEC.44. Amended by P.L.2-2007, SEC.303; P.L.234-2007, SEC.158.

IC 22-4.1-14-2

Entering into plans; secondary level programs

Sec. 2. After receiving the endorsement of the faculty and subject to the guidelines developed under section 4 of this chapter, the chief administrator from each campus of a state educational institution that offers a technical education program must enter into a workforce partnership plan as described under this chapter with the superintendent of the school corporation and each area career and technical education director who oversees the secondary level technical education programs that are offered within the same geographic area as the particular campus.

As added by P.L.1-2005, SEC.44. Amended by P.L.234-2007, SEC.159.

IC 22-4.1-14-3

Entering into plans; postsecondary level programs

Sec. 3. After the chief administrator receives an endorsement from the faculty and subject to the guidelines developed under section 4 of this chapter, the superintendent of each school corporation and area career and technical education director must enter into a workforce partnership plan as described under this chapter with the chief administrator from each campus of a state educational institution who oversees the postsecondary level technical education programs offered within the same geographic area as the school corporation and area career and technical education center or school.

As added by P.L.1-2005, SEC.44. Amended by P.L.234-2007, SEC.160.

IC 22-4.1-14-4

Plan guidelines; contents

Sec. 4. (a) The:

(1) state superintendent of public instruction;

(2) commissioner of the commission for higher education; and

(3) commissioner of the department;

shall jointly develop guidelines governing the development of the workforce partnership plans, including guidelines for the subjects described in subsection (b).

(b) The guidelines must include the following:
(1) A schedule for institutions to comply with this chapter.
(2) A format for the workforce partnership plans.
(3) The boundaries of the geographic areas described in sections 2 and 3 of this chapter.
(4) Any other pertinent matter.

As added by P.L.1-2005, SEC.44.

IC 22-4.1-14-5
Approval of plan

Sec. 5. Notwithstanding any other law and after an institution is required to enter into a workforce partnership plan under this chapter, an institution's workforce partnership plan must be approved by the Indiana commission for career and technical education of the department for the institution to:
(1) be eligible to receive federal and state funds for the institution's career and technical education program at the secondary level and postsecondary level;
(2) receive career and technical education program approval by:
(A) the Indiana state board of education for secondary level programs; and
(B) the commission for higher education for postsecondary level programs;
for any career and technical education programs requiring approval; and
(3) be eligible to complete the program review process by the commission for higher education for postsecondary level career and technical education programs.

As added by P.L.1-2005, SEC.44. Amended by P.L.234-2007, SEC.161.

IC 22-4.1-14-6
Plan contents

Sec. 6. Each workforce partnership plan must do the following:
(1) Address the need to maximize:
(A) the use of career and technical education programs and services; and
(B) the articulation of career and technical education programs;
between the secondary level and postsecondary level.
(2) Identify career and technical education program groupings to coordinate career and technical education programs within a geographic area.
(3) Identify particular certificates of achievement under IC 20-32-3 and indicate the circumstances under which a state educational institution may elect to grant academic credit to a student who does the following:
(A) Acquires the particular certificate of achievement.
(B) Satisfies the standards for receipt of academic credit as determined by the state educational institution.

(4) Provide for the use of joint secondary level and postsecondary level faculty committees to organize career and technical education program articulation.

(5) Comply with 20 U.S.C. 2301 et seq.

As added by P.L.1-2005, SEC.44. Amended by P.L.2-2007, SEC.304; P.L.140-2007, SEC.8; P.L.234-2007, SEC.162; P.L.3-2008, SEC.163.

IC 22-4.1-14-7

Biennial review of plans; recommendations

Sec. 7. The Indiana state board of education and the commission for higher education may review and provide recommendations on each plan biennially.

As added by P.L.1-2005, SEC.44.

IC 22-4.1-15
Repealed

(Repealed by P.L.133-2012, SEC.195.)

IC 22-4.1-16
Repealed

(Repealed by P.L.140-2007, SEC.9.)

IC 22-4.1-17

Chapter 17. Helping Indiana Restart Employment (HIRE) Program

IC 22-4.1-17-1

Application of chapter

Sec. 1. This chapter applies upon approval of reimbursement as described in IC 12-8-12.5-2.

As added by P.L.110-2010, SEC.34.

IC 22-4.1-17-2

"Eligible employer"

Sec. 2. As used in this chapter, "eligible employer" means an employer that meets the requirements established by the commissioner to participate in the program.

As added by P.L.110-2010, SEC.34.

IC 22-4.1-17-3

"Employer"

Sec. 3. As used in this chapter, "employer" means an individual, corporation, partnership, limited liability company, or any other legal entity that has at least one (1) employee and is legally doing business in Indiana.

As added by P.L.110-2010, SEC.34.

IC 22-4.1-17-4

"Participant"

Sec. 4. As used in this chapter, "participant" means an individual who is participating in the program as an employee of an eligible employer.

As added by P.L.110-2010, SEC.34.

IC 22-4.1-17-5

"Program"

Sec. 5. As used in this chapter, "program" refers to the Helping Indiana Restart Employment (HIRE) program established under section 7 of this chapter.

As added by P.L.110-2010, SEC.34.

IC 22-4.1-17-6

"Secretary"

Sec. 6. As used in this chapter, "secretary" refers to the secretary of family and social services appointed under IC 12-8-1.5-2.

As added by P.L.110-2010, SEC.34. Amended by P.L.160-2012, SEC.56.

IC 22-4.1-17-7

Adoption of rules; program administration; funding administration

Sec. 7. (a) The commissioner may adopt rules under IC 4-22-2 to

establish, implement, and maintain the Helping Indiana Restart Employment (HIRE) program for the purpose of increasing employment opportunities for unemployed or underemployed individuals by providing a wage and benefit subsidy to eligible employers that provide to participants an hourly wage and a transferable work skill.

(b) Rules adopted under subsection (a) may include the following:

(1) Eligibility requirements for an employer to participate in the program as an eligible employer.

(2) Eligibility requirements for an individual to participate in the program as a participant employed by an eligible employer.

(c) The commissioner shall administer the program with the assistance of the secretary.

(d) The secretary shall administer funding of the program as provided in IC 12-8-12.5.

As added by P.L.110-2010, SEC.34.

IC 22-4.1-17-8
Chapter expiration

Sec. 8. This chapter expires December 31, 2013.

As added by P.L.110-2010, SEC.34.

IC 22-4.1-18

Chapter 18. General Educational Development Diploma Program

IC 22-4.1-18-1

Applicability of chapter

Sec. 1. This chapter applies to an individual who is:

(1) at least eighteen (18) years of age; or

(2) less than eighteen (18) years of age, if a superintendent (as defined in IC 20-18-2-21) recommends that the individual participate in the testing program.

As added by P.L.7-2011, SEC.21.

IC 22-4.1-18-2

Grant of diploma

Sec. 2. The department may grant a general educational development (GED) diploma to an individual who achieves satisfactory high school level scores on the general educational development (GED) test or any other properly validated test of comparable difficulty designated by the council.

As added by P.L.7-2011, SEC.21. Amended by P.L.6-2012, SEC.156.

IC 22-4.1-18-3

Administration of testing program

Sec. 3. The department shall administer the testing program provided in this chapter. All administrative costs of this program must be funded through appropriations of the general assembly.

As added by P.L.7-2011, SEC.21.

IC 22-4.1-18-4

Rules

Sec. 4. (a) The council shall adopt rules under IC 4-22-2 to provide for the implementation and administration of this chapter.

(b) The rules may include the following provisions:

(1) Qualifications of applicants.

(2) Acceptable tests.

(3) Acceptable test scores.

(4) Criteria for retesting.

As added by P.L.7-2011, SEC.21.

IC 22-4.1-18-5

High school equivalency certificate and GED diplomas equivalent

Sec. 5. A high school equivalency certificate or a general educational development (GED) diploma issued under IC 20-20-6 (before its repeal) is equivalent to a general educational development (GED) diploma issued under this chapter.

As added by P.L.7-2011, SEC.21.

IC 22-4.1-19

Chapter 19. Postsecondary Career and Technical Education

IC 22-4.1-19-1

"Career and technical education"

Sec. 1. As used in this chapter, "career and technical education" means any postsecondary vocational, agricultural, occupational, manpower, employment, or technical training or retraining of less than a baccalaureate level that:

(1) is offered by a state educational institution (as defined in IC 21-7-13-32); and

(2) enhances an individual's career potential.

As added by P.L.7-2011, SEC.22.

IC 22-4.1-19-2

"State board"

Sec. 2. As used in this chapter, "state board" refers to the Indiana state board of education established by IC 20-19-2-2.

As added by P.L.7-2011, SEC.22.

IC 22-4.1-19-3

Consultation with and recommendations to state board

Sec. 3. The council may consult with and make recommendations to the state board on all postsecondary career and technical education programs.

As added by P.L.7-2011, SEC.22.

IC 22-4.1-19-4

Biennial plan

Sec. 4. The council shall biennially prepare a plan for implementing postsecondary career and technical education programming after considering the long range state plan developed under IC 20-20-38-4. The council shall submit the plan to the state board for its review and recommendations. The council shall specifically report on how the plan addresses preparation for employment.

As added by P.L.7-2011, SEC.22.

IC 22-4.1-19-5

Recommendations to general assembly

Sec. 5. The council may also make recommendations to the general assembly concerning the plan prepared under section 4 of this chapter.

As added by P.L.7-2011, SEC.22.

IC 22-4.1-19-6

Recommendations to state board

Sec. 6. The council may make recommendations to the state board concerning the legislative budget requests prepared under IC 20-20-38-12 by state educational institutions for state and federal

funds for career and technical education.
As added by P.L.7-2011, SEC.22.

IC 22-4.1-19-7
Postsecondary needs studies

Sec. 7. The council may:

(1) make or cause to be made studies of the needs for various types of postsecondary career and technical education; and

(2) submit to the state board the council's findings in this regard.

As added by P.L.7-2011, SEC.22.

IC 22-4.1-19-8
Biennial report; attrition and persistence rates

Sec. 8. (a) The council may develop a definition for and report biennially to the:

(1) general assembly;

(2) governor; and

(3) state board;

on attrition and persistence rates by students enrolled in state career and technical education.

(b) A report under this section to the general assembly must be in an electronic format under IC 5-14-6.

As added by P.L.7-2011, SEC.22.

IC 22-4.1-20
Chapter 20. Adult Education

IC 22-4.1-20-1
"Eligible provider"

Sec. 1. As used in this chapter, "eligible provider" has the meaning set forth in 20 U.S.C. 9202.
As added by P.L.7-2011, SEC.23.

IC 22-4.1-20-2
Adult education; state distribution formula

Sec. 2. (a) The council and the governor may prescribe a program of adult education.

(b) The department, in consultation with the council and the governor, may adopt rules under IC 4-22-2 to provide for this program and to provide for the state distribution formula for money appropriated by the general assembly for adult education.
As added by P.L.7-2011, SEC.23.

IC 22-4.1-20-3
Conduct of adult education program by eligible provider

Sec. 3. An eligible provider may conduct a program of adult education with the approval of the department.
As added by P.L.7-2011, SEC.23.

IC 22-4.1-20-4
Reimbursement of costs; eligibility

Sec. 4. (a) Money appropriated by the general assembly for adult education may be used only to reimburse an eligible provider for adult education that is provided to individuals who:

(1) need the education to master a skill that leads to:
  (A) the completion of grade 8; or
  (B) a general educational development (GED) diploma under IC 22-4.1-18;
(2) need the education to receive high school credit to obtain a high school diploma; or
(3) have graduated from high school (or received a high school equivalency certificate or a general educational development (GED) diploma) but who demonstrate basic skill deficiencies in mathematics or English/language arts.

For purposes of reimbursement under this section, the eligible provider may not count an individual who is also enrolled in a school corporation's kindergarten through grade 12 educational program. An individual described in subdivision (3) may be counted for reimbursement by the eligible provider only for classes taken in mathematics and English/language arts.

(b) The council shall provide for reimbursement to an eligible provider under this section for instructor salaries and administrative and support costs. However, the council may not allocate more than fifteen percent (15%) of the total appropriation under subsection (a)

for administrative and support costs.
As added by P.L.7-2011, SEC.23.

IC 22-4.1-20-5
Services to children with disabilities

Sec. 5. An eligible provider shall provide a child with a disability (as defined in IC 20-35-1-2):

(1) who is at least eighteen (18) years of age; and

(2) whom the eligible provider elects to educate;

with an appropriate special educational program.
As added by P.L.7-2011, SEC.23.

IC 22-4.1-20-6
Pathway to high school diploma

Sec. 6. The program provided under this chapter may include a pathway to obtain a high school diploma.
As added by P.L.7-2011, SEC.23.

IC 22-4.1-21

Chapter 21. Postsecondary Proprietary Educational Institution Accreditation

IC 22-4.1-21-1

Definitions

Sec. 1. IC 21-18.5-1-3, IC 21-18.5-1-4, and IC 21-18.5-1-5 apply to this chapter.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-2

"Accreditation"

Sec. 2. As used in this chapter, "accreditation" means certification of a status of approval or authorization by the council to conduct business as a postsecondary proprietary educational institution.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-3

"Agent"

Sec. 3. As used in this chapter, "agent" means a person who:

(1) enrolls or seeks to enroll a resident of Indiana through:

(A) personal contact;

(B) telephone;

(C) advertisement;

(D) letter; or

(E) publications;

in a course offered by a postsecondary proprietary educational institution; or

(2) otherwise holds the person out to the residents of Indiana as representing a postsecondary proprietary educational institution.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-4

"Agent's permit"

Sec. 4. As used in this chapter, "agent's permit" means a nontransferable written authorization issued to a person by the council to solicit a resident of Indiana to enroll in a course offered or maintained by a postsecondary proprietary educational institution.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-5

"Application"

Sec. 5. As used in this chapter, "application" means a written request for accreditation or an agent's permit on forms supplied by the council.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-6

"Course"

Sec. 6. As used in this chapter, "course" means a plan or program

of instruction or training, whether conducted in person, by mail, or by any other method.
As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-7
"Fund"

Sec. 7. As used in this chapter, "fund" refers to the student assurance fund established by section 18 of this chapter.
As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-8
"Person"

Sec. 8. As used in this chapter, "person" means an individual, a partnership, a limited liability company, an association, a corporation, a joint venture, a trust, a receiver, or a trustee in bankruptcy.
As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-9
"Postsecondary proprietary educational institution"

Sec. 9. As used in this chapter, "postsecondary proprietary educational institution" means a person doing business in Indiana by offering to the public, for a tuition, fee, or charge, instructional or educational services or training in a technical, professional, mechanical, business, or industrial occupation, in the recipient's home, at a designated location, or by mail. The term does not include the following:

(1) A postsecondary credit bearing proprietary educational institution accredited by the board for proprietary education under IC 21-18.5-6.

(2) A state educational institution or another educational institution established by law and financed in whole or in part by public funds.

(3) A postsecondary proprietary educational institution approved or regulated by any other state regulatory board, agency, or commission.

(4) An elementary or secondary school attended by students in kindergarten or grades 1 through 12 and supported in whole or in part by private tuition payments.

(5) Any educational institution or educational training that:

(A) is maintained or given by an employer or a group of employers, without charge, for employees or for individuals the employer anticipates employing;

(B) is maintained or given by a labor organization, without charge, for its members or apprentices;

(C) offers exclusively instruction that is clearly self-improvement, motivational, or avocational in intent (including instruction in dance, music, or self-defense, and private tutoring); or

(D) is a Montessori or nursery school.

(6) A privately endowed two (2) or four (4) year degree granting institution that is regionally accredited and whose principal campus is located in Indiana.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-10

Establishment of office for career and technical school; administration

Sec. 10. (a) The office for career and technical schools is established to carry out the responsibilities of the council under this chapter.

(b) The council may employ and fix compensation for necessary administrative staff with the approval of the department.

(c) The department may adopt reasonable rules under IC 4-22-2 to implement this chapter.

(d) The council may adopt and use a seal, the description of which shall be filed with the office of the secretary of state, and which may be used for the authentication of the acts of the council.

As added by P.L.107-2012, SEC.61. Amended by P.L.273-2013, SEC.29.

IC 22-4.1-21-11

Purpose

Sec. 11. The general assembly recognizes that the private school is an essential part of the educational system. It is the purpose of this chapter to protect students, educational institutions, the general public, and honest and ethical operators of private schools from dishonest and unethical practices.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-12

Accreditation

Sec. 12. A person may not do business as a postsecondary proprietary educational institution in Indiana without having obtained accreditation under this chapter.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-13

Applications; fee

Sec. 13. Applications for accreditation under this chapter must be filed with the council and accompanied by an application fee of at least one hundred dollars ($100) for processing the application and evaluating the postsecondary proprietary educational institution.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-14

Applications; contents

Sec. 14. An application for accreditation under this chapter must include at least the following information:

(1) The name and address of the postsecondary proprietary

educational institution and the institution's officers.

(2) The places where the courses are to be provided.

(3) The types of courses to be offered, the form of instruction to be followed with the class, shop, or laboratory, and the hours required for each curriculum.

(4) The form of certificate, diploma, or degree to be awarded.

(5) A statement of the postsecondary proprietary educational institution's finances.

(6) A description of the postsecondary proprietary educational institution's physical facilities, including classrooms, laboratories, library, machinery, and equipment.

(7) An explicit statement of policy with reference to:

(A) solicitation of students;

(B) payment and amount of student fees; and

(C) conditions under which students are entitled to a refund in part or in full of fees paid, including a statement concerning the existence of the fund.

(8) Provisions for liability insurance of students.

(9) Maximum student-teacher ratio to be maintained.

(10) Minimum requirements for instructional staff.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-15

Application; bond

Sec. 15. (a) This section is subject to section 16 of this chapter.

(b) An application for accreditation under this chapter must include a surety bond in a penal sum determined under section 16 of this chapter. The bond must be executed by the applicant as principal and by a surety company qualified and authorized to do business in Indiana as a surety or cash bond company.

(c) The surety bond must be conditioned to provide indemnification to any student or enrollee who suffers a loss or damage as a result of:

(1) the failure or neglect of the postsecondary proprietary educational institution to faithfully perform all agreements, express or otherwise, with the student, enrollee, one (1) or both of the parents of the student or enrollee, or a guardian of the student or enrollee as represented by the application for the institution's accreditation and the materials submitted in support of the application;

(2) the failure or neglect of the postsecondary proprietary educational institution to maintain and operate a course or courses of instruction or study in compliance with the standards of this chapter; or

(3) an agent's misrepresentation in procuring the student's enrollment.

(d) A surety on a bond may be released after the surety has made a written notice of the release directed to the council at least thirty (30) days before the release. However, a surety may not be released from the bond unless all sureties on the bond are released.

(e) A surety bond covers the period of the accreditation.

(f) Accreditation under this chapter shall be suspended if a postsecondary proprietary educational institution is no longer covered by a surety bond or if the postsecondary proprietary educational institution fails to comply with section 16 of this chapter. The council shall notify the postsecondary proprietary educational institution in writing at least ten (10) days before the release of the surety or sureties that the accreditation is suspended until another surety bond is filed in the manner and amount required under this chapter.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-16

Bond amount; determination; contributions to fund

Sec. 16. (a) Subject to subsections (b), (d), and (e), the council shall determine the penal sum of each surety bond required under section 15 of this chapter based upon the following guidelines:

(1) A postsecondary proprietary educational institution that has no annual gross tuition charges assessed for the previous year shall secure a surety bond in the amount of twenty-five thousand dollars ($25,000).

(2) If at any time the postsecondary proprietary educational institution's projected annual gross tuition charges are more than two hundred fifty thousand dollars ($250,000), the institution shall secure a surety bond in the amount of fifty thousand dollars ($50,000).

(b) After June 30, 2006, and except as provided in:

(1) section 19 of this chapter; and

(2) subsection (e);

and upon the fund achieving at least an initial one million dollar ($1,000,000) balance, a postsecondary proprietary educational institution that contributes to the fund when the initial quarterly contribution is required under this chapter after the fund's establishment is not required to make contributions to the fund or submit a surety bond.

(c) The council shall determine the number of quarterly contributions required for the fund to initially accumulate one million dollars ($1,000,000).

(d) Except as provided in section 19 of this chapter and subsection (e), a postsecondary proprietary educational institution that begins making contributions to the fund after the initial quarterly contribution as required under this chapter is required to make contributions to the fund for the same number of quarters as determined by the council under subsection (c).

(e) If, after the fund acquires one million dollars ($1,000,000), the balance in the fund becomes less than five hundred thousand dollars ($500,000), all postsecondary proprietary educational institutions not required to make contributions to the fund as described in subsection (b) or (d) shall make contributions to the fund for the number of quarters necessary for the fund to accumulate one million dollars

($1,000,000).
As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-17
Curriculum catalog and promotional brochure; contents

Sec. 17. The council shall require each postsecondary proprietary educational institution to include in each curriculum catalog and promotional brochure the following:

(1) A statement indicating that the postsecondary proprietary educational institution is regulated by the council under this chapter.

(2) The council's mailing address and telephone number.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-18
Student assurance fund; administration

Sec. 18. (a) The student assurance fund is established to provide indemnification to a student or an enrollee of a postsecondary proprietary educational institution who suffers loss or damage as a result of an occurrence described in section 15(c) of this chapter if the occurrence transpired after June 30, 1992, and as provided in section 35 of this chapter.

(b) The council shall administer the fund.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains available to be used for providing money for reimbursements allowed under this chapter.

(f) Upon the fund acquiring fifty thousand dollars ($50,000), the balance in the fund must not become less than fifty thousand dollars ($50,000). If:

(1) a claim against the fund is filed that would, if paid in full, require the balance of the fund to become less than fifty thousand dollars ($50,000); and

(2) the council determines that the student is eligible for a reimbursement under the fund;

the council shall prorate the amount of the reimbursement to ensure that the balance of the fund does not become less than fifty thousand dollars ($50,000), and the student is entitled to receive that balance of the student's claim from the fund as money becomes available in the fund from contributions to the fund required under this chapter.

(g) The council shall ensure that all outstanding claim amounts described in subsection (f) are paid as money in the fund becomes available in the chronological order of the outstanding claims.

(h) A claim against the fund may not be construed to be a debt of the state.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-19
Quarterly contributions to fund; determination; bond

Sec. 19. (a) Subject to section 16 of this chapter, each postsecondary proprietary educational institution shall make quarterly contributions to the fund. The quarters begin January 1, April 1, July 1, and October 1.

(b) For each quarter, each postsecondary proprietary educational institution shall make a contribution equal to the STEP THREE amount derived under the following formula:

STEP ONE: Determine the total amount of tuition and fees earned during the quarter.

STEP TWO: Multiply the STEP ONE amount by one-tenth of one percent (0.1%).

STEP THREE: Add the STEP TWO amount and sixty dollars ($60).

(c) Notwithstanding section 16 of this chapter, for a postsecondary proprietary educational institution beginning operation after September 30, 2004, the council, in addition to requiring contributions to the fund, shall require the postsecondary proprietary educational institution to submit a surety bond in an amount determined by the council for a period that represents the number of quarters required for the fund to initially accumulate one million dollars ($1,000,000) as determined under section 16(c) of this chapter.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-20
Investigation

Sec. 20. (a) Upon receipt of an application for accreditation under this chapter, the council shall make an investigation to determine the accuracy of the statements in the application to determine if the postsecondary proprietary educational institution meets the minimum standards for accreditation.

(b) During the investigation under subsection (a), the council may grant a temporary status of accreditation. The temporary status of accreditation is sufficient to meet the requirements of this chapter until a determination on accreditation is made.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-21
Inspection fee

Sec. 21. The cost of performing a team onsite investigation for purposes of section 20 of this chapter shall be paid by the applicant postsecondary proprietary educational institution. However, the total cost of an inspection, including room, board, and mileage that does not require travel outside Indiana, may not exceed one thousand dollars ($1,000) for any one (1) postsecondary proprietary educational institution.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-22
Student records; contents; surrender to council

Sec. 22. (a) A postsecondary proprietary educational institution shall maintain at least the following records for each student:

(1) The program in which the student enrolls.
(2) The length of the program.
(3) The date of the student's initial enrollment in the program.
(4) The student's period of attendance.
(5) The amount of the student's tuition and fees.
(6) A copy of the enrollment agreement.

(b) Upon the request of the council, a postsecondary proprietary educational institution shall submit the records described in subsection (a) to the council.

(c) If a postsecondary proprietary educational institution ceases operation, the postsecondary proprietary educational institution shall submit the records described in subsection (a) to the council not later than thirty (30) days after the institution ceases to operate.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-23
Accreditation standards

Sec. 23. Full accreditation under this chapter may not be issued unless and until the council finds that the postsecondary proprietary educational institution meets minimum standards that are appropriate to that type or class of postsecondary proprietary educational institution, including the following minimum standards:

(1) The postsecondary proprietary educational institution has a sound financial structure with sufficient resources for continued support.
(2) The postsecondary proprietary educational institution has satisfactory training or educational facilities with sufficient tools, supplies, or equipment and the necessary number of work stations or classrooms to adequately train, instruct, or educate the number of students enrolled or proposed to be enrolled.
(3) The postsecondary proprietary educational institution has an adequate number of qualified instructors or teachers, sufficiently trained by experience or education, to give the instruction, education, or training contemplated.
(4) The advertising and representations made on behalf of the postsecondary proprietary educational institution to prospective students are truthful and free from misrepresentation or fraud.
(5) The charge made for the training, instruction, or education is clearly stated and based upon the services rendered.
(6) The premises and conditions under which the students work and study are sanitary, healthful, and safe according to modern standards.
(7) The postsecondary proprietary educational institution has and follows a refund policy approved by the council.
(8) The owner or chief administrator of the postsecondary proprietary educational institution has not been convicted of a

felony.

(9) The owner or chief administrator of the postsecondary proprietary educational institution has not been the owner or chief administrator of a postsecondary proprietary educational institution that has had its accreditation revoked or has been closed involuntarily in the five (5) year period preceding the application for accreditation. However, if the owner or chief administrator of the postsecondary proprietary educational institution has been the owner or chief administrator of a postsecondary proprietary educational institution that has had its accreditation revoked or has been closed involuntarily more than five (5) years before the application for accreditation, the council may issue full accreditation at the council's discretion.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-24
Issuance of accreditation

Sec. 24. (a) After an investigation and a finding that the information in the application is true and the postsecondary proprietary educational institution meets the minimum standards, the council shall issue an accreditation to the postsecondary proprietary educational institution upon payment of an additional fee of at least twenty-five dollars ($25).

(b) The council may waive inspection of a postsecondary proprietary educational institution that has been accredited by an accrediting unit whose standards are approved by the council as meeting or exceeding the requirements of this chapter.

(c) A valid license, approval to operate, or other form of accreditation issued to a postsecondary proprietary educational institution by another state may be accepted, instead of inspection, if:

(1) the requirements of that state meet or exceed the requirements of this chapter; and

(2) the other state will, in turn, extend reciprocity to postsecondary proprietary educational institutions accredited by the council.

(d) An accreditation issued under this section expires one (1) year following the accreditation's issuance.

(e) An accredited postsecondary proprietary educational institution may renew the institution's accreditation annually upon:

(1) the payment of a fee of at least twenty-five dollars ($25); and

(2) continued compliance with this chapter.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-25
Revocation

Sec. 25. Accreditation under this chapter may be revoked by the council:

(1) for cause upon notice and an opportunity for a council

hearing; and

(2) for the accredited postsecondary proprietary educational institution failing to make the appropriate quarterly contributions to the fund not later than forty-five (45) days after the end of a quarter.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-26
Hearing

Sec. 26. (a) A postsecondary proprietary educational institution, after notification that the institution's accreditation has been refused, revoked, or suspended, may apply for a hearing before the council concerning the institution's qualifications. The application for a hearing must be filed in writing with the council not more than thirty (30) days after receipt of notice of the denial, revocation, or suspension.

(b) The council shall give a hearing promptly and with not less than ten (10) days notice of the date, time, and place. The postsecondary proprietary educational institution is entitled to be represented by counsel and to offer oral and documentary evidence relevant to the issue.

(c) Not more than fifteen (15) days after a hearing, the council shall make written findings of fact, a written decision, and a written order based solely on the evidence submitted at the hearing, either granting or denying accreditation to the postsecondary proprietary educational institution.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-27
Suspension

Sec. 27. A postsecondary proprietary educational institution's accreditation shall be suspended at any time if the accredited postsecondary proprietary educational institution denies enrollment to a student or makes a distinction or classification of students on the basis of race, color, or creed.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-28
Representations

Sec. 28. A person may not do the following:

(1) Make, or cause to be made, a statement or representation, oral, written, or visual, in connection with the offering or publicizing of a course, if the person knows or should reasonably know the statement or representation is false, deceptive, substantially inaccurate, or misleading.

(2) Promise or guarantee employment to a student or prospective student using information, training, or skill purported to be provided or otherwise enhanced by a course, unless the person offers the student or prospective student a bona fide contract of employment agreeing to employ the

student or prospective student for a period of at least ninety (90) days in a business or other enterprise regularly conducted by the person in which that information, training, or skill is a normal condition of employment.

(3) Do an act that constitutes part of the conduct of administration of a course if the person knows, or should reasonably know, that the course is being carried on by the use of fraud, deception, or other misrepresentation.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-29

Agent's permits; liability of institution as principal

Sec. 29. (a) A person representing a postsecondary proprietary educational institution doing business in Indiana by offering courses may not sell a course or solicit students for the institution unless the person first secures an agent's permit from the council. If the agent represents more than one (1) postsecondary proprietary educational institution, a separate agent's permit must be obtained for each institution that the agent represents.

(b) Upon approval of an agent's permit, the council shall issue a pocket card to the person that includes:

(1) the person's name and address;

(2) the name and address of the postsecondary proprietary educational institution that the person represents; and

(3) a statement certifying that the person whose name appears on the card is an authorized agent of the postsecondary proprietary educational institution.

(c) The application must be accompanied by a fee of at least ten dollars ($10).

(d) An agent's permit is valid for one (1) year from the date of its issue. An application for renewal must be accompanied by a fee of at least ten dollars ($10).

(e) A postsecondary proprietary educational institution is liable for the actions of the institution's agents.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-30

Temporary permit

Sec. 30. (a) An application for an agent's permit must be granted or denied by the council not more than fifteen (15) working days after the receipt of the application. If the council has not completed a determination with respect to the issuance of a permit under this section within the fifteen (15) working day period, the council shall issue a temporary permit to the applicant. The temporary permit is sufficient to meet the requirements of this chapter until a determination is made on the application.

(b) A permit issued under this chapter may, upon ten (10) days notice and after a hearing, be revoked by the council:

(1) if the holder of the permit solicits or enrolls students through fraud, deception, or misrepresentation; or

(2) upon a finding that the permit holder is not of good moral character.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-31

Remedy; damages or other relief

Sec. 31. The fact that a bond is in force or that the fund exists does not limit or impair a right of recovery and the amount of damages or other relief to which a plaintiff may be entitled under this chapter.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-32

Remedy; void contracts

Sec. 32. An obligation, negotiable or nonnegotiable, providing for payment for a course or courses of instruction is void if the postsecondary proprietary educational institution is not accredited to operate in Indiana.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-33

Misrepresentation

Sec. 33. The issuance of an agent's permit or any accreditation may not be considered to constitute approval of a course, a person, or an institution. A representation to the contrary is a misrepresentation.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-34

Claims against board by student for loss or damages; contents; investigation; limitations; claim against balance of fund

Sec. 34. (a) This section applies to claims against the surety bond of a postsecondary proprietary educational institution.

(b) A student who believes that the student is suffering loss or damage resulting from any of the occurrences described in section 15(c) of this chapter may request the council to file a claim against the surety of the postsecondary proprietary educational institution or agent.

(c) The request must state the grounds for the claim and must include material substantiating the claim.

(d) The council shall investigate all claims submitted to the council and attempt to resolve the claims informally. If the council determines that a claim is valid, and an informal resolution cannot be made, the council shall submit a formal claim to the surety.

(e) A claim against the surety bond may not be filed by the council unless the student's request under subsection (b) is commenced not more than five (5) years after the date on which the loss or damage occurred.

(f) If the amount of the surety bond is insufficient to cover all or part of the claim, a claim for the balance of the claim against the

surety bond in the amount that is insufficient must be construed to be a claim against the balance of the fund under section 35 of this chapter.
As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-35
Claims against balance of fund for reimbursement of tuition and fees; determination; priorities

Sec. 35. (a) This section applies:

(1) to claims against the balance of the fund; and

(2) in cases in which a student or an enrollee of a postsecondary proprietary educational institution is protected by both a surety bond and the balance of the fund, only after a claim against the surety bond exceeds the amount of the surety bond.

(b) A student or an enrollee of a postsecondary proprietary educational institution who believes that the student or enrollee has suffered loss or damage resulting from any of the occurrences described in section 15(c) of this chapter may request the council to file a claim with the council against the balance of the fund. If there is a surety bond in an amount sufficient to cover a claim or part of a claim under this section, a claim against the balance of the fund must be construed to be a claim against the surety bond first to the extent that the amount of the surety bond exists and the balance of the claim may be filed against the balance of the fund.

(c) A claim under this section is limited to a refund of the claimant's applicable tuition and fees.

(d) All claims must be filed not later than five (5) years after the occurrence that results in the loss or damage to the claimant.

(e) Upon the filing of a claim under this section, the council shall review the records submitted by the appropriate postsecondary proprietary educational institution described under section 22 of this chapter and shall investigate the claim and attempt to resolve the claim as described in section 34(d) of this chapter.

(f) Upon a determination by the council that a claimant shall be reimbursed under the fund, the council shall prioritize the reimbursements under the following guidelines:

(1) A student's educational loan balances.

(2) Federal grant repayment obligations of the student.

(3) Other expenses paid directly by the student.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-36
Relief; injunction

Sec. 36. The prosecuting attorney of the county in which an offense under this chapter occurred shall, at the request of the council or on the prosecuting attorney's own motion, bring any appropriate action, including a mandatory and prohibitive injunction.
As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-37

Adjudication

Sec. 37. An action of the council concerning the issuance, denial, or revocation of a permit or accreditation under this chapter is subject to review under IC 4-21.5.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-38 Version a

Violations

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 38. (a) Except as provided in subsection (b), a person who knowingly, intentionally, or recklessly violates this chapter commits a Class B misdemeanor.

(b) A person who, with intent to defraud, represents the person to be an agent of a postsecondary proprietary educational institution commits a Class C felony.

As added by P.L.107-2012, SEC.61.

IC 22-4.1-21-38 Version b

Violations

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 38. (a) Except as provided in subsection (b), a person who knowingly, intentionally, or recklessly violates this chapter commits a Class B misdemeanor.

(b) A person who, with intent to defraud, represents the person to be an agent of a postsecondary proprietary educational institution commits a Level 5 felony.

As added by P.L.107-2012, SEC.61. Amended by P.L.158-2013, SEC.253.

IC 22-4.1-21-39

Establishment of proprietary educational institution accreditation fund; collection of fees

Sec. 39. (a) The proprietary educational institution accreditation fund is established.

(b) The proprietary educational institution accreditation fund shall be administered by the council.

(c) Money in the proprietary educational institution accreditation fund at the end of a state fiscal year does not revert to the general fund.

(d) All fees collected by the council under this chapter shall be deposited in the proprietary educational institution accreditation fund.

(e) Money in the proprietary educational institution accreditation fund shall be used by the council to administer this chapter.

As added by P.L.107-2012, SEC.61.

IC 22-4.5

ARTICLE 4.5. THE WORKFORCE INVESTMENT SYSTEM

IC 22-4.5-1

Chapter 1. Purpose

IC 22-4.5-1-1

Goals

Sec. 1. The workforce investment system is established to achieve the following goals:

(1) To coordinate activities at the state and local levels to increase the employment, retention, occupational skills, and earnings of the workforce.

(2) To reduce welfare dependency.

(3) To enhance the productivity and competitiveness of Indiana business and industry.

(4) To encourage continuous improvement in worker preparation from kindergarten through adulthood.

As added by P.L.179-1999, SEC.5.

IC 22-4.5-2
Chapter 2. Definitions

IC 22-4.5-2-1
Applicability of definitions
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.179-1999, SEC.5.

IC 22-4.5-2-2
Repealed
(Repealed by P.L.161-2006, SEC.33.)

IC 22-4.5-2-2.5
"Corporation"
Sec. 2.5. "Corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.
As added by P.L.161-2006, SEC.22.

IC 22-4.5-2-3
"Department"
Sec. 3. "Department" refers to the department of workforce development established under IC 22-4.1-2.
As added by P.L.179-1999, SEC.5.

IC 22-4.5-2-4
"Executive"
Sec. 4. "Executive" has the meaning set forth in IC 36-1-2-5.
As added by P.L.179-1999, SEC.5.

IC 22-4.5-2-5
Repealed
(Repealed by P.L.202-2005, SEC.8.)

IC 22-4.5-2-5.5
"Local elected official"
Sec. 5.5. "Local elected official" means:
(1) an elected executive of a second or third class city that has a population of at least five thousand (5,000) and is located in a regional workforce area; or
(2) an elected member of the executive body of a county.
As added by P.L.161-2006, SEC.23.

IC 22-4.5-2-6
"One stop center"
Sec. 6. "One stop center" means a physical location that:
(1) provides access to all one stop services;
(2) is certified by the state board; and
(3) includes an onsite information resource area that meets minimum criteria established by the department.

As added by P.L.179-1999, SEC.5. Amended by P.L.161-2006, SEC.24.

IC 22-4.5-2-7
Repealed
(Repealed by P.L.161-2006, SEC.33.)

IC 22-4.5-2-8
Repealed
(Repealed by P.L.161-2006, SEC.33.)

IC 22-4.5-2-8.5
"Political subdivision"
Sec. 8.5. "Political subdivision" has the meaning set forth in IC 36-1-2-13.
As added by P.L.161-2006, SEC.25.

IC 22-4.5-2-9
Repealed
(Repealed by P.L.161-2006, SEC.33.)

IC 22-4.5-2-9.3
"Regional operator"
Sec. 9.3. "Regional operator" means a person (as defined in IC 22-4-11.5-3) selected under IC 22-4.5-7-5.
As added by P.L.161-2006, SEC.26.

IC 22-4.5-2-9.5
"Regional workforce area"
Sec. 9.5. "Regional workforce area" means an area designated by the corporation under IC 22-4.5-7-1.
As added by P.L.161-2006, SEC.27.

IC 22-4.5-2-9.7
"Regional workforce board"
Sec. 9.7. "Regional workforce board" means a regional workforce board established under IC 22-4.5-7-2.
As added by P.L.161-2006, SEC.28.

IC 22-4.5-2-10
Repealed
(Repealed by P.L.161-2006, SEC.33.)

IC 22-4.5-2-11
Repealed
(Repealed by P.L.161-2006, SEC.33.)

IC 22-4.5-2-12
Repealed
(Repealed by P.L.161-2006, SEC.33.)

IC 22-4.5-2-13
"Workforce Investment Act"

Sec. 13. "Workforce Investment Act" refers to the federal Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), including reauthorizations of the Act.

As added by P.L.179-1999, SEC.5. Amended by P.L.161-2006, SEC.29.

IC 22-4.5-2-13.5
"Workforce investment board"

Sec. 13.5. "Workforce investment board" means a local board as defined in the Workforce Investment Act (29 U.S.C. 2801 et seq.), including reauthorizations of the Act.

As added by P.L.161-2006, SEC.30.

IC 22-4.5-2-14
Repealed

(Repealed by P.L.161-2006, SEC.33.)

IC 22-4.5-3
Repealed

(Repealed by P.L.161-2006, SEC.33.)

IC 22-4.5-4
Repealed

(Repealed by P.L.161-2006, SEC.33.)

IC 22-4.5-5
Repealed

(Repealed by P.L.161-2006, SEC.33.)

IC 22-4.5-6
Repealed

(Repealed by P.L.161-2006, SEC.33.)

IC 22-4.5-7

Chapter 7. Regional Workforce System

IC 22-4.5-7-1

Regional workforce areas; establishment

Sec. 1. (a) After consultation with the department, the corporation shall designate not more than eleven (11) distinct regional workforce areas throughout Indiana.

(b) In designating a regional workforce area, the corporation shall take into account whether an area is a distinct economic growth region as well as a workforce area.

As added by P.L.161-2006, SEC.31.

IC 22-4.5-7-2

Regional workforce boards; function; membership

Sec. 2. (a) A regional workforce board shall oversee each regional workforce area.

(b) Each regional workforce board consists of not more than sixteen (16) members and must include the following:

(1) At least one (1) business representative who is:

(A) a business owner;

(B) a chief executive or operating officer; or

(C) a business executive or employer with optimum policy making or hiring authority.

(2) Four (4) nonbusiness representatives, one (1) from each of the following categories:

(A) An economic development agency.

(B) A local educational entity.

(C) A community based or faith based service organization.

(D) For a regional workforce area in which employees are represented by labor organizations, a labor organization, with the member being nominated by the local labor federations. If there are no employees in the regional workforce area who are represented by a labor organization, the member selected in this category must be a representative of:

(i) the employees in the regional workforce area; or

(ii) a statewide labor organization.

(c) The nonbusiness representatives described in subsection (b)(2) are selected and appointed as members of each regional workforce board in the following manner:

(1) The mayor of the largest city in the regional workforce area shall select and appoint one (1) member from any of the four (4) categories listed in subsection (b)(2).

(2) If the second largest city in the regional workforce area has a population greater than eight thousand (8,000), the mayor of the second largest city shall select and appoint one (1) member from any of the three (3) remaining categories listed in subsection (b)(2).

(3) If the third largest city in the regional workforce area has a

population greater than eight thousand (8,000), the mayor of the third largest city shall select and appoint one (1) member from either of the two (2) remaining categories listed in subsection (b)(2).

(4) If the fourth largest city in the regional workforce area has a population greater than eight thousand (8,000), the mayor of the fourth largest city shall select and appoint one (1) member from the remaining category listed in subsection (b)(2).

(d) If a regional workforce area contains fewer than four (4) cities having a population greater than eight thousand (8,000), the selection and appointment of the nonbusiness representatives as members to a regional workforce board occurs as described in subsection (c) with the mayors of the cities having a population greater than eight thousand (8,000) alternately selecting and appointing the members.

(e) The business representatives described in subsection (b)(1) are selected and appointed as members of each regional workforce board in the following manner:

(1) Each county in the regional workforce area shall appoint, by majority agreement of all the local elected officials in that county, one (1) business representative who meets the requirements of subsection (b)(1).

(2) The mayor of each city having a population greater than one hundred thousand (100,000) in the regional workforce area shall appoint one (1) additional business representative who meets the requirements of subsection (b)(1).

(3) The mayor of each city having a population greater than five hundred thousand (500,000) in the regional workforce area shall appoint one (1) additional business representative who meets the requirements of subsection (b)(1).

(f) If the selection and appointment process described in subsections (c) through (e) results in fewer than sixteen (16) members being appointed to a regional workforce board, the local elected officials in the regional workforce area may, by majority agreement, appoint additional business representatives who meet the requirements of subsection (b)(1) until the sixteen (16) member limit is reached.

(g) If a political subdivision requests and is granted an automatic designation as a workforce investment board under federal law, the executive of the political subdivision may not appoint members to a regional workforce board under subsections (c) through (f).

As added by P.L.161-2006, SEC.31.

IC 22-4.5-7-3

Regional workforce boards; duties

Sec. 3. The duties of a regional workforce board include the following:

(1) Providing guidance and direction to the workforce investment system.

(2) Providing support and guidance described in section 4 of this chapter to a workforce investment board.

(3) Performing additional duties in the regional workforce area as assigned by a workforce investment board.

As added by P.L.161-2006, SEC.31.

IC 22-4.5-7-4

Regional workforce board; duties with respect to a workforce investment board

Sec. 4. In addition to the duties described in section 3 of this chapter, each regional workforce board shall advise the workforce investment board in the regional workforce area on regional workforce area issues and provide support to the workforce investment board as follows:

(1) Select and enter into an agreement with a regional operator on behalf of its workforce investment board at least every three (3) years using a competitive procurement process.

(2) Select Workforce Investment Act services, other employment and training services as determined by the department, and service providers on behalf of its workforce investment board at least every three (3) years using a competitive procurement process.

(3) Oversee on behalf of its workforce investment board the activities of the regional operator in the regional workforce area.

(4) Develop an outcome based regional plan that encourages the integration of service delivery.

(5) Perform additional duties as requested by the workforce investment board.

As added by P.L.161-2006, SEC.31.

IC 22-4.5-7-5

Regional operators

Sec. 5. (a) A workforce investment board and its regional workforce board must comply with this section when selecting a regional operator to provide:

(1) support services for a regional workforce area; and

(2) operational oversight and management for:

(A) the one stop centers; and

(B) the workforce investment system;

in a regional workforce area.

(b) A regional workforce board, with the consent of a workforce investment board, may establish agreements with a regional operator for support services on behalf of the workforce investment board in the regional workforce area.

(c) A regional workforce board may assist a workforce investment board in establishing agreements with a regional operator for support services for the workforce investment board in the regional workforce area.

(d) An agreement established under this section must be the result of a competitive procurement process as determined by the workforce investment board.

As added by P.L.161-2006, SEC.31.

IC 22-4.5-7-6
Regional workforce board members; restrictions

Sec. 6. A person who serves as a regional workforce board member may not at the same time serve as:

(1) a regional operator;
(2) a fiscal agent;
(3) a service provider; or
(4) a provider of direct client services.

As added by P.L.161-2006, SEC.31.

IC 22-4.5-7-7
Regional operators; serving as a fiscal agent; restrictions

Sec. 7. (a) A person who serves as a regional operator may also serve as a fiscal agent.

(b) A person who serves as a regional operator may not at the same time serve as:

(1) a service provider within the same regional workforce area;
(2) a regional workforce board member; or
(3) a provider of direct client services.

As added by P.L.161-2006, SEC.31.

IC 22-4.5-7-8
Service providers; restrictions

Sec. 8. A person who serves as a service provider may not at the same time serve as:

(1) a regional operator;
(2) a fiscal agent; or
(3) a regional workforce board member.

As added by P.L.161-2006, SEC.31.

IC 22-4.5-7-9
Fiscal agents; serving as a remote operator; restrictions

Sec. 9. (a) A person who serves as a fiscal agent may also serve as a regional operator.

(b) A person who serves as a fiscal agent may not at the same time serve as:

(1) a service provider;
(2) a regional workforce board member; or
(3) a provider of direct client services.

As added by P.L.161-2006, SEC.31.

IC 22-4.5-7-10
Authorization to adopt rules

Sec. 10. The department may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.161-2006, SEC.31.

IC 22-4.5-8

Chapter 8. Allocation of Funds to Regional Workforce Boards

IC 22-4.5-8-1

Allocation of funds to regional workforce boards

Sec. 1. The department and the council shall allocate federal workforce development and employment and training services funds to the workforce investment boards for distribution to the regional workforce boards in accordance with the requirements of federal workforce development and employment and training laws.

As added by P.L.161-2006, SEC.32.

IC 22-4.5-9
Chapter 9. Indiana Career Council

IC 22-4.5-9-1
"Council"
Sec. 1. As used in this chapter, "council" refers to the Indiana career council established by section 3 of this chapter.
As added by P.L.60-2013, SEC.1.

IC 22-4.5-9-2
"System"
Sec. 2. As used in this chapter, "system" refers to the Indiana workforce intelligence system established by IC 22-4.5-10-3.
As added by P.L.60-2013, SEC.1.

IC 22-4.5-9-3
Council established
Sec. 3. The Indiana career council is established.
As added by P.L.60-2013, SEC.1.

IC 22-4.5-9-4
Powers and duties
Sec. 4. (a) The council shall do all of the following:
(1) Provide coordination to align the various participants in the state's education, job skills development, and career training system.
(2) Match the education and skills training provided by the state's education, job skills development, and career training system with the currently existing and future needs of the state's job market.
(3) Provide administrative oversight of the system.
(4) In addition to the department's annual report provided under IC 22-4-18-7, submit, not later than August 1, 2013, and not later than August 1 each year thereafter, to the legislative council in an electronic format under IC 5-14-6 an inventory of current job and career training activities conducted by:
(A) state and local agencies; and
(B) whenever the information is readily available, private groups, associations, and other participants in the state's education, job skills development, and career training system.
The inventory must provide at least the information listed in IC 22-4-18-7(a)(1) through IC 22-4-18-7(a)(5) for each activity in the inventory.
(5) Submit, not later than July 1, 2014, to the legislative council in an electronic format under IC 5-14-6 a strategic plan to improve the state's education, job skills development, and career training system. The council shall submit, not later than December 1, 2013, to the legislative council in an electronic format under IC 5-14-6 a progress report concerning the

development of the strategic plan. The strategic plan developed under this subdivision must include at least the following:

(A) Proposed changes, including recommended legislation and rules, to increase coordination, data sharing, and communication among the state, local, and private agencies, groups, and associations that are involved in education, job skills development, and career training.

(B) Proposed changes to make Indiana a leader in employment opportunities related to the fields of science, technology, engineering, and mathematics (commonly known as STEM).

(C) Proposed changes to address both:

(i) the shortage of qualified workers for current employment opportunities; and

(ii) the shortage of employment opportunities for individuals with a baccalaureate or more advanced degree.

(6) Coordinate the performance of its duties under this chapter with:

(A) the education roundtable established by IC 20-19-4-2; and

(B) the Indiana works councils established under SEA 465-2013.

(b) In performing its duties, the council shall obtain input from the following:

(1) Indiana employers and employer organizations.

(2) Public and private institutions of higher education.

(3) Regional and local economic development organizations.

(4) Indiana labor organizations.

(5) Individuals with expertise in career and technical education.

(6) Military and veterans organizations.

(7) Organizations representing women, African Americans, Latinos, and other significant minority populations and having an interest in issues of particular concern to these populations.

(8) Individuals and organizations with expertise in the logistics industry.

(9) Any other person or organization that a majority of the voting members of the council determine has information that is important for the council to consider.

As added by P.L.60-2013, SEC.1.

IC 22-4.5-9-5

Members; appointment; vacancies

Sec. 5. (a) The council consists of the following members:

(1) The governor.

(2) The lieutenant governor.

(3) The commissioner of the department of workforce development.

(4) The secretary of commerce.

(5) The state superintendent of public instruction.

(6) The commissioner of the commission for higher education.

(7) The secretary of the family and social services administration.
(8) The president of Ivy Tech Community College.
(9) One (1) member representing manufacturing in Indiana appointed by the governor.
(10) One (1) member representing the business community in Indiana appointed by the governor.
(11) One (1) member representing labor in Indiana appointed by the governor.
(12) One (1) member representing the life sciences industry appointed by the governor.
(13) Two (2) members of the house of representatives appointed by the speaker of the house of representatives. The individuals appointed under this subdivision:
(A) may not be members of the same political party; and
(B) serve as advisory nonvoting members of the council.
(14) Two (2) members of the senate appointed by the president pro tempore of the senate. The individuals appointed under this subdivision:
(A) may not be members of the same political party; and
(B) serve as advisory nonvoting members of the council.

(b) If a vacancy on the council occurs, the person who appointed the member whose position is vacant shall appoint an individual to fill the vacancy using the criteria in subsection (a).

(c) A member of the council appointed by the governor, the speaker of the house of representatives, or the president pro tempore of the senate serves at the pleasure of the appointing authority and may be replaced at any time by the appointing authority.

As added by P.L.60-2013, SEC.1.

IC 22-4.5-9-6
Chair; meetings; agendas

Sec. 6. (a) The governor shall serve as the chair of the council, and the lieutenant governor shall serve as the vice chair of the council.

(b) The council:
(1) shall meet monthly; and
(2) may meet more frequently at the call of the chair.

(c) The chair shall establish the agenda for each meeting of the council.

As added by P.L.60-2013, SEC.1.

IC 22-4.5-9-7
Quorum; taking official action

Sec. 7. (a) A majority of the voting members of the council constitutes a quorum for the purpose of conducting business.

(b) The affirmative votes of a majority of the voting members of the council are necessary for the council to take official action.

As added by P.L.60-2013, SEC.1.

IC 22-4.5-9-8
Compensation; expense reimbursement

Sec. 8. (a) Each member of the council who is not a state employee or is not a member of the general assembly is entitled to the following:

(1) The salary per diem provided under IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(3) Other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the department of administration and approved by the budget agency.

(b) Each member of the council who is a state employee but not a member of the general assembly is entitled to the following:

(1) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(2) Other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the department of administration and approved by the budget agency.

(c) Each member of the council who is a member of the general assembly is entitled to the same:

(1) per diem;

(2) mileage; and

(3) travel allowances;

paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative services agency.

As added by P.L.60-2013, SEC.1.

IC 22-4.5-9-9
Staff and administrative support

Sec. 9. The governor may request the assistance of any state agency, board, commission, committee, department, division, or other entity of the executive department of state government as necessary to provide staff and administrative support to the council and the system.

As added by P.L.60-2013, SEC.1.

IC 22-4.5-9-10
Expiration of chapter

Sec. 10. This chapter expires July 1, 2018.

As added by P.L.60-2013, SEC.1.

IC 22-4.5-10
Chapter 10. Indiana Workforce Intelligence System

IC 22-4.5-10-1
"Council"
Sec. 1. As used in this chapter, "council" refers to the Indiana career council established by IC 22-4.5-9-3.
As added by P.L.60-2013, SEC.2.

IC 22-4.5-10-2
"System"
Sec. 2. As used in this chapter, "system" refers to the Indiana workforce intelligence system established by section 3 of this chapter.
As added by P.L.60-2013, SEC.2.

IC 22-4.5-10-3
System established; purposes
Sec. 3. The Indiana workforce intelligence system is established as a statewide longitudinal data system that contains educational and workforce information:
(1) from educational institutions at all levels; and
(2) about the state's workforce;
to improve the effect of the state's educational delivery system on the economic opportunities of individuals and the state's workforce, and to guide state and local decision makers.
As added by P.L.60-2013, SEC.2.

IC 22-4.5-10-4
System requirements
Sec. 4. The system must do the following:
(1) Effectively organize, manage, break down, and analyze educational and workforce data.
(2) Generate timely and accurate information about student progress and outcomes over time, including students' preparation for postsecondary education and the workforce.
(3) Generate timely and accurate information that is available to the public about the effectiveness of the state's job training programs, including at least the following:
(A) The number of participants in each program.
(B) The number of participants who, as a result of the training received in the program:
(i) secured employment; or
(ii) were retained by an employer.
(C) The average wage of the participants who secured employment or were retained by an employer.
(4) Support the economic development activities of state and local governments.

As added by P.L.60-2013, SEC.2.

IC 22-4.5-10-5
Submission and use of system data; privacy

Sec. 5. The department of education (established by IC 20-19-3-1), the department of workforce development (established by IC 22-4.1-2-1), the commission for higher education (established by IC 21-18-2-1), and other agencies of the state that collect data related to educational and workforce outcomes shall submit that data to the system on a timely basis and shall ensure the following:

(1) Routine and ongoing compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and other relevant privacy laws and policies, including the following:

(A) The required use of data that cannot be used to identify information relating to a specific individual or entity.

(B) The required disposition of information that is no longer needed.

(C) The provision of a data security plan, including the performance of regular audits for compliance with data privacy and security standards.

(D) The implementation of guidelines and policies to prevent the reporting of other data that may potentially be used to identify information relating to a specific individual or entity.

(2) The use of data only in summary form in reports and responses to information requests. Data that may identify specific individuals or entities because of the size or uniqueness of the population involved may not be reported in any form.

As added by P.L.60-2013, SEC.2.

IC 22-4.5-10-6
Administrative oversight; powers and duties of system administrator

Sec. 6. (a) The:

(1) council, before July 1, 2018; and

(2) governor, after June 30, 2018;

shall provide administrative oversight to the system.

(b) Administrative oversight of the system includes all the following:

(1) Provide general oversight and direction for the development and maintenance of the system.

(2) Approve an annual budget for the system.

(3) Hire staff necessary to administer the system.

(4) Develop a detailed data security and safeguarding plan that includes:

(A) access by authenticated authorization;

(B) privacy compliance standards;

(C) notification and other procedures to protect system data if a breach of the system occurs; and

(D) policies for data retention and disposition.

(5) Oversee routine and ongoing compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and other relevant privacy laws and policies.

(6) Review research requirements and establish policies for responding to data requests from the state, local agencies, the general assembly, and the public.

(7) Oversee the development of public access to the system in a manner that:

(A) permits research using the data in aggregated form; and

(B) cannot provide information that allows the identification of a specific individual or entity.

(8) Identify additional sources of data for the system from among state entities and require those entities to submit relevant data to the system.

(c) Funding for the development, maintenance, and use of the system may be obtained from any of the following sources:

(1) Appropriations made by the general assembly for this purpose.

(2) Grants or other assistance from local educational agencies or institutions of higher education.

(3) Federal grants.

(4) User fees.

(5) Grants or amounts received from other public or private entities.

(d) The council (before July 1, 2018) and the governor (after June 30, 2018) may contract with public or private entities for the following purposes:

(1) To develop and maintain the system.

(2) To conduct research in support of the activities and objectives listed in section 4 of this chapter.

(3) To conduct research on topics at the request of the council, the governor, or the general assembly.

As added by P.L.60-2013, SEC.2.

IC 22-4.5-10.5
Chapter 10.5. Middle Skill Credentials

IC 22-4.5-10.5-1
"Industry based certification"
Sec. 1. As used in this chapter, "industry based certification" means a middle skill credential that is awarded based on performance on a test rather than on classroom instruction.
As added by P.L.273-2013, SEC.30.

IC 22-4.5-10.5-2
"Middle skills credential"
Sec. 2. As used in this chapter, "middle skill credential" means a credential awarded above the level of a high school diploma but below the level of a four (4) year college degree.
As added by P.L.273-2013, SEC.30.

IC 22-4.5-10.5-3
Information concerning middle skills credentials; requirements
Sec. 3. (a) The department, in consultation with the commission for higher education, the department of education, the office of the secretary of family and social services, and any other agency the department determines is necessary, shall include in the Indiana workforce intelligence system established by IC 22-4.5-10-3, as added by HB 1002-2013, SECTION 2, information regarding the middle skill credentials awarded in Indiana for the immediately preceding state fiscal year.
(b) The information required under subsection (a) must include:
(1) the aggregate number of enrollees in programs leading to middle skill credentials from:
(A) public institutions of higher education;
(B) private institutions of higher education;
(C) postsecondary proprietary educational institutions;
(D) community colleges;
(E) area vocational schools;
(F) high school vocational programs;
(G) apprenticeship programs; and
(H) other public or private workforce training programs; and
(2) aggregate data of industry based certifications awarded as the result of the completion of education and employment training programs.
(c) The department shall publish the information described in subsection (b) in the department's annual report.
As added by P.L.273-2013, SEC.30.

IC 22-4.5-10.5-4
Middle skills credentials; institutional reporting requirements
Sec. 4. (a) Public and private institutions of higher education, postsecondary proprietary educational institutions, community colleges, area vocational schools, high school vocational programs,

apprenticeship programs, and other public or private workforce training programs shall provide sufficient data described in section 3 of this chapter so that the department is able to:

(1) meet its obligations under section 3 of this chapter; and

(2) respond to requests for information and reports concerning middle skill credentials.

(b) The data described in section 3 of this chapter must be provided to:

(1) the department;

(2) the commission for higher education;

(3) the department of education;

(4) the office of the secretary of family and social services; and

(5) any other agency the department determines is necessary.

(c) The data described in section 3 of this chapter must be provided in disaggregated form and in the manner prescribed by the department.

(d) The data provided for each trainee of a training program described in this chapter must include:

(1) the trainee's name;

(2) the trainee's address;

(3) the school identification number;

(4) the name or a description of the certification completed by or credential awarded to the trainee;

(5) the name and address of the training provider; and

(6) a pass/fail indicator.

As added by P.L.273-2013, SEC.30.

IC 22-5

ARTICLE 5. UNLAWFUL LABOR PRACTICES

IC 22-5-1

Chapter 1. Limitations on Importing Alien Laborers

IC 22-5-1-1

Prepayment of transportation; assisting or encouraging migration under contract

Sec. 1. It is a Class A misdemeanor for a person to knowingly prepay transportation or assist or encourage the migration of any alien into Indiana under contract made before the migration of the alien to perform labor or service in Indiana.

(Formerly: Acts 1885(ss), c.51, s.1.) As amended by Acts 1978, P.L.2, SEC.2226.

IC 22-5-1-2

Contracts; void

Sec. 2. All contracts or agreements, express or implied, parol or special, which may hereafter be made by and between any person, company, partnership, limited liability company, or corporation, and any foreigner or foreigners, alien or aliens, to perform labor or service, or having reference to the performance of labor or service, by any person in the state of Indiana previous to the migration or importation of the person or persons whose labor or service is contracted for, into the United States, shall be utterly void and of no effect.

(Formerly: Acts 1885(ss), c.51, s.2.) As amended by P.L.8-1993, SEC.287.

IC 22-5-1-3

Repealed

(Repealed by Acts 1978, P.L.2, SEC.2251.)

IC 22-5-1-4

Exemptions

Sec. 4. Nothing in this chapter shall be so construed as to prevent any citizen or subject of any foreign country temporarily residing in the United States either in a private or official capacity from engaging, under contract or otherwise, persons not residents or citizens of the United States to act as private secretaries, servants, or domestics for such foreigner temporarily residing in the United States, nor shall this chapter be so construed as to prevent any person or persons, partnership, limited liability company, or corporation from engaging, under contract or agreement, skilled workmen in foreign countries to perform labor in the state of Indiana in or upon any new industry not at present established in the state, provided that skilled labor for that purpose cannot otherwise be obtained; nor shall the provisions of this chapter apply to professional actors, artists, lecturers, or singers, nor to persons employed strictly as personal or

domestic servants; however, nothing in this chapter shall be construed as prohibiting any individual from assisting any member of his family or relative or personal friend to migrate from any foreign country to the state for the purpose of settlement here.

(Formerly: Acts 1885(ss), c.51, s.4.) As amended by P.L.144-1986, SEC.156; P.L.8-1993, SEC.288.

IC 22-5-1.7

Chapter 1.7. Public Contract for Services; Business Entities; Unauthorized Aliens

IC 22-5-1.7-1

"Business entity"

Sec. 1. (a) As used in this chapter, "business entity" means a person or group of persons that perform or engage in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood.

(b) The term includes self-employed individuals, partnerships, corporations, contractors, and subcontractors.

(c) The term does not include a self-employed person that does not employ any employees.

As added by P.L.171-2011, SEC.16.

IC 22-5-1.7-2

"Contractor"

Sec. 2. As used in this chapter, "contractor" means a person that:

(1) has entered into; or

(2) is attempting to enter into;

a public contract for services with a state agency or political subdivision.

As added by P.L.171-2011, SEC.16. Amended by P.L.6-2012, SEC.157.

IC 22-5-1.7-3

"E-Verify program"

Sec. 3. As used in this chapter, "E-Verify program" means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s. 403(a), as amended, operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603).

As added by P.L.171-2011, SEC.16.

IC 22-5-1.7-4

"Person"

Sec. 4. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or another legal entity.

As added by P.L.171-2011, SEC.16.

IC 22-5-1.7-5

"Political subdivision"

Sec. 5. As used in this chapter, "political subdivision" has the

meaning set forth in IC 36-1-2-13.
As added by P.L.171-2011, SEC.16.

IC 22-5-1.7-6
"Public contract for services"

Sec. 6. As used in this chapter, "public contract for services" means any type of written agreement between a state agency or political subdivision and a contractor for the procurement of services.
As added by P.L.171-2011, SEC.16. Amended by P.L.28-2013, SEC.1.

IC 22-5-1.7-7
"State agency"

Sec. 7. As used in this chapter, "state agency" has the meaning set forth in IC 4-6-3-1.
As added by P.L.171-2011, SEC.16.

IC 22-5-1.7-8
"Subcontractor"

Sec. 8. As used in this chapter, "subcontractor" means a person that:

(1) is a party to a contract with a contractor; and

(2) provides services for work the contractor is performing under a public contract for services.

As added by P.L.171-2011, SEC.16.

IC 22-5-1.7-9
"Unauthorized alien"

Sec. 9. As used in this chapter, "unauthorized alien" has the meaning set forth in 8 U.S.C. 1324a(h)(3).
As added by P.L.171-2011, SEC.16.

IC 22-5-1.7-10
State agencies and political subdivisions required to use E-Verify program; exception

Sec. 10. (a) Except as provided in subsection (b), a state agency or political subdivision shall use the E-Verify program to verify the work eligibility status of all employees of the state agency or political subdivision hired after June 30, 2011.

(b) A state agency or political subdivision is not required to use the E-Verify program as required under subsection (a) if the E-Verify program no longer exists.
As added by P.L.171-2011, SEC.16.

IC 22-5-1.7-11
Contractors with public contract for services required to use E-Verify program; business entities that receive certain grants required to use E-Verify program

Sec. 11. (a) This subsection applies only to a public contract for services entered into or renewed after June 30, 2011. A state agency

or political subdivision may not enter into or renew a public contract for services with a contractor unless:

(1) the public contract contains:

(A) a provision requiring the contractor to enroll in and verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program; and

(B) a provision that provides that a contractor is not required to verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program if the E-Verify program no longer exists; and

(2) the contractor signs an affidavit affirming that the contractor does not knowingly employ an unauthorized alien.

(b) A state agency or political subdivision may not award a grant of more than one thousand dollars ($1,000) to a business entity unless the business entity:

(1) signs a sworn affidavit that affirms that the business entity has enrolled and is participating in the E-Verify program;

(2) provides documentation to the state agency or political subdivision that the business entity has enrolled and is participating in the E-Verify program; and

(3) signs an affidavit affirming that the business entity does not knowingly employ an unauthorized alien.

As added by P.L.171-2011, SEC.16.

IC 22-5-1.7-12

Contractor and subcontractor prohibited from knowingly employing or contracting with unauthorized alien; thirty days to remedy violation; rebuttable presumption

Sec. 12. (a) A contractor or a subcontractor may not:

(1) knowingly employ or contract with an unauthorized alien; or

(2) retain an employee or contract with a person that the contractor or subcontractor subsequently learns is an unauthorized alien.

(b) If a contractor violates this section, the state agency or political subdivision shall require the contractor to remedy the violation not later than thirty (30) days after the date the state agency or political subdivision notifies the contractor of the violation.

(c) There is a rebuttable presumption that a contractor did not knowingly employ an unauthorized alien if the contractor verified the work eligibility status of the employee through the E-Verify program.

As added by P.L.171-2011, SEC.16.

IC 22-5-1.7-13

Terminate public contract for services; exception; contractor liable

Sec. 13. (a) Except as provided in subsection (b), if the contractor fails to remedy the violation within the thirty (30) day period provided under section 12(b) of this chapter, the state agency or

political subdivision shall terminate the public contract for services with the contractor for breach of the public contract for services.

(b) If a contractor employs or contracts with an unauthorized alien but the state agency or political subdivision (whichever the contractor has a public contract for services with) determines that terminating the public contract for services under subsection (a) would be detrimental to the public interest or public property, the state agency or political subdivision may allow the public contract for services to remain in effect until the state agency or political subdivision procures a new contractor.

(c) If a state agency or political subdivision terminates a public contract for services under subsection (a), the contractor is liable to the state agency or political subdivision for actual damages.

As added by P.L.171-2011, SEC.16.

IC 22-5-1.7-14
Filing an action

Sec. 14. A contractor may file an action with a circuit or superior court having jurisdiction in the county to challenge:

(1) a notice of a violation to the contractor under section 12(b) of this chapter not later than twenty (20) days after the contractor receives the notice; or

(2) a termination of a public contract for services under section 13(a) of this chapter not later than twenty (20) days after the state agency or political subdivision terminates the public contract for services with the contractor.

As added by P.L.171-2011, SEC.16.

IC 22-5-1.7-15
Certification by subcontractor

Sec. 15. If a contractor uses a subcontractor to provide services for work the contractor is performing under a public contract for services, the subcontractor shall certify to the contractor in a manner consistent with federal law that the subcontractor, at the time of certification:

(1) does not knowingly employ or contract with an unauthorized alien; and

(2) has enrolled and is participating in the E-Verify program.

As added by P.L.171-2011, SEC.16.

IC 22-5-1.7-16
Maintain certification

Sec. 16. A contractor shall maintain on file a certification of a subcontractor under section 15 of this chapter throughout the duration of the term of a contract with the subcontractor.

As added by P.L.171-2011, SEC.16.

IC 22-5-1.7-17
Termination of contract with subcontractor for violation of chapter; action to challenge

Sec. 17. (a) If a contractor determines that a subcontractor is in violation of this chapter, the contractor may terminate a contract with the subcontractor for the violation.

(b) The termination of a contract under subsection (a) for a violation of this chapter by a subcontractor may not be considered a breach of contract by the contractor or the subcontractor.

(c) A subcontractor may file an action with a circuit or superior court having jurisdiction in the county to challenge a termination of a contract under subsection (a) not later than twenty (20) days after the contractor terminates the contract with the subcontractor.

As added by P.L.171-2011, SEC.16. Amended by P.L.6-2012, SEC.158.

IC 22-5-2
Repealed

(Repealed by Acts 1978, P.L.2, SEC.2251.)

IC 22-5-3

Chapter 3. Blacklisting

IC 22-5-3-1

Disclosure of information after employee's discharge

Sec. 1. (a) A person who, after having discharged any employee from his service, prevents the discharged employee from obtaining employment with any other person commits a Class C infraction and is liable in penal damages to the discharged employee to be recovered by civil action; but this subsection does not prohibit a person from informing, in writing, any other person to whom the discharged employee has applied for employment a truthful statement of the reasons for the discharge.

(b) An employer that discloses information about a current or former employee is immune from civil liability for the disclosure and the consequences proximately caused by the disclosure, unless it is proven by a preponderance of the evidence that the information disclosed was known to be false at the time the disclosure was made.

(c) Upon written request by the prospective employee, the prospective employer will provide copies of any written communications from current or former employers that may affect the employee's possibility of employment with the prospective employer. The request must be received by the prospective employer not later than thirty (30) days after the application for employment is made to the prospective employer.

(Formerly: Acts 1889, c.166, s.1.) As amended by Acts 1978, P.L.2, SEC.2227; P.L.218-1995, SEC.1.

IC 22-5-3-2

Railroads; damages; exemplary damages

Sec. 2. If any railway company or any other company, partnership, limited liability company, or corporation in this state shall authorize, allow or permit any of its or their agents to black-list any discharged employees, or attempt by words or writing, or any other means whatever, to prevent such discharged employee, or any employee who may have voluntarily left said company's service, from obtaining employment with any other person, or company, said company shall be liable to such employee in such sum as will fully compensate him, to which may be added exemplary damages.

(Formerly: Acts 1889, c.166, s.2; Acts 1895, c.110, s.1.) As amended by P.L.8-1993, SEC.289.

IC 22-5-3-3

Protection of employees reporting violations of federal, state, or local laws; disciplinary actions; procedures

Sec. 3. (a) An employee of a private employer that is under public contract may report in writing the existence of:

(1) a violation of a federal law or regulation;

(2) a violation of a state law or rule;

(3) a violation of an ordinance of a political subdivision (as

defined in IC 36-1-2-13); or

(4) the misuse of public resources;

concerning the execution of public contract first to the private employer, unless the private employer is the person whom the employee believes is committing the violation or misuse of public resources. In that case, the employee may report the violation or misuse of public resources in writing to either the private employer or to any official or agency entitled to receive a report from the state ethics commission under IC 4-2-6-4(b)(2)(G) or IC 4-2-6-4(b)(2)(H). If a good faith effort is not made to correct the problem within a reasonable time, the employee may submit a written report of the incident to any person, agency, or organization.

(b) For having made a report under subsection (a), an employee may not:

(1) be dismissed from employment;

(2) have salary increases or employment related benefits withheld;

(3) be transferred or reassigned;

(4) be denied a promotion that the employee otherwise would have received; or

(5) be demoted.

(c) Notwithstanding subsections (a) through (b), an employee must make a reasonable attempt to ascertain the correctness of any information to be furnished and may be subject to disciplinary actions for knowingly furnishing false information, including suspension or dismissal, as determined by the employer. However, any employee disciplined under this subsection is entitled to process an appeal of the disciplinary action as a civil action in a court of general jurisdiction.

(d) An employer who violates this section commits a Class A infraction.

As added by P.L.32-1987, SEC.3. Amended by P.L.9-1990, SEC.14.

IC 22-5-4

Chapter 4. Off Duty Use of Tobacco by Employee

IC 22-5-4-1

Condition of employment; discrimination

Sec. 1. (a) Except as provided in subsection (b), an employer may not:

(1) require, as a condition of employment, an employee or prospective employee to refrain from using; or

(2) discriminate against an employee with respect to:

(A) the employee's compensation and benefits; or

(B) terms and conditions of employment;

based on the employee's use of;

tobacco products outside the course of the employee's or prospective employee's employment.

(b) An employer may implement financial incentives:

(1) intended to reduce tobacco use; and

(2) related to employee health benefits provided by the employer.

As added by P.L.175-1991, SEC.1. Amended by P.L.136-2006, SEC.1.

IC 22-5-4-2

Enforcement; civil actions

Sec. 2. (a) An employee or prospective employee may bring a civil action against an employer to enforce section 1 of this chapter.

(b) If an employer violates section 1 of this chapter, the court may do the following:

(1) Award:

(A) actual damages; and

(B) court costs and reasonable attorney's fees;

to the prevailing employee or prospective employee.

(2) Enjoin further violation of this chapter.

As added by P.L.175-1991, SEC.1.

IC 22-5-4-3

Effect of chapter on other rights or remedies

Sec. 3. This chapter does not limit an employee's or prospective employee's rights or remedies under any other state or federal law.

As added by P.L.175-1991, SEC.1.

IC 22-5-4-4

Application of chapter

Sec. 4. This chapter does not apply to an employer that is:

(1) a church;

(2) a religious organization; or

(3) a school or business conducted by a church or religious organization.

As added by P.L.175-1991, SEC.1.

IC 22-5-5

Chapter 5. Terminating Sex Offender Employment Contracts

IC 22-5-5-0.1

Application of chapter

Sec. 0.1. The addition of this chapter by P.L.11-1994 applies only to contracts entered into or renewed after March 31, 1994.

As added by P.L.220-2011, SEC.368.

IC 22-5-5-1 Version a

Grounds for termination; criminal convictions

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 1. The employment contract of a person who:

(1) works with children; and

(2) is convicted of:

(A) rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age;

(B) criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age;

(C) child molesting (IC 35-42-4-3);

(D) child exploitation (IC 35-42-4-4(b));

(E) vicarious sexual gratification (IC 35-42-4-5);

(F) child solicitation (IC 35-42-4-6);

(G) child seduction (IC 35-42-4-7); or

(H) incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age;

may be canceled by the person's employer.

As added by P.L.11-1994, SEC.12.

IC 22-5-5-1 Version b

Grounds for termination; criminal convictions

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 1. The employment contract of a person who:

(1) works with children; and

(2) is convicted of:

(A) rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age;

(B) criminal deviate conduct (IC 35-42-4-2) (repealed), if the victim is less than eighteen (18) years of age;

(C) child molesting (IC 35-42-4-3);

(D) child exploitation (IC 35-42-4-4(b));

(E) vicarious sexual gratification (IC 35-42-4-5);

(F) child solicitation (IC 35-42-4-6);

(G) child seduction (IC 35-42-4-7); or

(H) incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age;

may be canceled by the person's employer.

As added by P.L.11-1994, SEC.12. Amended by P.L.158-2013,

SEC.254; P.L.214-2013, SEC.21.

IC 22-5-6

Chapter 6. Completion of Federal Attestation

IC 22-5-6-1

"Commence day labor employment"

Sec. 1. As used in this chapter, "commence day labor employment" means the physical act of beginning any employment in which no employment agreement has been executed specifying that the term of the employment is to be more than three (3) working days.

As added by P.L.171-2011, SEC.17.

IC 22-5-6-2

"Law enforcement officer"

Sec. 2. As used in this chapter, "law enforcement officer" has the meaning set forth in IC 5-2-1-2.

As added by P.L.171-2011, SEC.17.

IC 22-5-6-3

Required to complete federal attestation of employment

Sec. 3. An individual who is at least eighteen (18) years of age may not commence day labor employment in Indiana unless the individual has completed the individual attestation of employment authorization required under 8 U.S.C. 1324a(b)(2).

As added by P.L.171-2011, SEC.17.

IC 22-5-6-4

Submitting complaint for violation

Sec. 4. If a law enforcement officer or any other entity authorized to enforce the employment laws of Indiana has probable cause to believe that an individual has violated this chapter, the law enforcement officer or entity shall submit a complaint in the form prescribed under 8 CFR 274a.9, as amended, to the United States Immigration and Customs Enforcement office that has jurisdiction over the residence of the individual who is allegedly in violation of this chapter.

As added by P.L.171-2011, SEC.17.

IC 22-6

ARTICLE 6. LABOR RELATIONS

IC 22-6-1

Chapter 1. Labor Disputes; Limitations on Issuance of Injunctions

IC 22-6-1-1

Jurisdiction; public policy

Sec. 1. No court of the state of Indiana, as defined in this chapter, shall have jurisdiction to issue any restraining order or temporary or permanent injunction in a case involving or growing out of a labor dispute, except in a strict conformity with the provisions of this chapter; nor shall any such restraining order or temporary or permanent injunction be issued contrary to the public policy declared in this chapter.

(Formerly: Acts 1933, c.12, s.1.) As amended by P.L.144-1986, SEC.157.

IC 22-6-1-2

Freedom of labor; right of association; public policy

Sec. 2. In the interpretation of this chapter and in determining the jurisdiction and authority of the courts of the state, as such jurisdiction and authority are defined and limited in this chapter, the public policy of the state is hereby declared as follows:

Whereas, under prevailing economic conditions, developed with the aid of governmental authority for owners of property to organize in the corporate and other forms of ownership associations, the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor and thereby to obtain acceptable terms and conditions of employment, wherefore, though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association, self-organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of his employment, and that he shall be free from interference, restraint, or coercion of employers of labor or their agents in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; therefore, the following definition of and limitations upon the jurisdiction and authority of the courts of the state of Indiana are hereby enacted.

(Formerly: Acts 1933, c.12, s.2.) As amended by P.L.144-1986, SEC.158.

IC 22-6-1-3

"Yellow dog" contracts; public policy

Sec. 3. Any undertaking or promise, such as is described in this section, or any other undertaking or promise in conflict with the public policy declared in section 2 of this chapter, is hereby declared

to be contrary to the public policy of the state of Indiana, shall not be enforceable in any court of the state of Indiana, and shall not afford any basis for the granting of legal or equitable relief by any such court, including specifically the following: Every undertaking or promise made after May 22, 1933, whether written or oral, express or implied, constituting or contained in any contract or agreement of hiring or employment between any individual, firm, company, association, limited liability company, or corporation, and any employee or prospective employee of the same, whereby:

(a) either party to such contract or agreement undertakes or promises not to join, become, or remain a member of any labor organization or of any employer organization; or

(b) either party to such contract or agreement undertakes or promises that he will withdraw from an employment relation in the event that he joins, becomes, or remains a member of any labor organization or of any employer organization.

(Formerly: Acts 1933, c.12, s.3.) As amended by P.L.144-1986, SEC.159; P.L.8-1993, SEC.290.

IC 22-6-1-4
Strikes; picketing; assembly; joining unions

Sec. 4. No court of the state of Indiana shall have jurisdiction to issue any restraining order or temporary or permanent injunction in any case involving or growing out of any labor dispute to prohibit any person or persons participating or interested in such dispute (as these terms are defined in this chapter) from doing, whether singly or in concert, any of the following acts:

(a) Ceasing or refusing to perform any work or to remain in any relation of employment.

(b) Becoming or remaining a member of any labor organization or of any employer organization, regardless of any such undertaking or promise as is described in section 3 of this chapter.

(c) Paying or giving to, or withholding from any person participating or interested in such labor dispute, or any strike or unemployment benefits or insurance, or other moneys or things of value.

(d) By all lawful means aiding any person participating or interested in any labor dispute who is being proceeded against in, or is prosecuting, any action or suit in any court of the state of Indiana.

(e) Giving publicity to the existence of, or the facts involved in, any labor dispute, whether by advertising, speaking, patrolling, or by any other method not involving fraud or violence.

(f) Assembling peaceably to act or to organize to act in promotion of their interests in a labor dispute.

(g) Advising or notifying any person of an intention to do any of the acts specified in this section.

(h) Agreeing with other persons to do or not to do any of the acts specified in this section.

(i) Advising, urging, or otherwise causing or inducing without fraud or violence the acts specified in this section, regardless of any such undertaking or promise as is described in section 3 of this chapter.

(Formerly: Acts 1933, c.12, s.4.) As amended by P.L.144-1986, SEC.160.

IC 22-6-1-5

Conspiracy; unlawful combination

Sec. 5. No court of the state of Indiana shall have jurisdiction to issue a restraining order or temporary or permanent injunction upon the ground that any of the persons participating or interested in a labor dispute constitutes or are engaged in an unlawful combination or conspiracy because of the doing in concert of the acts enumerated in section 4 of this chapter.

(Formerly: Acts 1933, c.12, s.5.) As amended by P.L.144-1986, SEC.161.

IC 22-6-1-6

Hearings; threatened unlawful acts; limitations; security

Sec. 6. (a) No court of the state of Indiana shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of a labor dispute, as herein defined, except after hearing the testimony of witnesses in open court (with opportunity for cross-examination) in support of the allegations of a complaint made under oath, and testimony in opposition thereto, if offered, and except after findings of fact by the court, to the effect:

(1) that unlawful acts have been threatened and will be committed unless restrained or have been committed and will be continued unless restrained, but no injunction or temporary restraining order shall be issued on account of any threat or unlawful act excepting against the person or persons, association, or organization making the threat or committing the unlawful act or actually authorizing or ratifying the same after actual knowledge thereof;

(2) that substantial and irreparable injury to complainant's property will follow;

(3) that as to each item of relief granted injury will be inflicted upon complainant by the denial of relief than will be inflicted upon defendants by the granting of relief;

(4) that complainant has no adequate remedy at law; and

(5) that the public officer charged with the duty to protect complainant's property is unable or unwilling to furnish adequate protection.

(b) Such hearings shall be held after due and personal notice thereof has been given, in such manner as the court shall direct, to all known persons against whom relief is sought, and also to the chief of those public officers of the county and city within which the unlawful acts have been threatened or committed charged with the duty to protect complainant's property. However, if a complainant

shall also allege that, unless a temporary restraining order shall be issued without notice, a substantial and irreparable injury to complainant's property will be unavoidable, such a temporary restraining order may be issued upon testimony under oath, sufficient, if sustained, to justify the court in issuing a temporary injunction upon a hearing after notice.

(c) Such a temporary restraining order shall be effective for no longer than five (5) days and shall become void at the expiration of said five (5) days.

(d) No temporary restraining order or temporary injunction shall be issued except on conditions that complainant shall first file an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense those enjoined for any loss, expense, or damage caused by the improvident or erroneous issuance of such order or injunction, including all reasonable cost (together with a reasonable attorney's fee) and expense of defense against the order or against the granting of any injunctive relief sought in the same proceedings and subsequently denied by the court.

(e) The undertaking herein mentioned shall be understood to signify an agreement entered into by the complainant and the surety upon which the decree may be rendered in the same suit or proceeding against said complainant and surety, upon a hearing to assess damages of which hearing complainant and surety shall have reasonable notice, the said complainant and surety submitting themselves to the jurisdiction of the court for that purpose. But nothing herein contained shall deprive any party having a claim or cause of action under or upon such undertaking from electing to pursue his ordinary remedy by suit at law or in equity.

(Formerly: Acts 1933, c.12, s.7.) As amended by P.L.5-1988, SEC.115.

IC 22-6-1-7

Arbitration or mediation; compliance with law

Sec. 7. No restraining order or injunctive relief shall be granted to any complainant who has failed to comply with any obligation imposed by law which is involved in the labor dispute in question, or who has failed to make every reasonable effort to settle such dispute either by negotiation or with the aid of any available governmental machinery of mediation or voluntary arbitration.

(Formerly: Acts 1933, c.12, s.8.)

IC 22-6-1-8

Complaints; finding of facts; basis of issuing order

Sec. 8. No restraining order or temporary or permanent injunction shall be granted in a case involving or growing out of a labor dispute, except on the basis of finding of facts made and filed by the court in the records of the case prior to the issuance of such restraining order or injunction; and every restraining order or injunction granted in a case involving or growing out of a labor dispute shall include only a prohibition of such specific act or acts as may be expressly

complained of in the bill of complaint or petition filed in such case and as shall be expressly included in said findings of fact made and filed by the court as provided herein.
(Formerly: Acts 1933, c.12, s.9.)

IC 22-6-1-9
Appeal and review; priorities

Sec. 9. Whenever any court of the state shall issue or deny any temporary injunction in a case involving or growing out of a labor dispute, the court shall, upon the request of any party to the proceedings, and on the filing of the usual bond for cost, forthwith certify as in ordinary cases the record of the case to the supreme court or the court of appeals for its review. Upon the filing of such records in the supreme court or the court of appeals, the appeal shall be heard and the temporary injunction order affirmed, modified, or set aside with the greatest possible expedition giving the proceedings precedence over all other matters except older matters of the same character.
(Formerly: Acts 1933, c.12, s.10.) As amended by P.L.3-1989, SEC.137.

IC 22-6-1-10
Contempt; speedy trial

Sec. 10. In all cases arising under this chapter in which a person shall be charged with contempt in a court of the state of Indiana (as defined in this chapter), the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and county wherein the contempt shall have been committed; provided, that this right shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice or to apply to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders, or process of the court.
(Formerly: Acts 1933, c.12, s.11.) As amended by P.L.144-1986, SEC.162.

IC 22-6-1-11
Contempt; change of judge

Sec. 11. The defendant in any proceeding for contempt of court may file with the court a demand for the retirement of the judge sitting in the proceeding, if the contempt arises from an attack upon the character or conduct of such judge and if the attack occurred elsewhere than in the presence of the court or so near thereto as to interfere directly with the administration of justice. Upon the filing of any such demand the judge shall thereupon proceed no further, but another judge shall be designated in the same manner as is provided by law. The demand shall be filed prior to the hearing in the contempt proceeding.
(Formerly: Acts 1933, c.12, s.12.)

IC 22-6-1-12
Definitions

Sec. 12. When used in this chapter and for the purpose of this chapter:

(a) A case shall be held to involve or grow out of a labor dispute when the case involves persons who are engaged in the same industry, trade, craft, or occupation, or have direct or indirect interests therein, or who are employees of the same employer, or who are members of the same or an affiliated organization of employers or employees, whether such dispute is:

(1) between one (1) or more employers or association of employers and one (1) or more employees or association of employees;

(2) between one (1) or more employers or association of employers and one (1) or more employer or association of employers; or

(3) between one (1) or more employees or association of employees and one (1) or more employees or association of employees;

or when the case involves any conflicting or competing interests in a labor dispute (as defined in subsection (c)) of persons participating or interested therein (as defined in subsection (b)).

(b) A person or association shall be held to be a "person participating or interested in a labor dispute" if relief is sought against him or it, and if he or it is engaged in the same industry, trade, craft, or occupation in which such dispute occurs, or has direct or indirect interest therein, or is a member, officer, or agent of any association composed in whole or in part of employers or employees engaged in such industry, trade, craft, or occupation.

(c) The term "labor dispute" includes any controversy concerning terms or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee.

(d) The term "court of the state of Indiana" means any court of the state of Indiana whose jurisdiction is conferred or defined or limited by statute.

(Formerly: Acts 1933, c.12, s.13.) As amended by P.L.144-1986, SEC.163.

IC 22-6-2

Chapter 2. Public Utility Labor Disputes

IC 22-6-2-1

Public policy

Sec. 1. It is hereby declared to be the public policy of the state of Indiana that it is necessary and essential in the public interest to facilitate the prompt, peaceful and just settlement of labor disputes between public utility employers and their employees which cause or threaten to cause an interruption in the supply of services necessary to the health, safety, and well-being of the citizens of Indiana, and to that end to encourage the making and maintaining of agreements concerning wages, hours and other conditions of employment through collective bargaining between public utility employers and their employees, and to provide settlement procedures for labor disputes between public utility employers and their employees in cases where the collective bargaining process has reached an impasse and stalemate and as a result thereof the parties are unable to effect such settlement and which labor disputes, if not settled, are likely to cause interruption of the supply of a public utility service on which the community so affected is so dependent that severe hardship would be inflicted on a substantial number of persons by a cessation of such service.

(Formerly: Acts 1947, c.341, s.1.)

IC 22-6-2-2

Definitions

Sec. 2. As used in this chapter:

(a) The term "public utility employer" means an employer engaged in the business of rendering electric, gas, water, telephone, or transportation services to the public in this state.

(b) The term "collective bargaining" means collective bargaining of or similar to the kind provided for by 29 U.S.C. 151 through 169 and as interpreted by decisions of the Supreme Court of the United States arising under 29 U.S.C. 151 through 169.

(Formerly: Acts 1947, c.341, s.2.) As amended by P.L.144-1986, SEC.164.

IC 22-6-2-3

Settlement of disputes; reasonable efforts

Sec. 3. It shall be the duty of public utility employers and their employees in public utility operations to exert every reasonable effort to settle such labor disputes by the making of agreements through collective bargaining between the parties, and by the maintaining thereof when made, and to prevent, if possible, the collective bargaining process from reaching a state of impasse and stalemate.

(Formerly: Acts 1947, c.341, s.3.)

IC 22-6-2-4

Conciliators; boards of arbitration; appointment

Sec. 4. Not later than April 13, 1947, the governor shall appoint:

(a) a panel of ten (10) persons to serve as conciliators under the provisions of this chapter; and

(b) a panel of thirty (30) persons to serve as members of the boards of arbitration provided for by this chapter.

No person serving on the conciliator's panel shall at the same time serve on the board of arbitrators panel. Each person appointed to either of said panels shall be a resident of the state of Indiana possessing, in the judgment of the governor, the requisite experience and judgment to qualify such person capably and fairly to deal with labor dispute problems. All such appointments shall be made without consideration of the political affiliations of the appointee. Each such appointee shall take an oath to perform honestly and to the best of his ability the duties of conciliator or arbitrator, as the case may be. Any such appointee may be removed by the governor at any time or may resign his position at any time by notice in writing to the governor. Any vacancy in either of the panels shall be filled by the governor within thirty (30) days after such vacancy occurs. Such conciliators and arbitrators shall be paid no compensation for their services as such, except as provided in this chapter.

(Formerly: Acts 1947, c.341, s.4.) As amended by P.L.144-1986, SEC.165.

IC 22-6-2-5

Stalemates; conciliators; compensation

Sec. 5. If in any case of a labor dispute between a public utility employer and its employees the collective bargaining process reaches an impasse and stalemate, with the result that the employer and the employees are unable to effect a settlement thereof, then either party to the dispute may petition the governor to appoint a conciliator from the panel of conciliators provided for by section 4 of this chapter. Upon the filing of such petition, the governor shall consider the same, and if in his opinion the collective bargaining process, notwithstanding good faith efforts on the part of both sides to such dispute, has reached an impasse and stalemate and such dispute if not settled will cause or is likely to cause the interruption of the supply of a service on which the community so affected is so dependent that severe hardship would be inflicted on a substantial number of persons by a cessation of such service, the governor shall appoint a conciliator from the conciliators panel to attempt to effect the settlement of such dispute. Such conciliator shall be allowed reasonable compensation for his services and for his necessary expenses in an amount to be fixed by the governor, such compensation and expenses to be paid out of the general fund of the state of Indiana; and there is hereby appropriated out of the general fund sufficient moneys to meet such payments.

(Formerly: Acts 1947, c.341, s.5.) As amended by P.L.144-1986, SEC.166.

IC 22-6-2-6

Conciliators; hearings; strikes, slowdowns, or lockouts pending negotiations

Sec. 6. The conciliator so named shall expeditiously meet with the disputing parties and shall exert every reasonable effort to effect a prompt settlement of such dispute. From and after the filing of a petition with the governor as provided for in section 5 of this chapter, and unless the governor should determine that the failure to settle the dispute with respect to which such petition relates would not cause severe hardship to be inflicted on a substantial number of persons, there shall be no interruption of work and no strikes or slowdowns by the employees, and there shall be no lockout or other work stoppage by the employer, until such time as all procedure provided for by this chapter has been exhausted or during the effective period of any order issued by a board of arbitration under this chapter.

(Formerly: Acts 1947, c.341, s.6.) As amended by P.L.144-1986, SEC.167.

IC 22-6-2-7

Boards of arbitration; appointment; compensation and expenses

Sec. 7. If the conciliator so named is unable to effect a settlement of such dispute within a thirty (30) day period after his appointment, he shall report such fact to the governor, and the governor, if he believes that a continuation of the dispute will cause or is likely to cause the interruption of the supply of a service on which the community so affected is so dependent that severe hardship would be inflicted on a substantial number of persons by a cessation of such service, shall appoint a board of arbitration to hear and determine such dispute. The board of arbitration shall consist of three (3) members chosen by the governor from the board of arbitrators panel provided for in section 4 of this chapter. A new board shall be chosen by the governor for each separate dispute, but the same board may hear any number of issues or grievances which are involved at the same time in any dispute between the same employer and his employees. Members of such board of arbitration shall be allowed reasonable compensation for their services and for their necessary expenses in an amount to be fixed by the governor, and such compensation and expenses shall be shared equally by the parties to the dispute.

(Formerly: Acts 1947, c.341, s.7.) As amended by P.L.144-1986, SEC.168.

IC 22-6-2-8

Boards of arbitration; representatives of parties; advisory parties

Sec. 8. Each party to the dispute shall be entitled to designate one (1) representative to sit with the board of arbitrators, but such representatives shall sit in an advisory capacity only and without vote.

(Formerly: Acts 1947, c.341, s.8.)

IC 22-6-2-9
Boards of arbitration; hearings; evidence; right to counsel

Sec. 9. The board of arbitration shall promptly hold hearings and shall have the power to administer oaths and compel the attendance of witnesses and the furnishing by the parties of such information as may be necessary to a determination of the issue or issues in dispute. Both parties to the dispute shall have the opportunity to be present at the hearing, both personally and by counsel, and to present such oral and documentary evidence as the board shall deem relevant to the issue or issues in controversy.
(Formerly: Acts 1947, c.341, s.9.)

IC 22-6-2-10
Boards of arbitration; findings of fact; arbitrable issues

Sec. 10. It shall be the duty of the board to make written findings of fact, and to promulgate a written decision and order, upon the issue or issues presented in each case. In making such findings the board shall consider only, and be bound only, by the evidence submitted by the parties to the dispute. When a valid contract is in effect defining the rights, duties and liabilities of the parties with respect to any matter in dispute, the board shall have power only to determine the proper interpretation and application of the contract provisions which are involved. Where there is no contract between the parties, or where there is a contract but the parties have begun negotiations looking to a new contract or amendment of the existing contract, and wage rates or other conditions of employment under the proposed new or amended contract are in dispute, the board shall establish rates of pay and conditions of employment which are comparable to the prevalent wage rates paid and conditions of employment maintained for the same or similar work of workers exhibiting like or similar skills under the same or similar working conditions, by like public utility employers, if any, in the same labor market area, and if none, in adjoining labor market areas within the state of Indiana, and which in addition thereto bear a generally comparable relationship to wage rates paid and conditions of employment maintained by all other employers in the same labor market area. The board shall determine in each case, based upon the evidence presented and received by the board, what constitutes in that case "the same labor market area" or "adjoining labor market areas in the state of Indiana;" and where an employer has more than one (1) plant or office and some or all of such plurality of plants or offices are found by the board to be located in separate labor market areas, the board shall establish separate wage rates or schedules of wage rates, and separate conditions of employment, for all plants and offices in each such labor market area. In establishing wage rates the board shall take into consideration the overall compensation presently received by the employees, having regard not only to wages for time actually worked but also to wages for time not worked, including (without limiting the generality of the foregoing) vacations, holidays, and other excused time, and all benefits received, including

insurance and pensions, and the continuity and stability of employment enjoyed by the employees.
(Formerly: Acts 1947, c.341, s.10.)

IC 22-6-2-11
Boards of arbitration; findings, decision, and order

Sec. 11. The board of arbitration shall hand down its findings, decision, and order (referred to in this section as its order) within sixty (60) days after its appointment; provided, however, that the governor may for good cause extend said period for not to exceed an additional sixty (60) days. If all three (3) members of the board do not agree, the order of the majority shall constitute the order of the board. The board shall furnish to each of the parties a copy of its order. A certified copy thereof shall be filed in the office of the clerk of the circuit court of the county wherein the dispute arose or in the office of the clerk of the circuit court of any county where the employer operates or maintains an office or place of business. Unless such order is reversed upon a petition for review filed pursuant to the provisions of section 12 of this chapter, such order, together with such agreements as the parties may themselves have reached, shall become binding upon and shall control the relationship between the parties from the date such order is filed with the clerk of the circuit court as aforesaid and shall continue effective for one (1) year from that date, but such order may be changed by mutual consent or agreement of the parties. No order of the board relating to wages or rates of pay shall be retroactive to a date before the date of the termination of any contract which may have existed between the parties, or, if there was no such contract, to a date before the day on which the governor appointed a conciliator in such dispute.
(Formerly: Acts 1947, c.341, s.11.) As amended by P.L.144-1986, SEC.169.

IC 22-6-2-12
Boards of arbitration; order; review; change of venue or judge

Sec. 12. Either party to the dispute may within fifteen (15) days from the date such order is filed with the clerk of the court petition the circuit court of any county, in which the employer operates or has an office or place of business, for a review of such order on the ground (a) that the parties were not given reasonable opportunity to be heard, or (b) that the board of arbitration exceeded its powers, or (c) that the order is unreasonable in that it is not supported by the evidence, or (d) that the order was procured by fraud, collusion, or other unlawful means or methods. A summons to the other party to the dispute shall be issued as provided by law in other civil cases; and either party shall have the same rights to a change of venue from the county, or to a change of judge, as provided by law in other civil cases. The judge of the circuit court, without the intervention of a jury, shall hear the evidence adduced by both parties with respect to the issue raised by such petition and may reverse said order only if he finds that (a) one (1) of the parties was not given reasonable

opportunity to be heard, or (b) that the board of arbitration exceeded its powers, or (c) that the order is unreasonable in that it is not supported by the evidence, or (d) that the order was procured by fraud, collusion, or other unlawful means or methods. The decision of the judge of the circuit court shall be final. If the court reverses said order for one (1) of the reasons stated herein, the clerk of said court shall certify the court's decision to the governor, who may either attempt further conciliation or may appoint another board of arbitration, as hereinabove provided for, in the event that the parties do not prefer first to engage in further collective bargaining in an attempt to settle such dispute.
(Formerly: Acts 1947, c.341, s.12.)

IC 22-6-2-13
Strikes, work stoppages, slowdowns, or lockouts; violations

Sec. 13. (a) It is unlawful for any group of employees acting in concert to call a strike, to go out on strike, to cause any work stoppage or slowdown in violation of this chapter; it is unlawful for any employer to lock out his employees in violation of this chapter; and it is unlawful for any person to instigate, to induce, to conspire with, or to encourage any other person to engage in any strike, lockout, slowdown, or work stoppage in violation of this chapter.

(b) A person who recklessly violates this chapter commits a Class B misdemeanor.
(Formerly: Acts 1947, c.341, s.13.) As amended by Acts 1978, P.L.2, SEC.2228.

IC 22-6-2-14
Injunctions

Sec. 14. Any person adversely affected by reason of any violation of the provisions of this chapter may file an action in the circuit court of the county in which any such violation occurs to restrain and enjoin such violation and to compel the performance of the duties imposed by this chapter. In any such action the provisions of IC 22-6-1 shall not apply.
(Formerly: Acts 1947, c.341, s.14.) As amended by P.L.144-1986, SEC.170.

IC 22-6-2-15
Involuntary servitude

Sec. 15. Nothing in this chapter shall be construed to require an individual employee to render labor or service without his consent, or to make illegal the quitting of his labor or service or the withdrawal from his place of employment unless done in concert or by agreement with others. No court shall have power to issue any process to compel an individual employee to render labor or service or to remain at his place of employment without his consent. It is the intent of this chapter only to forbid employees to leave their employment in concert or to cause a work slowdown or stoppage in concert and to forbid an employer to lock out his employees in any

case where the resultant interruption of public service would cause severe hardship to a substantial number of persons.
(Formerly: Acts 1947, c.341, s.15.) As amended by P.L.144-1986, SEC.171.

IC 22-6-3
Chapter 3. Termination Letter From Employer

IC 22-6-3-1
Exemptions

Sec. 1. Whenever any employee of any person, firm, limited liability company, or corporation doing business in this state shall be discharged or voluntarily quits the service of such person, firm, limited liability company, or corporation, it shall be the duty of such person, firm, member or manager of the limited liability company, or the officer of the corporation having jurisdiction over such employee, upon written request of such employee, to issue such employee a letter, duly signed by such person, firm, member, manager, or officer, setting forth the nature and character of service rendered by such employee and the duration thereof, and truly stating for what cause, if any, such employee has quit or been discharged from such service; however, this section shall not apply to any person, firm, limited liability company, or corporation which does not require written recommendations or written applications showing qualifications or experience for employment.

(Formerly: Acts 1915, c.51, s.1.) As amended by P.L.8-1993, SEC.291.

IC 22-6-3-2
Violations

Sec. 2. A person who violates section 1 of this chapter commits a Class C infraction.

(Formerly: Acts 1915, c.51, s.2.) As amended by Acts 1978, P.L.2, SEC.2229.

IC 22-6-4
Repealed

(Repealed by Acts 1982, P.L.3, SEC.1.)

IC 22-6-5

Chapter 5. Employee Representation Elections

IC 22-6-5-1

Application of chapter

Sec. 1. (a) This chapter applies to any election that is required or permitted by Indiana or federal law for the designation, authorization, or retention of employee representation.

(b) This chapter does not apply to the extent that it conflicts with:

(1) the federal National Labor Relations Act (20 U.S.C. 151 et seq.); or

(2) another federal law or regulation concerning labor relations or labor organizations.

As added by P.L.192-2011, SEC.1.

IC 22-6-5-2

Individual right to secret ballot

Sec. 2. The right of any individual to vote by secret ballot in an election is guaranteed.

As added by P.L.192-2011, SEC.1.

IC 22-6-5-3

Employer right to campaign

Sec. 3. The right of any employer to engage in a campaign in connection with an election is guaranteed.

As added by P.L.192-2011, SEC.1.

IC 22-6-5-4

Violations; election void

Sec. 4. The results of an election that violates this chapter are void.

As added by P.L.192-2011, SEC.1.

IC 22-6-6
Chapter 6. Right to Work

IC 22-6-6-1
Application of chapter

Sec. 1. This chapter does not apply to the following:

(1) An employee of the United States or a wholly owned corporation of the United States.

(2) An:

(A) employee; and

(B) employer;

subject to the federal Railway Labor Act (45 U.S.C. 151 et seq.).

(3) An employee employed on property over which the United States government has exclusive jurisdiction for the purpose of labor relations.

(4) An employee of the state.

(5) An employee of a political subdivision (as defined in IC 36-1-2-13).

As added by P.L.2-2012, SEC.1.

IC 22-6-6-2
Conflicts with or preempted by federal law; effect

Sec. 2. This chapter does not apply to the extent that it:

(1) conflicts with; or

(2) is preempted by;

federal law.

As added by P.L.2-2012, SEC.1.

IC 22-6-6-3
Application of law to collective bargaining and collective bargaining agreements in building and construction industry

Sec. 3. Nothing in this chapter is intended, or should be construed, to change or affect any law concerning collective bargaining or collective bargaining agreements in the building and construction industry other than:

(1) a law that permits agreements that would require membership in a labor organization;

(2) a law that permits agreements that would require the payment of dues, fees, assessments, or other charges of any kind or amount to a labor organization; or

(3) a law that permits agreements that would require the payment to a charity or a third party of an amount that is equivalent to or a pro rata part of dues, fees, assessment, or other charges required of members of a labor organization;

as a condition of employment.

As added by P.L.2-2012, SEC.1.

IC 22-6-6-4
"Employer"

Sec. 4. As used in this chapter, "employer" means:
(1) a person employing at least one (1) individual in Indiana; or
(2) an agent of an employer described in subdivision (1).
As added by P.L.2-2012, SEC.1.

IC 22-6-6-5
"Labor organization"
Sec. 5. As used in this chapter, "labor organization" means:
(1) an organization;
(2) an agency;
(3) a union; or
(4) an employee representation committee;
that exists, in whole or in part, to assist employees in negotiating with employers concerning grievances, labor disputes, wages, rates of pay, or other terms or conditions of employment.
As added by P.L.2-2012, SEC.1.

IC 22-6-6-6
"Person"
Sec. 6. As used in this chapter, "person" means:
(1) an individual;
(2) a proprietorship;
(3) a partnership;
(4) a firm;
(5) an association;
(6) a corporation;
(7) a labor organization; or
(8) another legal entity.
As added by P.L.2-2012, SEC.1.

IC 22-6-6-7
"The state"
Sec. 7. As used in this chapter, "the state" includes:
(1) a board;
(2) a branch;
(3) a commission;
(4) a department;
(5) a division;
(6) a bureau;
(7) a committee;
(8) an agency;
(9) an institution (including a state educational institution as defined in IC 21-7-13-32);
(10) an authority; or
(11) another instrumentality;
of the state.
As added by P.L.2-2012, SEC.1.

IC 22-6-6-8
Certain practices as condition of employment forbidden

Sec. 8. A person may not require an individual to:

(1) become or remain a member of a labor organization;

(2) pay dues, fees, assessments, or other charges of any kind or amount to a labor organization; or

(3) pay to a charity or third party an amount that is equivalent to or a pro rata part of dues, fees, assessments, or other charges required of members of a labor organization;

as a condition of employment or continuation of employment.

As added by P.L.2-2012, SEC.1.

IC 22-6-6-9

Void contracts, agreements, understanding, or practices

Sec. 9. A contract, agreement, understanding, or practice, written or oral, express or implied, between:

(1) a labor organization; and

(2) an employer;

that violates section 8 of this chapter is unlawful and void.

As added by P.L.2-2012, SEC.1.

IC 22-6-6-10

Violations; criminal penalties

Sec. 10. A person that knowingly or intentionally, directly or indirectly, violates section 8 of this chapter commits a Class A misdemeanor.

As added by P.L.2-2012, SEC.1.

IC 22-6-6-11

Violations; filing complaint with attorney general, prosecuting attorney, or department of labor

Sec. 11. An individual who is employed by an employer may file a complaint that alleges a violation or threatened violation of this chapter with the attorney general, the department of labor, or the prosecuting attorney of the county in which the individual is employed. Upon receiving a complaint under this section, the attorney general, department of labor, or prosecuting attorney may:

(1) investigate the complaint; and

(2) enforce compliance if a violation of this chapter is found.

In addition to any other remedy available under this chapter, if the department of labor determines that a violation or a threatened violation of this chapter has occurred, the department of labor may issue an administrative order providing for any of the civil remedies described in section 12 of this chapter. The department of labor may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to carry out its responsibilities under this chapter.

As added by P.L.2-2012, SEC.1.

IC 22-6-6-12

Civil actions and remedies

Sec. 12. (a) If an individual suffers an injury:

(1) as the result of any act or practice that violates this chapter;

or

(2) from a threatened violation of this chapter;

the individual may bring a civil action.

(b) A court may order an award of any or all of the following to an individual who prevails in an action under subsection (a):

(1) The greater of:

(A) actual and consequential damages resulting from the violation or threatened violation; or

(B) liquidated damages of not more than one thousand dollars ($1,000).

(2) Reasonable attorney's fees, litigation expenses, and costs.

(3) Declaratory or equitable relief, including injunctive relief.

(4) Other relief the court considers proper.

(c) The remedies and penalties set forth in subsection (b) are:

(1) cumulative; and

(2) in addition to other remedies and penalties imposed for a violation of this chapter.

As added by P.L.2-2012, SEC.1.

IC 22-6-6-13

Effective date of application of statutes to contracts

Sec. 13. Sections 8 through 12 of this chapter:

(1) apply to a written or oral contract or agreement entered into, modified, renewed, or extended after March 14, 2012; and

(2) do not apply to or abrogate a written or oral contract or agreement in effect on March 14, 2012.

As added by P.L.2-2012, SEC.1.

IC 22-7

ARTICLE 7. LABOR ORGANIZATIONS

IC 22-7-1

Chapter 1. Right to Organize

IC 22-7-1-1

Local union defined

Sec. 1. As used in this chapter, the term "local union" shall mean any branch or chapter of a national labor organization, the jurisdiction of which is limited to a particular geographical area.
(Formerly: Acts 1957, c.181, s.1.) As amended by P.L.144-1986, SEC.172.

IC 22-7-1-2

Right to organize; selection of bargaining representatives

Sec. 2. No worker or group of workers who have a legal residence in the state of Indiana shall be denied the right to select his or their bargaining representative in this state, or be denied the right to organize into a local union or association to exist within and pursuant to the laws of the state of Indiana: Provided, That this act shall in no way be deemed to amend or repeal any of the provisions of the National Labor Relations Act.
(Formerly: Acts 1957, c.181, s.2.)

IC 22-7-1-3

Obstructing labor organization; misdemeanor

Sec. 3. A person who prevents another person from forming or belonging to a labor organization commits a Class B misdemeanor.
As added by Acts 1977, P.L.26, SEC.10.

IC 22-7-2

Chapter 2. Labor Organization Constitutions and Bylaws

IC 22-7-2-1

Contracts; rights and privileges; enforcement

Sec. 1. Duly adopted constitutions, by-laws, and other laws of labor organizations, except when and to the extent that the provisions thereof may violate public policy, are hereby declared to be valid and enforceable contracts as between the members and officers of such labor organizations; and said contracts, and all rights and privileges extended thereby and therein contained, are hereby declared to be enforceable in the courts of this state, by actions at law or in equity, brought by any individual member or members of such labor organization. Provided, however, That such member or members of such labor organization shall exhaust all rights, privileges and remedies provided by the constitution, by-laws, or other laws of said labor organization, before bringing any such action at law or in equity.

(Formerly: Acts 1957, c.338, s.1.)

IC 22-8

ARTICLE 8. OCCUPATIONAL HEALTH AND SAFETY

IC 22-8-1

Repealed

(Repealed by Acts 1971, P.L.356, SEC.2.)

IC 22-8-1.1

Chapter 1.1. Indiana Occupational Safety and Health Act (IOSHA)

IC 22-8-1.1-1

Definitions

Sec. 1. As used in this chapter, unless otherwise provided:

"Board" means the board of safety review created by this chapter.

"Commission" means the occupational safety standards commission created by this chapter.

"Commissioner" means the commissioner of labor or the commissioner's duly designated representative.

"Department" means the department of labor.

"Employee" means a person permitted to work by an employer in employment.

"Employer" means any individual or type of organization, including the state and all its political subdivisions, that has in its employ one (1) or more individuals.

"INSafe" means the division of the department created by section 40 of this chapter.

"Safety order" refers to a notice issued to employers by the commissioner of labor for alleged violations of this chapter, including any health and safety standards.

"Standard" refers to both health and safety standards.

"Voluntary protection program" means a program offered by the United States Occupational Safety and Health Administration to employers subject to this chapter that exempts the employers from general scheduled inspections.

(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1973, P.L.241, SEC.1.) As amended by Acts 1977, P.L.263, SEC.1; P.L.37-1985, SEC.33; P.L.225-1995, SEC.1; P.L.32-2008, SEC.1.

IC 22-8-1.1-2

Employers; duties

Sec. 2. Each employer shall establish and maintain conditions of work which are reasonably safe and healthful for employees, and free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees.

(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1973, P.L.241, SEC.2.)

IC 22-8-1.1-3

Repealed

(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-3.1

Compliance with standards by employer; informing employees

Sec. 3.1. Every employer shall comply with the occupational health and safety standards promulgated under this chapter, and pursuant to any directions in such standards, keep his employees informed of their protections and obligations under the chapter, the

hazards of the work place and suitable precautions, relevant symptoms and emergency treatment for such hazards.
(Formerly: Acts 1973, P.L.241, SEC.3.)

IC 22-8-1.1-4
Safety devices or safeguards; removing or damaging; interference; compliance by employees with standards

Sec. 4. No employee may remove, damage, carry off, or render inoperative any safety device or safeguard furnished or provided for use in any employment, or place of employment, or interfere with the use thereof by any other person. Each employee shall comply with the occupational health and safety standards promulgated under this chapter.
(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1973, P.L.241, SEC.4.) As amended by Acts 1978, P.L.2, SEC.2230.

IC 22-8-1.1-5
Safety processes; interference with use; obedience to orders

Sec. 5. No person may interfere with the use of any method or process adopted for the protection of any employee in his employment or place of employment, or of any other person lawfully within the place of employment, or fail to follow orders necessary to protect the life, health, and safety of employees and any other person lawfully within the place of employment.
(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1973, P.L.241, SEC.5.) As amended by Acts 1978, P.L.2, SEC.2231.

IC 22-8-1.1-6
Repealed

(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-6.5
Religious objections to treatment

Sec. 6.5. Nothing in this chapter or the standards adopted under this chapter shall be deemed to authorize or require medical examination, immunization, or treatment for those who object on religious grounds, except where such is necessary for the protection of the health and safety of others.
(Formerly: Acts 1972, P.L.175, SEC.1.) As amended by P.L.144-1986, SEC.173.

IC 22-8-1.1-7
Occupational safety standards commission

Sec. 7. An occupational safety standards commission is created within the department to promulgate, modify, or revoke safety and health standards in Indiana and to hear and determine applications for temporary and permanent variances from those standards.
(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1973, P.L.241, SEC.6.) As amended by P.L.37-1985, SEC.34.

IC 22-8-1.1-8
Commission; membership

Sec. 8. Commission: Membership. The commission shall be composed of nine (9) members, all of whom shall be selected by the governor as follows: three (3) shall represent the management of principal industries in the state, one (1) of which shall represent agricultural industry: three (3) shall represent labor and three (3) shall represent the public all of whom shall be recognized as experienced in the field of occupational health and safety. The commissioner shall serve as secretary of the commission. No member of the commission having an economic interest in any application for a temporary or permanent variance, shall be allowed to participate in the decision.

(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1973, P.L.241, SEC.7.)

IC 22-8-1.1-9
Commission; terms

Sec. 9. Commission: Terms. Members of the commission shall serve terms of three (3) years and until their successors are appointed except that of the members first appointed, three (3) members representing management, labor and the public shall be appointed for three (3) years and three (3) members representing management, labor and the public for two (2) years and three (3) members representing management, labor and the public for one (1) year. Vacancies shall be filled by appointment for an unexpired term by the governor in the same manner as the original appointments.

(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1973, P.L.241, SEC.8.)

IC 22-8-1.1-10
Commission; organization

Sec. 10. The commission shall meet annually at the call of the commissioner and elect a chairman and such other officers as they deem appropriate.

(Formerly: Acts 1971, P.L.356, SEC.1.) As amended by P.L.144-1986, SEC.174.

IC 22-8-1.1-11
Commission; quorum

Sec. 11. (Commission: Quorum) A majority of the commission constitutes a quorum for the transaction of business.

(Formerly: Acts 1971, P.L.356, SEC.1.)

IC 22-8-1.1-12
Commission; per diem; travel expenses

Sec. 12. (a) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of

administration and approved by the budget agency.

(b) Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

(Formerly: Acts 1971, P.L.356, SEC.1.) As amended by P.L.34-1988, SEC.2.

IC 22-8-1.1-13
Commission; meetings

Sec. 13. The commission shall meet at the call of the commissioner, the chairman or upon the written request of any four (4) members. However, the commission shall meet at least every three (3) months at the call of the commissioner to conduct the business that comes before the commission.

(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1973, P.L.241, SEC.9.) As amended by P.L.219-1995, SEC.1.

IC 22-8-1.1-13.1
Repealed

(Repealed by P.L.117-1994, SEC.3.)

IC 22-8-1.1-14
Repealed

(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-15
Standards; incorporation by reference

Sec. 15. (Standards: Incorporation by reference) The commission may adopt by reference any standards, code, manuals or portions thereof, published by any nationally recognized organizations or associations organized or conducted in whole or in part for the purpose of developing standards for the protection of the life, health or safety of employees.

(Formerly: Acts 1971, P.L.356, SEC.1.)

IC 22-8-1.1-15.1
Other standards

Sec. 15.1. Any interested person, including representatives of employers and representatives of employees may propose a standard to the commission, or the commission may do so on its own motion. Such proposals shall be in writing. In the development or adoption of each standard proposed in this manner, the commission shall appoint and consult with an advisory committee. The advisory committee shall include equal number of persons qualified to present the viewpoint of employers involved and of persons similarly qualified to present the viewpoint of the workers involved. All members of the advisory committee shall be experienced in the field to which the proposed standard will apply. The number of members

of any advisory committee shall be at the discretion of the commission. Any standard developed shall not unduly burden interstate commerce. Any such standard must be adopted by the commission in accordance with IC 4-22-2. The said standard shall be published in a newspaper of general circulation published in Marion County, Indiana, at least ten (10) days prior to the filing of said standard with the publisher of the Indiana Register.
(Formerly: Acts 1973, P.L.241, SEC.11.) As amended by P.L.123-2006, SEC.33.

IC 22-8-1.1-16
Repealed
(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-16.1
Emergency temporary standards
Sec. 16.1. (a) The commission may adopt emergency temporary standards under IC 4-22-2-37.1. The emergency temporary standard shall be published in a newspaper of general circulation published in Marion County, Indiana, at least ten (10) days before the filing with the publisher of the Indiana Register. In the exercise of this power, the commission shall first expressly determine:

(1) that employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards; and

(2) that such emergency standard is necessary to protect employees from such danger.

(b) Temporary emergency standards shall be effective only until a permanent standard is adopted under IC 4-22-2, or for six (6) months from the date of publication, whichever period is shorter. The publication of an emergency temporary standard shall begin a proceeding in accordance with section 15 of this chapter.
(Formerly: Acts 1973, P.L.241, SEC.12.) As amended by P.L.31-1985, SEC.47; P.L.1-1990, SEC.237; P.L.123-2006, SEC.34.

IC 22-8-1.1-16.2
Enforcement of standards; alternate standards; statement of enforceable standards
Sec. 16.2. (a) A United States Occupational Safety and Health Administration (OSHA) standard lawfully adopted by OSHA under federal law may be enforced by the department without any further action by the commission.

(b) The commissioner or the commissioner's designee shall enforce the federal standards described in subsection (a) not earlier than sixty (60) days after the final standard by federal OSHA becomes effective.

(c) The commission may adopt an alternate standard which it finds is at least as effective in providing safe and healthful employment as the federal standard under the procedures set forth in IC 22-8-1.1-15, IC 22-8-1.1-15.1, and IC 22-8-1.1-16.1.

(d) Notwithstanding IC 4-22-7-7(a), the commission shall publish a statement describing a standard enforceable under this section. The statement must make reference to the federal regulation. The statement must be published under IC 4-22-7-7(b).
As added by P.L.117-1994, SEC.1.

IC 22-8-1.1-17
Repealed
(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-17.1
Criteria for standards
Sec. 17.1. (a) Any standard promulgated under this chapter shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such a standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with the hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals and in such manner as may be necessary for the protection of employees. In addition where appropriate, any standard shall prescribe the type or frequency of medical examinations or other tests which shall be made available by the employer, at employer's cost, to employees exposed to hazards in order to most effectively determine whether the health of the employees is adversely affected by the exposure. Upon request, the results of examinations or tests shall be furnished to the department and shall remain confidential within the department. At the request of the employee, results shall be furnished to his physician.

(b) The commission, in promulgating standards dealing with toxic materials or harmful physical agents, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if the employee has regular exposure to the hazard dealt with by the standard for the period of his working life. Development of standards shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

(c) The commission, in promulgating standards, shall adopt rules requiring employers to maintain accurate records of employee exposures to potentially toxic material or harmful physical agents which are required to be monitored or measured under the standards.

These rules shall provide employees or their representatives with an opportunity to observe monitoring or measuring and to have access to the records thereof. These rules shall also make appropriate provisions for each employee to have access to such records as will indicate his own exposure to toxic materials or harmful physical agents. Under these rules, each employer shall notify any employee who is being consistently exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an occupational safety and health standard and shall inform any employee who is being thus exposed of the corrective action being taken.
(Formerly: Acts 1973, P.L.241, SEC.13.) As amended by P.L.37-1985, SEC.35.

IC 22-8-1.1-17.5
Enforcement; federal standards; conformity
Sec. 17.5. The commissioner may not adopt or enforce any provision used to carry out the enforcement of this chapter that is more stringent than the corresponding federal provision enforced by the United States Department of Labor under the Occupational Safety and Health Act of 1970.
As added by P.L.230-1983, SEC.1.

IC 22-8-1.1-17.7
Voluntary protection program implementation
Sec. 17.7. The department shall implement a voluntary protection program not later than sixty (60) days after the program has been made available by the United States Occupational Safety and Health Administration.
As added by P.L.225-1995, SEC.2.

IC 22-8-1.1-18
Repealed
(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-19
Standards; declaratory judgment
Sec. 19. Standards: Declaratory Judgment. After promulgation of a safety standard by the commission, any question as to its applicability or legal validity may be adjudicated by an action for a declaratory judgment filed by an affected person or firm under IC 34-14-1 (or IC 34-4-10 before its repeal).
(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1973, P.L.241, SEC.14.) As amended by P.L.1-1998, SEC.127.

IC 22-8-1.1-19.1
Temporary variances
Sec. 19.1. Temporary Variances. Any employer may apply to the commission for a temporary order granting a variance from a standard or any provision thereof promulgated under this chapter.

Such temporary order shall be granted only if the employer establishes that he is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date; that he is taking all available steps to safeguard his employees against the hazards covered by the standard; and that he has an effective program for coming into compliance with a standard as quickly as practicable. Any temporary order issued under this section shall prescribe the practices, means, methods, operations and processes which the employer must adopt and use while the order is in effect and state in detail his program for coming into compliance with the standard. Such a temporary order may be granted only after notice to employees and an opportunity for a hearing. Said notice shall be given to the authorized representative of the employees and be posted at or near the location for which the variance is sought. No order for a temporary variance may be in effect for longer than the period needed by the employer to achieve compliance with the standard or one (1) year, whichever is shorter, except that such an order may be renewed not more than twice, so long as the requirements of this paragraph are met and if an application for renewal is filed at least ninety (90) days prior to the expiration date of the order.
(Formerly: Acts 1973, P.L.241, SEC.15.)

IC 22-8-1.1-20
Repealed
(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-20.1
Permanent variances; application; notice; rule or order; modification or revocation
Sec. 20.1. Any affected employer may apply to the commission for a permanent variance from a standard promulgated under this chapter. Affected employees shall be given notice of each such application by posting it at or near the location for which the variance is sought, and an opportunity to participate in a hearing. The commission shall issue such rule or order if it determines, after a hearing, including an inspection, if appropriate, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by the employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, the commissioner of labor, or the commission on its own

motion, in the manner prescribed for its issuance under this section at any time after six (6) months from its issuance, provided that the moving party gives thirty (30) days notice to the other parties, and a hearing is held at the request of any of the parties.
(Formerly: Acts 1973, P.L.241, SEC.16.)

IC 22-8-1.1-21
Repealed
(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-21.1
Administrative services
Sec. 21.1. The commissioner and the department shall provide such administrative services, including docketing, stenographic, and recordkeeping services, as the commission may require in discharging its function under this chapter.
(Formerly: Acts 1973, P.L.241, SEC.17.) As amended by P.L.37-1985, SEC.36.

IC 22-8-1.1-22
Repealed
(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-22.1
Commissioner to administer; other agencies
Sec. 22.1. Commissioner to Administer - Other Agencies. The commissioner and such representatives as he may designate shall administer and enforce the provisions of this chapter and the safety standards adopted by the commission. The commissioner may utilize other agencies of the state government and its political subdivisions in carrying out his functions under this chapter.
(Formerly: Acts 1973, P.L.241, SEC.18.)

IC 22-8-1.1-23
Repealed
(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-23.1
Right of entry; exempt employers; exceptions
Sec. 23.1. (a) Except as provided under section 51 of this chapter, the commissioner and his designated representatives, on their own motion, or on receipt of a written and signed request for an inspection from an employee or his representative setting forth with reasonable particularity the grounds for inspection, may enter without delay and inspect at all reasonable times places of employment in order to enforce any provisions of this chapter, including occupational safety and health standards. Persons making inspections shall present appropriate credentials to the owner, operator, or agent in charge of the place of inspection.
(b) Notwithstanding the provisions of subsection (a), the

commissioner and the commissioner's representatives do not have a right of entry for an inspection of the premises of an employer who:

(1) is engaged in a farming operation that employs ten (10) or fewer employees and does not maintain a labor camp; or

(2) qualifies for the small business exemption by:

(A) employing ten (10) or fewer employees; and

(B) being included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which the data are published, less than the national average rate as the rates are most recently published by the Secretary of Labor, acting through the Bureau of Labor Statistics, in accordance with 29 U.S.C. 673.

(c) Notwithstanding the provisions of subsection (b), the premises of an employer qualified for exemption from inspection, other than an employer engaged in a farming operation described in subsection (b)(1), may be inspected to:

(1) provide technical assistance, educational and training services, and conduct surveys and studies;

(2) conduct an inspection or investigation in response to an employee complaint under section 24.1 of this chapter, issue a citation for violations found during the inspection, and assess a penalty for violations that are not corrected within a reasonable abatement period and for any willful violations found;

(3) take any action authorized by this chapter with regard to imminent dangers;

(4) take any action authorized by this chapter with respect to health hazards;

(5) take any action authorized by this chapter with respect to a report of an employment accident that:

(A) is fatal to one (1) or more employees; or

(B) results in hospitalization of one (1) or more employees;

and to take any action pursuant to any investigation authorized by this chapter; or

(6) take any action authorized by this chapter with respect to complaints of discrimination against employees for exercising any legal right under this chapter.

(Formerly: Acts 1973, P.L.241, SEC.19.) As amended by Acts 1977, P.L.263, SEC.2; P.L.221-1995, SEC.1; P.L.220-1995, SEC.1.

IC 22-8-1.1-24
Repealed

(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-24.1
Employee requests for inspection

Sec. 24.1. (a) In the case of a written request for an inspection by an employee or a representative of an employee who believes that a violation of a safety or health standard exists that threatens physical

harm or that an imminent danger exists, a copy shall be provided the employer at the time of inspection, except that, upon request of the complainant or by a decision by the commissioner:

(1) the name of the complainant and any identifying information; and

(2) the name and identifying information of individual employees referred to therein;

shall not appear in such copy or on any record published, released, or made available by the commissioner. The commissioner shall make the inspection, or shall reply in writing within twenty (20) days giving the reasons why the commissioner is not making the requested inspection. In the event a requested inspection is made, and no safety order issued, the commissioner shall reply in writing within twenty (20) days giving the reason for the decision.

(b) The employee or a representative of the employee, after receipt of the commissioner's reply under subsection (a), or upon the failure of the commissioner to reply, may request informal review of the request for an inspection made under subsection (a), or after inspection, upon the refusal to issue a safety order, by filing a written request for such informal review with the commissioner. Within twenty (20) days of receipt of the request, informal review shall commence with a final decision to be rendered within ten (10) days thereafter.

(Formerly: Acts 1973, P.L.241, SEC.20.) As amended by P.L.76-2012, SEC.1.

IC 22-8-1.1-24.2

Advance notice

Sec. 24.2. Without the approval of the commissioner or his duly authorized representative, no person may give advance notice of any inspection. A person who recklessly gives advance notice without such authority commits a Class B misdemeanor.

(Formerly: Acts 1973, P.L.241, SEC.21.) As amended by Acts 1978, P.L.2, SEC.2232.

IC 22-8-1.1-24.3

Inspection by representatives

Sec. 24.3. Subject to regulations issued by the commissioner, a representative of the employer and a representative of the employees shall be given the opportunity to accompany the inspector during the physical inspection of the place of employment. Where there is no authorized employee representative, the inspector shall consult with a reasonable number of employees concerning matters of health and safety in the place of employment. The name and any identifying information of those employees interviewed are confidential for purposes of IC 5-14-3-4(a)(1).

(Formerly: Acts 1973, P.L.241, SEC.22.) As amended by Acts 1977, P.L.263, SEC.3; P.L.76-2012, SEC.2.

IC 22-8-1.1-24.5

Written statement to employer following inspection; contents

Sec. 24.5. (a) At the closing conference after the completion of an inspection, the inspector shall provide the employer or a representative of the employer with a written statement that clearly and concisely provides the following information:

(1) The results of the inspection, including each hazard noted, if any.

(2) The right of the employer to petition for review of a safety order, a penalty assessment, an amended safety order, and an amended penalty assessment.

(3) An explanation of the procedure to follow in order to petition for review of a safety order, a penalty assessment, an amended safety order, and an amended penalty assessment, including when and where to file the petition and the required contents of the petition.

(4) The commissioner's responsibility to affirm, amend, or dismiss the safety order and penalty assessment, if any, and to grant or deny the petition for review.

(5) The informal review process.

(6) The procedures before the board of safety review.

(7) The right of the employer to seek judicial review.

(b) The written statement required under this section must be presented to the employer or the employer's representative at the closing conference after the completion of the inspection.

As added by P.L.222-1995, SEC.1.

IC 22-8-1.1-24.7

Contents of safety audit inadmissible

Sec. 24.7. (a) For purposes of this section, "safety audit" means a written consultation report related to health and safety standards that is:

(1) prepared for an employer by:

(A) a third party; or

(B) an employee whose principal responsibilities include an employer's compliance with occupational safety and health standards; and

(2) not otherwise required by state or federal law.

(b) For purposes of this section, "third party" does not include:

(1) an employer's employee, other than an employee whose principal responsibilities include an employer's compliance with occupational safety and health standards;

(2) a representative of an employer's employees; or

(3) any government agency.

(c) The contents of a safety audit are not admissible for purposes of this chapter if an employer has made a good faith and substantial effort to correct every hazard noted in the safety audit that is subject to enforcement under the federal Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq.

(d) This section does not apply to a criminal violation of this chapter.

As added by P.L.223-1995, SEC.1.

IC 22-8-1.1-25
Repealed

(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-25.1
Violations; safety order; service; limitation

Sec. 25.1. (a) If, as a result of the inspection, the commissioner or his designated representative determines there is a violation of this chapter, or any standard promulgated under it, the commissioner shall issue a safety order. Such safety order shall:

(1) be in writing;

(2) describe with particularity the nature of the violation with reference to the provision of this chapter, or the standard alleged to have been violated; and

(3) fix a reasonable time for the abatement of the violation.

(b) Except as provided under section 51 of this chapter, either at the time the safety order is issued, or within five (5) working days thereafter, the commissioner shall notify the employer of the penalty, if any, being assessed.

(c) Notwithstanding IC 4-21.5-3-1, all safety orders and penalty assessments shall be served personally on or sent by registered or certified mail to the employer at the place where an alleged violation of this chapter or an alleged violation of a standard set by a rule adopted under this chapter exists, unless another address is provided to the commissioner or the commissioner's representative by the employer during an inspection. The commissioner or the commissioner's representative shall give notice of safety orders and penalty assessments under IC 4-21.5-3-6. No safety order may be issued after the expiration of six (6) months following the occurrence of any violation.

(d) The commissioner may prescribe procedures for the issuance of a notice of de minimis violations, in lieu of a safety order, which have no direct or immediate relationship to safety or health.

(Formerly: Acts 1973, P.L.241, SEC.23.) As amended by P.L.34-1988, SEC.3; P.L.117-1994, SEC.2; P.L.220-1995, SEC.2.

IC 22-8-1.1-25.2
Posting of safety order

Sec. 25.2. As prescribed by rules issued by the commissioner, the safety order shall be posted by the employer at or near the place of the alleged violation in such a manner that affected employees may become aware of it.

(Formerly: Acts 1973, P.L.241, SEC.24.) As amended by P.L.34-1988, SEC.4.

IC 22-8-1.1-26
Repealed

(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-26.1
Failure to abate

Sec. 26.1. Failure to Abate. If the commissioner determines after reinspection the employer has failed to correct a violation for which a safety order has been issued within the period permitted for its correction, the commissioner shall issue a notice of failure to correct violation and accompanying penalty for such failure.
(Formerly: Acts 1973, P.L.241, SEC.25.) As amended by Acts 1977, P.L.263, SEC.4.

IC 22-8-1.1-27
Repealed

(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-27.1
Civil penalties

Sec. 27.1. (a) The commissioner may assess the following civil penalties:

(1) Any employer who has received a safety order for violation of any standard, rule, or order not of a serious nature may be assessed a civil penalty of up to seven thousand dollars ($7,000) for each such violation.

(2) Any employer who has received a safety order for a serious violation of any standard, rule, or order or this chapter may be assessed a civil penalty of up to seven thousand dollars ($7,000) for each such violation.

(3) Any employer who fails to correct a violation for which a safety order has been issued within the period permitted may be assessed a civil penalty of up to seven thousand dollars ($7,000) for each day during which the failure or violation continues.

(4) Any employer who fails to comply with the posting requirements in this chapter may be assessed a civil penalty of up to seven thousand dollars ($7,000) for each violation.

(5) Any employer who repeatedly violates any standard, rule, or order or this chapter may be assessed a civil penalty of up to seventy thousand dollars ($70,000) for each violation.

(6) Any employer who knowingly violates any standard, rule, order, or this chapter shall be assessed a civil penalty of not less than five thousand dollars ($5,000) for each violation and may be assessed a civil penalty of up to seventy thousand dollars ($70,000) for each violation.

(b) For purposes of this section, a serious violation exists in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists or from one (1) or more practices, means, methods, operations, or processes which have been adopted or are in use in the place of employment, unless the employer did not know and could not, with the exercise of reasonable diligence, have known of the presence of the violation.

(Formerly: Acts 1973, P.L.241, SEC.26.) As amended by Acts 1978, P.L.2, SEC.2233; P.L.170-1991, SEC.25.

IC 22-8-1.1-27.2
Affirmative defenses

Sec. 27.2. (a) An employer may establish an affirmative defense for a violation of any standard, rule, or order that is the result of employee misconduct.

(b) The employer has the burden of proving the affirmative defense in compliance with federal and state law.

(c) If an employer successfully establishes an affirmative defense under this section, the commissioner may not assess any penalty or fine against the employer for the violation.

As added by P.L.224-1995, SEC.1.

IC 22-8-1.1-28
Repealed

(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-28.1
Contest of safety orders; petition for review

Sec. 28.1. (a) Any employer receiving a safety order may, within fifteen (15) working days of such receipt, file a written petition for review under IC 4-21.5-3-7 of the order or any part thereof with the commissioner.

(b) If the employer wishes to petition for review of a penalty assessment, he must file a written petition for review under IC 4-21.5-3-7 with the commissioner within fifteen (15) working days of the receipt of the notice of penalty.

(c) An employer receiving a notice of failure to correct violation may, within fifteen (15) working days of such receipt, file a written petition for review of the notice with the commissioner.

(d) The petition for review shall contain a statement of the basis for the contest. Such petition for review shall be posted by the employer at or near the place of the alleged violation in such a manner that affected employees may become aware of it.

(Formerly: Acts 1973, P.L.241, SEC.27.) As amended by P.L.34-1988, SEC.5.

IC 22-8-1.1-28.2
Employee or representative petition for review

Sec. 28.2. Any employee or representative of the employee may, within fifteen (15) working days of employer receipt of the safety order, file a written petition for review under IC 4-21.5-3-7 on the ground that the time fixed for abatement of the violation is unreasonable.

(Formerly: Acts 1973, P.L.241, SEC.28.) As amended by P.L.34-1988, SEC.6.

IC 22-8-1.1-28.3

Affirmation, amendment, or dismissal of safety order or penalty; petition for review

Sec. 28.3. (a) When a petition for review is filed, the commissioner shall have five (5) working days in which to affirm, amend, or dismiss the safety order and penalty, if any, or the notice of failure to correct violation. Notice of his action shall be served on the employer and upon any employee, or representative of employees, who has filed a petition for review. The notice shall be posted at or near the place of the alleged violation in such a manner that affected employees may become aware of it.

(b) If the commissioner affirms the safety order and penalty, if any, or the notice of failure to correct violation, the commissioner shall also grant or deny the petition for review under the provisions of IC 4-21.5-3-7. If the commissioner amends the safety order and penalty, if any, or the notice of failure to correct violation, the petition for review shall be considered moot. The commissioner shall give notice of the amended order and penalty under IC 4-21.5-3-6.

(c) The employer and any employee or representatives of employees may file a written petition for review under IC 4-21.5-3-7 to such amended safety order and penalty, if any, or the notice of failure to correct violation. The written petition for review must be filed with the commissioner within fifteen (15) working days from the date of receipt of such amended safety order and penalty, if any, or the notice of failure to correct violation. The commissioner shall then grant or deny the petition for review under IC 4-21.5-3-7.

(Formerly: Acts 1973, P.L.241, SEC.29.) As amended by P.L.34-1988, SEC.7.

IC 22-8-1.1-28.4
Informal review

Sec. 28.4. The commissioner shall, by rule adopted under IC 4-22-2, establish procedures for informal review of any safety order, assessment of penalty, or notice of failure to correct violation.

(Formerly: Acts 1973, P.L.241, SEC.30.) As amended by P.L.34-1988, SEC.8.

IC 22-8-1.1-28.5
Referral of disputes

Sec. 28.5. If a petition for review is granted, the commissioner shall immediately certify the dispute to the board of safety review.

(Formerly: Acts 1973, P.L.241, SEC.31.) As amended by P.L.34-1988, SEC.9.

IC 22-8-1.1-29
Repealed

(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-30
Repealed

(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-30.1
Board of safety review

Sec. 30.1. (a) A board of safety review is created within the department.

(b) The board shall conduct hearings on contests involving safety orders, penalties, and notices of failure to correct a violation issued under this chapter and may affirm, modify, or dismiss the action of the commissioner in respect to the violation, the penalty, and the abatement period. All enforcement action on a properly contested safety order shall be suspended until a final decision has been rendered by the board of safety review. If a petition for judicial review is filed under IC 4-21.5-5, the person seeking review may seek a stay under IC 4-21.5-5-9. If compliance with the safety order is a final decision, the full abatement period shall commence from the date of the issuance of the final decision of the board of safety review or of a court if a stay has been granted.

(Formerly: Acts 1973, P.L.241, SEC.32.) As amended by P.L.37-1985, SEC.37; P.L.34-1988, SEC.10.

IC 22-8-1.1-31
Board; membership

Sec. 31. Board: membership. The board shall consist of five (5) members, all of whom shall be residents of Indiana and shall be appointed by the governor as follows: two (2) of the members shall be drawn from backgrounds with labor organizations but not more than one (1) of them shall be from the same international union, and two (2) of the members shall be drawn from backgrounds with employers. The chairman of the board shall be the fifth member and shall be selected from the highest membership classification of the American Society of Safety Engineers.

(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1973, P.L.241, SEC.33.)

IC 22-8-1.1-32
Repealed

(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-32.1
Board; terms

Sec. 32.1. Board: Terms. Members of the board shall be appointed for terms of four (4) years, and until their successors are appointed and qualified. Of the members first appointed, the members appointed who are drawn from those who have backgrounds with management shall be appointed to terms so that in every other year the term of one (1) or the other of them ends; and the members who are drawn from those who have backgrounds with labor organizations shall be appointed so that every other year the term of one (1) or the other of them ends. The first chairman of the board shall have a four (4) year term. Vacancies shall be filled in the same manner as the original appointments, except that a vacancy occurring

during the term of office shall be filled by appointment of the governor for the unexpired term.
(Formerly: Acts 1973, P.L.241, SEC.34.)

IC 22-8-1.1-33
Repealed
(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-34
Board; quorum
Sec. 34. (Board: Quorum) A majority of the board constitutes a quorum for the transaction of business.
(Formerly: Acts 1971, P.L.356, SEC.1.)

IC 22-8-1.1-35
Board; per diem and expenses
Sec. 35. (a) Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.
(b) The board shall meet on the call of the chairman.
(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1973, P.L.241, SEC.35.) As amended by P.L.34-1988, SEC.11.

IC 22-8-1.1-35.1
Inspection of premises; selection and compensation of administrative law judge
Sec. 35.1. (a) The board in the discharge of its functions may inspect the premises involved in the dispute.
(b) The board shall select an administrative law judge under IC 4-21.5-3-9. However, if the board selects any individual who is not a member of the board, that individual must be an attorney. Any attorney so appointed shall receive reasonable compensation as determined by the commissioner.
(Formerly: Acts 1973, P.L.241, SEC.36.) As amended by P.L.34-1988, SEC.12; P.L.48-2009, SEC.2.

IC 22-8-1.1-35.2
Administrative services
Sec. 35.2. The commissioner and the department shall provide such administrative services, including docketing, stenographic, and recordkeeping services, as the board may require in discharging its function under this chapter.
(Formerly: Acts 1973, P.L.241, SEC.37.) As amended by P.L.37-1985, SEC.38.

IC 22-8-1.1-35.3

Hearing; notice; intervention

Sec. 35.3. (a) When a dispute has been certified to the board by the commissioner pursuant to section 28.5 of this chapter, the board shall promptly schedule a hearing according to rules of procedure issued by the board, giving reasonable notice thereof to the employer and to the affected employee, or representative of employees.

(b) An employee or his authorized representative, even though he has not previously filed a petition for review, shall be permitted to intervene under IC 4-21.5-3-21 and participate as a party in said hearing, provided such intervention is timely and will not unduly delay the proceeding.

(c) Notwithstanding IC 4-21.5-5-2, an employee or authorized representative is entitled to file a petition for judicial review under IC 4-21.5-5 only concerning the time fixed for abatement of a violation.

(d) An employer may intervene under IC 4-21.5-3-21 in a proceeding initiated by a petition for review of an employee or representative of an employee.

(Formerly: Acts 1973, P.L.241, SEC.38.) As amended by P.L.34-1988, SEC.13.

IC 22-8-1.1-35.4

Hearing procedure

Sec. 35.4. Proceedings in any hearing shall be conducted in accordance with IC 4-21.5-3.

(Formerly: Acts 1973, P.L.241, SEC.39.) As amended by P.L.7-1987, SEC.97.

IC 22-8-1.1-35.5

Judicial review

Sec. 35.5. Judicial review of any final order of the board shall be under IC 4-21.5-5.

(Formerly: Acts 1973, P.L.241, SEC.40.) As amended by P.L.7-1987, SEC.98.

IC 22-8-1.1-35.6

Enforcement of safety orders; penalty assessment; failure to comply

Sec. 35.6. (a) A safety order, penalty assessment, or notice of failure to correct violation which has become final, either through lack of any contest under section 28.1 of this chapter, or after final action by the board, or after judicial review, shall be enforced by the commissioner under this section or section 35.7 of this chapter. The remedies provided in this chapter are cumulative and are in addition to any other remedy available to the commissioner. The commissioner's decision to pursue one (1) of the remedies does not preclude the subsequent or corresponding use of one (1) or more of the other remedies available to the commissioner.

(b) If an employer fails to comply, the commissioner may refer the matter to the attorney general, who shall promptly institute

proceedings under IC 4-21.5-6 to enforce the safety order, penalty assessment, or notice of failure to correct violation.
(Formerly: Acts 1973, P.L.241, SEC.41.) As amended by P.L.34-1988, SEC.14; P.L.33-2009, SEC.1.

IC 22-8-1.1-35.7
Collection of penalty assessments; judgment liens

Sec. 35.7. (a) If an employer fails to pay a penalty assessed under this chapter within ten (10) calendar days of the date that the assessment is final under section 35.6 of this chapter, the commissioner or the commissioner's representative may file with the circuit court clerk of any county in which the employer owns any interest in property, real or personal, tangible or intangible, a warrant for the amount of the assessment and interest, if applicable. The commissioner or the commissioner's representative may also send the warrant to the sheriff of any county in which the employer owns real or personal property and direct the sheriff to file the warrant with the circuit court clerk.

(b) When the circuit court clerk receives the warrant from the commissioner, the commissioner's representative, or the sheriff, the clerk shall record the warrant by making an entry in the judgment debtor's column of the judgment record listing the following:

(1) The name of the employer stated in the warrant.
(2) The amount of the warrant.
(3) The date the warrant was filed with the clerk.

(c) When the entry is made, the total amount of the warrant becomes a judgment against the employer. The judgment creates a lien in favor of the state that attaches to all the employer's interest in any real or personal property in the county.

(d) At least thirty (30) calendar days before the date on which the commissioner intends to file a warrant as provided by subsection (a) in order to impose a lien on real or personal property, the commissioner or the commissioner's representative must send a written notice:

(1) to the owner of the real or personal property that would be subject to the lien; or
(2) if the owner of record cannot be identified, to the tenant or other person having control of the real or personal property;

of the date on which the commissioner or the commissioner's representative intends to file the warrant in order to impose a lien on the real or personal property. The commissioner or the commissioner's representative shall provide the circuit court clerk of the county in which the real or personal property that would be subject to the lien is located with a copy of the written notice described in this subsection.

(e) A judgment obtained under subsection (c) is valid for ten (10) years from the date the judgment is filed.

(f) A judgment obtained under subsection (c) shall be released by the commissioner:

(1) after the judgment, including all accrued interest to the date

of payment, has been fully satisfied; or

(2) if the commissioner determines that the assessment or the issuance of the warrant was in error.

(g) If the commissioner determines that the filing of a warrant was in error, the commissioner or the commissioner's representative shall mail a release of the judgment to the employer and the circuit court clerk of each county where the warrant was filed. The commissioner or the commissioner's representative shall mail the release as soon as possible but not later than seven (7) calendar days after:

(1) the determination by the commissioner that the filing of the warrant was in error; and

(2) the receipt of information by the commissioner or the commissioner's representative that the judgment has been recorded under subsection (b).

(h) A release issued under subsection (g) must state that the filing of the warrant was in error.

(i) After a warrant becomes a judgment under subsection (c), the commissioner may levy upon the property of the employer that is held by a financial institution (as defined in IC 5-13-4-10) by sending a claim to the financial institution. Upon receipt of a claim under this subsection, the financial institution shall surrender to the commissioner or the commissioner's representative the employer's property. If the amount or value of the employer's property exceeds the amount owed to the state by the employer, the financial institution shall surrender the employer's property in an amount equal to the amount owed. After receiving the commissioner's notice of levy, the financial institution is required to place a sixty (60) day hold or restriction on the withdrawal of funds the employer has on deposit or subsequently deposits, in an amount not to exceed the amount owed.

As added by P.L.33-2009, SEC.2. Amended by P.L.1-2010, SEC.89.

IC 22-8-1.1-36
Repealed

(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-36.1
Repealed

(Repealed by Acts 1978, P.L.2, SEC.2251.)

IC 22-8-1.1-37
Repealed

(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-37.1
False statements, representations, or certifications

Sec. 37.1. No person may make a false statement, representation, or certification in any application, record, report, plan, or other document required pursuant to this chapter.

(Formerly: Acts 1973, P.L.241, SEC.43.) As amended by Acts 1978,

P.L.2, SEC.2234.

IC 22-8-1.1-38
Repealed

(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-38.1
Discrimination against employee filing complaint or testifying; complaint; remedy; notice of determination

Sec. 38.1. (a) No person shall discharge or in any way discriminate against any employee because such employee has filed a complaint or instituted or caused to be instituted any proceeding under or related to this chapter or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this chapter.

(b) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of this section may, within thirty (30) calendar days after such violation occurs, file a complaint with the commissioner alleging such discrimination.

Upon receipt of such complaint, the commissioner shall cause such investigation to be made as he deems appropriate. If after such investigation, the commissioner determines that the provisions of this section have been violated, he, through the attorney general, shall, within one hundred twenty (120) days after receipt of said complaint, bring an action in the circuit courts of Indiana. The circuit courts of Indiana shall have jurisdiction to restrain violations of this section and order all appropriate relief, including rehiring, or reinstatement of the employee to his former position with back pay, after taking into account any interim earnings of the employee.

(c) Within ninety (90) days of the receipt of a complaint filed under this section, the commissioner shall notify the complainant in writing of his determination under this section.

(Formerly: Acts 1973, P.L.241, SEC.44.)

IC 22-8-1.1-39
Repealed

(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-39.1
Imminent danger in workplace; petition for relief; orders; informing employer and employees of danger; mandamus

Sec. 39.1. (a) Whenever the commissioner is of the opinion that imminent danger exists in any workplace in this state, which condition can reasonably be expected to cause death or serious physical harm, the commissioner, through the attorney general, may petition the circuit court of the county in which such workplace is located for appropriate relief. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger and prohibit the

employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner.

(b) Whenever and as soon as an inspector concludes that conditions or practices described in subsection (a) exist in any place of employment, he shall inform the affected employers and employees of the danger and that he is recommending to the commissioner that relief be sought.

(c) If the commissioner arbitrarily or capriciously fails to seek relief under this section, any employee who may be injured by reason of such failure, or the representative of such employees, may bring an action against the commissioner, in the circuit court of the county in which the imminent danger is alleged to exist or the employer has its principal office, for a writ of mandamus to compel the commissioner to seek such an order and for such further relief as may be appropriate.

(Formerly: Acts 1973, P.L.241, SEC.45.)

IC 22-8-1.1-40

INSafe; program of occupational health and safety education and training

Sec. 40. A division of the department to be known as INSafe is created to implement a program of occupational health and safety education and training.

(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1973, P.L.241, SEC.46.) As amended by P.L.37-1985, SEC.39; P.L.32-2008, SEC.2.

IC 22-8-1.1-41

INSafe; duties

Sec. 41. The duties of INSafe shall include, but not be limited to, the following:

(1) Development of a statewide health and safety education and training program to acquaint employers, supervisors, employees, and union leaders with the most modern and effective techniques of accident investigation and prevention.

(2) Development and promotion of the consultative educational approach as a desirable and effective long range solution to occupational health and safety problems.

(3) Development of training programs for occupational health and safety personnel.

(4) Planning, organizing, and attending occupational health and safety seminars, conferences, and meetings designed for management, supervisory personnel, employees, and union representatives.

(5) Definition and establishment of necessary research projects.

(6) Arrangement and procurement of necessary contractual

services and training aids.

(7) Planning, developing, organizing, attending, and presenting specific occupational health and safety programs for employer groups.

(8) Conducting onsite consultations upon request from an employer. Onsite consultation shall be defined by INSafe by rule under IC 4-22-2.

(9) Providing occupational health and safety pamphlets, booklets, brochures, and other appropriate health and safety media.

(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1973, P.L.241, SEC.47; Acts 1975, P.L.255, SEC.1.) As amended by P.L.37-1985, SEC.40; P.L.34-1988, SEC.15; P.L.32-2008, SEC.3.

IC 22-8-1.1-42
INSafe; staff

Sec. 42. The director and staff of INSafe shall be selected and appointed by the commissioner under IC 4-15-2.2.

(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1973, P.L.241, SEC.48.) As amended by P.L.144-1986, SEC.176; P.L.32-2008, SEC.4; P.L.6-2012, SEC.159.

IC 22-8-1.1-43
INSafe; employer annual report

Sec. 43. (a) To insure the availability of accurate, timely statistical data concerning occupational health and safety, all employers having one (1) or more employees simultaneously employed shall submit annual reports to INSafe (on a form and in a manner prescribed by the director) of all disabling work injuries.

(b) INSafe may exempt from the requirement of subsection (a) those classes of employers for whose operations adequate records of safety experience are already available. INSafe may also exempt any employer when, in the judgment of the director, the submission of annual reports by the employer is not necessary to carry out the purposes of this chapter and would be an undue burden upon the employer because of size, the nature of its operation or other special circumstances.

(Formerly: Acts 1971, P.L.356, SEC.1.) As amended by P.L.32-2008, SEC.5.

IC 22-8-1.1-43.1
Employer records and reports; death and disaster reporting

Sec. 43.1. (a) The commissioner may adopt rules requiring all employers having eleven (11) or more employees employed to make and retain records of, and to make reports on, all work related deaths, injuries, and illnesses.

(b) Deaths and disasters shall be reported directly to the commissioner within eight (8) hours. "Disaster" is any incident which results in the hospitalization of three (3) or more persons.

(Formerly: Acts 1973, P.L.241, SEC.49; Acts 1975, P.L.255, SEC.2.)

As amended by P.L.28-1988, SEC.69; P.L.234-2003, SEC.1.

IC 22-8-1.1-44
Repealed
(Repealed by Acts 1973, P.L.241, SEC.57.)

IC 22-8-1.1-44.1
Repealed
(Repealed by Acts 1979, P.L.17, SEC.55.)

IC 22-8-1.1-45
Safety and health consultation service for employers; tax levy
Sec. 45. If the balance in the special fund for safety and health consultation service on April 1 of each year is less than six hundred thousand dollars ($600,000) an annual tax is imposed to finance the safety and health consultation service for employers under section 41 of this chapter.
(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1975, P.L.255, SEC.3.) As amended by Acts 1982, P.L.95, SEC.10; P.L.37-1985, SEC.41; P.L.34-1988, SEC.16.

IC 22-8-1.1-46
Tax; worker's compensation insurance carriers and self-insured employers
Sec. 46. The tax is imposed upon:
(1) each insurance carrier licensed to do worker's compensation business in the state; and
(2) each self-insured employer.
(Formerly: Acts 1971, P.L.356, SEC.1.) As amended by P.L.28-1988, SEC.70.

IC 22-8-1.1-47
Tax; amount; loss for purpose of worker's compensation insurance rates
Sec. 47. The annual tax shall be an amount equal to three-fourths of one percent (0.75%) of the total worker's compensation benefits paid in this state by the insurance carrier and self-insured employers as provided in section 46 of this chapter during the preceding calendar year, excluding medical payments. The tax shall constitute an element of loss for the purpose of establishing worker's compensation insurance rates.
(Formerly: Acts 1971, P.L.356, SEC.1.) As amended by P.L.144-1986, SEC.177; P.L.28-1988, SEC.71.

IC 22-8-1.1-48
Use of tax revenues; appropriations; payment date
Sec. 48. (a) The tax shall be paid directly to the director who shall deposit the revenues in a special fund to be used solely for safety and health consultation, education, and training services for employer groups and for onsite consultation service as provided in section 41

of this chapter. These revenues shall not be transferable to any other fund and shall not revert to the general fund at the end of any fiscal year.

(b) Tax revenues as provided for in section 47 of this chapter shall be made available to INSafe only by appropriation of the general assembly based upon the needs of INSafe as determined by the department and submitted in the form of a budget in the manner provided by law.

(c) The annual tax payment is due and payable on or before May 1 of each year in which the tax is imposed.

(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1975, P.L.255, SEC.4.) As amended by Acts 1982, P.L.95, SEC.11; P.L.37-1985, SEC.42; P.L.34-1988, SEC.17; P.L.32-2008, SEC.6; P.L.76-2012, SEC.3.

IC 22-8-1.1-48.1
Rules governing functions of chapter

Sec. 48.1. The commissioner of labor, the occupational safety standards commission, the board of safety review, and INSafe shall have the power to make rules governing functions under this chapter, provided such rules shall not be inconsistent with this chapter or other applicable statutes.

(Formerly: Acts 1973, P.L.241, SEC.51.) As amended by P.L.32-2008, SEC.7.

IC 22-8-1.1-48.2
Disposition of penalties

Sec. 48.2. All penalties and fines which may be collected shall be paid into the state general fund.

(Formerly: Acts 1973, P.L.241, SEC.52.)

IC 22-8-1.1-48.3
Construction of chapter with other laws

Sec. 48.3. Nothing in this chapter shall be construed to supersede or in any manner affect any worker's compensation or occupational diseases law, or any other statutory rights, duties, or liabilities, or create any private right of action.

(Formerly: Acts 1973, P.L.241, SEC.53.) As amended by P.L.28-1988, SEC.72.

IC 22-8-1.1-48.4
Confidentiality of trade secrets; violations

Sec. 48.4. (a) All information reported to or otherwise obtained by the commissioner, the designated representatives of the commissioner, the department of labor, the occupational safety standards commission, the board of safety review, INSafe, and the agents and employees of any of them that contains or might reveal a trade secret, shall be considered confidential and shall be disclosed only to such other officers or employees concerned with the functions set forth in this chapter as may be necessary for them to discharge their duties under this chapter. In any proceeding, the

commissioner, the commission, the board, or a court shall issue such orders as may be appropriate, including the impoundment of files, or portions of files, to protect the confidentiality of trade secrets.

(b) No person may violate the confidentiality of trade secrets.

(Formerly: Acts 1973, P.L.241, SEC.54.) As amended by Acts 1978, P.L.2, SEC.2235; P.L.37-1985, SEC.43; P.L.32-2008, SEC.8.

IC 22-8-1.1-49
Violations

Sec. 49. A person who knowingly violates this chapter commits a Class B misdemeanor, except as otherwise provided.

(Formerly: Acts 1971, P.L.356, SEC.1; Acts 1973, P.L.241, SEC.55.) As amended by Acts 1978, P.L.2, SEC.2236.

IC 22-8-1.1-50
Title of chapter

Sec. 50. This chapter shall be known as The Indiana Occupational Safety and Health Act (IOSHA).

(Formerly: Acts 1974, P.L.1, SEC.10.)

IC 22-8-1.1-51
Restriction on assessment of penalty

Sec. 51. (a) This section does not affect the ability or duty of the commissioner or the commissioner's designee to conduct investigations in the following circumstances:

(1) An employee requests an inspection under section 24.1 of this chapter.

(2) The commissioner receives a report of a death under section 43.1 of this chapter.

(3) The commissioner receives a report of a disaster under section 43.1 of this chapter.

(b) If:

(1) INSafe conducts an onsite consultation for an employer; and

(2) the employer complied in good faith with an act of the abatement of the particular alleged violation recommended by INSafe;

the commissioner may not assess a penalty against the employer under section 25.1 of this chapter for an alleged violation of a condition or practice that INSafe specifically examined.

(c) Subsection (b) applies only on a first inspection by the commissioner following an onsite consultation with INSafe. This section does not relieve an employer of any obligation to stay in compliance with any safety or health standard or law which changes following an onsite consultation with INSafe.

As added by P.L.220-1995, SEC.3. Amended by P.L.1-2009, SEC.128.

IC 22-8-1.1-52
Commissioner and employees not subject to subpoena except in certain circumstances

Sec. 52. This section does not apply to a subpoena requesting only documents or other records. Neither the commissioner nor any employee or former employee of the department is subject to subpoena for purposes of inquiry into any occupational safety and health inspection, except in the following circumstances:

(1) An enforcement proceeding is brought under this chapter.

(2) An action is filed in which the department is a party.

(3) The commissioner consents in writing to waive the exemption provided by this section.

(4) A court finds that:

(A) the information sought is essential to the underlying case;

(B) there are no reasonable alternative means for acquiring the information; and

(C) a significant injustice would occur if the requested testimony was not available.

As added by P.L.76-2012, SEC.4.

IC 22-8-2
Repealed

(Repealed by Acts 1971, P.L.356, SEC.2.)

IC 22-8-4

Chapter 4. Private Sector Construction Safety

IC 22-8-4-1

Contracts; incorporation of safety regulations

Sec. 1. (a) This section applies to a construction, an improvement, or a maintenance project that may require the creation of a trench of at least five (5) feet in depth.

(b) IOSHA regulations 29 C.F.R. 1926, Subpart P, for trench safety systems shall be incorporated into the contract.

(c) The contract shall provide that the cost for trench safety systems shall be paid for:

(1) as a separate pay item; or

(2) in the pay item of the principal work with which the safety systems are associated.

As added by P.L.1-1990, SEC.238.

IC 22-9

ARTICLE 9. CIVIL RIGHTS

IC 22-9-1

Chapter 1. Civil Rights Enforcement

IC 22-9-1-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 6 of this chapter by P.L.14-1994 do not affect:

(1) rights or liabilities accrued; or

(2) proceedings begun;

before July 1, 1994. Those rights and liabilities accrued and proceedings begun shall be imposed and enforced under prior law as if P.L.14-1994 had not been enacted.

As added by P.L.220-2011, SEC.369.

IC 22-9-1-1

Title of chapter

Sec. 1. IC 1971, 22-9-1 shall be known as the Indiana Civil Rights Law.

(Formerly: Acts 1961, c.208, s.1; Acts 1963, c.173, s.1; Acts 1971, P.L.357, SEC.1.)

IC 22-9-1-2

Public policy; construction of chapter

Sec. 2. (a) It is the public policy of the state to provide all of its citizens equal opportunity for education, employment, access to public conveniences and accommodations, and acquisition through purchase or rental of real property, including but not limited to housing, and to eliminate segregation or separation based solely on race, religion, color, sex, disability, national origin or ancestry, since such segregation is an impediment to equal opportunity. Equal education and employment opportunities and equal access to and use of public accommodations and equal opportunity for acquisition of real property are hereby declared to be civil rights.

(b) The practice of denying these rights to properly qualified persons by reason of the race, religion, color, sex, disability, national origin, or ancestry of such person is contrary to the principles of freedom and equality of opportunity and is a burden to the objectives of the public policy of this state and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sex, disability, national origin, or ancestry through reasonable methods is the purpose of this chapter.

(c) It is also the public policy of this state to protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders, and lending institutions from unfounded charges of discrimination.

(d) It is hereby declared to be contrary to the public policy of the state and an unlawful practice for any person, for profit, to induce or

attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, color, sex, disability, national origin, or ancestry.

(e) The general assembly recognizes that on February 16, 1972, there are institutions of learning in Indiana presently and traditionally following the practice of limiting admission of students to males or to females. It is further recognized that it would be unreasonable to impose upon these institutions the expense of remodeling facilities to accommodate students of both sexes, and that educational facilities of similar quality and type are available in coeducational institutions for those students desiring such facilities. It is further recognized that this chapter is susceptible of interpretation to prevent these institutions from continuing their traditional policies, a result not intended by the general assembly. Therefore, the amendment effected by Acts 1972, P.L.176, is desirable to permit the continuation of the policies described.

(f) This chapter shall be construed broadly to effectuate its purpose.

(Formerly: Acts 1961, c.208, s.2; Acts 1963, c.173, s.2; Acts 1965, c.214, s.1; Acts 1967, c.276, s.1; Acts 1969, c.298, s.1; Acts 1971, P.L.357, SEC.2; Acts 1975, P.L.256, SEC.1.) As amended by P.L.5-1988, SEC.116; P.L.23-1993, SEC.130.

IC 22-9-1-3
Definitions

Sec. 3. As used in this chapter:

(a) "Person" means one (1) or more individuals, partnerships, associations, organizations, limited liability companies, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, and other organized groups of persons.

(b) "Commission" means the civil rights commission created under section 4 of this chapter.

(c) "Director" means the director of the civil rights commission.

(d) "Deputy director" means the deputy director of the civil rights commission.

(e) "Commission attorney" means the deputy attorney general, such assistants of the attorney general as may be assigned to the commission, or such other attorney as may be engaged by the commission.

(f) "Consent agreement" means a formal agreement entered into in lieu of adjudication.

(g) "Affirmative action" means those acts that the commission determines necessary to assure compliance with the Indiana civil rights law.

(h) "Employer" means the state or any political or civil subdivision thereof and any person employing six (6) or more persons within the state, except that the term "employer" does not include:

(1) any nonprofit corporation or association organized exclusively for fraternal or religious purposes;

(2) any school, educational, or charitable religious institution owned or conducted by or affiliated with a church or religious institution; or

(3) any exclusively social club, corporation, or association that is not organized for profit.

(i) "Employee" means any person employed by another for wages or salary. However, the term does not include any individual employed:

(1) by the individual's parents, spouse, or child; or

(2) in the domestic service of any person.

(j) "Labor organization" means any organization that exists for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment or for other mutual aid or protection in relation to employment.

(k) "Employment agency" means any person undertaking with or without compensation to procure, recruit, refer, or place employees.

(l) "Discriminatory practice" means:

(1) the exclusion of a person from equal opportunities because of race, religion, color, sex, disability, national origin, or ancestry;

(2) a system that excludes persons from equal opportunities because of race, religion, color, sex, disability, national origin, or ancestry;

(3) the promotion of racial segregation or separation in any manner, including but not limited to the inducing of or the attempting to induce for profit any person to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of a person or persons of a particular race, religion, color, sex, disability, national origin, or ancestry; or

(4) a violation of IC 22-9-5 that occurs after July 25, 1992, and is committed by a covered entity (as defined in IC 22-9-5-4).

Every discriminatory practice relating to the acquisition or sale of real estate, education, public accommodations, employment, or the extending of credit (as defined in IC 24-4.5-1-301.5) shall be considered unlawful unless it is specifically exempted by this chapter.

(m) "Public accommodation" means any establishment that caters or offers its services or facilities or goods to the general public.

(n) "Complainant" means:

(1) any individual charging on the individual's own behalf to have been personally aggrieved by a discriminatory practice; or

(2) the director or deputy director of the commission charging that a discriminatory practice was committed against a person other than himself or a class of people, in order to vindicate the public policy of the state (as defined in section 2 of this chapter).

(o) "Complaint" means any written grievance that is:

(1) sufficiently complete and filed by a complainant with the commission; or

(2) filed by a complainant as a civil action in the circuit or superior court having jurisdiction in the county in which the alleged discriminatory practice occurred.

The original of any complaint filed under subdivision (1) shall be signed and verified by the complainant.

(p) "Sufficiently complete" refers to a complaint that includes:

(1) the full name and address of the complainant;

(2) the name and address of the respondent against whom the complaint is made;

(3) the alleged discriminatory practice and a statement of particulars thereof;

(4) the date or dates and places of the alleged discriminatory practice and if the alleged discriminatory practice is of a continuing nature the dates between which continuing acts of discrimination are alleged to have occurred; and

(5) a statement as to any other action, civil or criminal, instituted in any other form based upon the same grievance alleged in the complaint, together with a statement as to the status or disposition of the other action.

No complaint shall be valid unless filed within one hundred eighty (180) days from the date of the occurrence of the alleged discriminatory practice.

(q) "Sex" as it applies to segregation or separation in this chapter applies to all types of employment, education, public accommodations, and housing. However:

(1) it shall not be a discriminatory practice to maintain separate restrooms;

(2) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any other individual in any program on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and

(3) it shall not be a discriminatory practice for a private or religious educational institution to continue to maintain and enforce a policy of admitting students of one (1) sex only.

(r) "Disabled" or "disability" means the physical or mental condition of a person that constitutes a substantial disability. In reference to employment, under this chapter, "disabled or disability" also means the physical or mental condition of a person that constitutes a substantial disability unrelated to the person's ability to engage in a particular occupation.

(Formerly: Acts 1961, c.208, s.3; Acts 1963, c.173, s.3; Acts 1967, c.276, s.2; Acts 1969, c.298, s.2; Acts 1971, P.L.357, SEC.3; Acts 1972, P.L.176, SEC.2; Acts 1974, P.L.111, SEC.1; Acts 1975, P.L.256, SEC.2.) As amended by Acts 1978, P.L.123, SEC.1; P.L.37-1985, SEC.44; P.L.111-1992, SEC.1; P.L.8-1993, SEC.292; P.L.23-1993, SEC.131; P.L.203-1993, SEC.1; P.L.1-1994, SEC.114; P.L.14-1994, SEC.2; P.L.164-1997, SEC.1; P.L.35-2010, SEC.3.

IC 22-9-1-4
Civil rights commission; creation

Sec. 4. (a) There is hereby created a civil rights commission composed of seven (7) members, not more than four (4) of whom shall be members of the same political party, to be appointed by the governor. In making such appointments, the governor shall take into consideration all interests in the community including but not limited to the interests of minority groups, employers, labor, and the public.

(b) Except as provided in IC 4-21.5-2, IC 4-21.5 applies to the commission.

(c) Successors to all members of the commission shall be appointed for terms of four (4) years, excepting when appointed to fill a vacancy, in which case such appointment shall be for the unexpired term.

(d) Members of the commission may be removed by the governor for cause but for no other reason.

(e) The members of the commission shall be paid per diem and travel expenses and other necessary and reasonable expenses for attendance at meetings and hearings of the commission.

(Formerly: Acts 1961, c.208, s.4; Acts 1963, c.173, s.4; Acts 1969, c.298, s.3; Acts 1971, P.L.357, SEC.4.) As amended by P.L.7-1987, SEC.99.

IC 22-9-1-5
Civil rights commission; appointment of members; meetings

Sec. 5. The members of the Commission shall be appointed within thirty (30) days after the effective date of IC 1971 22-9-1 and the first meeting thereof shall be called by the member first appointed within sixty (60) days after the effective date of IC 1971, 22-9-1.

At its first meeting and at each annual meeting held thereafter, the Commission shall organize by the election of a chairman and vice chairman from its membership, each of whom, except those first elected, shall serve for a term of one (1) year and until his successor is elected.

The Commission shall hold one (1) regular meeting each month, and such called meetings as its chairman may deem to be necessary. The April meeting shall be the annual meeting.

(Formerly: Acts 1961, c.208, s.5; Acts 1971, P.L.357, SEC.5.)

IC 22-9-1-6
Civil rights commission; powers and duties

Sec. 6. (a) The commission shall establish and maintain a

permanent office in the city of Indianapolis.

(b) Except as it concerns judicial review, the commission may adopt rules under IC 4-22-2 to implement this chapter.

(c) The commission shall formulate policies to effectuate the purposes of this chapter and make recommendations to agencies and officers of the state or local subdivisions thereof to effectuate such policies. The several departments, commissions, divisions, authorities, boards, bureaus, agencies, and officers of the state or any political subdivision or agency thereof shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any matter before the commission.

(d) The commission shall receive and investigate complaints alleging discriminatory practices. The commission shall not hold hearings in the absence of a complaint. All investigations of complaints shall be conducted by staff members of the civil rights commission or their agents.

(e) The commission may create such advisory agencies and conciliation councils, local or statewide, as will aid in effectuating the purposes of this chapter. The commission may itself, or it may empower these agencies and councils to:

(1) study the problems of discrimination in the areas covered by section 2 of this chapter when based on race, religion, color, sex, handicap, national origin, or ancestry; and

(2) foster through community effort, or otherwise, good will among the groups and elements of the population of the state.

These agencies and councils may make recommendation to the commission for the development of policies and procedures in general. Advisory agencies and conciliation councils created by the commission shall be composed of representative citizens serving without pay, but with reimbursement for reasonable and necessary actual expenses.

(f) The commission may issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religion, color, sex, handicap, national origin, or ancestry.

(g) The commission shall prevent any person from discharging, expelling, or otherwise discriminating against any other person because the person filed a complaint, testified in any hearing before this commission, or in any way assisted the commission in any matter under its investigation.

(h) The commission may hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and require the production for examination of any books and papers relating to any matter under investigation or in question before the commission. The commission may make rules as to the issuance of subpoenas by individual commissioners. Contumacy or refusal to obey a subpoena issued under this section shall constitute a contempt. All hearings shall be held within Indiana at a location determined by the commission. A citation of contempt may be issued upon application by the commission to the circuit or

superior court in the county in which the hearing is held or in which the witness resides or transacts business.

(i) The commission may appoint administrative law judges other than commissioners, when an appointment is deemed necessary by a majority of the commission. The administrative law judges shall be members in good standing before the bar of Indiana and shall be appointed by the chairman of the commission. An administrative law judge appointed under this subsection shall have the same powers and duties as a commissioner sitting as an administrative law judge. However, the administrative law judge may not issue subpoenas.

(j) The commission shall state its findings of fact after a hearing and, if the commission finds a person has engaged in an unlawful discriminatory practice, shall cause to be served on this person an order requiring the person to cease and desist from the unlawful discriminatory practice and requiring the person to take further affirmative action as will effectuate the purposes of this chapter, including but not limited to the power:

(A) to restore complainant's losses incurred as a result of discriminatory treatment, as the commission may deem necessary to assure justice; however, this specific provision when applied to orders pertaining to employment shall include only wages, salary, or commissions;

(B) to require the posting of notice setting forth the public policy of Indiana concerning civil rights and respondent's compliance with the policy in places of public accommodations;

(C) to require proof of compliance to be filed by respondent at periodic intervals; and

(D) to require a person who has been found to be in violation of this chapter and who is licensed by a state agency authorized to grant a license to show cause to the licensing agency why his license should not be revoked or suspended.

(k) Judicial review of a cease and desist order or other affirmative action as referred to in this chapter may be obtained under IC 22-9-8. If no proceeding to obtain judicial review is instituted within thirty (30) days from receipt of notice by a person that an order has been made by the commission, the commission, if it determines that the person upon whom the cease and desist order has been served is not complying or is making no effort to comply, may obtain a decree of a court for the enforcement of the order in circuit or superior court upon showing that the person is subject to the commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought.

(l) If, upon all the evidence, the commission shall find that a person has not engaged in any unlawful practice or violation of this chapter, the commission shall state its findings of facts and shall issue and cause to be served on the complainant an order dismissing the complaint as to the person.

(m) The commission may furnish technical assistance requested by persons subject to this chapter to further compliance with this chapter or with an order issued thereunder.

(n) The commission shall promote the creation of local civil rights agencies to cooperate with individuals, neighborhood associations, and state, local, and other agencies, both public and private, including agencies of the federal government and of other states.

(o) The commission may reduce the terms of conciliation agreed to by the parties to writing (to be called a consent agreement) that the parties and a majority of the commissioners shall sign. When signed, the consent agreement shall have the same effect as a cease and desist order issued under subsection (j). If the commission determines that a party to the consent agreement is not complying with it, the commission may obtain enforcement of the consent agreement in a circuit or superior court upon showing that the party is not complying with the consent agreement and the party is subject to the commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought.

(p) In lieu of investigating a complaint and holding a hearing under this section, the commission may issue an order based on findings and determinations by the federal Department of Housing and Urban Development or the federal Equal Employment Opportunity Commission concerning a complaint that has been filed with one (1) of these federal agencies and with the commission. The commission shall adopt by rule standards under which the commission may issue such an order.

(q) Upon notice that a complaint is the subject of an action in a federal court, the commission shall immediately cease investigation of the complaint and may not conduct hearings or issue findings of fact or orders concerning that complaint.

(Formerly: Acts 1961, c.208, s.6; Acts 1963, c.173, s.5; Acts 1965, c.214, s.2; Acts 1967, c.276, s.3; Acts 1969, c.298, s.4; Acts 1971, P.L.357, SEC.6; Acts 1974, P.L.111, SEC.2; Acts 1975, P.L.256, SEC.3.) As amended by Acts 1978, P.L.6, SEC.33; Acts 1979, P.L.31, SEC.13; P.L.37-1985, SEC.45; P.L.7-1987, SEC.100; P.L.111-1992, SEC.2; P.L.1-1993, SEC.187; P.L.23-1993, SEC.132; P.L.203-1993, SEC.2; P.L.14-1994, SEC.3; P.L.1-1994, SEC.115; P.L.2-1995, SEC.84; P.L.100-2012, SEC.59.

IC 22-9-1-7

Educational programs

Sec. 7. In order to eliminate prejudice among the various racial, religious, and ethnic groups in this state and to further goodwill among such groups, the commission, in cooperation with the state department of education and the universities and colleges of the state, and such other universities and colleges as are willing to cooperate, is directed to prepare a comprehensive educational program, designed to emphasize the origin of prejudice against such minority groups, its harmful effects, its incompatibility with American principles of equality and fair play, and violation of the brotherhood of man.

(Formerly: Acts 1961, c.208, s.7.) As amended by P.L.20-1984, SEC.196.

IC 22-9-1-8
Civil rights commission; director

Sec. 8. The governor shall select and appoint a director who shall be secretary of the commission and chief administrative officer for the commission. The director shall devote his entire time and effort to the administration of the provisions of this chapter and shall not engage in or have any interest in any business or activity which may create a conflict of interest. The salary of the director shall be fixed by the governor with the approval of the budget agency.
(Formerly: Acts 1961, c.208, s.8.) As amended by P.L.144-1986, SEC.178.

IC 22-9-1-9
Civil rights commission; director; oath of office

Sec. 9. The director and the members of the commission before entering upon the discharge of their official duties shall each take and subscribe to an oath of office which shall be endorsed upon their respective certificates of appointment.
(Formerly: Acts 1961, c.208, s.9.)

IC 22-9-1-10
Public contractors; public utility franchises

Sec. 10. Every contract to which the state or any of its political or civil subdivisions is a party, including franchises granted to public utilities, shall contain a provision requiring the contractor and his subcontractors not to discriminate against any employee or applicant for employment to be employed in the performance of such contract, with respect to his hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of his race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of the contract.
(Formerly: Acts 1961, c.208, s.10; Acts 1971, P.L.357, SEC.7; Acts 1975, P.L.256, SEC.4.) As amended by P.L.23-1993, SEC.133.

IC 22-9-1-11
Investigation of complaints; recommendations to legislature

Sec. 11. In addition to its power to investigate the discriminatory practices referred to in this chapter, the commission may receive written complaints of violation of this chapter or other discriminatory practices based upon race, religion, color, sex, national origin, or ancestry and to investigate such complaints as it deems meritorious, or to conduct such investigation in the absence of complaints whenever it deems it in the public interest. It may transmit to the general assembly its recommendations for legislation designed to aid in the removing of such discrimination.
(Formerly: Acts 1961, c.208, s.11; Acts 1974, P.L.111, SEC.3.) As amended by P.L.144-1986, SEC.179.

IC 22-9-1-12

Repealed

(Repealed by Acts 1978, P.L.123, SEC.3.)

IC 22-9-1-12.1

"State agency" defined; local government; ordinances; exclusive jurisdiction; transfer of complaints; appeals

Sec. 12.1. (a) As used in this section, the term "state agency" means:

(1) every office, officer, board, commission, department, division, bureau, committee, fund, agency; and

(2) without limitation by reason of any enumeration in this section:

(A) every other instrumentality of the state, every hospital, every penal institution, and every other institutional enterprise and activity of the state, wherever located;

(B) the state educational institutions; and

(C) the judicial department of the state.

"State agency" does not mean counties, county offices of family and children, cities, towns, townships, school corporations (as defined in IC 20-18-2-16), or other municipal corporations, political subdivisions, or units of local government.

(b) Any city, town, or county is hereby authorized to adopt an ordinance or ordinances, which may include establishment or designation of an appropriate local commission, office, or agency to effectuate within its territorial jurisdiction the public policy of the state as declared in section 2 of this chapter without conflict with any of the provisions of this chapter. Any city or town may adopt such an ordinance or ordinances jointly with any other city or town located in the same county or jointly with that county. A city ordinance that establishes a local commission may provide that the members of the commission are to be appointed solely by the city executive or solely by the city legislative body or may provide for a combination of appointments by the city executive and the city legislative body. The board of commissioners of each county is also authorized to adopt ordinances in accordance with this section. An agency established or designated under this section has no jurisdiction over the state or any of its agencies.

(c) An ordinance adopted under this section may grant to the local agency the power to:

(1) investigate, conciliate, and hear complaints;

(2) subpoena and compel the attendance of witnesses or production of pertinent documents and records;

(3) administer oaths;

(4) examine witnesses;

(5) appoint hearing examiners or panels;

(6) make findings and recommendations;

(7) issue cease and desist orders or orders requiring remedial action;

(8) order payment of actual damages, except that damages to be paid as a result of discriminatory practices relating to

employment shall be limited to lost wages, salaries, commissions, or fringe benefits;

(9) institute actions for appropriate legal or equitable relief in a circuit or superior court;

(10) employ an executive director and other staff personnel;

(11) adopt rules and regulations;

(12) initiate complaints, except that no person who initiates a complaint may participate as a member of the agency in the hearing or disposition of the complaint; and

(13) conduct programs and activities to carry out the public policy of the state, as provided in section 2 of this chapter, within the territorial boundaries of a local agency.

(d) Any person who files a complaint with any local agency may not also file a complaint with the civil rights commission concerning any of the matters alleged in such complaint, and any person who files a complaint with the civil rights commission may not also file a complaint with any local agency concerning any of the matters alleged in such complaint. Any complaint filed with the commission may be transferred by the commission to any local agency having jurisdiction. The local agency shall proceed to act on the complaint as if it had been originally filed with the local agency as of the date that the complaint was filed with the commission. Any complaint filed with a local agency may be transferred by the local agency to the commission if the commission has jurisdiction. The commission shall proceed to act on the complaint as if it had been originally filed with the commission as of the date that the complaint was filed with the local agency. Nothing in this subsection shall affect such person's right to pursue any and all other rights and remedies available in any other state or federal forum.

(e) A decision of the local agency may be appealed under the terms of IC 4-21.5 the same as if it was a decision of a state agency. *As added by Acts 1978, P.L.123, SEC.2. Amended by Acts 1979, P.L.230, SEC.1; P.L.7-1987, SEC.101; P.L.111-1992, SEC.3; P.L.4-1993, SEC.259; P.L.5-1993, SEC.272; P.L.1-2005, SEC.188; P.L.2-2007, SEC.307.*

IC 22-9-1-13

Employment of persons with physical disability; discrimination; promotion or transfer; physical accommodations

Sec. 13. (a) The prohibition against discrimination in employment because of disability does not apply to failure of an employer to employ or to retain as an employee any person who because of a disability is physically or otherwise unable to efficiently and safely perform, at the standards set by the employer, the duties required in that job.

(b) After a person with a disability is employed, the employer shall not be required under this chapter to promote or transfer such person with a disability to another job or occupation, unless, prior to such transfer, such person with a disability by training or experience is qualified for such job or occupation.

(c) This section shall not be construed to require any employer to modify any physical accommodations or administrative procedures to accommodate a person with a disability.
(Formerly: Acts 1975, P.L.256, SEC.6.) As amended by Acts 1978, P.L.123, SEC.1; P.L.226-1985, SEC.1; P.L.23-1993, SEC.134.

IC 22-9-1-14
Repealed
(Repealed by P.L.2-1995, SEC.140.)

IC 22-9-1-16
Election of civil action
Sec. 16. (a) A respondent or a complainant may elect to have the claims that are the basis for a finding of probable cause decided in a civil action as provided by section 17 of this chapter. However, both the respondent and the complainant must agree in writing to have the claims decided in a court of law. The agreement must be on a form provided by the commission.
(b) The election may not be made if the commission has begun a hearing on the record under this chapter with regard to a finding of probable cause.
As added by P.L.14-1994, SEC.4. Amended by P.L.167-1996, SEC.1.

IC 22-9-1-17
Filing of civil action; relief; trial by court
Sec. 17. (a) If a timely election is made under section 16 of this chapter, the complainant may file a civil action in a circuit or superior court having jurisdiction in the county in which a discriminatory practice allegedly occurred.
(b) If the court finds that a discriminatory practice has occurred the court may grant the relief allowed under IC 22-9-1-6(j).
(c) A civil action filed under this section must be tried by the court without benefit of a jury.
As added by P.L.14-1994, SEC.5. Amended by P.L.100-2012, SEC.60.

IC 22-9-1-18
Hearings by commission; appeals
Sec. 18. (a) If a timely election is not made under section 16 of this chapter, the commission shall schedule a hearing on the finding of probable cause.
(b) Except as provided in subsection (c), IC 4-21.5 governs a hearing under this section.
(c) A proceeding under this section may not continue regarding an alleged discriminatory practice after the filing of a civil action.
(d) IC 22-9-8 governs appeal of a final order issued under this section.
As added by P.L.14-1994, SEC.6.

IC 22-9-2

Chapter 2. Age Discrimination

IC 22-9-2-1

Definitions

Sec. 1. For the purpose of this chapter:

"Discrimination" shall mean dismissal from employment of, or refusal to employ or rehire any person because of his age, if such person has attained the age of forty (40) years and has not attained the age of seventy-five (75) years.

"Person" shall mean and include an individual, partnership, limited liability company, corporation, or association.

"Employer" shall mean and include any person in this state employing one (1) or more individuals, labor organizations, the state and all political subdivisions, boards, departments and commissions thereof, but does not include:

(1) religious, charitable, fraternal, social, educational or sectarian corporations, or associations not organized for private profit, other than labor organizations and nonsectarian corporations, or organizations engaged in social service work; or

(2) a person or governmental entity which is subject to the federal Age Discrimination in Employment Act (29 U.S.C. 621 et seq.).

(Formerly: Acts 1965, c.368, s.1.) As amended by Acts 1979, P.L.206, SEC.3; P.L.8-1993, SEC.293; P.L.166-2009, SEC.1.

IC 22-9-2-2

Unfair employment practice; dismissal from employment

Sec. 2. It is declared to be an unfair employment practice and to be against public policy to dismiss from employment, or to refuse to employ or rehire, any person solely because of his age if such person has attained the age of forty (40) years and has not attained the age of seventy-five (75) years.

(Formerly: Acts 1965, c.368, s.2.) As amended by Acts 1979, P.L.206, SEC.4; P.L.166-2009, SEC.2.

IC 22-9-2-3

Unfair employment practice; labor organization membership

Sec. 3. It is hereby declared to be an unfair employment practice for any labor organization to deny full and equal membership rights to any applicant for membership or to fail or refuse to classify properly or refer for employment any member solely because of the age of such applicant or member if such person has attained the age of forty (40) years and has not attained the age of seventy-five (75) years.

(Formerly: Acts 1965, c.368, s.3.) As amended by Acts 1979, P.L.206, SEC.5; P.L.166-2009, SEC.3.

IC 22-9-2-4

Contracts; validity

Sec. 4. (a) Any provision in any contract, agreement or understanding entered into on or after October 1, 1965, but before October 1, 1979, which shall prevent or tend to prevent the employment of any person solely because of the person's age, who has attained the age of forty (40) years and has not attained the age of sixty-five (65) years shall be null and void.

(b) Any provision in any contract, agreement or understanding entered into after September 30, 1979, and before July 1, 2009, which prevents or tends to prevent the employment of any person solely because of the person's age, who has attained the age of forty (40) years and has not attained the age of seventy (70) years is null and void.

(c) Any provision in any contract, agreement, or understanding entered into after June 30, 2009, that prevents or tends to prevent the employment of any person who has attained forty (40) years of age and has not attained seventy-five (75) years of age solely because of the person's age is null and void.

(Formerly: Acts 1965, c.368, s.4.) As amended by Acts 1979, P.L.206, SEC.6; P.L.166-2009, SEC.4.

IC 22-9-2-5

Investigations; inspection

Sec. 5. The commissioner of labor shall investigate all complaints of discrimination, and for such purpose the commissioner shall have full power and authority:

(1) to receive, investigate and pass upon charges of discrimination against any person employed within the state; and

(2) to enter any place of business or employment within the state for the purpose of examination and making a transcript of records in any way appertaining to or having a bearing upon the question of the age of any person so employed.

(Formerly: Acts 1965, c.368, s.5.)

IC 22-9-2-6

Record of ages of employees; complaints; hearing; findings of fact

Sec. 6. Every person shall keep true and accurate records of the ages of all persons employed by him as reported by each employee, and shall upon demand furnish to the commissioner of labor, or his authorized representative, a true copy of any such record, verified upon oath. Such record shall be open to investigation by the commissioner at any reasonable time. If on all the testimony taken, the commissioner of labor shall make a preliminary determination that the employer has engaged in or is engaging in unfair employment practices, the commissioner shall endeavor to eliminate such unfair employment practices by informal methods of conference, conciliation and persuasion. If voluntary compliance cannot be obtained, the commissioner of labor shall be empowered to issue a complaint stating the charges and giving not less than ten (10) days' notice of hearing before the commissioner of labor at a

place therein fixed. Any complaint issued pursuant to this section must be so issued within four (4) months after the alleged unfair employment practices were committed. The respondent shall have the right to file an answer to such complaint and may appear at such hearing with or without counsel to present evidence and to examine and cross-examine witnesses. Upon the completion of testimony at such hearing, if determination is made that unfair practices were committed, the commissioner of labor shall state his findings of fact and, if satisfied therewith, may issue his finding that the employer has ceased to engage in unfair employment practices.
(Formerly: Acts 1965, c.368, s.6.)

IC 22-9-2-7
Complaint; dismissal; lack of evidence

Sec. 7. If the commissioner of labor shall find no probable cause exists to substantiate the charges, or, if upon all the evidence, he shall find that an employer has not engaged in unfair employment practices, the commissioner of labor shall state in writing his findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to such employer.
(Formerly: Acts 1965, c.368, s.7.)

IC 22-9-2-8
Unfair employment practice; dismissing employee for furnishing evidence at hearing

Sec. 8. It shall be an unfair employment practice for any employer to discharge an employee because he has furnished evidence in connection with a complaint under this chapter.
(Formerly: Acts 1965, c.368, s.8.) As amended by P.L.144-1986, SEC.180.

IC 22-9-2-9
Repealed

(Repealed by P.L.166-2009, SEC.6.)

IC 22-9-2-10
Domestic service; farm labor; exemptions

Sec. 10. These provisions shall not apply to a person employed in private domestic service or service as a farm laborer nor to a person who is qualified for benefits under the terms or conditions of an employer retirement or pension plan or system.
(Formerly: Acts 1965, c.368, s.10.)

IC 22-9-2-11
Conflict of laws; saving clause

Sec. 11. Nothing contained herein shall be deemed to repeal any of the provisions of any law of this state relating to discrimination because of age, race or color, religion, or country of ancestral origin. Nothing herein shall be deemed to limit, restrict or affect the freedom

of any employer in regard to (a) fixing compulsory retirement requirements for any class of employees at an age or ages less than seventy-five (75) years; (b) fixing eligibility requirements for participation in, or enjoyment by employees of, benefits under any annuity plan or pension or retirement plan on the basis that any employee may be excluded from eligibility therefor who, at the time he would otherwise become eligible for such benefits, is older than the age fixed in such eligibility requirements; or (c) keeping age records for any such purposes.

(Formerly: Acts 1965, c.368, s.11.) As amended by Acts 1979, P.L.206, SEC.7; P.L.166-2009, SEC.5.

IC 22-9-3
Repealed

(Repealed by P.L.12-1983, SEC.24.)

IC 22-9-4
Repealed

(Repealed by P.L.2-1995, SEC.140.)

IC 22-9-5

Chapter 5. Employment Discrimination Against Disabled Persons

IC 22-9-5-1

"Auxiliary aids and services" defined

Sec. 1. As used in this chapter, "auxiliary aids and services" includes the following:

(1) Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments.

(2) Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments.

(3) Acquisition or modification of equipment or devices.

(4) Other similar services and actions.

As added by P.L.111-1992, SEC.4.

IC 22-9-5-2

"Commerce" defined

Sec. 2. As used in this chapter, "commerce" has the meaning set forth in Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

As added by P.L.111-1992, SEC.4.

IC 22-9-5-3

"Commission" defined

Sec. 3. As used in this chapter, "commission" refers to the civil rights commission.

As added by P.L.111-1992, SEC.4.

IC 22-9-5-4

"Covered entity" defined

Sec. 4. As used in this chapter, "covered entity" means an employer, an employment agency, a labor organization, or a joint labor-management committee.

As added by P.L.111-1992, SEC.4.

IC 22-9-5-5

"Direct threat" defined

Sec. 5. As used in this chapter, "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

As added by P.L.111-1992, SEC.4.

IC 22-9-5-6

"Disability" and "illegal use of drugs" defined; illegal drug users; sexual behavior

Sec. 6. (a) As used in this chapter, "disability" means with respect to an individual:

(1) a physical or mental impairment that substantially limits at least one (1) of the major life activities of the individual;

(2) a record of an impairment described in subdivision (1); or

(3) being regarded as having an impairment described in subdivision (1).

(b) As used in this subsection, "illegal use of drugs" means the use of drugs the possession or distribution of which is unlawful under the Controlled Substances Act. The term does not include the use of a drug taken under the supervision of a licensed health care professional or another use authorized by the Controlled Substances Act (21 U.S.C. 812) or other provisions of federal law. For purposes of this chapter, an individual shall not be considered an individual with a disability solely because the individual is currently engaging in the illegal use of drugs. However, this subsection does not exclude as an individual with a disability an individual who:

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of drugs;

(2) is participating in a supervised rehabilitation program and is no longer engaging in the illegal use of drugs; or

(3) is erroneously regarded as engaging in the illegal use of drugs but is not engaging in the illegal use of drugs.

It is not a violation of this chapter for a person or other entity covered by this chapter to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subdivision (1) or (2) is no longer engaging in the illegal use of drugs. Nothing in this section shall be construed to encourage, prohibit, restrict, or authorize testing for the illegal use of drugs.

(c) Notwithstanding subsection (b), an individual shall not be denied health services or services provided in connection with drug rehabilitation on the basis of the current illegal use of drugs if the individual is otherwise entitled to those services.

(d) For purposes of this chapter, an individual shall not be considered an individual with a disability solely on the basis of the following:

(1) Homosexuality.

(2) Bisexuality.

(3) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders.

(4) Compulsive gambling, kleptomania, or pyromania.

(5) Psychoactive substance use disorders resulting from current illegal use of drugs (as defined in section 12 of this chapter).

As added by P.L.111-1992, SEC.4. Amended by P.L.99-2007, SEC.187.

IC 22-9-5-7
"Discriminate" defined

Sec. 7. As used in this chapter, "discriminate" includes the following:

(1) Limiting, segregating, or classifying a job applicant or an employee in a way that adversely affects the opportunities or status of the applicant or employee because of the disability of the applicant or employee.

(2) Participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this chapter. Such relationship includes a relationship with:

(A) an employment or a referral agency;

(B) a labor union;

(C) an organization providing fringe benefits to an employee of the covered entity; or

(D) an organization providing training and apprenticeship programs.

(3) Utilizing standards, criteria, or methods of administration:

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control.

(4) Excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or an association.

(5) Not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee unless the covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the covered entity.

(6) Denying employment opportunities to a job applicant or an employee who is an otherwise qualified individual with a disability if that denial is based on the need of the covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant.

(7) Using qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job related for the position in question and is consistent with business necessity.

(8) Failing to select and administer tests concerning employment in the most effective manner to ensure that when the test is administered to a job applicant or an employee who has a disability that impairs sensory, manual, or speaking skills, the test results accurately reflect the skills, aptitude, or other factor of the applicant or employee that the test purports to measure, rather than reflecting the impaired sensory, manual, or

speaking skills of the employee or applicant, except where those skills are the factors that the test purports to measure.

As added by P.L.111-1992, SEC.4.

IC 22-9-5-8
"Drug" defined

Sec. 8. As used in this chapter, "drug" means a controlled substance (as defined in schedules I through V of Section 202 of the Controlled Substances Act 21 U.S.C. 812).

As added by P.L.111-1992, SEC.4.

IC 22-9-5-9
"Employee" defined

Sec. 9. As used in this chapter, "employee" means an individual employed by an employer.

As added by P.L.111-1992, SEC.4.

IC 22-9-5-9.5
"Service animal" defined

Sec. 9.5. As used in this chapter, "service animal" refers to an animal trained as:

(1) a hearing animal;
(2) a guide animal;
(3) an assistance animal;
(4) a seizure alert animal;
(5) a mobility animal;
(6) a psychiatric service animal; or
(7) an autism service animal.

As added by P.L.155-2009, SEC.6.

IC 22-9-5-10
"Employer" defined

Sec. 10. (a) During the time beginning July 26, 1992, and ending July 25, 1994, as used in this chapter, "employer" means a person engaged in an industry affecting commerce that has at least twenty-five (25) employees for each working day in each of at least twenty (20) calendar weeks in the current or preceding year and an agent of the person.

(b) After July 25, 1994, as used in this chapter, "employer" means a person engaged in an industry affecting commerce that has at least fifteen (15) employees for each working day in each of at least twenty (20) calendar weeks in the current or preceding year and an agent of the person.

(c) The term described in subsections (a) and (b) does not include any of the following:

(1) The United States, a corporation wholly owned by the government of the United States, or an Indian tribe.
(2) A bona fide private membership club other than a labor organization that is exempt from taxation under Section 501(c) of the Internal Revenue Code.

As added by P.L.111-1992, SEC.4.

IC 22-9-5-11
"Employment agency" defined

Sec. 11. As used in this chapter, "employment agency" has the meaning set forth in Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).
As added by P.L.111-1992, SEC.4.

IC 22-9-5-12
"Illegal use of drugs" defined

Sec. 12. As used in this chapter, "illegal use of drugs" means the use of drugs the possession or distribution of which is unlawful under the Controlled Substances Act. The term does not include the use of a drug taken under the supervision of a licensed health care professional, other uses authorized by the Controlled Substances Act (21 U.S.C. 812), or other provisions of federal law.
As added by P.L.111-1992, SEC.4.

IC 22-9-5-13
"Industry affecting commerce" defined

Sec. 13. As used in this chapter, "industry affecting commerce" has the meaning set forth in Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).
As added by P.L.111-1992, SEC.4.

IC 22-9-5-14
"Labor organization" defined

Sec. 14. As used in this chapter, "labor organization" has the meaning set forth in Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).
As added by P.L.111-1992, SEC.4.

IC 22-9-5-15
"Person" defined

Sec. 15. As used in this chapter, "person" has the meaning set forth in Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).
As added by P.L.111-1992, SEC.4.

IC 22-9-5-16
"Qualified individual with a disability" defined

Sec. 16. As used in this chapter, "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires. For the purposes of this chapter, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job the description shall be

considered evidence of the essential functions of the job.
As added by P.L.111-1992, SEC.4.

IC 22-9-5-17
"Reasonable accommodation" defined

Sec. 17. As used in this chapter, "reasonable accommodation" includes the following:

(1) Making existing facilities used by employees readily accessible to and usable by individuals with disabilities.

(2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

As added by P.L.111-1992, SEC.4.

IC 22-9-5-18
"Undue hardship" defined; factors

Sec. 18. (a) As used in this chapter, "undue hardship" means an action requiring significant difficulty or expense when considered in light of the factors set forth in subsection (b).

(b) In determining whether an accommodation would impose an undue hardship on a covered entity factors to be considered include the following:

(1) The nature and cost of the accommodation needed under this chapter.

(2) The:

(A) overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation;

(B) number of persons employed at the facility or facilities;

(C) effect on expenses and resources; or

(D) impact otherwise of the accommodation upon the operation of the facility or facilities.

(3) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of facilities.

(4) The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of the entity, and the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

As added by P.L.111-1992, SEC.4. Amended by P.L.21-1995, SEC.144.

IC 22-9-5-19
Prohibition against discrimination

Sec. 19. A covered entity may not discriminate against a qualified individual with a disability because of the disability of that

individual in regard to any of the following:

(1) Job application procedures.

(2) The hiring, advancement, or discharge of employees.

(3) Employee compensation.

(4) Job training.

(5) Other terms, conditions, and privileges of employment.

As added by P.L.111-1992, SEC.4.

IC 22-9-5-20

Medical examinations and inquiries; permissibility and scope; disclosures; use of results

Sec. 20. (a) The prohibition against discrimination in section 19 of this chapter includes medical examinations and inquiries. Except as otherwise provided by this section, a covered entity may not conduct a medical examination or make inquiries of a job applicant as to whether the applicant is an individual with a disability or as to the nature or severity of a disability.

(b) A covered entity may make preemployment inquiries into the ability of an applicant to perform job related functions.

(c) A covered entity may require a medical examination after an offer of employment has been made to a job applicant and before the commencement of the employment duties of the applicant and may condition an offer of employment on the results of that examination if:

(1) all entering employees are subjected to the examination regardless of disability;

(2) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that:

(A) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(B) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(C) government officials investigating compliance with this chapter shall be provided relevant information on request; and

(3) the results of the examination are used only in accordance with this chapter.

(d) A covered entity may not require a medical examination and may not make inquiries of an employee as to whether the employee is an individual with a disability or as to the nature or severity of the disability, unless the examination or inquiry is shown to be job related and consistent with business necessity.

(e) A covered entity may conduct voluntary medical examinations, including voluntary medical histories, that are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee

to perform job related functions. Information obtained under this subsection is subject to the requirements of subsection (c)(2) and (c)(3).

(f) A covered entity may not interfere, directly or indirectly, with the use of an animal that has been or is being specially trained as a service animal.

(g) A covered entity may not refuse to permit an employee with a disability to keep a service animal with the employee at all times in the place of employment.

As added by P.L.111-1992, SEC.4. Amended by P.L.155-2009, SEC.7.

IC 22-9-5-21

Qualification standards, tests, or criteria; defense to discrimination charges; direct threat to health and safety

Sec. 21. (a) It may be a defense to a charge of discrimination under this chapter that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job related and consistent with business necessity, and performance cannot be accomplished by reasonable accommodation, as required under this chapter.

(b) As used in subsection (a), qualification standards may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

As added by P.L.111-1992, SEC.4.

IC 22-9-5-22

Employment preference; religious organizations; educational institutions; conformity to religious tenants

Sec. 22. (a) This chapter does not prohibit a religious corporation, an association, an educational institution, or a society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on of activities by that corporation, association, educational institution, or society.

(b) Under this chapter, a religious organization may require that all applicants and employees conform to the religious tenets of the organization.

As added by P.L.111-1992, SEC.4.

IC 22-9-5-23

Food handling job assignment; denial to person having infectious or communicable disease; validity of other food handling provisions

Sec. 23. (a) In any case in which an individual has an infectious or communicable disease that:

(1) is transmitted to others through the handling of food;

(2) is included on the list developed by the Secretary of Health and Human Services under 42 U.S.C. 12113; and

(3) constitutes a significant risk to the health or safety of others

that cannot be eliminated by reasonable accommodation;

a covered entity may refuse to assign or continue to assign the individual to a job involving food handling.

(b) Nothing in this chapter shall be construed to preempt, modify, or amend any statute, rule, or ordinance applicable to food handling that is designed to protect the public health from individuals who pose a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation pursuant to the list published by the Secretary of Health and Human Services under 42 U.S.C. 12113.

As added by P.L.111-1992, SEC.4.

IC 22-9-5-24

Alcohol and illegal use of drugs; prohibitions; requisites; testing

Sec. 24. (a) A covered entity may do the following:

(1) Prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees.

(2) Require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace.

(3) Require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

(4) Hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that the entity holds other employees, even if the unsatisfactory job performance or behavior is related to the drug use or alcoholism of the employee.

(5) With respect to federal regulations regarding alcohol and the illegal use of drugs, require that:

(A) employees comply with the standards established in the regulations of the United States Department of Defense if the employees of the covered entity are employed in an industry subject to those regulations, including complying with regulations, if any, that apply to employment in sensitive positions in the industry, in the case of employees of the covered entity who are employed in those positions (as defined in the regulations of the United States Department of Defense);

(B) employees comply with the standards established in the regulations of the United States Nuclear Regulatory Commission if the employees of the covered entity are employed in an industry subject to those regulations, including complying with regulations, if any, that apply to employment in sensitive positions in the industry, in the case of employees of the covered entity who are employed in those positions (as defined in the regulations of the United States Nuclear Regulatory Commission); and

(C) employees comply with the standards established in the

regulations of the United States Department of Transportation if the employees of the covered entity are employed in a transportation industry subject to those regulations, including complying with regulations, if any, that apply to employment in sensitive positions in the industry, in the case of employees of the covered entity who are employed in those positions (as defined in the regulations of the United States Department of Transportation).

(b) For purposes of this chapter, a test to determine the illegal use of drugs shall not be considered a medical examination.

(c) Nothing in this chapter shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on the test results.

(d) Nothing in this chapter shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entities subject to the jurisdiction of the United States Department of Transportation of authority to:

(1) test employees in, and applicants for, positions involving safety sensitive duties for the illegal use of drugs and for on duty impairment by alcohol; and

(2) remove those persons who test positive for illegal use of drugs and on duty impairment by alcohol under subdivision (1) from safety sensitive duties in implementing subsection (c).

As added by P.L.111-1992, SEC.4.

IC 22-9-5-25

Posting notices; provisions of chapter

Sec. 25. Each employer, employment agency, labor organization, or joint labor-management committee covered under this chapter shall post notices in a format accessible to applicants, employees, and members describing the applicable provisions of this chapter, in the manner prescribed by Section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-10).

As added by P.L.111-1992, SEC.4.

IC 22-9-5-26

Complaints against covered entities; remedies; limitation

Sec. 26. The remedies available regarding complaints directed against a covered entity under this chapter are limited to the remedies provided under IC 22-9-1-6(j).

As added by P.L.111-1992, SEC.4. Amended by P.L.1-1993, SEC.188; P.L.100-2012, SEC.61.

IC 22-9-5-27

Rules implementing chapter; conforming to federal rules

Sec. 27. The commission shall adopt rules under IC 4-22-2 to carry out this chapter. These rules must not be in conflict with the provisions of the federal rules adopted under the employment

discrimination provisions of the federal Americans with Disabilities Act (42 U.S.C. 1211 et seq.).
As added by P.L.111-1992, SEC.4.

IC 22-9-6

Chapter 6. Equal Access to Housing for Persons With Disabilities

IC 22-9-6-1

"Person with a disability" defined

Sec. 1. (a) As used in this chapter, and unless otherwise indicated by the context, "person with a disability" means an individual who, by reason of physical or mental defect or infirmity, whether congenital or acquired by accident, injury, or disease, is or may subsequently be totally or partially prevented from achieving the fullest attainable physical, social, economic, mental, and vocational participation in the normal process of living.

(b) "Persons with disabilities" includes persons who are blind, persons who have a visual disability, and other persons with a physical disability.

As added by P.L.2-1993, SEC.132. Amended by P.L.23-1993, SEC.135; P.L.99-2007, SEC.188.

IC 22-9-6-2

"Housing accommodations" defined

Sec. 2. (a) As used in this chapter, "housing accommodations" means:

(1) real property, or part of real property, that is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home residence or sleeping place of at least one (1) person; or

(2) single family residence, the occupants of which rent, lease, or furnish for compensation not more than one (1) room of the residence.

(b) The term does not include hotels, lodging places, or other places of public accommodations, amusement, or resort of a transient nature.

As added by P.L.2-1993, SEC.132.

IC 22-9-6-3

Full and equal access to housing

Sec. 3. All persons with disabilities are entitled to full and equal access, as other members of the public, to all housing accommodations offered for rent, lease, or compensation in Indiana.

As added by P.L.2-1993, SEC.132. Amended by P.L.23-1993, SEC.136.

IC 22-9-6-4

Modification of property not required

Sec. 4. This chapter does not require a person renting, leasing, or providing for compensation real property to modify the person's property in any way to provide a higher degree of care for a person with a disability than for a person without a disability.

As added by P.L.2-1993, SEC.132. Amended by P.L.23-1993,

SEC.137; P.L.99-2007, SEC.189.

IC 22-9-6-5
Guide dogs not grounds for refusing to rent

Sec. 5. A person renting, leasing, or providing real property for compensation shall not refuse to accept a person with a disability as a tenant due to the fact that the person with a disability has a guide dog that assists the person with a disability in overcoming a particular disability.

As added by P.L.2-1993, SEC.132. Amended by P.L.23-1993, SEC.138.

IC 22-9-6-6
Civil rights complaint

Sec. 6. A person who feels the person's rights under this chapter have been violated may submit a complaint to the civil rights commission under IC 22-9-1-6. The civil rights commission shall determine whether the complaint requires action to be taken under IC 22-9-1-6.

As added by P.L.2-1993, SEC.132.

IC 22-9-8

Chapter 8. Appeals; Exhaustion of Administrative Remedies

IC 22-9-8-0.1

Application of chapter

Sec. 0.1. The addition of this chapter by P.L.14-1994 affects final appealable orders issued by the commission on or after July 1, 1994.

As added by P.L.220-2011, SEC.370.

IC 22-9-8-1

Appeal procedures

Sec. 1. Either party to a dispute filed under IC 22-9 may, not more than thirty (30) days after the date of receipt of the commission's final appealable order, appeal to the court of appeals under the same terms, conditions, and standards that govern appeals in ordinary civil actions.

As added by P.L.14-1994, SEC.7.

IC 22-9-8-2

Records for appeals

Sec. 2. (a) The appealing party shall notify the commission in writing of the party's intent to appeal and shall request the commission to prepare a record of the commission's proceedings to be used to perfect an appeal. The record consists of the following documents used or presented during the administrative proceedings:

(1) A transcript of the oral testimony.

(2) The exhibits admitted into evidence.

(3) All notices, pleadings, exceptions, motions, requests, and other papers filed with the commission with the exception of briefs or oral arguments of law.

(b) The cost of producing the record for appeal must be borne by the party making the appeal. The commission may require the deposit of reasonable security for the payment of the cost before producing the record.

As added by P.L.14-1994, SEC.7.

IC 22-9-8-3

Exhaustion of administrative remedies

Sec. 3. A person may file an appeal under this chapter only after exhausting all administrative remedies available within the agency whose action is being appealed.

As added by P.L.14-1994, SEC.7.

IC 22-9-9

Chapter 9. Access to Public Accommodations by Active Duty Military Personnel

IC 22-9-9-1

"Active duty"

Sec. 1. As used in this chapter, "active duty" means full-time service in the:

(1) armed forces of the United States; or

(2) National Guard.

As added by P.L.151-2007, SEC.4.

IC 22-9-9-2

"Armed forces of the United States"

Sec. 2. As used in this chapter, "armed forces of the United States" means the active or reserve components of the:

(1) Army;

(2) Navy;

(3) Air Force;

(4) Coast Guard;

(5) Marine Corps; or

(6) Merchant Marine.

As added by P.L.151-2007, SEC.4.

IC 22-9-9-3

"National Guard"

Sec. 3. As used in this chapter, "National Guard" means the:

(1) Indiana Army National Guard or the Army National Guard of another state; or

(2) Indiana Air National Guard or the Air National Guard of another state.

As added by P.L.151-2007, SEC.4.

IC 22-9-9-4

Requirement to rent or lease room

Sec. 4. A person who provides lodging for compensation at a motel, a hotel, or another place of public accommodation may not refuse to rent or lease a room to an individual solely because the individual is less than twenty-one (21) years of age if the individual is on active duty.

As added by P.L.151-2007, SEC.4.

IC 22-9-9-5

Penalty for violation

Sec. 5. A person who violates this chapter commits a Class C infraction.

As added by P.L.151-2007, SEC.4.

IC 22-9.5

ARTICLE 9.5. INDIANA FAIR HOUSING

IC 22-9.5-1

Chapter 1. Purpose and Rules of Construction

IC 22-9.5-1-1

Purpose

Sec. 1. The purposes of this article are the following:

(1) To provide for fair housing practices in Indiana.

(2) To create a procedure for investigating and settling complaints of discriminatory housing practices.

(3) To provide rights and remedies substantially equivalent to those granted under federal law.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-1-2

Discriminatory act committed because of familial status

Sec. 2. Under this article, a discriminatory act is committed because of familial status if the act is committed because the person who is the subject of discrimination is:

(1) pregnant;

(2) domiciled with an individual younger than eighteen (18) years of age in regard to whom the person:

(A) is the parent or legal custodian; or

(B) has the written permission of the parent or legal custodian for domicile with that person; or

(3) in the process of obtaining legal custody of an individual younger than 18 years of age.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-2
Chapter 2. Definitions

IC 22-9.5-2-1
Applicability of definitions
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-2-2
"Aggrieved person" defined
Sec. 2. "Aggrieved person" includes any person who:
(1) claims to have been injured by a discriminatory housing practice; or
(2) believes that the person will be injured by a discriminatory housing practice that is about to occur.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-2-3
"Commission" defined
Sec. 3. "Commission" refers to the civil rights commission or to a local agency designated by an ordinance adopted under IC 22-9.5-4-1.
As added by P.L.66-1990, SEC.2. Amended by P.L.111-1992, SEC.5.

IC 22-9.5-2-4
"Complainant" defined
Sec. 4. "Complainant" means a person, including the commission, who files a complaint under IC 22-9.5-6.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-2-5
"Conciliation" defined
Sec. 5. "Conciliation" means the attempted resolution of issues raised by a complaint or by the investigation of a complaint, through informal negotiations involving the aggrieved person, the respondent, and the commission.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-2-6
"Conciliation agreement" defined
Sec. 6. "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-2-7
"Discriminatory housing practice" defined
Sec. 7. "Discriminatory housing practice" means an act prohibited by IC 22-9.5-5.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-2-8
"Dwelling" defined

Sec. 8. "Dwelling" means:

(1) any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residency by one (1) or more families; or

(2) any vacant land that is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure described by subdivision (1).

As added by P.L.66-1990, SEC.2.

IC 22-9.5-2-9
"Family" defined

Sec. 9. "Family" includes a single individual.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-2-10
Repealed

(Repealed by P.L.99-2007, SEC.224.)

IC 22-9.5-2-11
"Person" defined

Sec. 11. "Person" means one (1) or more individuals, corporations, limited liability companies, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11, receivers, and fiduciaries.

As added by P.L.66-1990, SEC.2. Amended by P.L.8-1993, SEC.294.

IC 22-9.5-2-12
"Respondent" defined

Sec. 12. "Respondent" means:

(1) the person accused of a violation of this article in a complaint of discriminatory housing practice; or

(2) any person identified as an additional or a substitute respondent under IC 22-9.5-6-4 or an agent of an additional or a substitute respondent.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-2-13
"To rent" defined

Sec. 13. "To rent" includes to lease, to sublease, to let, or to otherwise grant for a consideration the right to occupy premises not owned by the occupant.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-3

Chapter 3. Exemptions

IC 22-9.5-3-1

Sale or rental of certain single-family houses; sale or rental of certain rooms or units

Sec. 1. (a) Subject to subsection (b), IC 22-9.5-5 does not apply to the following:

(1) The sale or rental of a single-family house sold or rented by an owner if:

(A) the owner does not:

(i) own more than three (3) single-family houses at any one (1) time; or

(ii) own any interest in, nor is there owned or reserved on the owner's behalf, under any express or voluntary agreement, title to, or any right to any part of the proceeds from the sale or rental of more than three (3) single-family houses at any one (1) time; and

(B) the house was sold or rented without:

(i) the use of the sales or rental facilities or services of a real estate broker, an agent, or a salesman licensed under IC 25-34.1, or of an employee or agent of a licensed broker, an agent, or a salesman, or the facilities or services of the owner of a dwelling designed or intended for occupancy by five (5) or more families; or

(ii) the publication, posting, or mailing of a notice, a statement, or an advertisement prohibited by IC 22-9.5-5-2.

(2) The sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other if the owner maintains and occupies one (1) of the living quarters as the owner's residence.

(b) The exemption in subsection (a)(1) applies to only one (1) sale or rental in a twenty-four (24) month period if the owner was not the most recent resident of the house at the time of the sale or rental.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-3-2

Sale, rental, or occupancy of property operated or controlled by or in conjunction with religious organization

Sec. 2. This article does not prohibit a religious organization, an association, or a society or a nonprofit institution or an organization operated, supervised, or controlled by or in conjunction with a religious organization, an association, or a society from:

(1) limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion; or

(2) giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color,

or national origin.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-3-3
Rental or occupancy of lodging by private club not open to the public

Sec. 3. This article does not prohibit a private club not open to the public that, as an incident to the club's primary purpose, provides lodging that the club owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to the members or from giving preference to the members, unless membership in the club is restricted because of race, color, or national origin.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-3-4
"Housing for older persons" defined; scope of term; criteria for determinations; inapplicable provisions

Sec. 4. (a) As used in this section, "housing for older persons" means housing that the commission determines is:

(1) specifically designed and operated to assist elderly persons under a federal or state program;

(2) intended for and solely occupied by persons at least sixty-two (62) years of age; or

(3) intended and operated for occupancy by persons at least fifty-five (55) years of age if the provisions of subsection (c) are met.

(b) Housing does not fail to meet the requirements for housing for older persons if:

(1) the unoccupied units are reserved for persons who meet the age requirements of subsection (a)(2) or (a)(3); or

(2) the occupants who do not meet the age requirements of subsection (a)(2) or (a)(3) have resided in the housing since September 13, 1988, or an earlier date, and the persons who became occupants after September 13, 1988, meet the age requirements of subsection (a)(2) or (a)(3).

(c) To be considered housing for older persons under subsection (a)(3), a housing facility or community must meet the following provisions:

(1) At least eighty percent (80%) of the occupied units are occupied by at least one (1) person who is at least fifty-five (55) years of age.

(2) The housing facility or community publishes and adheres to policies and procedures that demonstrate an intent to operate housing for persons who are at least fifty-five (55) years of age.

(3) The housing facility or community complies with rules adopted by the civil rights commission under IC 4-22-2 for verification of occupancy that:

(A) provide for verification by reliable surveys and affidavits; and

(B) include examples of the types of policies and procedures relevant to determine compliance with subdivision (2).

(d) The surveys and affidavits used to verify occupancy under subsection (c)(3)(A) are admissible in an administrative or a judicial proceeding to verify occupancy.

(e) The provisions of IC 22-9.5-1-2 relating to familial status do not apply to housing for older persons.

As added by P.L.66-1990, SEC.2. Amended by P.L.111-1992, SEC.6; P.L.89-2003, SEC.1.

IC 22-9.5-3-5

Factors considered by real property appraisers

Sec. 5. This article does not prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, disability, familial status, or national origin.

As added by P.L.66-1990, SEC.2. Amended by P.L.23-1993, SEC.140.

IC 22-9.5-3-6

Local or state restrictions

Sec. 6. (a) This article does not affect a reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling or restriction relating to health or safety standards.

(b) This article does not affect a requirement of nondiscrimination in any other state or federal law.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-4

Chapter 4. Administrative Provisions

IC 22-9.5-4-1

Administration by commission; exemption; local agency

Sec. 1. (a) Except as provided in subsection (b), the civil rights commission shall administer this article.

(b) A city, town, or county that has established or designated a local agency under IC 22-9-1-12.1 may adopt an ordinance or ordinances designating that local agency to administer this article within the territorial jurisdiction of the city, town, or county. A city or town may adopt such an ordinance or ordinances jointly with any other city or town located in the same county or jointly with that county. A local agency designated under this subsection has no jurisdiction over the state or any state agency (as defined in IC 22-9-1-12.1).

As added by P.L.66-1990, SEC.2. Amended by P.L.111-1992, SEC.7.

IC 22-9.5-4-2

Rules

Sec. 2. The commission may adopt rules under IC 4-22-2 necessary to implement this article.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-4-3

Duties of commission in response to allegations of violations

Sec. 3. As provided by IC 22-9.5-6, the commission shall receive, investigate, seek to conciliate, and act on complaints alleging violations of this article.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-4-4

Delegation of commission's powers and duties to director

Sec. 4. The commission may, by rule, authorize the director of the commission to exercise the commission's powers or perform the commission's duties under this article.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-4-5

Annual report; studies

Sec. 5. (a) The commission shall, at least annually, publish a written report recommending legislative or other action to carry out the purposes of this article.

(b) The commission shall make studies relating to the nature and extent of discriminatory housing practices in Indiana.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-4-6

Cooperation with public and private entities

Sec. 6. The commission shall cooperate with and, as appropriate,

may provide technical and other assistance to federal, state, local, and other public or private entities that are formulating or operating programs to prevent or eliminate discriminatory housing practices.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-4-7
Subpoenas; discovery; limitations

Sec. 7. (a) The commission may issue subpoenas and order discovery as provided by this section in aid of investigations and hearings under this article.

(b) Subpoenas and discovery in aid of investigations may be ordered to the same extent and are subject to the same limitations as subpoenas and discovery in a civil action in a circuit court. Subpoenas and discovery in aid of hearings are subject to IC 4-21.5.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-4-8
Deferring proceedings; referring complaints

Sec. 8. The commission may defer proceedings under this article and refer a complaint to a municipality that has been recognized by the United States Department of Housing and Urban Development as having adopted ordinances providing fair housing rights and remedies that are substantially equivalent to the rights and remedies granted under federal law.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-4-9
Gifts and grants

Sec. 9. The commission may accept gifts and grants from any public or private source for the purpose of administering this article.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-5

Chapter 5. Discrimination Prohibited

IC 22-9.5-5-1

Types of discrimination relating to sale or rental; conviction of illegal manufacture or distribution of controlled substance excepted

Sec. 1. (a) A person may not refuse to sell or to rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex, familial status, disability, or national origin.

(b) A person may not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in providing services or facilities in connection with the sale or rental of a dwelling, because of race, color, religion, sex, familial status, disability, or national origin.

(c) This section does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

As added by P.L.66-1990, SEC.2. Amended by P.L.23-1993, SEC.141.

IC 22-9.5-5-2

Publication of notice or advertisement indicating intent to discriminate

Sec. 2. A person may not make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status, or national origin, or an intention to make such a preference, limitation, or discrimination.

As added by P.L.66-1990, SEC.2. Amended by P.L.23-1993, SEC.142.

IC 22-9.5-5-3

Inspection for sale; representation as to availability

Sec. 3. A person may not represent to any person because of race, color, religion, sex, disability, familial status, or national origin that a dwelling is not available for inspection for sale or rental when the dwelling is available for inspection.

As added by P.L.66-1990, SEC.2. Amended by P.L.23-1993, SEC.143.

IC 22-9.5-5-4

Inducement, for profit, to sell or rent by representation of entry into neighborhood of certain persons

Sec. 4. A person may not, for profit, induce or attempt to induce a person to sell or rent a dwelling by representations regarding the

entry or prospective entry into a neighborhood of a person of a particular race, color, religion, sex, disability, familial status, or national origin.

As added by P.L.66-1990, SEC.2. Amended by P.L.23-1993, SEC.144.

IC 22-9.5-5-5

Discrimination based upon disability; scope of term; definitions; compliance with safety rules

Sec. 5. (a) A person may not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability of:

(1) the buyer or renter;

(2) a person residing in or intending to reside in the dwelling after the dwelling is sold, rented, or made available; or

(3) any person associated with the buyer or renter.

(b) A person may not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of:

(1) the person;

(2) a person residing in or intending to reside in the dwelling after the dwelling is sold, rented, or made available; or

(3) any person associated with the person.

(c) For purposes of this section only, discrimination includes the following:

(1) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises.

(2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling.

(3) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in a manner that:

(A) the public use and common use parts of the dwellings are readily accessible to and usable by persons with disabilities;

(B) all the doors are designed to allow passage into and within all premises within the dwellings and are sufficiently wide to allow passage by persons with disabilities in wheelchairs; and

(C) all premises within the dwellings contain the following features of adaptive design:

(i) An accessible route into and through the dwelling.

(ii) Light switches, electrical outlets, thermostats, and

other environmental controls in accessible locations.

(iii) Reinforcements in bathroom walls to allow later installation of grab bars.

(iv) Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(d) As used in subsection (c), "covered multifamily dwellings" means:

(1) buildings consisting of four (4) or more units if the buildings have one (1) or more elevators; and

(2) ground floor units in other buildings consisting of four (4) or more units.

(e) Compliance with the rules of the fire prevention and building safety commission that incorporate by reference the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for people with physical disabilities (ANSI A117.1) satisfies the requirements of subsection (c)(3)(C).

(f) This section does not require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

As added by P.L.66-1990, SEC.2. Amended by P.L.23-1993, SEC.145.

IC 22-9.5-5-6

"Residential real estate related transaction" defined; discrimination prohibited

Sec. 6. (a) As used in this section, "residential real estate related transaction" means the following:

(1) Making or purchasing loans or providing other financial assistance:

(A) to purchase, construct, improve, repair, or maintain a dwelling; or

(B) to secure residential real estate.

(2) Selling, brokering, or appraising residential real property.

(b) A person whose business includes engaging in residential real estate related transactions may not discriminate against a person in making a real estate related transaction available or in the terms or conditions of a real estate related transaction because of race, color, religion, sex, disability, familial status, or national origin.

As added by P.L.66-1990, SEC.2. Amended by P.L.23-1993, SEC.146.

IC 22-9.5-5-7

Services, organizations, and facilities relating to the business of selling or renting dwellings; discrimination prohibited

Sec. 7. A person may not deny any person access to, or membership or participation in, a multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or

discriminate against a person in the terms or conditions of access, membership, or participation in such an organization, service, or facility because of race, color, religion, sex, disability, familial status, or national origin.

As added by P.L.66-1990, SEC.2. Amended by P.L.23-1993, SEC.147.

IC 22-9.5-5-8

Intimidation or interference with exercise of another's rights

Sec. 8. A person may not coerce, intimidate, threaten, or interfere with any other person:

(1) in the exercise or enjoyment of any right granted or protected by this chapter; or

(2) because the person has exercised or enjoyed, or has encouraged another person in the exercise or enjoyment of, any right granted or protected by this chapter.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6

Chapter 6. Administrative Enforcement

IC 22-9.5-6-1

Investigation of alleged discriminatory practices; complaints; requirements; time limitations; procedures

Sec. 1. (a) The commission shall investigate alleged discriminatory housing practices.

(b) A complaint concerning an alleged discriminatory housing practice must be:

(1) in writing;

(2) under oath; and

(3) in the form prescribed by the commission.

(c) An aggrieved person may, not later than one (1) year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, file a complaint with the commission alleging the discriminatory housing practice.

(d) Not later than one (1) year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, the commission may file the commission's own complaint.

(e) A complaint under this section may be amended at any time.

(f) When a complaint is filed under this section, the commission shall do the following:

(1) Give the aggrieved person notice that the complaint has been received.

(2) Advise the aggrieved person of the time limits and choice of forums under this article.

(3) Not later than twenty (20) days after the filing of the complaint or the identification of an additional respondent under section 4 of this chapter, serve on each respondent:

(A) a notice identifying the alleged discriminatory housing practice and advising the respondent of the procedural rights and obligations of a respondent under this article; and

(B) a copy of the original complaint.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-2

Answer; time limitation; requirements

Sec. 2. (a) Not later than ten (10) days after receipt of the notice and copy under section 1(f)(3) of this chapter, a respondent may file an answer to the complaint.

(b) An answer must be:

(1) in writing;

(2) under oath; and

(3) in the form prescribed by the commission.

(c) An answer may be amended at any time.

(d) An answer does not inhibit the investigation of a complaint.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-3

Complaints referred and subject matter jurisdiction deferred by federal government; investigation by commission; time limitations

Sec. 3. (a) If the federal government has referred a complaint to the commission or has deferred jurisdiction over the subject matter of the complaint to the commission, the commission shall promptly investigate the allegations set forth in the complaint.

(b) The commission shall investigate all complaints, and except as provided by subsection (c), shall complete an investigation not later than one hundred (100) days after the date the complaint is filed, or if the commission is unable to complete the investigation within the one hundred (100) day period, shall dispose of all administrative proceedings related to the investigation not later than one (1) year after the date the complaint is filed.

(c) If the commission is unable to complete an investigation within the time periods prescribed by subsection (b), the commission shall notify the complainant and the respondent in writing of the reasons for the delay.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-4

Respondents joined by commission; notice; information required

Sec. 4. (a) The commission may join a person not named in the complaint as an additional or substitute respondent if in the course of the investigation the commission determines that the person should be accused of a discriminatory housing practice.

(b) In addition to the information required in the notice under section 1(f)(3) of this chapter, the commission shall include in a notice to a respondent joined under this section an explanation of the basis for the determination that the person is properly joined as a respondent.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-5

Conciliation; provisions of agreement; disclosure; use of information as evidence; parties' access to information

Sec. 5. (a) The commission shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the commission, to the extent feasible, engage in conciliation with respect to the complaint.

(b) A conciliation agreement is an agreement between a respondent and the complainant and is subject to commission approval.

(c) A conciliation agreement may provide for binding arbitration or other methods of dispute resolution. Dispute resolution that results from a conciliation agreement may authorize appropriate relief, including monetary relief.

(d) A conciliation agreement shall be made public unless the complainant and respondent agree otherwise and the commission determines that disclosure is not necessary to further the purposes of this article.

(e) Nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this article without the written consent of the persons concerned.

(f) After completion of the commission's investigation, the commission shall make available to the aggrieved person and the respondent, at any time, information derived from the investigation and the final investigation report relating to that investigation.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-6

Civil action filed by commission; injunction; effect on administrative proceedings

Sec. 6. (a) If the commission concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this article, the commission may file a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint in a circuit or superior court that is located in the county in which the alleged discriminatory housing practice occurred.

(b) A temporary restraining order or other order granting preliminary or temporary relief under this section is governed by the Indiana Rules of Trial Procedure.

(c) The filing of a civil action under this section does not affect the initiation or continuation of administrative proceedings under section 14 of this chapter.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-7

Final investigative report; contents; amendments

Sec. 7. (a) The commission shall prepare a final investigative report showing the following:

(1) The names and dates of contacts with witnesses.

(2) A summary of correspondence and other contacts with the aggrieved person and the respondent showing the dates of the correspondence and contacts.

(3) A summary description of other pertinent records.

(4) A summary of witness statements.

(5) Answers to interrogatories.

(b) A final report under this section may be amended if additional evidence is discovered.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-8

Reasonable cause; determination; time limitation; delay notification; issuance of finding

Sec. 8. (a) The commission shall determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur.

(b) The commission shall make the determination under subsection (a) not later than one hundred (100) days after the date a

complaint is filed unless:

(1) it is impracticable to make the determination; or

(2) the commission has approved a conciliation agreement relating to the complaint.

(c) If it is impracticable to make the determination within the time period provided by subsection (b), the commission shall notify the complainant and respondent in writing of the reasons for the delay.

(d) If the commission determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the commission shall immediately issue a finding of reasonable cause on behalf of the aggrieved person.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-9

Finding of reasonable cause; requirements; copies of finding sent to parties; time limitation

Sec. 9. (a) A finding of reasonable cause issued under section 8 of this chapter:

(1) must consist of a short and plain statement of the facts on which the commission has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(2) must be based on the final investigative report; and

(3) need not be limited to the facts or grounds alleged in the complaint.

(b) Not later than twenty (20) days after the commission issues a finding of reasonable cause, the commission shall send a copy of the finding of reasonable cause with information concerning the election under section 12 of this chapter to the following:

(1) Each respondent, together with a notice of the opportunity for a hearing provided by section 14 of this chapter.

(2) Each aggrieved person on whose behalf the complaint was filed.

As added by P.L.66-1990, SEC.2. Amended by P.L.1-1991, SEC.153.

IC 22-9.5-6-10

Dismissal of complaint; public disclosure

Sec. 10. (a) If the commission determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the commission shall promptly dismiss the complaint.

(b) The commission shall make public disclosure of each dismissal under this section.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-11

Civil action commenced by aggrieved party; issuance of finding of reasonable cause restricted

Sec. 11. The commission may not issue a finding of reasonable cause under this chapter regarding an alleged discriminatory housing

practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to that discriminatory housing practice.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-12
Election to have claims decided in civil action; time limitation; notice

Sec. 12. (a) A complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in a finding of reasonable cause decided in a civil action as provided by section 13 of this chapter.

(b) The election must be made not later than twenty (20) days after the date of receipt by the electing person of service under section (9)(b) of this chapter or, in the case of the commission, not later than twenty (20) days after the date the finding of reasonable cause was issued.

(c) The person making the election shall give notice to the commission and to all other complainants and respondents to whom the finding of reasonable cause relates.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-13
Timely election; filing of civil action by commission; time limitation; intervention in action by aggrieved person; relief

Sec. 13. (a) If a timely election is made under section 13 of this chapter, the commission shall, not later than thirty (30) days after the election is made, file a civil action on behalf of the aggrieved person seeking relief under this section in a circuit or superior court that is located in the county in which the alleged discriminatory housing practice occurred.

(b) An aggrieved person may intervene in the action.

(c) If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief that a court may grant in a civil action under IC 22-9.5-7.

(d) If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court may not award the monetary relief if that aggrieved person has not complied with discovery orders entered by the court.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-14
Hearings; procedure; discontinuance

Sec. 14. (a) If a timely election is not made under section 12 of this chapter, the commission shall provide for a hearing on the finding of reasonable cause.

(b) Except as provided by subsection (c), IC 4-21.5 governs a hearing under this section.

(c) A hearing under this section may not continue regarding any alleged discriminatory housing practice after the beginning of the

trial of a civil action commenced by the aggrieved person under federal or state law seeking relief with respect to that discriminatory housing practice.

(d) IC 22-9.5-11 governs an appeal of a final order issued under this article.

As added by P.L.66-1990, SEC.2. Amended by P.L.14-1994, SEC.8.

IC 22-9.5-6-15

Determination at hearing that respondent has or is about to engage in discriminatory practice; relief; civil penalties; previous violation

Sec. 15. (a) If the commission determines at a hearing under section 14 of this chapter that a respondent has engaged in or is about to engage in a discriminatory housing practice, the commission may order the appropriate relief, including actual damages, reasonable attorney's fees, court costs, and other injunctive or equitable relief.

(b) To vindicate the public interest, the commission may assess a civil penalty against the respondent in an amount that does not exceed the following:

(1) Ten thousand dollars ($10,000) if the respondent has not been adjudged by order of the commission or a court to have committed a prior discriminatory housing practice.

(2) Except as provided by subsection (c), twenty-five thousand dollars ($25,000) if the respondent has been adjudged by order of the commission or a court to have committed one (1) other discriminatory housing practice during the five (5) year period ending on the date of the filing of the finding of reasonable cause.

(3) Except as provided by subsection (c), fifty thousand dollars ($50,000) if the respondent has been adjudged by order of the commission or a court to have committed two (2) or more discriminatory housing practices during the seven (7) year period ending on the date of the filing of the finding of reasonable cause.

(c) If the acts constituting the discriminatory housing practice that is the object of the finding of reasonable cause are committed by the same individual who has been previously adjudged to have committed acts constituting a discriminatory housing practice, the civil penalties in subsection (b)(2) and (b)(3) may be imposed without regard to the period of time within which any other discriminatory housing practice occurred.

(d) The commission may sue to recover a civil penalty due under this section.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-16

Effect of order on prior transactions

Sec. 16. A commission order under section 15 of this chapter does not affect a contract, a sale, an encumbrance, or a lease that:

(1) was consummated before the commission issued the order; and

(2) involved a bona fide purchaser, an encumbrancer, or a tenant who did not have actual notice of the finding of reasonable cause filed under this article.

As added by P.L.66-1990, SEC.2. Amended by P.L.1-1991, SEC.154.

IC 22-9.5-6-17

Discriminatory practice in course of business subject to licensing or regulation by governmental agency; copies of findings and order to agency; recommendation of discipline

Sec. 17. If the commission issues an order with respect to a discriminatory housing practice that occurred in the course of a business subject to licensing or regulation by a governmental agency, the commission shall, not later than thirty (30) days after the date of the issuance of the order:

(1) send copies of the findings and the order to the governmental agency; and

(2) recommend to the governmental agency appropriate disciplinary action.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-18

Previous violation by respondent in preceding five years; copy of orders to attorney general

Sec. 18. If the commission issues an order against a respondent against whom another order was issued within the preceding five (5) years under section 15 of this chapter, the commission shall send a copy of each order issued under that section to the attorney general.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-7

Chapter 7. Enforcement by Private Persons

IC 22-9.5-7-1

Civil action filed by aggrieved person; limitations

Sec. 1. (a) An aggrieved person may file a civil action in the circuit or superior court located in the county in which the alleged discriminatory practice occurred not later than one (1) year after the occurrence of the termination of an alleged discriminatory housing practice or the breach of a conciliation agreement entered into under this article, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing practice or breach.

(b) The one (1) year period does not include any time during which an administrative hearing under this article is pending with respect to a complaint or finding of reasonable cause under this article based on the discriminatory housing practice. This subsection does not apply to actions arising from a breach of a conciliation agreement.

(c) An aggrieved person may file an action under this section whether or not a complaint has been filed under IC 22-9.5-6 and without regard to the status of any complaint filed under IC 22-9.5-6.

(d) If the commission has obtained a conciliation agreement with the consent of an aggrieved person, the aggrieved person may not file an action under this section with respect to the alleged discriminatory housing practice that forms the basis for the complaint except to enforce the terms of the agreement.

(e) An aggrieved person may not file an action under this section with respect to an alleged discriminatory housing practice that forms the basis of a finding of reasonable cause issued by the commission if the commission has begun a hearing on the record under this article with respect to the finding of reasonable cause.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-7-2

Award of damages and costs; injunctions

Sec. 2. If the court finds that a discriminatory housing practice has occurred or is about to occur in an action under this chapter, the court may award to the prevailing party the following:

(1) Actual and punitive damages.

(2) Reasonable attorney's fees.

(3) Court costs.

(4) Subject to section 3 of this chapter, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-7-3

Effect of relief granted on prior transactions

Sec. 3. Relief granted under this chapter does not affect a contract,

a sale, an encumbrance, or a lease that:

(1) was consummated before the granting of the relief; and

(2) involved a bona fide purchaser, an encumbrancer, or a tenant who did not have actual notice of the filing of a complaint or a civil action under this article.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-7-4

Intervention by commission

Sec. 4. (a) The commission may intervene in an action under this article if the commission determines that the case is of general public importance.

(b) The commission may obtain the same relief available to the commission under IC 22-9.5-8.1-2.

As added by P.L.66-1990, SEC.2. Amended by P.L.1-1991, SEC.155.

IC 22-9.5-8
Repealed

(Repealed by P.L.1-1991, SEC.156.)

IC 22-9.5-8.1

Chapter 8.1. Enforcement by the Commission

IC 22-9.5-8.1-1

Civil action filed by commission

Sec. 1. The commission may file a civil action for appropriate relief if the commission has reasonable cause to believe that:

(1) a person is engaged in a pattern or practice of resistance to the full enjoyment of any right granted by this article; or

(2) a person has been denied any right granted by this article and that denial raises an issue of general public importance.

An action under this section may be filed in a circuit or superior court located in the county in which the alleged pattern, practice, or denial occurred.

As added by P.L.1-1991, SEC.157.

IC 22-9.5-8.1-2

Relief by court

Sec. 2. In an action filed under section 1 of this chapter, the court may do the following:

(1) Award preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this article as necessary to assure the full enjoyment of the rights granted by this article.

(2) Award other appropriate relief, including monetary damages, reasonable attorney's fees, and court costs.

(3) To vindicate the public interest, assess a civil penalty against the respondent in an amount that does not exceed the following:

(A) Fifty thousand dollars ($50,000) for a first violation.

(B) One hundred thousand dollars ($100,000) for a second or subsequent violation.

As added by P.L.1-1991, SEC.157.

IC 22-9.5-8.1-3

Intervention by aggrieved person or party to conciliation agreement

Sec. 3. A person may intervene in an action filed under section 1 of this chapter if the person is:

(1) an aggrieved person to the discriminatory housing practice; or

(2) a party to a conciliation agreement concerning the discriminatory housing practice.

As added by P.L.1-1991, SEC.157.

IC 22-9.5-8.1-4

Enforcement of subpoena by attorney general

Sec. 4. The attorney general, on behalf of the commission or other party at whose request a subpoena is issued under this chapter, may enforce the subpoena in appropriate proceedings in the court in

which the action is filed.
As added by P.L.111-1992, SEC.8.

IC 22-9.5-9

Chapter 9. Prevailing Party

IC 22-9.5-9-1

Attorney's fees and court costs

Sec. 1. A court in a civil action brought under this article or the commission in an administrative hearing under IC 22-9.5-6-14 may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party.

As added by P.L.66-1990, SEC.2. Amended by P.L.1-1991, SEC.158.

IC 22-9.5-10
Chapter 10. Offenses

IC 22-9.5-10-1
Intimidation or interference with exercise of another's rights; classification of offense

Sec. 1. A person commits a Class A misdemeanor if the person, whether or not acting under color of law, by force or threat of force intentionally intimidates or interferes with or attempts to intimidate or interfere with a person:

(1) because of the person's race, color, religion, sex, disability, familial status, or national origin and because the person is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in a service, organization, or facility relating to the business of selling or renting dwellings; or

(2) because the person is or has been, or to intimidate the person from:

(A) participating, without discrimination because of race, color, religion, sex, disability, familial status, or national origin, in an activity, a service, an organization, or a facility described in subdivision (1);

(B) affording another person opportunity or protection to participate in an activity, a service, an organization, or a facility described in subdivision (1); or

(C) lawfully aiding or encouraging other persons to participate, without discrimination because of race, color, religion, sex, disability, familial status, or national origin, in an activity, a service, an organization, or a facility described in subdivision (1).

As added by P.L.66-1990, SEC.2. Amended by P.L.23-1993, SEC.148.

IC 22-9.5-11

Chapter 11. Appeals; Exhaustion of Administrative Remedies

IC 22-9.5-11-0.1

Application of chapter

Sec. 0.1. The addition of this chapter by P.L.14-1994 affects final appealable orders issued by the commission on or after July 1, 1994.

As added by P.L.220-2011, SEC.371.

IC 22-9.5-11-1

Terms, conditions, and standards for appeals

Sec. 1. Either party to a dispute filed under IC 22-9.5 may, not more than thirty (30) days after the date of receipt of the commission's final appealable order, appeal to the court of appeals under the same terms, conditions, and standards that govern appeals in ordinary civil actions.

As added by P.L.14-1994, SEC.9.

IC 22-9.5-11-2

Records for appeals

Sec. 2. (a) The appealing party shall notify the commission in writing of the party's intent to appeal and shall request the commission to prepare a record of the commission's proceedings to be used to perfect an appeal. The record consists of the following documents used, created, or presented during the administrative proceedings:

(1) A transcript of the oral testimony.

(2) The exhibits admitted into evidence.

(3) All notices, pleadings, exceptions, motions, requests, and other papers filed with the commission with the exception of briefs or oral arguments of law.

(b) The cost of producing the record for appeal must be borne by the party bringing the appeal. The commission may require the deposit of reasonable security for the payment of the cost before producing the record.

As added by P.L.14-1994, SEC.9.

IC 22-9.5-11-3

Exhaustion of administrative remedies

Sec. 3. A person may file an appeal under this chapter only after exhausting all administrative remedies available within the agency whose action is being appealed.

As added by P.L.14-1994, SEC.9.

IC 22-10

ARTICLE 10. MINES AND MINING SAFETY

IC 22-10-1

Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-10-1.5
Chapter 1.5. General Provisions

IC 22-10-1.5-1
Application of article

Sec. 1. This article applies to all mines.

As added by P.L.37-1985, SEC.46. Amended by P.L.215-1989, SEC.3; P.L.35-2007, SEC.3.

IC 22-10-1.5-2
Mining board; establishment; membership; meetings

Sec. 2. (a) The mining board is established. The board is composed of five (5) members appointed by the governor. The members must have the following qualifications:

(1) Two (2) members must be practical and experienced nonsupervisory underground coal miners.

(2) Two (2) members must be practical and experienced underground coal operators.

(3) One (1) member must represent the general public and must not be associated with the coal industry.

(b) The governor shall appoint each member to a four (4) year term. The governor shall fill any vacancy occurring on the board for the unexpired term of the member being replaced. The individual appointed to fill a vacancy must have the same qualifications as the member the individual is replacing.

(c) The governor may remove a member of the board for cause.

(d) The board shall organize by the election of a chairman for a one (1) year term.

(e) The board may hold meetings on the call of the chairman or the director.

As added by P.L.37-1985, SEC.46. Amended by P.L.112-1992, SEC.1; P.L.35-2007, SEC.4.

IC 22-10-1.5-3
Mining board; salaries; expenses

Sec. 3. (a) Except as provided in subsection (b), a member of the board is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties, as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Effective July 1, 2007, a member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member also is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties, as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget

agency.
As added by P.L.37-1985, SEC.46. Amended by P.L.35-2007, SEC.5.

IC 22-10-1.5-4
Rules

Sec. 4. The board may adopt rules under IC 4-22-2 to implement this article. Notwithstanding any other law, the rules may include the setting of fees under:

(1) IC 22-10-3-10;
(2) IC 22-10-3-11; and
(3) IC 22-10-3-13.

As added by P.L.37-1985, SEC.46. Amended by P.L.35-2007, SEC.6.

IC 22-10-1.5-5
Mining board; powers and duties

Sec. 5. (a) The board shall:

(1) collect and distribute information concerning the nature, causes, and prevention of mine accidents and the improvements of methods, conditions, and equipment of mines with special reference to health and safety and the conservation of mineral resources and the economic conditions respecting mining and the mining industry;
(2) promote the technical efficiency of all persons working in and about the mines of this state and examine persons applying for certificates under IC 22-10-3-10;
(3) submit any bills embodying legislation that the board may agree upon to the general assembly;
(4) if appropriations from the general assembly are considered insufficient by the board, assess and collect from operators the amount necessary to purchase and maintain underground mine rescue equipment for the bureau of mines and mine safety created under IC 22-1-1-4 and deposit the assessment in the mine safety fund established under IC 22-10-12-16; and
(5) annually report to the commissioner of the department of labor concerning any need for additional mine inspectors.

(b) The board shall mail written notice to operators of a meeting of the board at which assessments described in subsection (a)(4) are discussed.
As added by P.L.37-1985, SEC.46. Amended by P.L.112-1992, SEC.2; P.L.187-2003, SEC.2; P.L.35-2007, SEC.7.

IC 22-10-1.5-6
Director of bureau; qualifications; term of office; salary

Sec. 6. (a) With the governor's approval, the commissioner of labor shall appoint a director of the bureau of mines and mine safety created under IC 22-1-1-4(1) who must have the following qualifications:

(1) Be a citizen of the United States and a resident of Indiana.
(2) Have at least four (4) years experience in underground coal mines.

(3) Hold an Indiana mine foreman certificate.

(4) Possess a practical knowledge of:

(A) the different systems of working and ventilating coal mines;

(B) the nature, chemistry, detection, and control of noxious, poisonous, and explosive gases;

(C) the dangers incident to blasting and the prevention of these dangers;

(D) the application of electricity in mining operations;

(E) the methods for preventing mine fires and gas or dust explosions;

(F) the methods for controlling and extinguishing mine fires;

(G) the methods of rescue and recovery work following mine disasters; and

(H) the mining laws of this state.

(b) The director may not be an owner or part owner of a coal mine or coal mining company while serving as director.

(c) The director shall serve for a four (4) year term. However, the director serves at the pleasure of the governor.

(d) The director is entitled to receive an annual salary to be fixed by the commissioner of labor with the approval of the governor.

As added by P.L.37-1985, SEC.46. Amended by P.L.144-1988, SEC.1; P.L.215-1989, SEC.4; P.L.35-2007, SEC.8.

IC 22-10-1.5-7

Chief mine inspector; qualifications and salary; director's powers and duties

Sec. 7. (a) The director shall employ, subject to appropriation by the general assembly for the position of chief mine inspector, a chief mine inspector who has an Indiana mine examiner certificate and at least three (3) years underground mining experience.

(b) The chief mining inspector is entitled to receive an annual salary to be fixed by the commissioner of labor with the approval of the governor.

(c) The director may, subject to IC 4-15-2.2, employ other mine inspectors and clerical employees.

(d) The director may:

(1) contract with any person to provide training for mine employees;

(2) provide mine rescue training for mine employees; and

(3) furnish mine rescue equipment at the site of mine accidents.

(e) The director shall:

(1) collect and index all active and inactive underground mine maps; and

(2) supervise and direct the state mine inspectors.

As added by P.L.37-1985, SEC.46. Amended by P.L.144-1988, SEC.2; P.L.215-1989, SEC.5; P.L.112-1992, SEC.3; P.L.35-2007, SEC.9; P.L.6-2012, SEC.160.

IC 22-10-1.5-8

Repealed

(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-1.7

Chapter 1.7. Transitional Provisions Relating to the Mining Board

IC 22-10-1.7-1

Certain rules considered rules of mining board

Sec. 1. Any rule of:

(1) the department of mines and mining;

(2) the board established under IC 22-10-1-5 (before its repeal); or

(3) the certification board established under IC 22-10-3-7 (before its repeal);

filed with the secretary of state before July 1, 1985, shall be treated after June 30, 1985, as if it had been adopted by the mining board established by P.L.37-1985.

As added by P.L.220-2011, SEC.372.

IC 22-10-1.7-2

Transfer of powers, duties, and liabilities to mining board

Sec. 2. On July 1, 1985, all powers, duties, and liabilities of:

(1) the department of mines and mining;

(2) the board established under IC 22-10-1-5 (before its repeal); and

(3) the certification board established under IC 22-10-3-7 (before its repeal);

are transferred to the mining board established by P.L.37-1985.

As added by P.L.220-2011, SEC.372.

IC 22-10-1.7-3

Transfer of records and property to mining board

Sec. 3. On July 1, 1985, all records and property of:

(1) the department of mines and mining;

(2) the board established under IC 22-10-1-5 (before its repeal); and

(3) the certification board established under IC 22-10-3-7 (before its repeal);

are transferred to the mining board established by P.L.37-1985.

As added by P.L.220-2011, SEC.372.

IC 22-10-2
Chapter 2. Coal Mines Generally

IC 22-10-2-1
Repealed
(Repealed by P.L.231-1983, SEC.20.)

IC 22-10-2-1.5
Maps; contents; copy to be kept on surface of mine; pillars of coal between adjoining properties

Sec. 1.5. (a) An operator shall have, in a fireproof repository located in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard, an accurate and up-to-date map of the mine drawn on scale. The map shall show:

(1) the active workings;
(2) all pillared, worked out, and abandoned areas, except as provided in this section;
(3) entries and aircourses with the direction of airflow indicated by arrows;
(4) contour lines of all elevations;
(5) elevations of all mine and cross or side entries;
(6) dip of the coalbed;
(7) escapeways;
(8) adjacent mine workings within one thousand (1,000) feet;
(9) mines above or below;
(10) water pools above;
(11) either producing or abandoned oil and gas wells located within five hundred (500) feet of such mine and any underground area of such mine; and
(12) such other information as the director may require.

The map shall identify those areas of the mine which have been pillared, worked out, or abandoned, which are inaccessible or cannot be entered safely and on which no information is available.

(b) The operators of adjoining coal properties must leave, or cause to be left, a pillar of coal fifteen (15) feet in width on each side of the property line in each seam or vein of coal worked by them.

(c) The following additional information shall be shown on mine maps:

(1) Name and address of the mine.
(2) The scale and orientation of the map.
(3) The property or boundary lines of the mine.
(4) All drill holes that penetrate the coalbed being mined.
(5) All shaft, slope, drift, and tunnel openings and auger and strip mined areas of the coalbed being mined.
(6) The location of all surface mine ventilation fans, the location of which may be designated on the mine map by symbols.
(7) The location of railroad tracks and public highways leading to the mine, and mine buildings of a permanent nature with

identifying names shown.

(8) The location and description of at least two (2) permanent baseline points coordinated with the underground and surface mine traverses, and the location and description of at least two (2) permanent elevation bench marks used in connection with establishing or referencing mine elevation surveys.

(9) The location of any body of water dammed in the mine or held back in any portion of the mine. However, such bodies of water may be shown on overlays or tracings attached to the mine maps used to show contour lines as provided under subdivision (12).

(10) The elevations of tops and bottoms of shafts and slopes, and the floor at the entrance to drift and tunnel openings.

(11) The elevation of the floor at intervals of not more than two hundred (200) feet in:

(A) at least one (1) entry of each working section, and main and cross entries;

(B) the last line of open crosscuts of each working section, main and cross entries before such sections, and main and cross entries that are abandoned;

(C) rooms advancing toward or adjacent to property or boundary lines or adjacent mines; and

(D) the elevation of any body of water dammed in the mine or held back in any portion of the mine.

(12) Contour lines passing through whole number elevations of the coalbed being mined. The spacing of such lines shall not exceed ten (10) foot elevation levels, except that a broader spacing of contour lines may be approved by the director for steeply pitching coalbeds. Contour lines may be placed on overlays or tracings attached to mine maps.

(d) The accuracy and scale of mine maps shall be as follows:

(1) The scale of mine maps submitted to the director shall not be less than one hundred (100) or more than five hundred (500) feet to the inch.

(2) Mine traverses shall be advanced by closed loop methods of traversing or other equally accurate methods of traversing.

As added by P.L.231-1983, SEC.1. Amended by P.L.35-2007, SEC.10.

IC 22-10-2-2

Maps; certification and seal; revision and supplementation; temporary notations

Sec. 2. (a) All maps required to show the underground workings of any mine, within this state, shall be made or certified by a registered engineer or professional surveyor and sealed by the professional engineer or professional surveyor.

(b) The map shall be kept up-to-date by temporary notations and the map shall be revised and supplemented at intervals prescribed by the director on the basis of a survey made or certified by the professional engineer or professional surveyor.

(c) Mine maps shall be revised and supplemented at intervals of not more than once a year.

(d) Temporary notations shall include:

(1) the location of each working face of each working place;

(2) pillars mined or other such second mining;

(3) permanent ventilation controls constructed or removed, such as seals, overcasts, undercasts, regulators, and permanent stoppings, and the direction of air currents indicated; and

(4) escapeways designated by means of symbols.

(Formerly: Acts 1955, c.168, s.8.) As amended by P.L.231-1983, SEC.2; P.L.57-2013, SEC.21.

IC 22-10-2-2.5
Maps; inspection; confidentiality

Sec. 2.5. (a) The coal mine map required by section 1.5 of this chapter and any revision of or supplement to the coal mine map shall be available for inspection by:

(1) the director or the director's authorized representative;

(2) miners in the mine;

(3) operators of adjacent coal mines; and

(4) persons owning, leasing, or residing on surface areas of such mines or areas adjacent to such mines.

(b) The operator shall furnish to the director one (1) or more copies of each map and of any revision or supplement.

(c) Every map, revision, or supplement furnished to the director shall be kept confidential, and the contents shall not be divulged to any person except to the extent necessary to carry out the provisions of this chapter.

As added by P.L.231-1983, SEC.3. Amended by P.L.35-2007, SEC.11.

IC 22-10-2-3
Repealed

(Repealed by P.L.231-1983, SEC.20.)

IC 22-10-2-4
Repealed

(Repealed by P.L.231-1983, SEC.20.)

IC 22-10-2-4.5
Abandonment or temporary closure of mine; notice; filing mine map; filling, maintaining, and sealing openings

Sec. 4.5. (a) Whenever an operator permanently closes or abandons a coal mine, or temporarily closes a coal mine for a period of more than ninety (90) days, he shall promptly notify the director of the closure. Within sixty (60) days of the permanent closure or abandonment of a mine, or, when a mine is temporarily closed, upon the expiration of a period of ninety (90) days from the date of closure, the operator shall file with the director a copy of the mine map revised and supplemented to the date of the closure. Such copy

of the mine map shall be certified by a registered surveyor or registered engineer of the state and shall be available for public inspection.

(b) Operators shall give notice of mine closures and file copies of maps with the director.

(c) All entrances to an abandoned mine shall be filled by the operator last engaged in the operation of the mine immediately following abandonment of the mine. Vertical openings shall be filled and maintained from the bottom to the surface. All other mine openings shall be filled and sealed in a manner prescribed by the director.

As added by P.L.231-1983, SEC.4.

IC 22-10-2-5

Foreign states; workings extending into state; application of law

Sec. 5. Whenever any mine or mines, the shaft or opening of which is located in any state other than the state of Indiana, shall have entries or working underground extending into and within the state of Indiana, a compliance with the laws of the state in which the shaft or opening of said mine is located governing mines and mining, shall be taken, deemed and considered in full compliance with the laws of the state of Indiana governing mines and mining as to all that part of said entries and workings lying and being within the state of Indiana.

(Formerly: Acts 1955, c.168, s.11.)

IC 22-10-2-6

Foreign states; workings extending into state; conflict of laws

Sec. 6. In the case of any mine or mines, the shaft or opening of which is located in any state other than the state of Indiana, the employees in the entries or workings of such mines extending into and within the state of Indiana, shall be controlled and governed by the laws of the state in which the shaft or opening of such mine is located in any and all matters pertaining to their employment, including compensation laws and suits for damages for personal injuries.

(Formerly: Acts 1955, c.168, s.12.)

IC 22-10-2-7

Repealed

(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-2-8

Repealed

(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-3

Chapter 3. Administration; Certification of Certain Mine Workers

IC 22-10-3-1

Definitions

Sec. 1. As used in this article:

"Active workings" means all places in a mine that are ventilated and inspected regularly.

"Belt examiner" means an individual designated by the mine foreman to perform the functions as required by 30 CFR Part 75 in connection with examinations to ensure that the belt, belt drives, dump points, air movement, roof, and ribs of a mine are in safe condition.

"Board" refers to the mining board established under IC 22-10-1.5-2.

"Commercial mine" means any underground mine from which coal is produced for sale, exchange, or commercial use.

"Director" means the director of the bureau of mines and mine safety established under IC 22-1-1-4.

"Hoisting engineer" means an individual who is capable of transporting people and material in and out of a mine by means of a hoist.

"Interested persons" means the director, safety personnel designated by the operator, state and federal coal mine inspectors, and, to the extent required by law, any other person.

"Mine" means an underground commercial coal mine.

"Mine electrician" means a properly certified individual who can perform electrical work in:

(1) a surface coal mine;

(2) surface areas of underground coal mines; and

(3) underground coal mines.

"Mine examiner" means a properly certified person designated by the mine foreman to examine the mine for gas and other dangers. A mine examiner may temporarily act as a section foreman if designated to act as such by the mine foreman.

"Mine foreman" means the person charged with the responsibility of the general supervision of the underground working of a mine and the persons employed in the mine and for the health and safety of those employees.

"Mine inspector" means the person appointed to assist in administering this article.

"Mine Safety Administration" refers to the Mine Safety and Health Administration, United States Department of Labor.

"Mining laws" means:

(1) this article;

(2) IC 22-1-1-5(a);

(3) 30 CFR part 75; and

(4) 30 CFR part 77.

"Operator" means an individual, firm, association, partnership,

limited liability company, or corporation operating an underground coal mine or any part of a mine.

"Shot-firer" means a properly certified person designated by the mine foreman to perform the functions as required in this article in connection with breaking down coal or rock.

(Formerly: Acts 1955, c.168, s.15; Acts 1975, P.L.257, SEC.1.) As amended by Acts 1979, P.L.231, SEC.1; P.L.37-1985, SEC.47; P.L.243-1987, SEC.1; P.L.112-1992, SEC.5; P.L.8-1993, SEC.295; P.L.35-2007, SEC.12; P.L.10-2012, SEC.1.

IC 22-10-3-2
Repealed

(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-3-3
Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-10-3-4
Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-10-3-5
Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-10-3-6
Director; powers and duties; records; inspection report

Sec. 6. (a) The director shall devote the director's attention to the duties of the office during working hours and is subject to call at all times. The director and any mine inspector funded by the general assembly are authorized to enter, examine, and inspect all commercial coal mines and facilities.

(b) The director shall have full direction of the official activities of any mine inspector and shall be responsible therefor.

(c) The director and each mine inspector shall have power, and it is their duty, to stop immediately the operation of any coal mine or part thereof when any dangerous or unlawful condition exists. However, where conditions exist justifying the director or the mine inspector to do so, the director or mine inspector shall grant a reasonable period of time for making necessary repairs. Where a stop in operation is enforced, such director and mine inspector shall be empowered to subsequently allow such mine or part of a mine to be reopened when the dangerous or unlawful conditions have been remedied or removed. If the operator or a workman believes that an inspector has acted illegally in citing violations of mining law, they may appeal to the director for relief from such citation. The director may grant or deny such relief after a hearing, at which all interested parties have been notified of such hearing and given an opportunity to present evidence in support of their contentions.

(d) The director shall keep a properly indexed permanent record of all inspections made by the director and the mine inspector, and copies of all reports relating to coal mines shall be kept on file, and all such records shall be open to inspection by the public, and shall be laid before the governor at any time upon the request of the governor. The director shall cause:

(1) within sixty (60) days of the date of the inspection, inspection reports; and

(2) for two (2) years, all reports relating to coal mines;

to be posted on the web site maintained by the bureau of mines and mine safety created under IC 22-1-1-4(1).

(e) The director is empowered to revoke, in writing, any order issued by a mine inspector for the purpose of stopping the operation of a mine or part thereof. However, such revocation of an order shall not be made unless and until the director has made a personal examination of the mine or part thereof affected and determined it to be in a safe condition to operate.

(f) The director or mine inspector shall make a personal inspection of each mine in this state:

(1) at least once every three (3) months, or more often if practicable, while the mine is in operation;

(2) whenever any danger to the workmen may exist; or

(3) whenever called upon to do so by the workmen.

During a regular inspection, the director or inspector shall have the authority to inspect the surface plant; every working place in the mine; all active haulageways, travelways, and airways in their entirety; entrances to abandoned workings; accessible old workings; escapeways and all other places where individuals work or travel; electric equipment and installations; first aid equipment; ventilation facilities; communications installations; roof and rib conditions; and blasting practices, etc. The director or inspector shall have the authority to measure the volume of air at the intake and return of the main ventilating current and of each split, and the amount passing through the last breakthrough in each pair or set of entries, and designate to the mine foreman where the director or inspector shall measure the currents of air as required by the mining laws of this state. In mines operating more than one (1) shift in a twenty-four (24) hour period, the director or inspector shall devote sufficient time to the second and third shift to determine conditions and practices related to the health and safety of the employees. The director or inspector shall make tests for gas and oxygen deficiency in each place that the director or inspector is required to inspect in the mine. Time shall be made available during an inspection for interaction with the employees of the mine by the director or the inspector to ascertain the familiarity of the employees with self-rescuers and accessible escapeways.

(g) The director or mine inspector making an inspection of a mine shall make an accurate report covering such inspection, showing:

(1) the date of inspection and actual time required to make the inspection;

(2) the condition in which the mine is found;
(3) the extent to which the mining laws are violated;
(4) the progress made in the improvement of the mine, where such progress relates to the health and safety of the employees;
(5) the number of fatal injuries and the number of nonfatal lost-time injuries resulting from accidents in and around the mine, and their cause; and
(6) in case any violation of the mining laws is found, the specific section or sections violated, with recommendations for correcting them, and the action taken to eliminate them.

(h) The director or mine inspector making an inspection of a mine shall within three (3) days after the completion of the inspection, deliver:

(1) one (1) copy of the inspection report on the mine to the operator, superintendent, or mine foreman of the mine inspected; and
(2) one (1) copy to be posted within the three (3) day limit on a bulletin board at a prominent place on the premises where it can be conveniently read by the employees. If corrective action is implemented, the report shall remain on the bulletin board for thirty (30) days. If corrective action is not implemented, the report shall not be removed from the bulletin board until the report of the succeeding examination is posted.

The director or mine inspector shall keep the mine foreman or superintendent informed as much as is practicable of any violation or other unsafe condition as the regular inspection progresses. In instances where, in the opinion of the mine inspector, an imminent or serious disaster hazard exists, such inspector shall report the same to the director by the quickest available means.

(i) It shall be the duty of the director and mine inspectors to enforce the mining laws of this state and the mine inspectors shall perform such other official duties required by the director as may be necessary to secure full compliance with the mining laws of this state.

(Formerly: Acts 1955, c.168, s.20.) As amended by Acts 1979, P.L.17, SEC.36; P.L.231-1983, SEC.6; P.L.112-1992, SEC.6; P.L.35-2007, SEC.13.

IC 22-10-3-7
Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-10-3-8
Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-10-3-9
Mining board; examination; records; application for certain certifications

Sec. 9. (a) The director shall keep a record of the board's official

actions concerning certificates issued under this chapter and file the record together with questions and answers pertaining to examinations established by the board, including the grade given for the answer to each question. The record shall be open for inspection by interested persons. If applications for certification are received, the board shall meet at least quarterly at such time and place as it shall consider advisable for the purpose of examining applicants for certificates. These quarterly meetings shall be held in January, April, July, and October. The date, time, and place of examination shall be published at all coal mines in this state and posted on the web site maintained by the bureau of mines and mine safety at least thirty (30) days before the examination. By a majority vote, the board shall establish its rules of procedure and provide suitable certificates. The board shall adopt rules establishing standards for the competent practice of mine foreman, belt examiner, mine examiner, shot-firer, mine electrician, and hoisting engineer.

(b) A person desiring certification for mine foreman, belt examiner, mine examiner, shot-firer, mine electrician, or hoisting engineer must make written application to the board on forms supplied by the board not later than ten (10) days prior to the examination date.

(Formerly: Acts 1955, c.168, s.23; Acts 1971, P.L.358, SEC.4.) As amended by Acts 1979, P.L.231, SEC.3; Acts 1981, P.L.222, SEC.18; P.L.37-1985, SEC.48; P.L.35-2007, SEC.14; P.L.10-2012, SEC.2.

IC 22-10-3-10

Mining board; examination; issuing certificates; qualifications for certification; examination fee; replacement certificate

Sec. 10. (a) It is the duty of the board to examine any person applying for a certificate for mine foreman, shot-firer, mine examiner, hoisting engineer, mine electrician, or belt examiner and to issue certificates of competency to the applicants who, upon examination, prove themselves competent and qualified. A certificate is valid only when the examination for certification has been held in the presence of a member of the board and signed by the chairman of the board. A certificate of competency may not be issued to any person whose grade is less than seventy-five percent (75%) for any certification other than that of a certificate for mine electrician, which requires a passing grade of not less than eighty percent (80%). The board shall observe the requirements set forth in this section in conducting the examinations.

(b) An applicant for a mine foreman certificate must have at least four (4) years of experience underground in coal mines. However, a person who has graduated and holds a degree in engineering or an approved four (4) year program in coal mining technology from an accredited school, college, or university is required to have only two (2) years of practical underground mining experience to qualify for the examination. A person who has graduated and holds a two (2) year associate in applied science degree in coal mining technology from an accredited school, college, or university is required to have

only three (3) years of practical underground mining experience to qualify for the examination. An applicant must prove to the board by written and oral examination and by demonstration, where applicable, that the applicant has a thorough knowledge of:

(1) the theory and practice of coal mining;

(2) the nature and properties of poisonous, noxious, and explosive gases and methods for their detection and control;

(3) the requirements of the coal mining laws of this state; and

(4) the responsibilities and duties of a mine foreman under such laws;

and that the applicant is otherwise qualified by law.

(c) An applicant for a mine examiner certificate must have at least three (3) years of experience underground in coal mines. However, a person who has graduated and holds a degree in engineering or an associate in applied science degree in coal mining technology from an accredited school, college, or university is required to have only two (2) years of practical underground mining experience to qualify for the examination. An applicant must prove to the board by written and oral examination and by demonstration, where applicable, that the applicant has a thorough knowledge of:

(1) the nature and properties of poisonous, noxious, and explosive gases and methods for their detection and control;

(2) the practical aspects of coal mining pertaining especially to ventilation and roof control; and

(3) the responsibilities of a mine examiner under coal mining laws of this state;

and that the applicant is otherwise qualified by law.

(d) An applicant for a shot-firer certificate must have at least one (1) year of underground experience and must have been properly trained in a course approved by the director in the safe use and handling of explosives. An applicant must prove to the board by written and oral examination and by demonstration, where applicable, that the applicant has a working knowledge of:

(1) the proper handling and use of explosives and blasting devices and the danger connected therewith;

(2) the nature and properties of poisonous, noxious, and explosive gases and methods for their detection;

(3) the coal mining laws of the state pertaining to ventilation, roof control, and blasting; and

(4) the responsibilities of a shot-firer under applicable mining laws;

and that the applicant is otherwise qualified by law.

(e) An applicant for a hoisting engineer certificate must prove to the board by written and oral examination and by demonstration, where applicable, that the applicant:

(1) is capable of operating a hoist;

(2) has a thorough knowledge of the coal mining laws of this state pertaining to hoisting operations;

(3) has at least one (1) year mining experience;

(4) has at least twenty (20) hours practical experience under the

supervision of a certified hoisting engineer; and

(5) is otherwise qualified by law.

(f) An applicant for a belt examiner certificate must have at least one (1) year of experience in belt maintenance or installation work. The applicant must prove to the board by written and oral examination and by demonstration, where applicable, that the applicant has a thorough knowledge of:

(1) the requirements of the coal mining laws of this state with particular emphasis upon those laws pertaining to the use of electrical or belt equipment and the transmission of electrical energy into coal mines; and

(2) the responsibilities of a belt examiner under those laws;

and that the applicant is otherwise qualified by law.

(g) An applicant for a mine electrician certificate must have sufficient (but not less than one (1) year of) experience in performing electrical work. The applicant must prove to the board by written and oral examination and by demonstration, where applicable, that the applicant has a thorough knowledge of:

(1) the requirements of the coal mining laws of this state, with particular emphasis upon laws pertaining to electrical energy in coal mines;

(2) direct and alternating current theory and application;

(3) electric equipment and electrical circuits in coal mines;

(4) permissibility of electric equipment;

(5) 30 CFR 75 subparts F-K; and

(6) 30 CFR 77 subparts F-J and S.

(h) An applicant for an examination under this section must pay the bureau of mines and mine safety an examination fee of twenty-five dollars ($25). All fees collected under this subsection shall be deposited in the mine safety fund established by IC 22-10-12-16. The board may set a different fee by rule under IC 22-10-1.5-4.

(i) A mine foreman, mine examiner, shot-firer, hoisting engineer, mine electrician, or belt examiner certificate issued before September 1, 1979, is valid under the mining laws of Indiana.

(j) A person who was issued a fire-boss certificate before July 1, 2007, shall be issued a replacement mine examiner certificate upon request to the director.

(k) A person designated as mine superintendent or assistant mine superintendent, or acting in either capacity, must hold a mine foreman certificate.

(l) A certificate may be granted to an applicant who presents to the board satisfactory evidence that the applicant has not been convicted of:

(1) an act which would constitute a ground for disciplinary sanction under section 11.1(b) of this chapter; or

(2) a felony that has a direct bearing on the applicant's ability to act competently as a mine foreman, shot-firer, mine examiner, hoisting engineer, mine electrician, or belt examiner.

(m) For the purpose of safety, the board may refuse to examine an

applicant who cannot:

(1) readily understand the written English language; or

(2) express himself or herself in the English language.

(Formerly: Acts 1955, c.168, s.24; Acts 1971, P.L.358, SEC.5; Acts 1973, P.L.242, SEC.1.) As amended by Acts 1979, P.L.231, SEC.4; Acts 1981, P.L.210, SEC.1; Acts 1981, P.L.222, SEC.19; Acts 1982, P.L.113, SEC.6; P.L.231-1983, SEC.7; P.L.37-1985, SEC.49; P.L.35-2007, SEC.15; P.L.10-2012, SEC.3.

IC 22-10-3-11

Certificates; loss or destruction; duplicates; filing at mine office; inspection

Sec. 11. (a) In event of loss or destruction of any certificate issued under the mining laws of this state, the board, upon satisfactory proof of such loss or destruction, shall issue a duplicate certificate upon receipt of five dollars ($5). The fee shall be deposited into the mine safety fund established by IC 22-10-12-16. The board may set a different fee by rule under IC 22-10-1.5-4.

(b) The holder of a mine foreman, mine examiner, shot-firer, hoisting engineer, mine electrician, or belt examiner certificate must present the same or a photostatic copy to the official of the mine where the holder is employed, who shall file it in the office at such mine, and such file shall be available for inspection by interested persons.

(Formerly: Acts 1955, c.168, s.25.) As amended by Acts 1979, P.L.231, SEC.5; Acts 1981, P.L.210, SEC.2; Acts 1981, P.L.222, SEC.20; P.L.231-1983, SEC.8; P.L.35-2007, SEC.16; P.L.10-2012, SEC.4.

IC 22-10-3-11.1

Practitioner; definition; standards of conduct; sanctions; grounds; submission to examination

Sec. 11.1. (a) As used in this section, "practitioner" means an individual who holds a certificate issued under this chapter.

(b) A practitioner shall conduct his duties as he is so certified in accordance with the standards established by the board under section 9(a) of this chapter and is subject to the exercise of the disciplinary sanctions under subsection (e), if after a hearing, the board finds:

(1) the practitioner has employed or knowingly cooperated in fraud or material deception in order to obtain a certificate, or has engaged in fraud or material deception in the course of professional services or activities, or has advertised services in a false or misleading manner;

(2) the practitioner has been convicted of a crime which has a direct bearing on the practitioner's ability to continue to practice competently;

(3) a practitioner has knowingly violated section 12 of this chapter, or any rule adopted by the board under section 9(A) under this chapter;

(4) a practitioner has continued to practice as certified although

he has become unfit to practice due to:

(A) professional incompetence;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction or severe dependency upon alcohol or other drugs which endangers the public by impairing a practitioner's ability to practice safely;

(5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to clients; or

(6) a practitioner has allowed his name or certificate issued to him under this chapter to be used in connection with any individual who renders mining services beyond the scope of his training, experience or competence.

(c) The board may order a practitioner to submit to a reasonable physical or mental examination if his physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

(d) Failure to comply with a board order to submit to a physical or mental examination shall render a practitioner liable to the summary revocation procedures under subsection (f).

(e) The board may impose any of the following sanctions, singly or in combination, when it finds that a practitioner is guilty of any offense under subsection (b):

(1) permanently revoke a practitioner's certificate;

(2) suspend a practitioner's certificate;

(3) censure a practitioner;

(4) issue a letter of reprimand; or

(5) place a practitioner on probation status and require the practitioner to:

(A) report regularly to the board upon the matters which are the basis of probation;

(B) limit practice to those areas prescribed by the board; or

(C) continue or renew professional education under a practitioner approved by the board until satisfactory degree of skill has been attained in those areas which are the basis of the probation.

The board may withdraw the probation if it finds that the deficiency which required disciplinary action has been remedied.

(f) The board may summarily suspend a practitioner's certificate for a period of ninety (90) days in advance of a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public health and safety if he is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for a period of ninety (90) days or less.

(g) A certificate issued under this chapter is automatically suspended upon the conviction of the practitioner of a felony under 30 U.S.C. 820. A practitioner whose certificate is suspended under this subsection may apply for reinstatement under subsection (h) if

at least five (5) years have elapsed from the practitioner's date of discharge from probation, imprisonment, or parole from the felony.

(h) The board may reinstate a certificate which has been suspended under this chapter if, after a hearing, the board is satisfied that the applicant is able to practice with reasonable skill and safety. As a condition for reinstatement, the board may impose disciplinary or corrective measures authorized under this chapter.

(i) The board shall seek to achieve consistency in the application of the sanctions authorized in this section, and significant departures from prior decisions involving similar conduct shall be explained in the board's findings or orders.

As added by Acts 1981, P.L.222, SEC.21. Amended by P.L.165-1997, SEC.1.

IC 22-10-3-12

Certification required for employment; persons certified in other states; inexperienced miner identification pending certification

Sec. 12. (a) It is unlawful for any person to serve in the capacity of mine foreman, mine examiner, shot-firer, hoisting engineer, mine electrician, or belt examiner at any time unless the person is properly certified. However, any person who meets the appropriate experience requirements of this chapter and who is properly certified in one (1) of these capacities or its equivalent in another state which recognizes the certification of Indiana may serve in such a capacity until the next examination by the board, when the person must apply to the board for certification in the person's particular classification. A mine electrician who is properly certified:

(1) by the federal Mine Safety and Health Administration; or

(2) in another state that recognizes the mine electrician certification in Indiana;

may serve in the individual's certified capacity and be issued a mine electrician certificate by the director in Indiana without the requirement of applying to the board for examination. However, the individual must obtain an Indiana miner's certificate of competency from the director.

(b) It is unlawful for an operator in this state to employ any person in the capacity of mine superintendent, assistant mine superintendent, mine foreman, mine examiner, shot-firer, hoisting engineer, mine electrician, or belt examiner at any time unless the person is properly certified.

(c) Before any person certified in another state may perform in the capacity of mine superintendent, assistant mine superintendent, mine foreman, mine examiner, shot-firer, hoisting engineer, mine electrician, or belt examiner in Indiana, the person must present personally to the director evidence of the out-of-state certificate or certificates.

(d) Every inexperienced miner is required to wear an orange hard hat until the miner receives a certificate of competency.

(Formerly: Acts 1955, c.168, s.26; Acts 1971, P.L.358, SEC.6.) As amended by Acts 1979, P.L.231, SEC.6; P.L.231-1983, SEC.9;

P.L.37-1985, SEC.50; P.L.112-1992, SEC.7; P.L.35-2007, SEC.17; P.L.10-2012, SEC.5.

IC 22-10-3-13
Certificate of competency; fee; report

Sec. 13. (a) A person may not be employed underground in any coal mine in this state unless the person possesses a certificate of competency issued by the director, except that a person who does not possess a certificate may be employed to work under the supervision of a person who does possess a certificate for the purpose of becoming qualified to obtain a certificate. A person who intends to work underground in a coal mine to obtain a certificate must first obtain a permit from the director by stating the person's date of birth and residence address. The director shall grant a permit to an applicant who is of legal age and who has intelligence and character such that the person will not be a danger to life and property.

(b) A certificate of competency shall be granted to an applicant who has at least six (6) months experience underground in coal mines, subject to subsection (f).

(c) The director's record shall include the names of applicants for certificates and the names of persons to whom certificates are issued, correlated with the certificate numbers.

(d) An applicant for a certificate must pay the director at the time of application a fee of five dollars ($5). All money received under this subsection shall be deposited in the mine safety fund established by IC 22-10-12-16. The board may set a different fee by rule under IC 22-10-1.5-4.

(e) The board shall report to the director the names of all persons issued certificates, the amount of money received, the names of all persons refused certificates, and the reasons for the refusals, and such reports shall be open for inspection by interested persons.

(f) If a person has been convicted of a felony under 30 U.S.C. 820 and fewer than five (5) years have elapsed from the person's date of discharge from probation, imprisonment, or parole, the person may not:

(1) obtain a certificate of competency;

(2) be employed to work with a person who does possess a certificate; or

(3) obtain a permit to work toward a certificate of competency;

under subsection (a).

(Formerly: Acts 1955, c.168, s.27; Acts 1971, P.L.358, SEC.7; Acts 1973, P.L.242, SEC.2.) As amended by Acts 1979, P.L.231, SEC.7; Acts 1981, P.L.210, SEC.3; P.L.37-1985, SEC.51; P.L.165-1997, SEC.2; P.L.35-2007, SEC.18.

IC 22-10-3-14
Supervision of mines

Sec. 14. A mine shall be supervised by one (1) or more certified mine foremen who shall see that compliance with mining laws that pertain to the commercial mine's duties and to the health and safety

of the employees is met. When the mine workings are so extensive that the mine foremen are unable personally to carry out the duties required of them by law, the operator shall employ a sufficient number of properly certified assistants who shall act under the direction of the mine foremen. The mine foremen or their assistants shall not permit a person to work in an unsafe place except for the purpose of making it safe, and such work shall be under the direction and instruction of a certified official.
(Formerly: Acts 1955, c.168, s.28.) As amended by P.L.231-1983, SEC.10; P.L.35-2007, SEC.19.

IC 22-10-3-15
Copies of forms; accidents; reports; operator of mine; duties

Sec. 15. (a) The operator of a mine shall submit to the director a copy of the Mine Safety Administration Form 7000-2 when the operator files the form with the Mine Safety Administration.

(b) The operator of a mine shall notify the director immediately when an:

(1) accident occurs which prohibits the normal operation of the mine for one (1) or more shifts, or for the remainder of the shift during which the accident occurred; and

(2) injury has been reported to the Mine Safety Administration.

(c) It shall be the duty of the operator of any mine to operate such mine in full conformity with the coal mining laws of this state.
(Formerly: Acts 1955, c.168, s.29.) As amended by P.L.35-2007, SEC.20.

IC 22-10-4
Repealed

(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-5
Repealed

(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-6
Repealed

(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-7
Repealed

(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-8
Repealed

(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-9
Repealed

(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-10
Repealed

(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-11
Repealed

(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-12
Chapter 12. Safety Equipment and Safeguards

IC 22-10-12-1
Repealed
(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-12-2
Repealed
(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-12-3
Repealed
(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-12-4
Repealed
(Repealed by P.L.165-1997, SEC.12.)

IC 22-10-12-5
Repealed
(Repealed by P.L.165-1997, SEC.12.)

IC 22-10-12-6
Repealed
(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-12-7
Repealed
(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-12-8
Repealed
(Repealed by Acts 1978, P.L.2, SEC.2251.)

IC 22-10-12-9
Repealed
(Repealed by Acts 1978, P.L.2, SEC.2251.)

IC 22-10-12-10
Mine rescue team equipment
Sec. 10. The bureau of mines and mine safety shall acquire and maintain at all times the breathing apparatuses, universal testers, booster pumps, and related equipment required to equip two (2) complete rescue teams. This mine rescue equipment shall be housed under the direction of the bureau.
As added by P.L.232-1983, SEC.1. Amended by P.L.37-1985, SEC.52.

IC 22-10-12-11

Mine rescue team; training; compensation

Sec. 11. (a) The bureau of mines and mine safety shall maintain either one (1) or two (2) mine rescue teams. Each team must consist of at least five (5) members and two (2) alternate members. At the discretion of the commissioner of labor, the requirement to maintain either one (1) or two (2) mine rescue teams may be met by using an operator to provide the team members, equipment, and supplies necessary for not more than one (1) team. The board shall:

(1) require active underground mines to provide personnel for the mine rescue teams; and

(2) consult with operators to determine the number of personnel that each operator of an active underground mine is required to furnish for the mine rescue teams.

The director, in consultation with the board, shall determine the training and retraining requirements for the mine rescue teams, consistent with Mine Safety Administration requirements.

(b) When practical, members of a mine rescue team shall be made up of supervisory and nonsupervisory employees.

(c) A member of a mine rescue team shall be fully compensated by the owner or operator for wages lost and expenses incurred while being trained under this section if the employee elects to be compensated.

(d) Compensation for damages arising from the injury or death of a member of a mine rescue team while performing rescue operations shall be limited to the rights and remedies provided by the injured person's employer. However, the employer of the injured or fatally injured mine rescue team member is entitled to reimbursement from the operator whose mine is the subject of the rescue attempt for the actual cost to the employer that is attributable to the injury or death.

(e) The operator of the mine that is the subject of the rescue attempt shall reimburse the bureau for the actual cost of a mine rescue operation, including compensation for all mine rescue team members.

As added by P.L.232-1983, SEC.2. Amended by P.L.37-1985, SEC.53; P.L.243-1987, SEC.13; P.L.215-1989, SEC.6; P.L.1-1990, SEC.239; P.L.35-2007, SEC.21.

IC 22-10-12-12

Mine disaster rescue operations

Sec. 12. In the event of an underground mine disaster affecting mine personnel, the director of the bureau of mines and mine safety shall:

(1) report immediately to the mine;

(2) cooperate with the Mine Safety Administration; and

(3) assist the rescue operations.

As added by P.L.232-1983, SEC.3. Amended by P.L.37-1985, SEC.54; P.L.35-2007, SEC.22.

IC 22-10-12-13

Annual statistical report; list of rescue teams

Sec. 13. The director of the bureau of mines and mine safety shall provide an annual statistical report including a list of all trained mine rescue teams. The report shall be sent to all mines that have mine rescue teams.

As added by P.L.232-1983, SEC.4. Amended by P.L.37-1985, SEC.55.

IC 22-10-12-14

Application of certain sections to surface coal mines

Sec. 14. Sections 10, 11, 12, and 13 of this chapter apply to any surface coal mine at the request of the mine owner or operator.

As added by P.L.232-1983, SEC.5.

IC 22-10-12-15

Repealed

(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-12-16

Mine safety fund; establishment; administration

Sec. 16. (a) The mine safety fund is established to provide funding for the purchase and maintenance of underground mine rescue equipment.

(b) The department of labor shall administer the fund.

(c) The fund consists of:

(1) assessments collected by the mining board under IC 22-10-1.5-5(a)(4) and deposited into the fund;

(2) fees:

(A) from examinations under IC 22-10-3-10(h);

(B) for duplicate certificates under IC 22-10-3-11(a); and

(C) from applicants for a certificate under IC 22-10-3-13(d); and

(3) interest from investments as accrued and deposited under subsection (d).

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accumulates from these investments shall be deposited into the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.187-2003, SEC.3. Amended by P.L.35-2007, SEC.23; P.L.10-2012, SEC.6.

IC 22-10-13
Repealed

(Repealed by Acts 1978, P.L.2, SEC.2251.)

IC 22-10-13.1
Repealed

(Repealed by P.L.35-2007, SEC.26.)

IC 22-10-14
Repealed

(Repealed by P.L.1-1992, SEC.111.)

IC 22-10-15

Chapter 15. Alcohol Use and Illegal Use of Drugs

IC 22-10-15-1

"Chemical test"

Sec. 1. As used in this chapter, "chemical test" has the meaning set forth in IC 9-13-2-22.

As added by P.L.35-2007, SEC.24.

IC 22-10-15-2

"Illegal use of drugs"

Sec. 2. As used in this chapter, "illegal use of drugs" has the meaning set forth in IC 22-9-5-12.

As added by P.L.35-2007, SEC.24.

IC 22-10-15-3

"SAMHSA"

Sec. 3. As used in this chapter, "SAMHSA" means the United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration.

As added by P.L.35-2007, SEC.24.

IC 22-10-15-4

Drug and alcohol testing of mine employee

Sec. 4. Notwithstanding IC 22-9-5-24, an operator or a representative of the operator may test a mine employee on the grounds of the mine or off premises at a medical facility:

(1) to determine the illegal use of drugs by the mine employee; or

(2) to determine whether the mine employee has an alcohol concentration equivalent to at least four-hundredths (0.04) grams alcohol per:

(A) one hundred (100) milliliters of the mine employee's blood; or

(B) two hundred ten (210) liters of the mine employee's breath.

As added by P.L.35-2007, SEC.24.

IC 22-10-15-5

Conducting test

Sec. 5. The operator or a representative of the operator may conduct or cause to be conducted the test under section 4 of this chapter:

(1) when there is probable cause to conduct the test with an employee; or

(2) on a random basis among the mine employees.

As added by P.L.35-2007, SEC.24.

IC 22-10-15-6

Legally approved testing technique; standards; certified test

results

Sec. 6. (a) Alcohol or drug testing results, or both, may be obtained by a chemical test that at the date of the testing is a legally approved testing technique.

(b) An alcohol or a drug test must be conducted in accordance with standards, procedures, and protocols set forth by SAMHSA.

(c) Testing must be performed by a laboratory certified in accordance with the National Laboratory Certification Program under SAMHSA.

(d) Test results shall be certified by a medical review officer who has the ability and training necessary to verify test results.

As added by P.L.35-2007, SEC.24.

IC 22-11

ARTICLE 11. BUILDING AND SAFETY REGULATIONS

IC 22-11-1

Repealed

(Repealed by P.L.245-1987, SEC.22.)

IC 22-11-2
Repealed

(Repealed by Acts 1971, P.L.360, SEC.10.)

IC 22-11-3
Repealed

(Repealed by Acts 1978, P.L.2, SEC.2251.)

IC 22-11-3.1

Chapter 3.1. Licensing of Contractors in Lake and Porter Counties

IC 22-11-3.1-1

"Contractor" defined

Sec. 1. As used in this chapter, "contractor" means any person, except a licensed architect or registered professional engineer, who in any capacity other than as the employee of another for wages as the sole compensation, undertakes to construct, alter, repair, move, wreck, or demolish any structure. The term includes a subcontractor or specialty contractor, but does not include a person who furnishes materials or supplies.

As added by Acts 1981, P.L.11, SEC.127.

IC 22-11-3.1-2

Bond requirement; filing

Sec. 2. (a) A contractor doing work, other than work for a political subdivision, in a county having a population of:

(1) more than four hundred thousand (400,000), but less than seven hundred thousand (700,000); or

(2) more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000);

must obtain a unified license bond as provided in this chapter. This unified license bond is in lieu of any other bond for this type of work required by the county or a city or town within that county, and the bond must be in an amount equal to five thousand dollars ($5,000).

(b) The unified license bond shall be held for compliance with the ordinances and regulations governing business in the county, or a city or town within that county. The unified license bond required by this chapter shall be filed with the county recorder.

As added by Acts 1981, P.L.11, SEC.127. Amended by Acts 1982, P.L.1, SEC.52; P.L.12-1992, SEC.121; P.L.170-2002, SEC.127; P.L.119-2012, SEC.157.

IC 22-11-3.1-3

License to do business not prohibited; fees; limits

Sec. 3. This chapter does not prohibit a county having a unified license bond, or a city or town within that county, from requiring licenses to do business in that county, city or town. However, the initial license fee charged by a county, or a city or town within that county, may not exceed one hundred dollars ($100) and the license renewal fee may not exceed fifty dollars ($50).

As added by Acts 1981, P.L.11, SEC.127.

IC 22-11-3.1-4

Duration of license; annual renewal fee not prohibited

Sec. 4. A license issued by a county having a unified license bond or a city or town within that county is valid until the contractor to whom the license was issued fails to perform any work under that

license for a period of five (5) years, in which case the license expires. This section does not prohibit a county, or a city or town within that county, having a unified license bond from requiring an annual renewal fee in accordance with section 3 of this chapter.
As added by Acts 1981, P.L.11, SEC.127.

IC 22-11-3.1-5
Expiration of license; reapplication

Sec. 5. If a contractor who is issued a license in a county having a unified license bond allows his license to expire, he may be required by the county, or a city or town within that county, which issued the license to reapply for a new license.
As added by Acts 1981, P.L.11, SEC.127.

IC 22-11-3.1-6
Holders of valid licenses; reapplication not required; chapter applicable

Sec. 6. A contractor who on January 1, 1980, had a valid license issued by a county, or a city or town within that county, is not required to reapply for a license, but all other provisions of this chapter are applicable to that contractor.
As added by Acts 1981, P.L.11, SEC.127.

IC 22-11-4
Repealed

(Repealed by Acts 1971, P.L.356, SEC.2.)

IC 22-11-5
Repealed

(Repealed by P.L.245-1987, SEC.22.)

IC 22-11-6
Repealed

(Repealed by Acts 1973, P.L.243, SEC.17.)

IC 22-11-7
Repealed

(Repealed by P.L.245-1987, SEC.22.)

IC 22-11-8
Repealed

(Repealed by P.L.8-1984, SEC.136.)

IC 22-11-9
Repealed

(Repealed by Acts 1972, P.L.177, SEC.3.)

IC 22-11-9.5
Repealed

(Repealed by P.L.245-1987, SEC.22.)

IC 22-11-10
Repealed

(Repealed by P.L.245-1987, SEC.22.)

IC 22-11-11
Repealed

(Repealed by P.L.245-1987, SEC.22.)

IC 22-11-12
Repealed

(Repealed by P.L.245-1987, SEC.22.)

IC 22-11-13
Repealed

(Repealed by P.L.245-1987, SEC.22.)

IC 22-11-14

Chapter 14. Regulation of Fireworks by Fire Marshal

IC 22-11-14-1

Definitions

Sec. 1. As used in this chapter and IC 22-11-14.5:

"Auto burglar alarm" means a tube that contains pyrotechnic composition that produces a loud whistle or smoke when ignited. A small quantity of explosive, not exceeding fifty (50) milligrams, may also be used to produce a small report. A squib is used to ignite the device.

"Booby trap" means a small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

"Chaser" means a device, containing fifty (50) milligrams or less of explosive composition, that consists of a small paper or cardboard tube that travels along the ground upon ignition. A whistling effect is often produced, and a small noise may be produced.

"Cigarette load" means a small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one (1) of the pegs, a small report is produced.

"Consumer firework" means a small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred thirty (130) milligrams or less of explosive composition. Propelling or expelling charges consisting of a mixture of charcoal, sulfur, and potassium nitrate are not considered as designed to produce an audible effect. Consumer fireworks:

(1) include:

(A) aerial devices, which include sky rockets, missile type rockets, helicopter or aerial spinners, roman candles, mines, and shells;

(B) ground audible devices, which include firecrackers, salutes, and chasers; and

(C) firework devices containing combinations of the effects described in clauses (A) and (B); and

(2) do not include the items referenced in section 8(a) of this chapter.

"Cone fountain" means a cardboard or heavy paper cone which contains up to fifty (50) grams of pyrotechnic composition, and which produces the same effect as a cylindrical fountain.

"Cylindrical fountain" means a cylindrical tube not exceeding three-quarters (3/4) inch in inside diameter and containing up to seventy-five (75) grams of pyrotechnic composition. Fountains

produce a shower of color and sparks upon ignition, and sometimes a whistling effect. Cylindrical fountains may contain a spike to be inserted in the ground (spike fountain), a wooden or plastic base to be placed on the ground (base fountain), or a wooden handle or cardboard handle for items designed to be hand held (handle fountain).

"Dipped stick" or "wire sparkler" means a stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition does not exceed one hundred (100) grams per item. Those devices containing chlorate or perchlorate salts do not exceed five (5) grams in total composition per item. Wire sparklers that contain no magnesium and that contain less than one hundred (100) grams of composition per item are not included in the category of consumer fireworks.

"Distributor" means a person who sells fireworks to wholesalers and retailers for resale.

"Explosive composition" means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited.

"Firecracker" or "salute" is a device that consists of a small paper wrapped or cardboard tube containing not more than fifty (50) milligrams of pyrotechnic composition and that produces, upon ignition, noise, accompanied by a flash of light.

"Firework" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, items referenced in section 8(a) of this chapter, and special fireworks. The following items are excluded from the definition of fireworks:

(1) Model rockets.

(2) Toy pistol caps.

(3) Emergency signal flares.

(4) Matches.

(5) Fixed ammunition for firearms.

(6) Ammunition components intended for use in firearms, muzzle loading cannons, or small arms.

(7) Shells, cartridges, and primers for use in firearms, muzzle loading cannons, or small arms.

(8) Indoor pyrotechnics special effects material.

(9) M-80s, cherry bombs, silver salutes, and any device banned by the federal government.

"Flitter sparkler" means a narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. These devices do not use a fuse for ignition, but rather are ignited by igniting the paper at one (1) end of the tube.

"Ground spinner" means a small spinning device that is similar to wheels in design and effect when placed on the ground and ignited, and that produces a shower of sparks and color when spinning.

"Helicopter" or "aerial spinner" is a spinning device:

(1) that consists of a tube up to one-half (1/2) inch in inside

diameter and that contains up to twenty (20) grams of pyrotechnic composition;

(2) to which some type of propeller or blade device is attached; and

(3) that lifts into the air upon ignition, producing a visible or audible effect at the height of flight.

"Illuminating torch" means a cylindrical tube that:

(1) contains up to one hundred (100) grams of pyrotechnic composition;

(2) produces, upon ignition, a colored fire; and

(3) is either a spike, base, or handle type device.

"Importer" means:

(1) a person who imports fireworks from a foreign country; or

(2) a person who brings or causes fireworks to be brought within this state for subsequent sale.

"Indoor pyrotechnics special effects material" means a chemical material that is clearly labeled by the manufacturer as suitable for indoor use (as provided in National Fire Protection Association Standard 1126 (2001 edition)).

"Interstate wholesaler" means a person who is engaged in interstate commerce selling fireworks.

"Manufacturer" means a person engaged in the manufacture of fireworks.

"Mine" or "shell" means a device that:

(1) consists of a heavy cardboard or paper tube up to two and one-half (2 1/2) inches in inside diameter, to which a wooden or plastic base is attached;

(2) contains up to forty (40) grams of pyrotechnic composition; and

(3) propels, upon ignition, stars (pellets of pressed pyrotechnic composition that burn with bright color), whistles, parachutes, or combinations thereof, with the tube remaining on the ground.

"Missile-type rocket" means a device that is similar to a sky rocket in size, composition, and effect, and that uses fins rather than a stick for guidance and stability.

"Municipality" has the meaning set forth in IC 36-1-2-11.

"Party popper" means a small plastic or paper item containing not more than sixteen (16) milligrams of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

"Person" means an individual, an association, an organization, a limited liability company, or a corporation.

"Pyrotechnic composition" means a mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. Pyrotechnic compositions will not explode upon ignition unless severely confined.

"Responding fire department" means the paid fire department or volunteer fire department that renders fire protection services to a political subdivision.

"Retail sales stand" means a temporary business site or location

where goods are to be sold.

"Retailer" means a person who purchases fireworks for resale to consumers.

"Roman candle" means a device that consists of a heavy paper or cardboard tube not exceeding three-eighths (3/8) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition. Upon ignition, up to ten (10) stars (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several second intervals.

"Sky rocket" means a device that:

(1) consists of a tube that contains pyrotechnic composition;

(2) contains a stick for guidance and stability; and

(3) rises into the air upon ignition, producing a burst of color or noise at the height of flight.

"Smoke device" means a tube or sphere containing pyrotechnic composition that produces white or colored smoke upon ignition as the primary effect.

"Snake" or "glow worm" means a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices do not contain mercuric thiocyanate.

"Snapper" means a small, paper wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes, producing a small report.

"Special discharge location" means a location designated for the discharge of consumer fireworks by individuals in accordance with rules adopted under section 3.5 of this chapter.

"Special fireworks" means fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, including firecrackers containing more than one hundred thirty (130) milligrams of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic composition, and other exhibition display items that exceed the limits for classification as consumer fireworks.

"Trick match" means a kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match, a small report or a shower of sparks is produced.

"Trick noisemaker" means an item that produces a small report intended to surprise the user.

"Wheel" means a pyrotechnic device that:

(1) is attached to a post or tree by means of a nail or string;

(2) contains up to six (6) driver units (tubes not exceeding one-half (1/2) inch in inside diameter) containing up to sixty (60) grams of composition per driver unit; and

(3) revolves, upon ignition, producing a shower of color and sparks and sometimes a whistling effect.

"Wholesaler" means a person who purchases fireworks for resale to retailers.

(Formerly: Acts 1939, c.154, s.1; Acts 1947, c.366, s.1; Acts 1959,

c.290, s.1; Acts 1975, P.L.259, SEC.1.) As amended by P.L.236-1983, SEC.1; P.L.229-1985, SEC.1; P.L.8-1993, SEC.296; P.L.168-1996, SEC.1; P.L.25-2004, SEC.1; P.L.187-2006, SEC.1; P.L.177-2007, SEC.1.

IC 22-11-14-2
Public displays; permits; fees; qualified operations; denial of permit; violations

Sec. 2. (a) The fire prevention and building safety commission shall:

(1) adopt rules under IC 4-22-2 for the granting of permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals; and

(2) establish by rule the fee for the permit, which shall be paid into the fire and building services fund created under IC 22-12-6-1.

(b) The application for a permit required under subsection (a) must:

(1) name a competent operator who is to officiate at the display;

(2) set forth a brief resume of the operator's experience;

(3) be made in writing; and

(4) be received with the applicable fee by the division of fire and building safety at least five (5) business days before the display.

No operator who has a prior conviction for violating this chapter may operate any display for one (1) year after the conviction.

(c) Every display shall be handled by a qualified operator approved by the chief of the fire department of the municipality in which the display is to be held. A display shall be located, discharged, or fired as, in the opinion of:

(1) the chief of the fire department of the city or town in which the display is to be held; or

(2) the township fire chief or the fire chief of the municipality nearest the site proposed, in the case of a display to be held outside of the corporate limits of any city or town;

after proper inspection, is not hazardous to property or person.

(d) A permit granted under this section is not transferable.

(e) A denial of a permit by a municipality shall be issued in writing before the date of the display.

(f) A person may not possess, transport, or deliver special fireworks, except as authorized under this section.

(Formerly: Acts 1939, c.154, s.2; Acts 1951, c.251, s.1; Acts 1972, P.L.178, SEC.1; Acts 1975, P.L.259, SEC.2.) As amended by Acts 1978, P.L.2, SEC.2249; P.L.229-1985, SEC.2; P.L.3-1990, SEC.78; P.L.2-1995, SEC.86; P.L.168-1996, SEC.2; P.L.25-2004, SEC.2; P.L.1-2006, SEC.346; P.L.187-2006, SEC.2.

IC 22-11-14-3
Public displays; certificate of insurance; violations

Sec. 3. (a) The governing body of the municipality shall require a certificate of insurance conditioned for the payment of all damages which may be caused either to a person or persons in an amount of not less than ten thousand dollars ($10,000) and to property in an amount of not less than ten thousand dollars ($10,000), by reason of the licensed display, and arising from any acts of the licensee, his agents, employees, or subcontractors. However, the governing body of the municipality may in its discretion require additional amounts of insurance coverage not to exceed one hundred thousand dollars ($100,000) for damages caused to a person or persons, or one hundred thousand dollars ($100,000) for damage to property.

(b) A person who fails to obtain a certificate of insurance required under subsection (a) commits a Class A misdemeanor.

(Formerly: Acts 1939, c.154, s.3; Acts 1975, P.L.259, SEC.3.) As amended by P.L.236-1983, SEC.2.

IC 22-11-14-3.5

Special discharge locations; permission to sponsor granted from chief of municipal or township fire department

Sec. 3.5. The fire prevention and building safety commission may adopt rules under IC 4-22-2 that specify the conditions under which the chief of a municipal or township fire department may grant a permit to a person to sponsor a special discharge location in the municipality or township.

As added by P.L.187-2006, SEC.3.

IC 22-11-14-4

Wholesale sales; consumer fireworks usage; signal or ceremonial purposes; pyrotechnics special effects material

Sec. 4. (a) Nothing in this chapter shall be construed to prohibit:

(1) any resident wholesaler, manufacturer, importer, or distributor from selling:

(A) at wholesale fireworks not prohibited by this chapter; or

(B) consumer fireworks if they are to be used:

(i) on the property of the purchaser;

(ii) on the property of another who has given permission to use the consumer fireworks; or

(iii) at a special discharge location as set forth in section 3.5 of this chapter;

(2) the use of fireworks by railroads or other transportation agencies for signal purposes or illumination;

(3) the sale or use of blank cartridges for:

(A) a show or theater;

(B) signal or ceremonial purposes in athletics or sports; or

(C) use by military organizations;

(4) the intrastate sale of fireworks not approved for sale in Indiana between interstate wholesalers;

(5) the possession, sale, or disposal of fireworks, incidental to the public display of Class B fireworks, by wholesalers or other persons who possess a permit to possess, store, and sell Class

B explosives from the Bureau of Alcohol, Tobacco, Firearms and Explosives of the United States Department of Justice; or

(6) the use of indoor pyrotechnics special effects material before an indoor or outdoor proximate audience.

(b) For the purposes of this section, a resident wholesaler, importer, or distributor, is a person who:

(1) is a resident of Indiana;

(2) possesses for storage or resale fireworks approved or not approved for sale in Indiana;

(3) is engaged in the interstate sale of fireworks described in subdivision (2) as an essential part of a business that is located in a permanent structure and is open at least six (6) months each year; and

(4) has possession of a certificate of compliance issued by the state fire marshal under section 5 of this chapter.

(Formerly: Acts 1939, c.154, s.4.) As amended by P.L.229-1985, SEC.3; P.L.168-1996, SEC.3; P.L.1-2006, SEC.347; P.L.187-2006, SEC.4.

IC 22-11-14-4.5

Sale of consumer fireworks

Sec. 4.5. (a) A retailer may sell consumer fireworks and items referenced in section 8(a) of this chapter from a tent under the following conditions:

(1) The tent may not be larger than one thousand five hundred (1,500) square feet.

(2) There may be only one (1) tent for each registration granted under section 11(a) of this chapter.

(3) The tent may not be located closer than one hundred (100) feet from a permanent structure.

(4) A vehicle may not be parked closer than twenty (20) feet from the edge of the tent.

(5) The tent must be fire retardant.

(6) The sales site must comply with all applicable local zoning and land use rules.

(7) Sales of fireworks may be made from the tent for not more than forty-five (45) days in a year.

(8) The weight of consumer fireworks in a tent may not exceed three thousand (3,000) gross pounds of consumer fireworks.

(9) A retailer that legally operated a tent with a registration in 2005 may continue operation in a tent in 2006 and the following years. A registration under section 11(a) of this chapter is required for operation in 2006 and following years. For purposes of this subdivision, a retailer includes a resident wholesaler who supplied consumer fireworks to an applicant for a tent registration in 2005.

(10) The retailer holds a valid registration under section 11(a) of this chapter.

(b) A retailer may sell consumer fireworks and items referenced in section 8(a) of this chapter from a Class 1 structure (as defined in

IC 22-12-1-4) if the Class 1 structure meets the requirements of any of the following subdivisions:

(1) The structure complied with the rules for a B-2 or M building occupancy classification before July 4, 2003, under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1:

(A) in which consumer fireworks were sold or stored on or before July 4, 2003; and

(B) in which no subsequent intervening nonfireworks sales or storage use has occurred.

(2) The structure complied with the rules for a B-2 or M building occupancy classification before July 4, 2003, under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1;

(A) in which consumer fireworks were sold or stored on or before July 4, 2003;

(B) in a location at which the retailer was registered as a resident wholesaler in 2005; and

(C) in which the retailer's primary business is not the sale of consumer fireworks.

(3) The structure complies with the rules for an H-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1, or the equivalent occupancy classification adopted by subsequent rules of the fire prevention and building safety commission.

(4) The structure complies with the rules adopted after July 3, 2003, by the fire prevention and building safety commission established under IC 22-12-2-1 for an M building occupancy classification under the Indiana building code.

A registration under section 11(a) of this chapter is required for operation in 2006 and following years.

(c) This subsection does not apply to a structure identified in subsection (b)(1), (b)(2), (b)(3), or (b)(4). A retailer may sell consumer fireworks and items referenced in section 8(a) of this chapter from a structure under the following conditions:

(1) The structure must be a Class 1 structure in which consumer fireworks are sold and stored.

(2) The sales site must comply with all applicable local zoning and land use rules.

(3) The weight of consumer fireworks in the structure may not exceed three thousand (3,000) gross pounds of consumer fireworks.

(4) The retailer holds a valid registration under section 11(a) of this chapter.

(5) A retailer that sold consumer fireworks and operated from a structure with a registration in 2005 may continue in operation in the structure in 2006 and the following years. A registration under section 11(a) of this chapter is required for operation in 2006 and following years.

(d) The state fire marshal or a member of the division of fire and building safety staff shall, under section 9 of this chapter, inspect tents and structures in which fireworks are sold. The state fire marshal may delegate this responsibility to a responding fire department with jurisdiction over the tent or structure, subject to the policies and procedures of the state fire marshal.

(e) A retailer shall file an application for each retail location on a form to be provided by the state fire marshal.

(f) This chapter does not limit the quantity of items referenced in section 8(a) of this chapter that may be sold from any Class 1 structure that complied with the rules of the fire prevention and building safety commission in effect before May 21, 2003.

As added by P.L.187-2006, SEC.5.

IC 22-11-14-5

Violations; removal of stocks; restrictions on shipments and sales; certificate of compliance

Sec. 5. (a) The state fire marshal shall remove at the expense of the owner, all stocks of fireworks or combustibles possessed, transported, or delivered in violation of this chapter.

(b) The state fire marshal shall stop the shipments and sale of fireworks, novelties, and trick noisemakers unless, prior to shipment into this state for sale, the manufacturer, wholesaler, importer, or distributor of the fireworks, novelties, and trick noisemakers submits to the state fire marshal:

(1) a complete description of each item proposed to be shipped into Indiana;

(2) a written certification that the items are manufactured in accordance with section 1 of this chapter; and

(3) an annual registration fee of one thousand dollars ($1,000). The registration fee shall be collected by the state fire marshal and deposited in the fire and building services fund as set forth in IC 22-12-6-1(c).

A manufacturer, wholesaler, importer, or distributor of fireworks, novelties, and trick noisemakers must submit a list to the state fire marshal on or before June 1 of each year. The list shall contain the name and address of each retail location of each of the customers of the manufacturer, wholesaler, importer, or distributor at which items referenced in section 8(a) of this chapter will be sold. If upon inspection the state fire marshal finds that this chapter has been complied with, an annual certificate of compliance shall be issued to the manufacturer, wholesaler, importer, or distributor. An annual certificate of compliance may not be applied for after June 15 of a year and expires December 31 of the year in which the certificate is issued. Each manufacturer, wholesaler, importer, or distributor must obtain a certificate of compliance. The certificate is not transferable except to a subsequent owner or operator of a business at the same location in accordance with the policies and guidelines of the state fire marshal. A certified copy of the certificate of compliance must be posted in each location where the items are offered for sale to the

public. If upon inspection the state fire marshal finds that this chapter has not been complied with, the state fire marshal shall refuse to issue a certificate of compliance and state the reasons for the refusal. A copy of the order denying the issuance of a certificate of compliance and the reasons shall be forwarded to the manufacturer, wholesaler, importer, or distributor. The state fire marshal may revoke any certificate of compliance issued to any manufacturer, wholesaler, importer, or distributor if the holder of the certificate has violated this chapter.

(c) All fireworks, novelties, and trick noisemakers shipped into Indiana, or manufactured and sold in Indiana, must have distinctly and durably painted, stamped, printed, or marked on the package, box, or container in which the items are enclosed the exact number of pieces in the container.

(d) It is unlawful for a manufacturer, wholesaler, importer, or distributor to sell at wholesale, offer to sell at wholesale, or ship or cause to be shipped into Indiana fireworks, novelties, or trick noisemakers unless the manufacturer, wholesaler, importer, or distributor has been issued and holds a valid certificate of compliance issued under subsection (b). This subsection applies to nonresidents and residents of Indiana.

(Formerly: Acts 1939, c.154, s.5; Acts 1959, c.290, s.2; Acts 1975, P.L.259, SEC.4.) As amended by Acts 1977, P.L.267, SEC.1; P.L.236-1983, SEC.3; P.L.222-1989, SEC.1; P.L.2-1995, SEC.87; P.L.187-2006, SEC.6.

IC 22-11-14-6 Version a

Violations; offenses; time and dates of allowable usage of consumer fireworks

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 6. (a) A person who recklessly, knowingly, or intentionally violates section 2(f), 4.5, 5(c), 5(d), 7, 8(a), 8(c), 8(d), 10, or 11(c) of this chapter commits a Class A misdemeanor.

(b) A person who ignites, discharges, or uses consumer fireworks at a site other than:

(1) a special discharge location;

(2) the property of the person; or

(3) the property of another who has given permission to use the consumer fireworks;

commits a Class C infraction. However, if a person recklessly, knowingly, or intentionally takes an action described in this subsection within five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(c) A person less than eighteen (18) years of age who possesses or uses a firework when an adult is not present and responsible at the location of the possession or use commits a Class C infraction. However, if a person possesses or uses a firework when an adult is

not present and responsible at the location of the possession or use within five (5) years after a previous possession or use by the person as described in this subsection, whether or not there has been a judgment that the person committed an infraction in the previous possession or use, the person commits a delinquent act under IC 31-37.

(d) A person who ignites, discharges, or uses consumer fireworks:

(1) after 11 p.m. except on a holiday (as defined in IC 1-1-9-1(a)) or December 31, on which dates consumer fireworks may not be ignited, discharged, or used after midnight; or

(2) before 9 a.m.;

commits a Class C infraction. However, if a person recklessly, knowingly, or intentionally takes an action described in this subsection within five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(e) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation causes harm to the property of a person commits a Class A misdemeanor.

(f) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in serious bodily injury to a person commits a Class D felony.

(g) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in the death of a person commits a Class C felony.

(h) A person who knowingly or intentionally fails to collect or remit to the state the public safety fees due under section 12 of this chapter commits a Class D felony.

(Formerly: Acts 1939, c.154, s.6; Acts 1972, P.L.178, SEC.2.) As amended by Acts 1978, P.L.2, SEC.2250; P.L.236-1983, SEC.4; P.L.229-1985, SEC.4; P.L.187-2006, SEC.7.

IC 22-11-14-6 Version b

Violations; offenses; time and dates of allowable usage of consumer fireworks

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 6. (a) A person who recklessly, knowingly, or intentionally violates section 2(f), 4.5, 5(c), 5(d), 7, 8(a), 8(c), 8(d), 10, or 11(c) of this chapter commits a Class A misdemeanor.

(b) A person who ignites, discharges, or uses consumer fireworks at a site other than:

(1) a special discharge location;

(2) the property of the person; or

(3) the property of another who has given permission to use the consumer fireworks;

commits a Class C infraction. However, if a person recklessly, knowingly, or intentionally takes an action described in this

subsection within five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(c) A person less than eighteen (18) years of age who possesses or uses a firework when an adult is not present and responsible at the location of the possession or use commits a Class C infraction. However, if a person possesses or uses a firework when an adult is not present and responsible at the location of the possession or use within five (5) years after a previous possession or use by the person as described in this subsection, whether or not there has been a judgment that the person committed an infraction in the previous possession or use, the person commits a delinquent act under IC 31-37.

(d) A person who ignites, discharges, or uses consumer fireworks:

(1) after 11 p.m. except on a holiday (as defined in IC 1-1-9-1(a)) or December 31, on which dates consumer fireworks may not be ignited, discharged, or used after midnight; or

(2) before 9 a.m.;

commits a Class C infraction. However, if a person recklessly, knowingly, or intentionally takes an action described in this subsection within five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(e) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation causes harm to the property of a person commits a Class A misdemeanor.

(f) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in serious bodily injury to a person commits a Level 6 felony.

(g) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in the death of a person commits a Level 5 felony.

(h) A person who knowingly or intentionally fails to collect or remit to the state the public safety fees due under section 12 of this chapter commits a Level 6 felony.

(Formerly: Acts 1939, c.154, s.6; Acts 1972, P.L.178, SEC.2.) As amended by Acts 1978, P.L.2, SEC.2250; P.L.236-1983, SEC.4; P.L.229-1985, SEC.4; P.L.187-2006, SEC.7; P.L.158-2013, SEC.255.

IC 22-11-14-7

Fireworks stand retail sales permit; requirements

Sec. 7. (a) A retailer selling items referenced in section 8(a) of this chapter at one (1) or more temporary stands must obtain a fireworks stand retail sales permit, referred to in this section as a "permit", from the state fire marshal.

(b) An application for a permit must be made before June 1 of

each year and must require that at least the following information be supplied by the retailer:

(1) The retailer's retail merchant certificate number or proof of application for a certificate number.

(2) The location of each retail sales stand.

The state fire marshal shall, within seven (7) days after the receipt of an application for a permit, either issue the permit or notify the applicant of the denial of the permit.

(c) The retailer must pay to the state fire marshal an annual permit fee set under IC 22-12-6-8. If the state fire marshal approves an application for a permit, the state fire marshal shall issue a permit to the retailer. The permit expires one (1) year after the date of issuance.

(d) The permit shall be posted by the retailer at the retail sales stand so that it is easily seen by the public. However, the state fire marshal's issuance of a permit does not constitute approval of the fireworks offered for sale by the retailer. The retailer is responsible for determining that all fireworks which the retailer offers for sale conform to applicable law.

(e) At each retail sales stand, the retailer shall provide:

(1) a posted certificate of compliance, including a descriptive list of approved fireworks; and

(2) a salesperson who is at least sixteen (16) years of age.

(f) Fireworks may not be sold at retail from a motor vehicle (as defined in IC 9-13-2-105).

(g) Fireworks, not including those referenced in section 8(a) of this chapter, may not be sold from or stored at a temporary stand.

As added by P.L.236-1983, SEC.5. Amended by P.L.179-1991, SEC.24; P.L.1-1992, SEC.112; P.L.187-2006, SEC.8.

IC 22-11-14-8

Sale of fireworks; sales to minors prohibited; administrative rules concerning sales of fireworks

Sec. 8. (a) A person shall not sell at retail, offer for sale at retail, or deliver the following items to a person less than eighteen (18) years of age:

(1) Dipped sticks or wire sparklers. However, total pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item.

(2) Cylindrical fountains.

(3) Cone fountains.

(4) Illuminating torches.

(5) Wheels.

(6) Ground spinners.

(7) Flitter sparklers.

(8) Snakes or glow worms.

(9) Smoke devices.

(10) Trick noisemakers, which include:

(A) Party poppers.

(B) Booby traps.
(C) Snappers.
(D) Trick matches.
(E) Cigarette loads.
(F) Auto burglar alarms.

(b) A retailer or wholesaler of consumer fireworks may sell consumer fireworks to a person at least eighteen (18) years of age.

(c) An individual who sells consumer fireworks must be at least eighteen (18) years of age.

(d) An individual who sells an item set forth in subsection (a) must be at least sixteen (16) years of age.

(e) The fire prevention and building safety commission may adopt rules under IC 4-22-2 establishing procedures to ensure compliance with the age limitations set forth in this section.

As added by P.L.236-1983, SEC.6. Amended by P.L.187-2006, SEC.9.

IC 22-11-14-9
Enforcement

Sec. 9. The state fire marshal is charged with the responsibility of enforcing this chapter.

As added by P.L.236-1983, SEC.7.

IC 22-11-14-10
Interstate wholesalers; sales of special fireworks

Sec. 10. Each interstate wholesaler shall keep a record of each sale of special fireworks. This record must include:

(1) the purchaser's name;
(2) the purchaser's address; and
(3) the date of the sale.

These records shall be kept for three (3) years and be available for inspection by the fire marshal.

As added by P.L.229-1985, SEC.5. Amended by P.L.187-2006, SEC.10.

IC 22-11-14-10.5
"Use" defined; adoption of ordinance by county or municipality concerning use of consumer fireworks

Sec. 10.5. (a) As used in this section, the term "use" means the ability of a county or municipality to regulate the days and hours when consumer fireworks may be used, ignited, or discharged.

(b) Notwithstanding any other provision of this chapter:

(1) a county may adopt an ordinance concerning the use of consumer fireworks in the unincorporated areas of the county; and
(2) a municipality may adopt an ordinance concerning the use of consumer fireworks within the corporate limits of the municipality.

(c) An ordinance adopted under this section:

(1) may limit the use of consumer fireworks in the county or

municipality;

(2) may not be more lenient than a rule adopted by a state agency concerning the use of fireworks; and

(3) may not limit the use of consumer fireworks:

(A) between the hours of 5:00 p.m. and two (2) hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, and July 9;

(B) between the hours of 10:00 a.m. and 12:00 midnight on July 4; and

(C) between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.

As added by P.L.177-2007, SEC.2.

IC 22-11-14-11

Sales of consumer fireworks by retailer; application; registration fees; certificate of compliance; transferability of certificate of compliance

Sec. 11. (a) A retailer may not sell consumer fireworks until the retailer has:

(1) filed the application required under section 4.5(e) of this chapter with the state fire marshal for each location from which the retailer proposes to sell the consumer fireworks, which must be filed on an annual basis; and

(2) paid an accompanying registration fee of:

(A) one thousand dollars ($1,000) for the first location if a fee under section 5(b)(3) of this chapter has not been paid;

(B) five hundred dollars ($500) for each additional sales location in a tent; and

(C) two hundred dollars ($200) for each additional sales location in a structure;

from which the retailer proposes to sell the consumer fireworks. Upon receipt of the completed application form, the accompanying fee, and, if required, the affidavit under subsection (b), the state fire marshal shall issue a certificate of compliance to the retailer for each sales location.

(b) A person seeking a certificate of compliance authorizing the sale of consumer fireworks at retail from a structure identified in section 4.5(b)(1), 4.5(b)(2), or 4.5(c) of this chapter, or from a tent under section 4.5(a) of this chapter shall submit with the application:

(1) an affidavit executed by a responsible party with personal knowledge, establishing that consumer fireworks were sold at retail or wholesale from a structure at the same location as of a date set forth in section 4.5(b)(1), 4.5(b)(2), or 4.5(c) of this chapter, or from a tent as of a date set forth under section 4.5(a)(9) of this chapter; and

(2) proof of sales of consumer fireworks from that location.

(c) A person may not sell consumer fireworks at retail if a certificate of compliance from the state fire marshal has not been issued for the location showing registration under subsection (a).

(d) A certificate of compliance issued to a retailer of consumer

fireworks is not transferable except to a subsequent owner or operator of a business at the same location in accordance with the policies and guidelines of the state fire marshal.
As added by P.L.187-2006, SEC.11.

IC 22-11-14-12
Public safety fee on retail sales of fireworks; obligation by purchaser for payment of fee; transfer of funds

Sec. 12. (a) A user fee, known as the public safety fee, is imposed on retail transactions made in Indiana of fireworks, in accordance with section 13 of this chapter.

(b) A person who acquires fireworks in a retail transaction is liable for the public safety fee on the transaction and, except as otherwise provided in this chapter, shall pay the public safety fee to the retailer as a separate added amount to the consideration in the transaction. The retailer shall collect the public safety fee as an agent for the state.

(c) The public safety fee shall be deposited in the state general fund. The auditor of state shall annually transfer the money received from the public safety fee as follows:

(1) Two million dollars ($2,000,000) shall be deposited in the regional public safety training fund established by IC 10-15-3-12.

(2) Any additional money received shall be deposited in the state disaster relief fund established by IC 10-14-4-5.

(d) The department of state revenue shall adopt rules under IC 4-22-2 necessary for the collection of the public safety fee money from retailers as described in subsections (b) and (c).
As added by P.L.187-2006, SEC.12. Amended by P.L.107-2007, SEC.12.

IC 22-11-14-13
Rate of public safety fee in a retail unitary transaction of fireworks

Sec. 13. (a) The public safety fee is measured by the gross retail income received by a retail merchant in a retail unitary transaction of fireworks and is imposed at the following rates:

PUBLIC SAFETY FEE	GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION		
$ 0		less than	$ 0.10
$ 0.01	at least $ 0.10	but less than	$ 0.30
$ 0.02	at least $ 0.30	but less than	$ 0.50
$ 0.03	at least $ 0.50	but less than	$ 0.70
$ 0.04	at least $ 0.70	but less than	$ 0.90
$ 0.05	at least $ 0.90	but less than	$ 1.10

On a retail unitary transaction in which the gross retail income received by the retail merchant is one dollar and ten cents ($1.10) or more, the public safety fee is five percent (5%) of that gross retail income.

(b) If the public safety fee computed under subsection (a) results in a fraction of one-half cent ($0.005) or more, the amount of the public safety fee shall be rounded to the next additional cent.
As added by P.L.187-2006, SEC.13.

IC 22-11-14-14
Obligation of retailer collecting public safety fees

Sec. 14. An individual who:

(1) is an individual retailer or is an employee, an officer, or a member of a corporate or partnership retailer; and

(2) has a duty to remit the public safety fee as described in section 12 of this chapter to the department of state revenue;

holds the public safety fees collected in trust for the state and is personally liable for the payment of the public safety fee money to the state.
As added by P.L.187-2006, SEC.14.

IC 22-11-14-15
Fire prevention and building safety commission; department of state revenue; rules concerning fireworks sales

Sec. 15. The fire prevention and building safety commission and the department of state revenue shall adopt rules under IC 4-22-2 to carry out this chapter.
As added by P.L.187-2006, SEC.15.

IC 22-11-14.5
Chapter 14.5. Indoor Pyrotechnics

IC 22-11-14.5-1
"Indoor pyrotechnics" defined

Sec. 1. As used in this chapter, "indoor pyrotechnics" means controlled exothermic chemical reactions that are timed to create the effects of heat, gas, sound, dispersion of aerosols, emission of visible electromagnetic radiation, or a combination of these effects to provide the maximum effect from the least volume (as provided in National Fire Protection Association Standard 1126 (2001 edition)). The term does not include the following novelties and trick noisemakers:

(1) Snakes or glow worms.

(2) Smoke devices.

(3) Wire sparklers that do not contain magnesium and that contain less than one hundred (100) grams of composition per item.

(4) Trick noisemakers, which include party poppers, booby traps, snappers, trick matches, cigarette loads, and auto burglar alarms.

As added by P.L.25-2004, SEC.3.

IC 22-11-14.5-2
Repealed

(Repealed by P.L.187-2006, SEC.18.)

IC 22-11-14.5-3
Rules

Sec. 3. The fire prevention and building safety commission shall adopt rules under IC 4-22-2 to implement a statewide code concerning displays of indoor pyrotechnics. The rules:

(1) must require that a certificate of insurance be issued that provides general liability coverage of at least five hundred thousand dollars ($500,000) for the injury or death of any number of persons in any one (1) occurrence and five hundred thousand dollars ($500,000) for property damage in any one (1) occurrence by an intended display of indoor pyrotechnics arising from any acts of the operator of the display or the operator's agents, employees, or subcontractors;

(2) must require the person intending to present the display to give, at least twenty four (24) hours before the time of the display, written notice of the intended display to the chief of the responding fire department of the location proposed for the display of the indoor pyrotechnics and to include with the written notice a certification from the person intending to display the indoor pyrotechnics that the display will be made in accordance with:

(A) the rules adopted under this section; and

(B) any ordinance or resolution adopted under section 4 of

this chapter;

(3) must include and adopt NFPA 1126, Standard for the Use of Pyrotechnics before a Proximate Audience, 2001 Edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169;

(4) must be amended to adopt any subsequent edition of NFPA Standard 1126, including addenda, within eighteen (18) months after the effective date of the subsequent edition; and

(5) may provide for amendments to NFPA Standard 1126 as a condition of the adoption under subdivisions (3) and (4).

As added by P.L.25-2004, SEC.3. Amended by P.L.1-2006, SEC.348; P.L.101-2006, SEC.30.

IC 22-11-14.5-4
Adoption of ordinance or resolution

Sec. 4. A city, town, or county may adopt an ordinance or a township may adopt a resolution that:

(1) establishes requirements for displays of indoor pyrotechnics more stringent or detailed than the requirements established under this chapter; or

(2) bans the display of indoor pyrotechnics.

As added by P.L.25-2004, SEC.3.

IC 22-11-14.5-5
Precedence of rules

Sec. 5. Except as provided in section 4 of this chapter, the rules adopted under section 3 of this chapter take precedence over:

(1) an ordinance adopted by a city, town, or county; or

(2) a resolution adopted by a township;

that covers the same subject matter as the commission's rules concerning indoor pyrotechnics.

As added by P.L.25-2004, SEC.3.

IC 22-11-14.5-6
Violations; Class C infraction

Sec. 6. A person who violates a rule adopted under this chapter commits a Class C infraction.

As added by P.L.25-2004, SEC.3.

IC 22-11-14.5-7
Violations; property; Class C infraction

Sec. 7. A person who knowingly allows an individual to commit a violation of a rule adopted under this chapter commits a Class C infraction if the violation is committed on property under the person's control.

As added by P.L.25-2004, SEC.3.

IC 22-11-14.5-8
Separate offenses

Sec. 8. Each day that an infraction under this chapter occurs

constitutes a separate infraction.
As added by P.L.25-2004, SEC.3.

IC 22-11-14.5-9
Violations; Class A misdemeanor

Sec. 9. A person who causes serious bodily injury to a person as a result of a reckless violation of a rule adopted under this chapter commits a Class A misdemeanor.
As added by P.L.25-2004, SEC.3.

IC 22-11-14.5-10 Version a
Violations; Class D felony

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 10. A person who causes serious bodily injury to a person as a result of a knowing or an intentional violation of a rule adopted under this chapter commits a Class D felony.
As added by P.L.25-2004, SEC.3.

IC 22-11-14.5-10 Version b
Violations; Level 6 felony

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 10. A person who causes serious bodily injury to a person as a result of a knowing or an intentional violation of a rule adopted under this chapter commits a Level 6 felony.
As added by P.L.25-2004, SEC.3. Amended by P.L.158-2013, SEC.256.

IC 22-11-14.5-11 Version a
Violations; death; Class D felony

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 11. A person who causes the death of a person as a result of a reckless violation of a rule adopted under this chapter commits a Class D felony.
As added by P.L.25-2004, SEC.3.

IC 22-11-14.5-11 Version b
Violations; death; Level 6 felony

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 11. A person who causes the death of a person as a result of a reckless violation of a rule adopted under this chapter commits a Level 6 felony.
As added by P.L.25-2004, SEC.3. Amended by P.L.158-2013, SEC.257.

IC 22-11-14.5-12 Version a
Violations; death; Class C felony

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 12. A person who causes the death of a person as a result of a knowing or an intentional violation of a rule adopted under this chapter commits a Class C felony.

As added by P.L.25-2004, SEC.3.

IC 22-11-14.5-12 Version b

Violations; death; Level 5 felony

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 12. A person who causes the death of a person as a result of a knowing or an intentional violation of a rule adopted under this chapter commits a Level 5 felony.

As added by P.L.25-2004, SEC.3. Amended by P.L.158-2013, SEC.258.

IC 22-11-15

Chapter 15. Regulation of Liquefied Petroleum Gas Containers

IC 22-11-15-1

Intent

Sec. 1. It is the intent of the general assembly to protect the public welfare and promote safety in the filling and use of pressure vessels containing liquefied petroleum gases by implementing both the interstate commerce commission regulations, within the state of Indiana, and the national standards of safety on the filling of these containers. It is necessary to insure that containers properly constructed and tested are used, and that a liquefied petroleum gas of suitable and safe vapor pressure be placed in these containers. Therefore, the filling or refilling of liquefied petroleum gas containers by other than the owner or authorized person must be controlled and specific authority to prevent violation and encourage enforcement should be established.

As added by Acts 1979, P.L.232, SEC.1.

IC 22-11-15-2

Definitions

Sec. 2. As used in this chapter:

(1) "Liquefied petroleum gas" means any material composed predominantly of any of the following hydrocarbons or mixtures of the same: propane, propylene, butanes (normal butane and isobutane), and butylenes.

(2) "Person" includes any individual, firm, limited liability company, or corporation and their affiliates.

(3) "Owner" means:

(A) any person holding a written bill of sale or other instrument under which title to a liquefied petroleum gas container was transferred to that person;

(B) any person holding a paid or receipted invoice showing purchase of and payment for a liquefied petroleum gas container;

(C) any person whose name, initials, or other identifying mark has been plainly shown on the surface of a liquefied petroleum gas container since September 1, 1978; or

(D) any manufacturer of a container for liquefied petroleum gas who has not transferred ownership of it.

As added by Acts 1979, P.L.232, SEC.1. Amended by P.L.8-1993, SEC.297.

IC 22-11-15-3

Owner identified containers; written authorization; unlawful acts; emergencies

Sec. 3. If a liquefied petroleum gas container bears on its surface in legible characters the name, mark, initials, or other identifying device of its owner, it is unlawful for any person except the owner or

a person authorized in writing by him:

(1) to fill or refill that container with liquefied petroleum gas or any other gas or compound;

(2) to buy, sell, offer for sale, give, take, loan, deliver or permit to be delivered, or otherwise use or dispose of liquefied petroleum gas in that container; or

(3) to deface, erase, obliterate, cover up, or otherwise remove or conceal or change the name, mark, initials, or other identifying device of the owner or to place the name, mark, initials, or other identifying device of any person other than the owner on such container.

However, no written authorization shall be required during weather emergencies or at those times when the regular supplier of liquefied petroleum gas has failed, or is unable, to make delivery within a reasonable time.

As added by Acts 1979, P.L.232, SEC.1.

IC 22-11-15-4

Unauthorized possession; presumptive evidence of unlawful use

Sec. 4. Possession of a liquefied petroleum gas container by any person other than the owner without the owner's written consent is presumptive evidence of the unlawful use of that container, except as otherwise provided in section 3 of this chapter.

As added by Acts 1979, P.L.232, SEC.1.

IC 22-11-15-5

Criminal prosecution

Sec. 5. Any person or his agent with personal knowledge of the facts who has reason to believe that any of his liquefied petroleum gas containers are in the possession of or are being illegally used by any person who is not an owner of the container and who does not have the written consent of the owner, may file a written complaint with the prosecutor of the county in which the complainant resides. The prosecutor may proceed with criminal prosecution if warranted. If a person is convicted of a violation of this chapter the court shall impose the punishment prescribed in this chapter and award possession of the container to its owner.

As added by Acts 1979, P.L.232, SEC.1.

IC 22-11-15-5.1

Civil actions; statute of limitations; costs and attorney's fees

Sec. 5.1. (a) A person injured as a result of an act or practice that violates this chapter may bring a civil action:

(1) for declaratory relief;

(2) for injunctive relief; or

(3) to recover compensatory damages;

against the person violating this chapter.

(b) An action brought under this section must be commenced not later than two (2) years after the date of the alleged violation.

(c) A court may award costs and reasonable attorney's fees.

As added by P.L.142-2002, SEC.1.

IC 22-11-15-6
Violation; offense

Sec. 6. Any person who violates this chapter commits a Class C misdemeanor.

As added by Acts 1979, P.L.232, SEC.1.

IC 22-11-16

Chapter 16. Fire Safety Emergency Signs

IC 22-11-16-1

"Owner" defined

Sec. 1. As used in this chapter, "owner" means a person having control or custody of any building covered by this chapter.

As added by Acts 1982, P.L.139, SEC.1.

IC 22-11-16-2

Rules; adoption; application

Sec. 2. (a) The fire prevention and building safety commission shall adopt rules under IC 4-22-2 governing fire safety in certain buildings as specified in subsection (b).

(b) Except as provided in subsection (c) and subsection (d), this chapter and the rules adopted under it apply to:

(1) all hotels, motels, apartments (in buildings containing three (3) or more apartments), and buildings containing three (3) or more sleeping rooms that rent for a fee; and

(2) all buildings occupied after September 14, 1982, as hotels, motels, apartments (in buildings containing three (3) or more apartments), and buildings containing three (3) or more sleeping rooms that rent for a fee.

(c) This chapter does not apply to hotels and motels that have no interior corridors and whose individual rooms have only exterior exits.

(d) This chapter does not apply to an apartment in an apartment building from which apartment there is immediate ground level access to the outside.

(e) Compliance with this chapter and the rules adopted under it does not relieve the owner of a building covered by this chapter from the requirements of any other applicable law, rule, regulation, or ordinance.

As added by Acts 1982, P.L.139, SEC.1. Amended by P.L.237-1983, SEC.1; P.L.8-1984, SEC.115.

IC 22-11-16-3

Rules; contents

Sec. 3. (a) The rules required by this chapter must include the following requirements:

(1) In all hotels, motels, and buildings containing three (3) or more sleeping rooms that rent for a fee, an emergency sign must be permanently affixed to the back of each guestroom or room door and by the entrance to a required exitway where there is an interior door with corridors to the exitway.

(2) In all apartments covered by this chapter, an emergency sign must be permanently affixed in a prominent location.

(b) The emergency signs required by subsection (a) must contain the following information:

(1) Instructions on practical emergency procedures in case of

fire or other emergency.

(2) In hotels, motels, and buildings containing three (3) or more sleeping rooms that rent for a fee only, a statement describing the number of doors (to the left or right) to a fire exit.

(c) In addition, the rules required by this chapter must include requirements for the letter size, color, content, location, and overall size of the emergency signs required by this chapter.

As added by Acts 1982, P.L.139, SEC.1.

IC 22-11-16-4

Violation; offense

Sec. 4. An owner violating the provisions of this chapter or the rules adopted under it, commits a Class A infraction.

As added by Acts 1982, P.L.139, SEC.1.

IC 22-11-16-5

Inspections to determine compliance

Sec. 5. The state fire marshal's office shall, as part of its normal inspection process, conduct inspections to determine if there is compliance with this chapter and the rules adopted under it. Any evidence of a violation shall be turned over to the prosecuting attorney of the county where the violation occurred.

As added by Acts 1982, P.L.139, SEC.1.

IC 22-11-17

Chapter 17. Fire Safety in Public Buildings

IC 22-11-17-1

Definitions

Sec. 1. As used in this chapter:

(1) "Commission" refers to the Indiana fire prevention and building safety commission.

(2) "Exit" means a continuous and unobstructed means of egress to a public way designated as an exit pursuant to the rules of the commission. The term includes doorways, corridors, exterior exit balconies, ramps, stairways, smokeproof enclosures, horizontal exits, exit passageways, exit courts, and yards.

(3) "Owner" means a person having control or custody of any building covered by this chapter.

(4) "Public building" means any structure used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public, or by three (3) or more tenants. It also means all educational buildings, day care centers, hospitals, institutions, health facilities, residential-custodial care facilities, mercantile occupancies, and office occupancies.

(5) "Special egress control device" means an exit locking system that:

(A) allows a delay in exiting through an exit in a nonemergency situation; and

(B) complies with rules adopted by the commission.

As added by Acts 1982, P.L.140, SEC.1. Amended by P.L.8-1984, SEC.116; P.L.169-1996, SEC.1.

IC 22-11-17-2

Obstruction of exits; special egress control device; inoperative fire alarms

Sec. 2. (a) Except as provided in subsection (b) and section 2.5 of this chapter, an owner of a public building shall not permit an exit to be locked or obstructed in any manner that denies the public a continuous and unobstructed means of egress while lawfully occupied by anyone who is not an officer or an employee.

(b) The commission may adopt rules under IC 4-22-2 that:

(1) allow the owner of a public building to equip an exit with a special egress control device;

(2) limit the circumstances under which a special egress control device may be used; and

(3) allow an exit that was in compliance with the rules of the commission when the exit was constructed to be equipped with a special egress control device.

(c) An owner of a public building shall not permit a fire alarm to be disconnected or otherwise rendered inoperative, except in cases of routine maintenance or for repair.

As added by Acts 1982, P.L.140, SEC.1. Amended by P.L.169-1996,

SEC.2.

IC 22-11-17-2.5
Compliance by hospital or health facility

Sec. 2.5. (a) A hospital licensed under IC 12-25 or IC 16-21 or a health facility licensed under IC 16-28 complies with section 2(a) of this chapter by meeting the federal standards of certification for participation in a reimbursement program under either of the following before, on, or after March 21, 1996:

(1) Title XVIII of the federal Social Security Act (42 U.S.C. 1395 et seq.).

(2) Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

(b) Section 2(b) of this chapter does not apply to this section.

As added by P.L.169-1996, SEC.3. Amended by P.L.220-2011, SEC.373.

IC 22-11-17-3
Violations; offense

Sec. 3. An owner who violates section 2 of this chapter commits a Class B misdemeanor.

As added by Acts 1982, P.L.140, SEC.1.

IC 22-11-17-4 Version a
Knowing or intentional violations; offense

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 4. An owner of a public building commits a Class D felony if:

(1) the owner knowingly or intentionally violates section 2 of this chapter; and

(2) bodily injury (as defined by IC 35-31.5-2-29) or a loss of life occurs to a person lawfully in the public building as a result of a fire in the building.

As added by Acts 1982, P.L.140, SEC.1. Amended by P.L.311-1983, SEC.41; P.L.114-2012, SEC.44.

IC 22-11-17-4 Version b
Knowing or intentional violations; offense

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 4. An owner of a public building commits a Level 6 felony if:

(1) the owner knowingly or intentionally violates section 2 of this chapter; and

(2) bodily injury (as defined by IC 35-31.5-2-29) or a loss of life occurs to a person lawfully in the public building as a result of a fire in the building.

As added by Acts 1982, P.L.140, SEC.1. Amended by P.L.311-1983, SEC.41; P.L.114-2012, SEC.44; P.L.158-2013, SEC.259.

IC 22-11-17-5
Inspections to determine compliance

Sec. 5. The state fire marshal's office may, as part of its normal inspection process, conduct inspections to determine if there is compliance with this chapter and the rules adopted under it. Any evidence of a violation shall be turned over to the prosecuting attorney of the county where the violation occurred.

As added by Acts 1982, P.L.140, SEC.1. Amended by P.L.198-1995, SEC.2.

IC 22-11-17-6
Construction of chapter

Sec. 6. (a) This chapter does not prohibit the securing of a building from illegal entry or exit during nonbusiness or nonworking hours.

(b) This chapter is not intended to conflict with the requirements of IC 22-8-1.1 and the rules adopted pursuant thereto.

As added by Acts 1982, P.L.140, SEC.1.

IC 22-11-18

Chapter 18. Smoke Detection Devices

IC 22-11-18-1

Definitions

Sec. 1. As used in this chapter:

"Bodily injury" has the meaning set forth in IC 35-31.5-2-29.

"Dwelling" means a residence with at least one (1) dwelling unit as set forth in IC 22-12-1-4(a)(1)(B) and IC 22-12-1-5(a)(1).

"Hotels and motels" means buildings or structures kept, maintained, used, advertised, or held out to the public as inns or places where sleeping accommodations are furnished for hire for transient guests.

"Landlord" has the meaning set forth in IC 32-31-3-3.

"Owner" means a person having control or custody of any building covered by this chapter.

"Person" means an individual, corporation, partnership, association, or other legal entity.

"Rental premises" has the meaning set forth in IC 32-31-7-3.

"Rental unit" has the meaning set forth in IC 32-31-3-8.

"Smoke detector" means a device which senses visible or invisible particles of combustion and conforms to the minimum standards for type, components, and maintenance prescribed by the National Fire Protection Association.

"Seasonally occupied dwellings" means hotels and motels open to the public for occupancy by guests only during any period of time between April 15 and October 15 each year.

"Single level dwellings" means all single level (no more than one (1) level above ground) hotels and motels that have no interior corridors, and whose individual rooms have exterior exits.

"Tenant" has the meaning set forth in IC 32-31-3-10.

As added by Acts 1982, P.L.141, SEC.1. Amended by P.L.237-1983, SEC.2; P.L.176-1991, SEC.1; P.L.17-2008, SEC.1; P.L.114-2012, SEC.45.

IC 22-11-18-2

Application of chapter; exemption

Sec. 2. (a) This chapter applies to all hotels, motels, and dwellings.

(b) A totally sprinkled building (conforming to Uniform Building Code standards at the time of construction) is exempt from the requirements of this chapter.

As added by Acts 1982, P.L.141, SEC.1. Amended by P.L.176-1991, SEC.2.

IC 22-11-18-3

Hotels and motels; installation of smoke detectors

Sec. 3. (a) This section only applies to hotels and motels.

(b) All hotels and motels must have functional smoke detectors.

(c) Except as provided in subsection (f), a detector must be

installed in all interior corridors adjacent to sleeping rooms and must be spaced no farther apart than thirty (30) feet on center, or more than fifteen (15) feet from any wall.

(d) The detectors must be hard wired into a building's electrical system, except as provided in subsection (f).

(e) The detectors must be wired in a manner that activates all the devices in a corridor when one (1) is activated, except as provided in subsection (f).

(f) All single level dwellings, all seasonably occupied dwellings, and all hotels and motels with twelve (12) sleeping rooms or less (and containing no interior corridors) are exempt from the requirements of subsections (c), (d), and (e). In all such units:

(1) a detector must be installed in each sleeping room; and

(2) the detector may be battery operated.

If a battery operated detector is installed, it must contain a tamper resistant cover to protect the batteries. The fire marshal shall adopt rules detailing the specifications for the tamper resistant cover. If a battery operated detector is not installed, the detector must be hard wired into a building's electrical system.

As added by Acts 1982, P.L.141, SEC.1. Amended by P.L.237-1983, SEC.3; P.L.176-1991, SEC.3.

IC 22-11-18-3.5

Dwellings; installation of smoke detectors

Sec. 3.5. (a) This section only applies to dwellings.

(b) A rule or an ordinance is not voided or limited by this section if the rule or ordinance:

(1) applies to an occupied dwelling; and

(2) is at least as stringent as the requirements of this section.

(c) A dwelling must have at least one (1) functional smoke detector installed as follows:

(1) According to the manufacturer's instructions.

(2) Outside of each sleeping area in the immediate vicinity of the bedrooms.

(3) On the ceiling or a wall not less than four (4) inches or more than twelve (12) inches from the ceiling. However, a smoke detector may not be recessed into a ceiling.

(4) On each additional story of the dwelling, including basements, cellars, and habitable attics. Unless there is a door between levels in dwellings with split levels, a smoke detector must be installed only on the upper level if the lower level is less than one (1) full story below the upper level.

(d) All smoke detectors must be:

(1) battery operated or hard wired into the dwelling's electrical system;

(2) accessible for servicing and testing; and

(3) maintained and at least one (1) time every six (6) months tested by the occupant to ensure that the smoke detector is in operational condition.

(e) Each owner or the manager or rental agent of the owner is

responsible for:

(1) the installation of a required smoke detector; and

(2) the replacement and repair of a required smoke detector within seven (7) working days after the owner, manager, or rental agent is given written notification of the need to replace or repair the smoke detector.

(f) A person may not tamper with or remove a smoke detector except when necessary for maintenance purposes.

(g) A unit (as defined in IC 36-1-2-23) may adopt an ordinance concerning dwellings that:

(1) includes more stringent or detailed requirements than those set forth in this chapter; and

(2) does not conflict with this chapter.

As added by P.L.176-1991, SEC.4.

IC 22-11-18-3.6
Violations; effect on claims

Sec. 3.6. A violation of section 3.5 of this chapter does not constitute grounds for a reduction or denial of a claim under an insurance policy even if the policy contains terms to the contrary.

As added by P.L.176-1991, SEC.5.

IC 22-11-18-4
Compliance with other laws, ordinances, rules, or regulations

Sec. 4. Compliance with this chapter does not relieve the owner from the requirements of any other applicable law, ordinance, rule, or regulation.

As added by Acts 1982, P.L.141, SEC.1.

IC 22-11-18-5 Version a
Violations; offenses

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 5. (a) An owner of a hotel or motel who violates this chapter commits a Class A infraction, except as provided by subsection (b).

(b) An owner of a hotel or motel commits a Class D felony if:

(1) the owner knowingly or intentionally violates section 3 of this chapter; and

(2) bodily injury or loss of life occurs as a result of a fire in the building.

(c) Except as provided in section 5.5 of this chapter, a person who violates section 3.5 of this chapter commits a Class D infraction.

As added by Acts 1982, P.L.141, SEC.1. Amended by P.L.311-1983, SEC.42; P.L.176-1991, SEC.6; P.L.17-2008, SEC.2.

IC 22-11-18-5 Version b
Violations; offenses

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 5. (a) An owner of a hotel or motel who violates this chapter

commits a Class A infraction, except as provided by subsection (b).

(b) An owner of a hotel or motel commits a Level 6 felony if:

(1) the owner knowingly or intentionally violates section 3 of this chapter; and

(2) bodily injury or loss of life occurs as a result of a fire in the building.

(c) Except as provided in section 5.5 of this chapter, a person who violates section 3.5 of this chapter commits a Class D infraction.

As added by Acts 1982, P.L.141, SEC.1. Amended by P.L.311-1983, SEC.42; P.L.176-1991, SEC.6; P.L.17-2008, SEC.2; P.L.158-2013, SEC.260.

IC 22-11-18-5.5

Violation by landlord; offenses

Sec. 5.5. A landlord who violates section 3.5 of this chapter:

(1) at the time the landlord delivers a rental unit to a tenant; or

(2) if the smoke detector is hard wired into the rental unit's electrical system, by failing to repair or replace the inoperable smoke detector not later than seven (7) days after receiving written notice by certified mail, return receipt requested, of the need to repair or replace the inoperable smoke detector under section 3.5(e)(2) of this chapter;

commits a Class B infraction. However, the offense is a Class A infraction if the landlord has a prior violation for an offense under this section.

As added by P.L.17-2008, SEC.3.

IC 22-11-18-6

Inspections to determine compliance

Sec. 6. (a) The state fire marshal's office shall, as part of its normal inspection process, conduct inspections of hotels and motels to determine if the detectors are installed and functioning in compliance with this chapter.

(b) Except for common areas shared by at least three (3) dwellings, a dwelling may not be inspected solely to determine compliance with section 3.5 of this chapter unless the owner or occupant of the dwelling gives permission.

(c) Any evidence of a violation of this chapter shall be turned over to the prosecuting attorney of the county where the violation occurred.

As added by Acts 1982, P.L.141, SEC.1. Amended by P.L.176-1991, SEC.7.

IC 22-11-19
Repealed

(Repealed by P.L.245-1987, SEC.22.)

IC 22-11-20

Chapter 20. Anhydrous Ammonia and Ammonia Solutions

IC 22-11-20-0.1
Repealed

(Repealed by P.L.63-2012, SEC.25.)

IC 22-11-20-1
"Ammonia solution"

Sec. 1. As used in this chapter, "ammonia solution" means any ammonia solution that contains at least ten percent (10%) by weight of free ammonia or having a vapor pressure of one (1) PSIG or above at one hundred four (104) degrees Fahrenheit.

As added by P.L.17-2001, SEC.4.

IC 22-11-20-2
"Appurtenances"

Sec. 2. As used in this chapter, "appurtenances" includes pumps, compressors, safety relief devices, liquid level gauging devices, valves, and pressure gauges.

As added by P.L.17-2001, SEC.4.

IC 22-11-20-3
"Container"

Sec. 3. As used in this chapter, "container" includes vessels, tanks, cylinders, or spheres.

As added by P.L.17-2001, SEC.4.

IC 22-11-20-4
"Equipment law"

Sec. 4. As used in this chapter, "equipment law" has the meaning set forth in IC 22-12-1-11.

As added by P.L.17-2001, SEC.4.

IC 22-11-20-5
"Law"

Sec. 5. As used in this chapter, "law" includes the following:

(1) IC 13 or a rule adopted under IC 13.
(2) IC 15-16-1 or a rule adopted under IC 15-16-1.
(3) IC 22-8-1.1 or a rule adopted under IC 22-8-1.1.
(4) An equipment law.

As added by P.L.17-2001, SEC.4. Amended by P.L.2-2008, SEC.46.

IC 22-11-20-6
Illegal storage or transportation of ammonia

Sec. 6. (a) This section does not apply to a person that stores or transports anhydrous ammonia (NH_3) or an ammonia solution for a lawful agricultural or commercial purpose.

(b) A person who knowingly or intentionally stores or transports anhydrous ammonia (NH_3) or an ammonia solution:

(1) in a container that does not; or

(2) with appurtenances that do not;

conform to the requirements of a law governing the design, construction, location, installation, or operation of equipment for storage, handling, use, or transportation of anhydrous ammonia (NH_3) or an ammonia solution commits a Class A misdemeanor.

As added by P.L.17-2001, SEC.4.

IC 22-12

ARTICLE 12. FIRE SAFETY, BUILDING, AND EQUIPMENT LAWS: GENERAL ADMINISTRATION

IC 22-12-1

Chapter 1. Definitions

IC 22-12-1-1

Application of definitions

Sec. 1. The definitions in this chapter apply throughout this article, IC 22-13, IC 22-14, and IC 22-15.

As added by P.L.245-1987, SEC.1.

IC 22-12-1-2

"Agricultural purpose"

Sec. 2. "Agricultural purpose" includes farming, dairying, pasturage, apiculture, horticulture, floriculture, vitaculture, ornamental horticulture, olericulture, pomiculture, animal husbandry, and poultry husbandry.

As added by P.L.245-1987, SEC.1. Amended by P.L.5-1988, SEC.119.

IC 22-12-1-2.2

"ANSI"

Sec. 2.2. "ANSI" refers to the American National Standards Institute.

As added by P.L.119-2002, SEC.1.

IC 22-12-1-2.3

"ASME"

Sec. 2.3. "ASME" refers to the American Society of Mechanical Engineers.

As added by P.L.119-2002, SEC.2.

IC 22-12-1-2.5

"ASTM"

Sec. 2.5. "ASTM" refers to the American Society for Testing and Materials.

As added by P.L.166-1997, SEC.1.

IC 22-12-1-3

"Building law"

Sec. 3. "Building law" means any equipment law or other law governing any of the following:

(1) Fabrication of an industrialized building system or mobile structure for installation, assembly, or use at another site.

(2) Construction, addition, or alteration of any part of a Class 1 or Class 2 structure at the site where the structure will be used.

(3) Assembly of an industrialized building system or mobile structure that is covered by neither subdivision (1) nor (2).

As added by P.L.245-1987, SEC.1. Amended by P.L.222-1989, SEC.2; P.L.22-2005, SEC.31.

IC 22-12-1-3.5
"Bull ride simulator"

Sec. 3.5. (a) "Bull ride simulator" means a device designed to simulate:

(1) a rodeo bull ride; or

(2) a similarly challenging ride upon another type of animal;

by subjecting the rider to a wide range of abrupt motion produced by mechanical, electrical, or hydraulic means. The term includes a multiride electric unit with a bull ride attachment.

(b) The term does not include devices that:

(1) resemble animals; and

(2) are designed:

(A) as an entertainment device;

(B) to operate rhythmically within a restricted range of motion; and

(C) for use by children.

As added by P.L.25-2004, SEC.4. Amended by P.L.166-2005, SEC.1.

IC 22-12-1-3.6
"Bungee jump facility"

Sec. 3.6. "Bungee jump facility" means a device or structure used for bungee jumping.

As added by P.L.32-2006, SEC.1.

IC 22-12-1-3.7
"Bungee jumping"

Sec. 3.7. "Bungee jumping" means a fall or jump from a height by an individual who is attached to an elastic cord that prevents the individual from hitting the ground, water, or other solid, semisolid, liquid, or elastic surface.

As added by P.L.32-2006, SEC.2.

IC 22-12-1-4
"Class 1 structure"

Sec. 4. (a) "Class 1 structure" means any part of the following:

(1) A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:

(A) The public.

(B) Three (3) or more tenants.

(C) One (1) or more persons who act as the employees of another.

(2) A site improvement affecting access by persons with physical disabilities to a building or structure described in subdivision (1).

(3) Outdoor event equipment.

(4) Any class of buildings or structures that the commission determines by rules to affect a building or structure described

in subdivision (1), except buildings or structures described in subsections (c) through (f).

(b) Subsection (a)(1) includes a structure that contains three (3) or more condominium units (as defined in IC 32-25-2-9) or other units that:

(1) are intended to be or are used or leased by the owner of the unit; and

(2) are not completely separated from each other by an unimproved space.

(c) Subsection (a)(1) does not include a building or structure that:

(1) is intended to be or is used only for an agricultural purpose on the land where it is located; and

(2) is not used for retail trade or is a stand used for retail sales of farm produce for eight (8) or less consecutive months in a calendar year.

(d) Subsection (a)(1) does not include a Class 2 structure.

(e) Subsection (a)(1) does not include a vehicular bridge.

(f) Subsection (a)(1) does not include a structure that is intended to be or is occupied solely to provide periodic maintenance or repair of:

(1) the structure; or

(2) mechanical or electrical equipment located within and affixed to the structure.

As added by P.L.245-1987, SEC.1. Amended by P.L.223-1989, SEC.1; P.L.23-1993, SEC.149; P.L.2-2002, SEC.72; P.L.141-2003, SEC.2; P.L.92-2012, SEC.2; P.L.142-2013, SEC.2.

IC 22-12-1-5
"Class 2 structure"

Sec. 5. (a) "Class 2 structure" means any part of the following:

(1) A building or structure that is intended to contain or contains only one (1) dwelling unit or two (2) dwelling units unless any part of the building or structure is regularly used as a Class 1 structure.

(2) An outbuilding for a structure described in subdivision (1), such as a garage, barn, or family swimming pool, including an above ground swimming pool, unless any part of the outbuilding is regularly used as a Class 1 structure.

(b) Subsection (a) does not include a vehicular bridge.

As added by P.L.245-1987, SEC.1. Amended by P.L.72-2008, SEC.1.

IC 22-12-1-6
"Commission"

Sec. 6. "Commission" refers to the fire prevention and building safety commission.

As added by P.L.245-1987, SEC.1.

IC 22-12-1-7
"Construction"

Sec. 7. "Construction" means any of the following:

(1) Fabrication of any part of an industrialized building system or mobile structure for use at another site.
(2) Erection or assembly of any part of a Class 1 or Class 2 structure at the site where it will be used.
(3) Installation of any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion suppression systems for a Class 1 or Class 2 structure at the site where it will be used.
(4) Work undertaken to alter, remodel, rehabilitate, or add to any part of a Class 1 or Class 2 structure.
(5) Work undertaken to relocate any part of a Class 1 or Class 2 structure, except a mobile structure.

As added by P.L.245-1987, SEC.1.

IC 22-12-1-8
"Control"

Sec. 8. "Control" means authority to create, change, or eliminate a condition or to initiate, regulate, or terminate conduct that is based on any of the following:
(1) An agency, employment, or contractual relationship.
(2) A possessory or nonpossessory ownership or leasehold interest in property.
(3) A contractual right to possess or use property.

As added by P.L.245-1987, SEC.1.

IC 22-12-1-9
"Department"

Sec. 9. "Department" refers to the department of homeland security established by IC 10-19-2-1.

As added by P.L.245-1987, SEC.1. Amended by P.L.22-2005, SEC.32.

IC 22-12-1-10
"Education board"

Sec. 10. "Education board" refers to the board of firefighting personnel standards and education.

As added by P.L.245-1987, SEC.1.

IC 22-12-1-11
"Equipment law"

Sec. 11. "Equipment law" means a statute or rule under this article, IC 22-13, or IC 22-15 that applies to the design, manufacture, fabrication, assembly, installation, alteration, repair, maintenance, operation, or inspection of a regulated amusement device, boiler, lifting device, or pressure vessel.

As added by P.L.245-1987, SEC.1.

IC 22-12-1-12
"Fire department"

Sec. 12. "Fire department" means a paid fire department or volunteer fire department that renders fire prevention or fire protection services to a political subdivision.
As added by P.L.245-1987, SEC.1. Amended by P.L.1-1999, SEC.54.

IC 22-12-1-13
"Fire safety law"
Sec. 13. "Fire safety law" means any building law, equipment law, or other law safeguarding life or property from the hazards of fire or explosion.
As added by P.L.245-1987, SEC.1.

IC 22-12-1-14
"Industrialized building system"
Sec. 14. "Industrialized building system" means any part of a building or other structure that is in whole or in substantial part fabricated in an off-site manufacturing facility for installation or assembly at the building site as part of a Class 1 structure, a Class 2 structure, or another building or structure. However, the term does not include a mobile structure or a system that is capable of inspection at the building site.
As added by P.L.245-1987, SEC.1.

IC 22-12-1-15
"Law"
Sec. 15. "Law" includes any statute, rule, ordinance, or other regulation.
As added by P.L.245-1987, SEC.1.

IC 22-12-1-16
"Manufactured home"
Sec. 16. "Manufactured home" has the meaning set forth in 42 U.S.C. 5402 as it existed on January 1, 2003.
As added by P.L.245-1987, SEC.1. Amended by P.L.222-1989, SEC.3; P.L.141-2003, SEC.3.

IC 22-12-1-17
"Mobile structure"
Sec. 17. (a) "Mobile structure" means any part of a fabricated unit that is designed to be:
(1) towed on its own chassis; and
(2) connected to utilities for year-round occupancy or use as a Class 1 structure, a Class 2 structure, or another structure.
(b) The term includes the following:
(1) Two (2) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity.
(2) Two (2) or more units that are separately towable but designed to be joined into one (1) integral unit.
(3) One (1) or more units that include a hoisting and lowering

mechanism equipped with a platform that:

(A) moves between two (2) or more landings; and

(B) is used to transport one (1) or more individuals.

As added by P.L.245-1987, SEC.1. Amended by P.L.101-2006, SEC.31.

IC 22-12-1-17.5
"Outdoor performance"

Sec. 17.5. "Outdoor performance", as the term applies to outdoor event equipment, means:

(1) a movie or show;

(2) an exhibit;

(3) a concert;

(4) a performance of dance;

(5) a musical, dramatic, or comedy performance;

(6) a sporting or athletic match, exhibition, or contest; or

(7) another amusement or entertainment;

conducted outside at a location for which an amusement and entertainment permit is required under IC 22-14-3.

As added by P.L.92-2012, SEC.3. Amended by P.L.142-2013, SEC.3.

IC 22-12-1-17.7
"Outdoor event equipment"

Sec. 17.7. "Outdoor event equipment" means any temporary or permanent towers, booms, ramps, platforms, overhead assemblies, or other structures, including ancillary rigging, that are used or are intended to be used in connection with an outdoor performance and that are not otherwise attached or anchored to, or otherwise a part of, another Class 1 structure.

As added by P.L.92-2012, SEC.4. Amended by P.L.142-2013, SEC.4.

IC 22-12-1-18
"Person"

Sec. 18. "Person" means an individual, corporation, limited liability company, partnership, unincorporated association, or governmental entity.

As added by P.L.245-1987, SEC.1. Amended by P.L.8-1993, SEC.298.

IC 22-12-1-18.7
"Qualified entity"

Sec. 18.7. "Qualified entity" means:

(1) a volunteer fire department (as defined in IC 36-8-12-2);

(2) the executive of a township providing fire protection under IC 36-8-13-3(a)(1); or

(3) a municipality providing fire protection to a township under IC 36-8-13-3(a)(2) or IC 36-8-13-3(a)(3).

As added by P.L.70-1995, SEC.3. Amended by P.L.90-1997, SEC.4; P.L.1-1999, SEC.55.

IC 22-12-1-19
Repealed
(Repealed by P.L.1-1990, SEC.240.)

IC 22-12-1-19.1
"Regulated amusement device"
Sec. 19.1. (a) "Regulated amusement device" means a device designed to carry or convey one (1) or more persons in one (1) or more planes or degrees of motion for the purpose of amusement, recreation, or entertainment.
(b) The term includes the following:
(1) An amusement ride.
(2) A ski lift.
(3) A passenger tramway.
(4) An aerial tramway or lift.
(5) A surface lift or tow.
(6) A bull ride simulator.
(7) A bungee jump facility.
(c) The term does not include a passenger operated device or an inflatable amusement chamber.
As added by P.L.1-1990, SEC.241. Amended by P.L.166-1997, SEC.2; P.L.25-2004, SEC.5; P.L.32-2006, SEC.3.

IC 22-12-1-20
Repealed
(Repealed by P.L.141-2003, SEC.23.)

IC 22-12-1-21
Repealed
(Repealed by P.L.123-2002, SEC.51.)

IC 22-12-1-22
"Regulated lifting device"
Sec. 22. (a) "Regulated lifting device" means any part of the components, enclosures, and equipment necessary for the operation of the following:
(1) A hoisting and lowering mechanism, equipped with a car or a platform, that moves between two (2) or more landings, including the following:
(A) An elevator, as defined in the Safety Code for Elevators and Escalators, an American National Standard, as adopted by ASME A17.1, and the Safety Code for Existing Elevators and Escalators, an American National Standard, as adopted by ASME A17.3.
(B) A platform lift and stairway chair lift, as defined in the Safety Standard for Platform Lifts and Stairway Chairlifts, an American National Standard, as adopted by ASME A18.1.
(C) A personnel hoist within the scope of ANSI A10.4 (Safety Requirements for Personnel Hoists).

(D) A manlift within the scope of ANSI A90.1 (Safety Code for Manlifts).

(2) A power driven stairway or walkway equipped to transport persons between landings, including:

(A) an escalator; and

(B) a moving walk;

as defined in the Safety Code for Elevators and Escalators, an American National Standard, as adopted by the ASME A17.1, and the Safety Code for Existing Elevators and Escalators, an American National Standard, as adopted by the ASME A17.3.

(3) A hoisting and lowering mechanism, equipped with a car or a platform, that serves two (2) or more landings and is restricted to the carrying of materials by its limited size or limited access to the car, including:

(A) a dumbwaiter; and

(B) a material lift and dumbwaiter with an automatic transfer device;

as defined in the Safety Code for Elevators and Escalators, and American National Standard, as adopted by ASME A17.1, and the Safety Code for Existing Elevators and Escalators, an American National Standard, as adopted by ASME A17.3.

(4) An automatic guided transit vehicle on a guideway with an exclusive right-of-way, including an automated people mover, as defined in the Automated People Mover Standard 21, as adopted by the American Society of Civil Engineers (ASCE).

(b) The term does not include the following:

(1) A belt, bucket, roller, or similar type conveyor.

(2) A tiering or piling machine that is used to move materials to and from storage and located and operated entirely within one (1) story.

(3) A mobile scaffold, tower, and platform within the scope of ANSI A92.

(4) A hoist that is used for raising or lowering materials and that has unguided hooks, slings, or similar means for attaching materials.

(5) A skip or furnace hoist.

(6) A wharf ramp.

(7) A conveyor and related equipment within the scope of ASME B20.1.

(8) A stage or orchestra lift.

(9) An industrial truck within the scope of ASME B56.

(10) A railroad car lift or dumper.

(11) A hillside inclined lift.

(12) Any lifting device in a private residence.

(13) A line jack, false car, shafter, moving platform, or similar equipment used for installing an elevator by an elevator contractor licensed under IC 22-15-5-7.

(14) A materials conveyor with a platform.

(15) A powered platform and equipment for exterior and interior maintenance within the scope of ANSI 120.1.

As added by P.L.245-1987, SEC.1. Amended by P.L.224-1989, SEC.2; P.L.119-2002, SEC.3.

IC 22-12-1-23
"Regulated place of amusement or entertainment"

Sec. 23. "Regulated place of amusement or entertainment" refers to the following:

(1) A theater, opera house, movie theater, dance hall, night club with a stage or floor show, or another place that offers an amusement or entertainment to the public for consideration or promotional purposes.

(2) A place where a boxing, sparring, or unarmed combat match or exhibition is conducted under the supervision of the state athletic commission.

(3) A hall, gymnasium, or place of assembly where a school, college, university, social or fraternal organization, lodge, farmers organization, society, labor union, trade association, or church holds any type of amusement.

(4) A public or private place where a regulated amusement device is operated.

As added by P.L.245-1987, SEC.1. Amended by P.L.160-2009, SEC.3.

IC 22-12-1-23.3
Repealed

(Repealed by P.L.107-2007, SEC.18.)

IC 22-12-1-23.6
"Stand"

Sec. 23.6. "Stand" means a structure, booth, or table for display and sale of farm produce.

As added by P.L.223-1989, SEC.2.

IC 22-12-1-24
"Structure"

Sec. 24. "Structure" includes swimming pool.

As added by P.L.245-1987, SEC.1.

IC 22-12-1-25
"Rules board"

Sec. 25. "Rules board" refers to the boiler and pressure vessel rules board.

As added by P.L.245-1987, SEC.1.

IC 22-12-1-26
"Vehicular bridge"

Sec. 26. "Vehicular bridge" means any bridge that is neither:

(1) a pedestrian walkway; nor

(2) a passageway for light vehicles;

suspended between two (2) or more parts of a building or between

two (2) or more buildings.
As added by P.L.245-1987, SEC.1.

IC 22-12-2

Chapter 2. Fire Prevention and Building Safety Commission

IC 22-12-2-1

Establishment of commission

Sec. 1. The fire prevention and building safety commission is established.

As added by P.L.245-1987, SEC.1.

IC 22-12-2-2

Membership

Sec. 2. (a) The commission consists of eleven (11) members, nine (9) of whom shall be appointed by the governor.

(b) The term of a commission member is four (4) years.

(c) The state health commissioner or the commissioner's designee shall serve as a member of the commission, and the commissioner of labor or the commissioner's designee shall serve as a member of the commission.

(d) Each appointed member of the commission must have a recognized interest, knowledge, and experience in the field of fire prevention, fire protection, building safety, or other related matters. The governor shall consider appointing individuals to the commission with experience in the following:

(1) A paid fire department.

(2) A volunteer fire department.

(3) The field of fire insurance.

(4) The fire service industry.

(5) The manufactured housing industry.

(6) The field of fire protection engineering.

(7) As a professionally licensed engineer.

(8) Building contracting.

(9) The field of building one (1) and two (2) family dwellings.

(10) As a professionally licensed architect.

(11) The design or construction of heating, ventilating, air conditioning, or plumbing systems.

(12) The design or construction of regulated lifting devices.

(13) City, town, or county building inspection.

(14) Regulated amusement devices.

(15) Accessibility requirements and personal experience with a disability.

(16) Underground and aboveground motor fuel storage tanks and dispensing systems.

(17) The masonry trades.

(18) Energy conservation codes and standards, including the manner in which energy conservation codes and standards apply to:

(A) residential;

(B) single and multiple family dwelling; or

(C) commercial;

building codes.

(e) Not more than five (5) of the appointed members of the commission may be affiliated with the same political party.
As added by P.L.245-1987, SEC.1. Amended by P.L.225-1989, SEC.1; P.L.118-1994, SEC.1; P.L.226-1995, SEC.1; P.L.1-1999, SEC.56; P.L.119-2002, SEC.4; P.L.22-2005, SEC.33.

IC 22-12-2-3
Removal of member
Sec. 3. The governor may remove a member of the commission for inefficiency or neglect of duty.
As added by P.L.245-1987, SEC.1.

IC 22-12-2-4
Vacancies; appointment
Sec. 4. If a vacancy occurs on the commission, the governor shall appoint an individual to serve the unexpired term of the vacating member.
As added by P.L.245-1987, SEC.1.

IC 22-12-2-5
Commission chair
Sec. 5. (a) The governor shall appoint a member of the commission to be the commission's chair.
(b) The member appointed by the governor serves as the commission's chair at the governor's pleasure.
As added by P.L.245-1987, SEC.1. Amended by P.L.22-2005, SEC.34; P.L.1-2006, SEC.349.

IC 22-12-2-6
Meetings; quorum; actions
Sec. 6. (a) The commission shall meet at least quarterly.
(b) A quorum of the commission consists of six (6) members. IC 4-21.5-3-3 applies to a commission action governed by IC 4-21.5.
As added by P.L.245-1987, SEC.1. Amended by P.L.225-1989, SEC.2; P.L.118-1994, SEC.2; P.L.226-1995, SEC.2; P.L.119-2002, SEC.5; P.L.22-2005, SEC.35.

IC 22-12-2-7
Facilities and staff
Sec. 7. The department shall provide facilities and staff to carry out the responsibilities of the commission.
As added by P.L.245-1987, SEC.1.

IC 22-12-2-8
Per diem; expenses
Sec. 8. (a) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel

policies and procedures established by the department of administration and approved by the state budget agency.

(b) Each member of the commission who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency.

As added by P.L.245-1987, SEC.1.

IC 22-12-3

Chapter 3. Board of Firefighting Personnel Standards and Education

IC 22-12-3-1

Establishment of board

Sec. 1. The board of firefighting personnel standards and education is established.

As added by P.L.245-1987, SEC.1.

IC 22-12-3-2

Membership

Sec. 2. (a) The education board consists of eleven (11) voting members as follows:

(1) The state fire marshal or the state fire marshal's designee.

(2) The director of the department's division of preparedness and training or the director's designee.

(3) Nine (9) members appointed by the governor, each serving a four (4) year term.

(b) Each appointed member of the education board must be qualified by experience or education in the field of fire protection and related fields.

(c) Each appointed member of the education board must be a resident of Indiana.

(d) The education board must include the following appointed members:

(1) Seven (7) individuals who are members of fire departments. Appointments under this subdivision must include the following:

(A) At least one (1) individual who is a full-time firefighter (as defined in IC 36-8-10.5-3).

(B) At least one (1) individual who is a volunteer firefighter (as defined in IC 36-8-12-2).

(C) At least one (1) individual who is a fire department officer.

(2) Two (2) citizens who are not members of a fire department.

As added by P.L.245-1987, SEC.1. Amended by P.L.58-1995, SEC.2; P.L.1-2006, SEC.350; P.L.101-2006, SEC.32; P.L.26-2010, SEC.18.

IC 22-12-3-3

Removal of members

Sec. 3. The governor may remove a member of the education board for inefficiency or neglect of duty.

As added by P.L.245-1987, SEC.1.

IC 22-12-3-4

Vacancies; appointment

Sec. 4. If a vacancy occurs on the education board, the governor shall appoint an individual to serve the unexpired term of the vacating member.

As added by P.L.245-1987, SEC.1.

IC 22-12-3-5
Chairperson; vice chairperson; secretary

Sec. 5. The education board shall annually elect a chairperson, a vice chairperson, and a secretary from among its members.

As added by P.L.245-1987, SEC.1.

IC 22-12-3-6
Meetings; quorum; actions

Sec. 6. (a) The education board shall meet as it determines necessary.

(b) Meetings of the education board shall be called upon the request of its chairperson or the written request of five (5) of its members.

(c) Meetings of the education board must be held in Indiana.

(d) A quorum of the education board consists of five (5) voting members. IC 4-21.5-3-3 applies to an education board action governed by IC 4-21.5. The education board may take other actions by an affirmative vote of:

(1) five (5) members, if less than ten (10) members are present and voting on the action; or

(2) six (6) members, if ten (10) members are present and voting on the action.

As added by P.L.245-1987, SEC.1.

IC 22-12-3-7
Facilities and staff

Sec. 7. The division of fire and building safety shall provide facilities and staff to carry out the responsibilities of the education board.

As added by P.L.245-1987, SEC.1. Amended by P.L.1-2006, SEC.351.

IC 22-12-3-8
Per diem; expenses

Sec. 8. (a) Each member of the education board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b) for attendance at meetings of the education board where at least a quorum of its members are present, unless the member is a state employee. Such a member of the education board is also entitled to reimbursement for travel expenses and other expenses actually incurred in connection with attending a meeting of the education board where at least a quorum of its members are present, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency.

(b) Each member of the education board who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided

in the state travel policies and procedures established by the department of administration and approved by the state budget agency.
As added by P.L.245-1987, SEC.1.

IC 22-12-3-9
Validation of certain variances from rules

Sec. 9. A variance from a rule adopted by the board of firefighting personnel standards and education that was granted by the board before July 1, 1996, is valid.
As added by P.L.220-2011, SEC.375.

IC 22-12-4

Chapter 4. Boiler and Pressure Vessel Rules Board

IC 22-12-4-1

Establishment of board

Sec. 1. The boiler and pressure vessel rules board is established.

As added by P.L.245-1987, SEC.1.

IC 22-12-4-2

Membership

Sec. 2. (a) The governor shall appoint ten (10) voting members to the rules board, each to serve a term of four (4) years.

(b) The rules board must include the following:

(1) One (1) individual who represents owners and users of regulated boilers and pressure vessels, generally.

(2) One (1) individual who represents public utility owners and users of regulated power boilers.

(3) One (1) individual who represents owners and users of regulated boilers and pressure vessels in iron and steel manufacturing.

(4) One (1) individual who represents owners and users of regulated pressure vessels in petroleum refining.

(5) One (1) individual who represents owners and users of regulated pressure vessels in chemical processing.

(6) One (1) individual who represents regulated boiler and pressure vessel manufacturers.

(7) One (1) individual who represents regulated boiler insurance companies licensed to do business in Indiana.

(8) One (1) individual who is a mechanical engineer on the faculty of a recognized engineering college or who is a graduate mechanical engineer having equivalent experience.

(9) One (1) individual who represents boilermakers.

(10) One (1) individual who represents practical steam operators.

(c) At least six (6) of the voting members on the rules board must be professional engineers registered under IC 25-31.

As added by P.L.245-1987, SEC.1.

IC 22-12-4-3

Removal of members

Sec. 3. The governor may remove a member of the rules board for inefficiency or neglect of duty.

As added by P.L.245-1987, SEC.1.

IC 22-12-4-4

Vacancies; appointment

Sec. 4. If a vacancy occurs on the rules board, the governor shall appoint an individual to serve the unexpired term of the vacating member.

As added by P.L.245-1987, SEC.1.

IC 22-12-4-5
Chairperson

Sec. 5. The rules board shall annually elect a chairperson from among its members.

As added by P.L.245-1987, SEC.1.

IC 22-12-4-6
Meetings

Sec. 6. (a) The rules board shall meet at least quarterly.

(b) Meetings of the rules board shall be called upon the request of its chairperson.

As added by P.L.245-1987, SEC.1.

IC 22-12-4-7
Facilities and staff

Sec. 7. The department shall provide facilities and staff to carry out the responsibilities of the rules board.

As added by P.L.245-1987, SEC.1.

IC 22-12-4-8
Expenses

Sec. 8. Each member of the rules board is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency.

As added by P.L.245-1987, SEC.1.

IC 22-12-4.5

Chapter 4.5. Regulated Amusement Device Safety Board

IC 22-12-4.5-1

"Board" defined

Sec. 1. As used in this chapter, "board" refers to the regulated amusement device safety board established by section 2 of this chapter.

As added by P.L.166-1997, SEC.3.

IC 22-12-4.5-2

Establishment of board

Sec. 2. The regulated amusement device safety board is established.

As added by P.L.166-1997, SEC.3.

IC 22-12-4.5-3

Membership

Sec. 3. (a) The board has eleven (11) members, appointed as follows:

(1) The chief inspector of the division of elevator safety or the chief inspector's designee.

(2) One (1) individual who represents an insurance company that insures regulated amusement devices, appointed by the governor.

(3) One (1) individual who is a carnival owner, appointed by the governor.

(4) One (1) individual who represents a state or county fair organization, appointed by the governor.

(5) One (1) individual who represents a manufacturer of regulated amusement devices, appointed by the governor.

(6) One (1) individual who represents an amusement park, appointed by the governor.

(7) One (1) individual who represents festival or event organizers, appointed by the governor.

(8) One (1) professional engineer, appointed by the governor.

(9) Three (3) individuals who represent the general public, appointed as follows:

(A) The governor shall appoint one (1) individual.

(B) The speaker of the house of representatives shall appoint one (1) individual.

(C) The president pro tempore of the senate shall appoint one (1) individual.

(b) Each member appointed under subsection (a) must be a resident of Indiana.

As added by P.L.166-1997, SEC.3.

IC 22-12-4.5-4

Term of office; vacancies

Sec. 4. (a) The term of a member is three (3) years. A member

continues to serve until the member's successor is appointed.

(b) The appointing authority may remove a member of the board for inefficiency or neglect of duty.

(c) If a vacancy occurs on the board, an individual appointed to fill the vacancy serves the unexpired term of the vacating member.

As added by P.L.166-1997, SEC.3. Amended by P.L.141-2003, SEC.4.

IC 22-12-4.5-5
Chairperson and vice chairperson

Sec. 5. The board shall annually elect a chairperson and vice chairperson from among the board's members.

As added by P.L.166-1997, SEC.3.

IC 22-12-4.5-6
Meetings; quorum

Sec. 6. (a) The board shall meet at least quarterly.

(b) A quorum of the board consists of six (6) members. The affirmative votes of at least six (6) members of the board are required for the board to take action.

As added by P.L.166-1997, SEC.3. Amended by P.L.141-2003, SEC.5.

IC 22-12-4.5-7
Expenses

Sec. 7. (a) Each member of the board who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the board who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.166-1997, SEC.3.

IC 22-12-4.5-8
Facilities and staff

Sec. 8. The department shall provide facilities and staff to carry out the responsibilities of the board.

As added by P.L.166-1997, SEC.3.

IC 22-12-5
Repealed

(Repealed by P.L.22-2005, SEC.56.)

IC 22-12-6

Chapter 6. Administration of Funds; Fire Insurance Policy Premium Tax; Fees

IC 22-12-6-1

Fire and building services fund

Sec. 1. (a) The fire and building services fund is established for the purpose of defraying the personal services, other operating expense, and capital outlay of the following:

(1) The department.

(2) The education board and the rules board.

(3) The commission.

(b) The fund shall be administered by the department. Money collected for deposit in the fund shall be deposited at least monthly with the treasurer of state.

(c) The treasurer of state shall deposit the following collected amounts in the fund:

(1) Fire insurance policy premium taxes assessed under section 5 of this chapter.

(2) Except as provided in section 6(d) of this chapter, all fees collected under this chapter.

(3) Any money not otherwise described in this subsection but collected by the division of fire and building safety.

(4) Any money not otherwise described in this subsection but collected by the department, commission, education board, or rules board and designated for distribution to the fund by statute or the executive director of the department.

(5) A fee collected by the education board for the issuance of a certification under IC 22-14-2-7.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) Money in the fund at the end of a fiscal year does not revert to the state general fund.

As added by P.L.245-1987, SEC.1. Amended by P.L.38-1990, SEC.2; P.L.1-2006, SEC.352; P.L.101-2006, SEC.33.

IC 22-12-6-2

Statewide arson investigation financial assistance fund; expiration

Sec. 2. (a) The statewide arson investigation financial assistance fund is established to provide resources to:

(1) prosecuting attorneys;

(2) local police departments;

(3) the state police department;

(4) arson task forces;

(5) fire departments that have arson investigating teams or arson task forces; and

(6) the division of fire and building safety established by IC 10-19-7-1 for purposes of fire investigation.

(b) The department shall administer the fund.

(c) The fund consists of money deposited in the fund by the executive director of the department. The department, the state fire marshal, and the division of fire and building safety may accept gifts and grants from any source to be deposited in the fund and to be used for the purposes of this section.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Not later than June 30, 2013, the department shall transfer all money in the fund to the regional public safety training fund established by IC 10-15-3-12 to be used for fire investigation training.

(f) This section expires July 1, 2013.

As added by P.L.245-1987, SEC.1. Amended by P.L.167-1997, SEC.1; P.L.1-2006, SEC.353; P.L.107-2007, SEC.13; P.L.78-2013, SEC.8.

IC 22-12-6-3

Statewide fire and building safety education fund

Sec. 3. (a) The statewide fire and building safety education fund is established to provide money to:

(1) local fire and building inspection departments for enrollment in education and training programs approved by the department; and

(2) the division of fire and building safety for:

(A) enrollment in education and training programs approved by the department; and

(B) the sponsoring of training conferences.

(b) The department shall administer the fund. The department shall distribute money from the fund in accordance with the rules adopted under IC 4-22-2 by the commission.

(c) The fund consists of:

(1) money allocated under section 6(d) of this chapter; and

(2) fees collected under subsection (e).

(d) Money in the fund at the end of a fiscal year does not revert to the state general fund.

(e) The department may charge a fee for a person's participation in a training conference. The department shall deposit the fees collected under this subsection in the fund. The department shall pay all expenses associated with training conferences out of the fund.

As added by P.L.245-1987, SEC.1. Amended by P.L.222-1989, SEC.7; P.L.167-1997, SEC.2; P.L.3-2001, SEC.1; P.L.141-2003, SEC.6; P.L.1-2006, SEC.354.

IC 22-12-6-4

Repealed

(Repealed by P.L.38-1990, SEC.6.)

IC 22-12-6-5

Fire insurance companies; assessment of premium tax; failure to pay; license revocation

Sec. 5. (a) All fire insurance companies licensed to transact business in Indiana shall pay to the treasurer of state before March 2 of each year an amount equal to one-half of one percent (0.5%) of the gross premiums of each company, received on fire risks written in Indiana, after deducting return premiums and considerations received from reinsurance, as reported by them to the auditor of state for the payment of premium taxes as provided by statute.

(b) Annual payment under subsection (a) by these companies is in addition to all taxes and license fees required by statute to be paid by fire insurance companies doing business in Indiana.

(c) If any fire insurance company licensed, authorized, or incorporated to transact business in Indiana fails to pay into the state treasury on June 30 and December 31 of each year the taxes required by this section, the department of insurance shall revoke its license and may not license it to do business in Indiana for two (2) years after the date its license is revoked under this subsection.

As added by P.L.245-1987, SEC.1.

IC 22-12-6-6

Fee schedules; fire prevention and building safety commission

Sec. 6. (a) The commission may adopt rules under IC 4-22-2 setting a fee schedule for the following:

(1) Fireworks display permits issued under IC 22-11-14-2.

(2) Explosives magazine permits issued under IC 35-47.5-4.

(3) Design releases issued under IC 22-15-3.

(4) Certification of industrialized building systems and mobile structures under IC 22-15-4.

(5) Inspection of regulated amusement devices under IC 22-15-7.

(6) Application fees for variance requests under IC 22-13-2-11 and inspection fees for exemptions under IC 22-13-4-5.

(7) Permitting and inspection of regulated lifting devices under IC 22-15-5.

(8) Permitting and inspection of regulated boiler and pressure vessels under IC 22-15-6.

(9) Licensing of:

(A) boiler and pressure vessel inspectors under IC 22-15-6-5; and

(B) an owner or user boiler and pressure vessel inspection agency under IC 22-15-6-6.

(10) Licensing of elevator contractors, elevator inspectors, and elevator mechanics under IC 22-15-5-6 through IC 22-15-5-16.

(b) Fee schedules set under this section must be sufficient to pay all of the costs, direct and indirect, that are payable from the fund into which the fee must be deposited, after deducting other money deposited in the fund. In setting these fee schedules, the commission may consider differences in the degree or complexity of the activity being performed for each fee.

(c) The fee schedule set for design releases issued under subsection (a)(3) may not be changed more than one (1) time each

year. The commission may include in this fee schedule a fee for the review of plans and specifications and, if a political subdivision does not have a program to periodically inspect the construction covered by the design release, a fee for inspecting the construction.

(d) The fee schedule set under subsection (a) for design releases may provide that a portion of the fees collected shall be deposited in the statewide fire and building safety education fund established under section 3 of this chapter.

As added by P.L.245-1987, SEC.1. Amended by P.L.222-1989, SEC.9; P.L.119-2002, SEC.6; P.L.123-2002, SEC.26; P.L.1-2003, SEC.71.

IC 22-12-6-7

Permit application fee and inspection fee

Sec. 7. (a) This section does not apply to a nonpublic school (as defined in IC 20-18-2-12) or a school operated by a school corporation (as defined in IC 20-18-2-16).

(b) The division of fire and building safety shall charge an application fee set by rules adopted by the commission under IC 4-22-2 for amusement and entertainment permits issued under IC 22-14-3.

(c) The division of fire and building safety shall collect an inspection fee set by rules adopted by the commission under IC 4-22-2 whenever the division conducts an inspection for a special event endorsement under IC 22-14-3.

(d) Halls, gymnasiums, or places of assembly in which contests, drills, exhibitions, plays, displays, dances, concerts, or other types of amusement are held by colleges, universities, social or fraternal organizations, lodges, farmers organizations, societies, labor unions, trade associations, or churches are exempt from the fees charged or collected under subsections (b) and (c), unless rental fees are charged or collected.

(e) The fees set for applications or inspections under this section must be sufficient to pay all the direct and indirect costs of processing an application or performing an inspection for which the fee is set. In setting the fees, the commission may consider differences in the degree or complexity of the activity being performed for each fee.

As added by P.L.245-1987, SEC.1. Amended by P.L.38-1990, SEC.3; P.L.159-1995, SEC.4; P.L.1-2005, SEC.189; P.L.1-2006, SEC.355.

IC 22-12-6-8

Application fees; fireworks manufacturer, distributor, wholesaler, or importer permit; fireworks retail stand permit

Sec. 8. (a) The application fee for a fireworks manufacturer, distributor, wholesaler, or importer permit issued under IC 22-11-14-5 shall be set by rules adopted by the commission under IC 4-22-2.

(b) The application fee for a fireworks retail stand permit issued under IC 22-11-14-7 shall be set by rules adopted by the commission

under IC 4-22-2. The rules must exempt a nonprofit corporation incorporated under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17 from the fee.

(c) The fees set for applications under this section must be sufficient to pay all the direct and indirect costs of processing an application for which the fee is set. In setting the fees, the commission may consider differences in the degree or complexity of the activity being performed for each fee.

As added by P.L.245-1987, SEC.1. Amended by P.L.38-1990, SEC.4; P.L.179-1991, SEC.25; P.L.1-1992, SEC.113.

IC 22-12-6-9
Repealed

(Repealed by P.L.119-2002, SEC.32.)

IC 22-12-6-10
Repealed

(Repealed by P.L.119-2002, SEC.32.)

IC 22-12-6-11
Repealed

(Repealed by P.L.119-2002, SEC.32.)

IC 22-12-6-12
Repealed

(Repealed by P.L.119-2002, SEC.32.)

IC 22-12-6-13
Repealed

(Repealed by P.L.119-2002, SEC.32.)

IC 22-12-6-14
Repealed

(Repealed by P.L.119-2002, SEC.32.)

IC 22-12-6-15
Payment by credit card

Sec. 15. (a) As used in this section, "credit card" means a bank card, debit card, charge card, prepaid card, or other similar device used for payment.

(b) In addition to other methods of payment allowed by law, the department may accept payment by credit card for certifications, licenses, and fees, and other amounts payable to the following:

(1) The department.
(2) The division of preparedness and training.
(3) The fire prevention and building safety commission.
(4) The regulated amusement device safety board.
(5) The boiler and pressure vessel rules board.
(6) The Indiana homeland security foundation.
(7) The division of fire and building safety.

(c) The department may enter into appropriate agreements with banks or other organizations authorized to do business in Indiana to enable the department to accept payment by credit card.

(d) The department may recognize net amounts remitted by the bank or other organization as payment in full of amounts due the department.

(e) The department may pay any applicable credit card service charge or fee.

As added by P.L.85-2001, SEC.1. Amended by P.L.1-2006, SEC.356; P.L.1-2010, SEC.90.

IC 22-12-7

Chapter 7. Administrative Adjudication; Special Judicial Proceedings

IC 22-12-7-1

Application of chapter

Sec. 1. This chapter applies to the commission, the education board, the rules board, and every officer, employee, and agent of an office or division within the department whenever the person has authority to administer or enforce a law.

As added by P.L.245-1987, SEC.1.

IC 22-12-7-2

Application of IC 4-21.5

Sec. 2. IC 4-21.5 applies to persons described in section 1 of this chapter.

As added by P.L.245-1987, SEC.1.

IC 22-12-7-3

Orders under IC 4-21.5-3-4; issuance

Sec. 3. Notwithstanding IC 4-21.5-3-5, the appropriate person under section 1 of this chapter shall issue the following orders under IC 4-21.5-3-4:

(1) The grant, renewal, restoration, transfer, or denial of a permit, registration, certification, release, variance, exemption, authorization, or other license.

(2) The determination of tax due or other liability.

(3) Any other order that must be issued under IC 4-21.5 and is not described in section 4 of this chapter.

As added by P.L.245-1987, SEC.1.

IC 22-12-7-4

Orders under IC 4-21.5-3-6; issuance

Sec. 4. The appropriate person under section 1 of this chapter shall issue the following orders under IC 4-21.5-3-6:

(1) An order requiring a person to cease and correct any violation of law.

(2) An order that imposes a sanction described in section 7(4) or 7(5) of this chapter or that imposes a requirement under IC 35-47.5-4-2.

(3) Any other enforcement order.

As added by P.L.245-1987, SEC.1. Amended by P.L.141-2003, SEC.7.

IC 22-12-7-5

Orders under IC 4-21.5-3-6; time to correct violation

Sec. 5. An order issued under IC 4-21.5-3-6 must grant a reasonable time in which to cease and correct a violation of law covered by the order.

As added by P.L.245-1987, SEC.1.

IC 22-12-7-6
Emergency or temporary orders

Sec. 6. (a) An emergency or other temporary order may be issued under IC 4-21.5-4 whenever the appropriate person under section 1 of this chapter determines that conduct or a condition of property:

(1) presents a clear and immediate hazard of death or serious bodily injury to any person other than a trespasser;

(2) is prohibited without a permit, registration, certification, release, authorization, variance, exemption, or other license required under IC 22-14 or IC 22-15 or another statute administered by a person described in section 1 of this chapter and the license has not been issued; or

(3) will conceal a violation of law.

(b) An emergency or other temporary order issued by an employee or agent of the division of fire and building safety must be approved by the state fire marshal or by the executive director of the department.

(c) An approval under subsection (b) may be orally communicated to the employee or agent issuing the order. However, the department shall maintain a written record of the approval.

As added by P.L.245-1987, SEC.1. Amended by P.L.1-2006, SEC.357.

IC 22-12-7-7
Orders under IC 4-21.5-3-6 or IC 4-21.5-4; corrective actions; sanctions

Sec. 7. An order under IC 4-21.5-3-6 or IC 4-21.5-4 may include the following, singly or in combination:

(1) Require a person who has taken a substantial step toward violating a law or has violated a law to cease and correct the violation.

(2) Require a person who has control over property that is affected by a violation to take reasonable steps to:

(A) protect persons and property from the hazards of the violation; and

(B) correct the violation.

(3) Require persons to leave an area that is affected by a violation and prohibit persons from entering the area until the violation is corrected.

(4) Impose any of the following sanctions with respect to a permit, registration, certification, release, authorization, variance, exemption, or other license issued by a person described in section 1 of this chapter:

(A) Permanently revoke the license.

(B) Suspend the license.

(C) Censure the person to whom the license is issued.

(D) Issue a letter of reprimand to a person to whom the license is issued.

(E) Place a person to whom the license is issued on probation.

An order to permanently revoke or suspend a license under this subdivision may include the revocation or suspension of a license issued under IC 35-47.5-4-4.5 for the commission of an offense under IC 35-47.5-5 or 18 U.S.C. 842 by the licensee.

(5) Impose on a person who has violated a law that may be enforced by the department a civil penalty not to exceed two hundred fifty dollars ($250) for each day the violation occurs.

As added by P.L.245-1987, SEC.1. Amended by P.L.141-2003, SEC.8; P.L.35-2004, SEC.1.

IC 22-12-7-8
Probation orders

Sec. 8. (a) If a licensee is placed on probation under section 7 of this chapter, the person issuing the order may require that licensee to:

(1) report regularly to the department or another person upon the matters that are the basis of probation;

(2) limit use of property or other conduct to those areas prescribed by the person issuing the order; or

(3) if the disciplined licensee is an inspector or an inspection agency, continue or renew professional education under the department or another person approved by the person issuing the order until the person issuing the order finds that a satisfactory degree of skill has been attained in those areas that are the basis of the probation.

(b) The person issuing the order may cancel a probation order if it finds that the deficiency that required disciplinary action has been remedied by the licensee.

As added by P.L.245-1987, SEC.1.

IC 22-12-7-9
Reinstatement of suspended licenses

Sec. 9. (a) The person issuing the order may reinstate a license that has been suspended under section 7 of this chapter if the person issuing the order is satisfied that the applicant for reinstatement is able to practice or operate with reasonable skill and safety.

(b) As a condition of reinstatement the person issuing the order may impose disciplinary or corrective measures authorized under this article.

As added by P.L.245-1987, SEC.1.

IC 22-12-7-10
Consistency in imposing sanctions; reasons for departure from prior decisions

Sec. 10. (a) A person described in section 1 of this chapter shall try to be consistent in imposing sanctions authorized under section 7(4) of this chapter.

(b) If circumstances require a significant departure from prior decisions involving similar conduct, the person shall explain the reasons for the departure in its findings or orders.

As added by P.L.245-1987, SEC.1.

IC 22-12-7-11
Appeal of orders issued by rules board

Sec. 11. (a) An order issued by the rules board may be appealed to the commission under IC 4-21.5-3-7.

(b) If an order is appealed, the commission or its designee shall conduct all administrative proceedings under IC 4-21.5. In its proceedings, the commission may modify the order or reverse the order.

As added by P.L.245-1987, SEC.1.

IC 22-12-7-12
Appeal of orders issued by office or division of department; informal discussions

Sec. 12. (a) This section applies to an order issued by an officer, employee, or agent of an office or division within the department.

(b) The office or division issuing an order shall give a person who:

(1) is aggrieved by the order; and

(2) requests review of the order in verbal or written form;

an opportunity to informally discuss the order with the office or division. Review under this subsection does not suspend the running of the time period in which a person must petition under IC 4-21.5-3-7 to appeal the order.

(c) The office or division issuing the order may, on its own initiative or at the request of any person, modify its order or reverse the order.

(d) An order issued by an office or a division may be appealed to the commission under IC 4-21.5-3-7. A decision to deny a request to modify or reverse an order under subsection (c) is not appealable.

(e) If an order is appealed, the commission or its designee shall conduct all administrative proceedings under IC 4-21.5. In its proceedings, the commission may modify the order to impose any requirement authorized under this article or reverse the order.

As added by P.L.245-1987, SEC.1.

IC 22-12-7-13
Applications for court orders

Sec. 13. In lieu of issuing an administrative order, the appropriate person under section 1 of this chapter may apply for an order from a circuit or superior court in the county in which a person takes a substantial step toward violating a law or a violation occurs.

As added by P.L.245-1987, SEC.1.

IC 22-12-7-14
Injunctions; restraining orders

Sec. 14. Upon a showing that a person has:

(1) taken a substantial step toward violating a law; or

(2) violated a law;

the court may grant without bond an injunction, restraining order, or other appropriate order.

As added by P.L.245-1987, SEC.1.

IC 22-12-8

Chapter 8. Infractions; Violations of Rules and Orders

IC 22-12-8-1

Separate infractions

Sec. 1. Each day that an infraction under this chapter occurs constitutes a separate infraction.

As added by P.L.245-1987, SEC.1.

IC 22-12-8-2

Violations; infraction

Sec. 2. A person who violates:

(1) a rule adopted under this article, IC 22-13, IC 22-14, or IC 22-15;

(2) a condition of a permit, certification, registration, release, authorization, variance, exemption, or other license issued under this article, IC 22-13, IC 22-14, IC 22-15; or

(3) any other order issued under this article, IC 22-13, IC 22-14, IC 22-15;

commits a Class C infraction.

As added by P.L.245-1987, SEC.1.

IC 22-12-8-3

Recklessly allowing another to commit violation; infraction

Sec. 3. A person who recklessly allows another to commit a violation of:

(1) a rule adopted under this article, IC 22-13, IC 22-14, or IC 22-15;

(2) a condition of a permit, certification, registration, release, authorization, variance, exemption, or other license issued under this article, IC 22-13, IC 22-14, or IC 22-15; or

(3) any other order issued under this article, IC 22-13, IC 22-14, or IC 22-15;

that applies to property under the person's control commits a Class C infraction.

As added by P.L.245-1987, SEC.1.

IC 22-12-9

Chapter 9. Heating Oil Tank Closure

IC 22-12-9-1

"Heating oil tank" defined

Sec. 1. As used in this chapter, "heating oil tank" means an above ground or underground tank used to store heating oil for use as a fuel in heating a residential property.

As added by P.L.131-1997, SEC.7.

IC 22-12-9-2

Duties of owners

Sec. 2. (a) Immediately upon abandoning the use of heating oil as a fuel in heating a property, the owner of a heating oil tank, under applicable state and federal law, shall:

(1) remove all flammable or combustible liquids from the heating oil tank, piping, and connections; and

(2) except as provided under subsection (b), remove the outside filling pipe.

(b) An owner is not required to remove an outside filling pipe under subsection (a)(2) if the owner permanently secures the tank against accidental filling.

(c) An owner of a heating oil tank described in subsection (a) shall, under applicable state and federal law, dispose of all flammable and combustible liquids removed under subsection (a).

As added by P.L.131-1997, SEC.7.

IC 22-12-9-3

Duties of contractors or subcontractors

Sec. 3. A contractor or subcontractor proposing to convert a residential property from heating oil to another heat source shall inform the property owner of the requirements of this chapter and include in a contract for labor and materials the cost of:

(1) properly removing and disposing of all flammable or combustible liquids from a heating oil tank; and

(2) either:

(A) removing an outside filling pipe; or

(B) permanently securing the tank against accidental filling.

As added by P.L.131-1997, SEC.7.

IC 22-12-10

Chapter 10. Above Ground Swimming Pools at Class 2 Structures

IC 22-12-10-1

Applicability

Sec. 1. This chapter applies only to an above ground swimming pool that is sold:

(1) for installation on property that:

(A) contains a Class 2 structure; and

(B) does not contain a Class 1 structure; and

(2) in Indiana after December 31, 2008.

As added by P.L.72-2008, SEC.2.

IC 22-12-10-2

"Above ground swimming pool" defined

Sec. 2. As used in this chapter, "above ground swimming pool" means any swimming pool whose sides rest fully above the surrounding earth.

As added by P.L.72-2008, SEC.2.

IC 22-12-10-3

"Pool retailer" defined

Sec. 3. As used in this chapter, "pool retailer" means a person who sells an above ground swimming pool for installation on property that:

(1) contains a Class 2 structure; and

(2) does not contain a Class 1 structure.

As added by P.L.72-2008, SEC.2.

IC 22-12-10-4

"Swimming pool" defined

Sec. 4. As used in this chapter, "swimming pool" has the meaning set forth in 675 IAC 20-1.1-18.

As added by P.L.72-2008, SEC.2.

IC 22-12-10-5

Pool retailer duties

Sec. 5. A pool retailer who sells an above ground swimming pool that has walls that are at least forty-eight (48) inches high shall ensure that the above ground swimming pool is sold with an access ladder or steps that may be:

(1) removed; or

(2) secured and locked;

when the above ground swimming pool is not in use.

As added by P.L.72-2008, SEC.2.

IC 22-13

ARTICLE 13. FIRE SAFETY, BUILDING, AND EQUIPMENT LAWS: RULES

IC 22-13-1

Chapter 1. Definitions

IC 22-13-1-1

Application of definitions

Sec. 1. The definitions set forth in IC 22-12-1 and this chapter apply throughout this article.

As added by P.L.245-1987, SEC.2.

IC 22-13-1-2

"Building rule"

Sec. 2. "Building rule" means a rule that:

(1) is adopted by the commission; and

(2) qualifies as a building law under IC 22-12-1-3.

As added by P.L.245-1987, SEC.2.

IC 22-13-1-3

"Fire safety rule"

Sec. 3. "Fire safety rule" means a rule that:

(1) is adopted by the commission; and

(2) qualifies as a fire safety law under IC 22-12-1-13.

As added by P.L.245-1987, SEC.2.

IC 22-13-2

Chapter 2. Rules; Variances; Review of State and Local Rules, Ordinances, and Orders; Approval of Cooperative Agreements

IC 22-13-2-1

State agencies and political subdivisions to exercise statutory powers

Sec. 1. Except as provided in this article, state agencies and political subdivisions may exercise their statutory powers to regulate buildings, structures, and other property.

As added by P.L.245-1987, SEC.2.

IC 22-13-2-1.5

Removal or alteration of a sign as a condition of issuing a permit, license, or variance

Sec. 1.5. A state agency or political subdivision may not require that a lawfully erected sign be removed or altered as a condition of issuing:

(1) a permit;

(2) a license;

(3) a variance; or

(4) any other order concerning land use or development;

unless the owner of the sign is compensated in accordance with IC 32-24 or has waived the right to and receipt of damages in writing.

As added by P.L.163-2006, SEC.1.

IC 22-13-2-2

Statewide code of fire safety and building laws; adoption of national codes

Sec. 2. (a) The commission shall adopt rules under IC 4-22-2 to adopt a statewide code of fire safety laws and building laws.

(b) Before December 1, 2003, the commission shall adopt the most recent edition, including addenda, of the following national codes by rules under IC 4-22-2 and IC 22-13-2.5 (before its repeal):

(1) ANSI A10.4 (Safety Requirements for Personnel Hoists).

(2) ASME A17.1 (Safety Code for Elevators and Escalators, an American National Standard).

(3) ASME A18.1 (Safety Standard for Platform Lifts and Stairway Chairlifts, American National Standard).

(4) ASME QEI-1 (Standard for the Qualification of Elevator Inspectors, an American National Standard).

(5) The American Society of Civil Engineers (ASCE) Automated People Mover Standard 21.

(6) ANSI A90.1 Safety Code for Manlifts.

(c) Before July 1, 2006, the commission shall adopt the most recent edition, including addenda, of ASME A17.3 (Safety Code for Existing Elevators and Escalators, an American National Standard) by rules under IC 4-22-2 and IC 22-13-2.5 (before its repeal).

(d) The commission shall adopt the subsequent edition of each

national code, including addenda, to be adopted as provided under subsections (b) and (c) within eighteen (18) months after the effective date of the subsequent edition.

(e) The commission may amend the national codes as a condition of the adoption under subsections (b), (c), and (d).

(f) To the extent that the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1, apply to tents or canopies in which cooking does not occur, the commission shall suspend enforcement of the following sections of the International Fire Code, 2000 edition, until the division of fire and building safety recommends amendments to the commission under subsection (h) and the commission adopts rules under subsection (i) based on the recommendations:

(1) Section 2406.1 (675 IAC 22-2.3-233).
(2) Section 2406.2.
(3) Section 2406.3.

(g) To the extent that section 2403.2 of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1, applies to a tent or canopy in which there is an open flame, the commission shall suspend enforcement of section 2403.2 until the division of fire and building safety recommends amendments to section 2403.2 to the commission under subsection (h) and the commission adopts rules under subsection (i) based on the recommendations and amending section 2403.2.

(h) The division of fire and building safety shall recommend amendments to the commission to the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1:

(1) Section 2403.2.
(2) Section 2406.1 (675 IAC 22-2.3-233).
(3) Section 2406.2.
(4) Section 2406.3.

(i) After receiving and considering recommendations from the division of fire and building safety under subsection (h), and using the procedure set forth in IC 4-22-2-38, the commission shall amend the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1:

(1) Section 2403.2.
(2) Section 2406.1 (675 IAC 22-2.3-233).
(3) Section 2406.2.
(4) Section 2406.3.

As added by P.L.245-1987, SEC.2. Amended by P.L.167-1997, SEC.3; P.L.119-2002, SEC.7; P.L.44-2005, SEC.1; P.L.1-2006, SEC.358; P.L.101-2006, SEC.34.

IC 22-13-2-3

Precedence of rules adopted by commission; reference to rules; ordinances

Sec. 3. (a) Except to the extent provided in subsection (c), the rules adopted under section 2 of this chapter take precedence over:

(1) any rule adopted by a state agency that conflicts with the commission's fire safety rules or building rules; and

(2) any ordinance or other regulation adopted by a political subdivision that covers the same subject matter as the commission's fire safety rules or building rules.

(b) State agencies and political subdivisions may incorporate the rules adopted by the commission by reference into a rule, ordinance, or other regulation. Notwithstanding IC 4-22-9-6, a reference to the rules adopted by the commission, by citation to the Indiana Administrative Code (IAC), shall be construed to include all amendments as of the date that the reference is written and any later amendments to that provision, unless accompanied by a reference to a specific edition or supplement to the Indiana Administrative Code.

(c) A city, town, or county may adopt an ordinance that includes more stringent or detailed requirements that do not conflict with the commission's rules, but the ordinance is subject to approval under section 5 of this chapter.

As added by P.L.245-1987, SEC.2.

IC 22-13-2-4

Duplication, conflict, or overlapping of responsibility between rules

Sec. 4. If the commission finds duplication, conflict, or overlapping of responsibility between:

(1) this article, IC 22-12, IC 22-14, IC 22-15, a fire safety rule, or a building rule; and

(2) the rules adopted by another state agency;

the commission shall notify the state agency, and the state agency shall revise its rules to eliminate the duplication, conflict, or overlap.

As added by P.L.245-1987, SEC.2.

IC 22-13-2-5

Ordinances or regulations of political subdivisions; review; approval of commission required

Sec. 5. (a) The commission shall carry out a program to review the fire safety laws and the building laws adopted in the ordinances and other regulations of political subdivisions.

(b) An ordinance or other regulation adopted by a political subdivision that qualifies as a fire safety law or a building law is not effective until it is approved by the commission. However, an ordinance that:

(1) is adopted by a city, town, or county; and

(2) governs the installations, repair, and maintenance of smoke detectors in residential structures that are not required to have smoke detectors under the rules of the commission;

is effective without approval by the commission.

As added by P.L.245-1987, SEC.2.

IC 22-13-2-6

Ordinances or regulations of political subdivisions; application to industrialized building system or mobile structure

Sec. 6. An ordinance or other regulation adopted by a political subdivision that governs the construction of a building or other structure does not apply to an industrialized building system or mobile structure that is certified under IC 22-15-4.
As added by P.L.245-1987, SEC.2.

IC 22-13-2-7
Review of variances and orders of state agencies or political subdivisions

Sec. 7. (a) The commission may review and modify or reverse any variance or other order that:

(1) is issued by a state agency or political subdivision; and

(2) covers a subject governed by this article, IC 22-12, IC 22-14, IC 22-15, a fire safety rule, or a building rule.

(b) The commission shall review variances granted by a political subdivision to the fire safety laws and building laws adopted in its ordinances. The variance is not effective until it is approved by the commission.

(c) The commission shall review orders under this section that:

(1) are issued by a political subdivision; and

(2) concern a Class 2 structure;

if a person aggrieved by the order petitions for review under IC 4-21.5-3-7 within thirty (30) days after the political subdivision has issued the order.

(d) A copy of the petition under subsection (c) shall be delivered to the political subdivision issuing the order.

(e) Review of an order under this section does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.
As added by P.L.245-1987, SEC.2.

IC 22-13-2-8
Equipment laws

Sec. 8. (a) The commission shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated lifting devices.

(b) Except as provided in subsection (c), subject to the approval of the commission, the rules board shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated boilers and pressure vessels.

(c) Subject to the approval of the commission, the rules board may adopt emergency rules under IC 4-22-2-37.1 only to adopt by reference all or part of the following national boiler and pressure vessel codes:

(1) The American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

(2) The National Board of Boiler and Pressure Vessel Inspectors Inspection Code.

(3) The American Petroleum Institute 510 Pressure Vessel Inspection Code.

(4) Any subsequent editions of the codes listed in subdivisions

(1) through (3).

(d) An emergency rule adopted under subsection (c) expires on the earlier of the following dates:

(1) Not more than two (2) years after the emergency rule is accepted for filing with the publisher of the Indiana Register.

(2) The date a permanent rule is adopted under IC 4-22-2.

(e) Subject to the approval of the commission, the regulated amusement device safety board established under IC 22-12-4.5 shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated amusement devices.

As added by P.L.245-1987, SEC.2. Amended by P.L.166-1997, SEC.4; P.L.141-2003, SEC.9; P.L.123-2006, SEC.35.

IC 22-13-2-8.5

Rules; outdoor event equipment

Sec. 8.5. (a) The commission shall adopt rules under IC 4-22-2 for outdoor event equipment at outdoor performances to protect the safety of persons at the outdoor performances. The commission may:

(1) exempt small assemblies of outdoor event equipment, as defined by the commission, from some or all fees or other requirements that otherwise would apply to outdoor event equipment under a rule adopted under this section or another building law; or

(2) establish alternative procedures, fees, or other requirements, or any combination, for small assemblies of outdoor event equipment, as defined by the commission.

(b) The commission may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to carry out subsection (a), including temporary rules concerning a schedule of fees for design releases or inspections, or both. A temporary rule adopted under this subsection expires on the earliest of the following:

(1) The date specified in the temporary rule.

(2) The date another temporary rule adopted under this subsection or a rule adopted under IC 4-22-2 supersedes or repeals the previously adopted temporary rule.

(3) January 1, 2016.

(c) Subject to this section, a city, town, or county that regulated outdoor event equipment before March 15, 2012, under an ordinance adopted before March 15, 2012, may, if the ordinance is in effect on March 15, 2012, continue to regulate outdoor event equipment under the ordinance after March 14, 2012, in the same manner that the city, town, or county applied the ordinance before March 15, 2012. However, a statewide code of fire safety laws or building laws governing outdoor event equipment that is adopted by the commission under this section after March 14, 2012, takes precedence over any part of a city, town, or county ordinance that is in conflict with the commission's adopted code. The ordinances to which this section applies include Chapter 536 of the Revised Code of the Consolidated City and County Indianapolis/Marion, Indiana

Codified through Ordinance No. 36, 2011, passed August 15, 2011. (Supp. No. 27). A city, town, or county to which this subsection applies need not be certified or approved under IC 22-15-3-1 or another law to continue to regulate outdoor event equipment after March 14, 2012.

(d) This subsection applies to cities, towns, and counties described in subsection (c) and any other city, town, or county that, after March 14, 2012, adopts an ordinance governing outdoor event equipment that is approved by the commission or a building law compliance officer. The city, town, or county shall require compliance with:

(1) the rules adopted under this section;

(2) orders issued under IC 22-13-2-11 that grant a variance to the rules adopted under this section;

(3) orders issued under IC 22-12-7 that apply the rules adopted under this section; and

(4) a written interpretation of the rules adopted under this section binding on the unit under IC 22-13-5-3 or IC 22-13-5-4;

on both private and public property located within the boundaries of the city, town, or county, including, in the case of a consolidated city, the state fairgrounds. This subsection does not limit the authority of a unit (as defined in IC 36-1-2-23) under IC 36-7-2-9 to enforce building laws and orders and written interpretations related to building laws.

As added by P.L.92-2012, SEC.5. Amended by P.L.142-2013, SEC.5.

IC 22-13-2-9

Power of political subdivisions to regulate; limitation

Sec. 9. Except as provided in section 10 of this chapter, political subdivisions do not have the power to regulate regulated:

(1) amusement devices;

(2) boilers;

(3) lifting devices; and

(4) pressure vessels.

As added by P.L.245-1987, SEC.2. Amended by P.L.119-2002, SEC.8.

IC 22-13-2-10

Lifting devices; regulation by county, city, or town; permits; inspections

Sec. 10. (a) A county, city, or town may regulate regulated lifting devices if the unit's regulatory program is approved by the commission.

(b) A unit must submit its ordinances and other regulations that regulate lifting devices to the commission for approval. The ordinance or other regulation is not effective until it is approved by the commission. If any of these ordinances or regulations conflict with the commission's rules, the commission's rules supersede the local ordinance or other regulation.

(c) A unit may issue permits only to applicants who qualify under

IC 22-15-5. However, the unit may specify a lesser fee than that set under IC 22-12-6-6(a)(7).

(d) A unit must inspect regulated lifting devices with inspectors who possess the qualifications necessary to be employed by the division of fire and building safety of the department of homeland security as a regulated lifting device inspector.

As added by P.L.245-1987, SEC.2. Amended by P.L.119-2002, SEC.9; P.L.22-2005, SEC.36.

IC 22-13-2-11

Variances

Sec. 11. (a) The commission, the rules board, or the regulated amusement device safety board established by IC 22-12-4.5-2 may grant a variance to a rule that it has adopted.

(b) To qualify for a variance, an applicant must pay the fee set under IC 22-12-6-6 and submit facts demonstrating that:

(1) compliance with the rule will impose an undue hardship upon the applicant or prevent the preservation of an architecturally significant or historically significant part of a building or other structure; and

(2) either:

(A) noncompliance with the rule; or

(B) compliance with an alternative requirement approved by the body adopting the rule;

will not be adverse to the public health, safety, or welfare.

(c) A variance granted under this section is conditioned upon compliance with an alternative standard approved under subsection (b)(2)(B).

(d) A variance granted under this section takes precedence over conflicting rules adopted by a state agency and conflicting ordinances and other regulations adopted by a political subdivision.

As added by P.L.245-1987, SEC.2. Amended by P.L.141-2003, SEC.10.

IC 22-13-2-12

Agreements with federal government, other states, or foreign countries; approval of attorney general

Sec. 12. (a) This section applies if the commission is authorized by statute to enter into agreements with the federal government, another state, or foreign country.

(b) An agreement under this section must be submitted to the attorney general for approval. The attorney general shall approve the agreement unless the attorney general finds that it does not comply with the statutes. If the attorney general disapproves the agreement, the attorney general shall give the commission a detailed statement indicating the basis for the disapproval. If the attorney general fails to approve or disapprove the agreement within sixty (60) days after it is submitted, it is considered approved.

As added by P.L.245-1987, SEC.2.

IC 22-13-2-13
Exercise of power to adopt rules by commission

Sec. 13. (a) The commission may adopt rules under IC 4-22-2 to implement this article, IC 22-12, IC 22-14, and IC 22-15.

(b) Any power of the state fire marshal or the division of fire and building safety to adopt rules shall be exercised by the commission.
As added by P.L.245-1987, SEC.2. Amended by P.L.1-2006, SEC.359.

IC 22-13-2-14
Studies and consultation

Sec. 14. The commission may engage in studies and consult with any person to implement this article, IC 22-12, IC 22-14, and IC 22-15.
As added by P.L.245-1987, SEC.2.

IC 22-13-2.5
Repealed

(Repealed by P.L.101-2006, SEC.39.)

IC 22-13-3

Chapter 3. Standards for Fire Safety Rules; Exemption From Regulated Explosives Magazine Permit Requirement

IC 22-13-3-1

Fire safety rules; adoption

Sec. 1. The commission shall adopt fire safety rules that prohibit the following:

(1) The storage of regulated explosives (as defined in IC 35-47.5-2-13) in quantities exceeding the maximum quantity specified by the commission.

(2) The storage of regulated explosives (as defined in IC 35-47.5-2-13) at a site that is located less than the minimum distance specified by the commission from a railroad, highway, or other place of habitation or assembly.

(3) The use of a receptacle, burning fixture or equipment, heating fixture or equipment, or structure for an explosive, flammable, or other combustible matter that does not meet the design and composition standards specified by the commission.

(4) The keeping, storage, use, manufacture, sale, handling, transportation, or disposition of an explosive, flammable, or other combustible matter in violation of any other requirements specified by the commission.

As added by P.L.245-1987, SEC.2. Amended by P.L.123-2002, SEC.27.

IC 22-13-3-2

Laboratories; rules for manufacture of explosives; exemption from regulated explosive magazines permit

Sec. 2. (a) This section applies to the following laboratories:

(1) Analytical laboratories approved by the division of fire and building safety under the alternative criteria established by the commission in its rules.

(2) Laboratories that are:

(A) operated by a college, university, school, or other educational entity for the purpose of instruction or research; and

(B) approved by the division of fire and building safety under the alternative criteria established by the commission in the rules.

(b) The commission may:

(1) apply different rules to the manufacture of regulated explosives (as defined in IC 35-47.5-2-13) in a laboratory described in subsection (a) than apply to other places where regulated explosives (as defined in IC 35-47.5-2-13) are manufactured; and

(2) adopt rules under IC 4-22-2 to exempt laboratories described in subsection (a) from the regulated explosive magazines permit requirement under IC 35-47.5-4.

As added by P.L.245-1987, SEC.2. Amended by P.L.123-2002,

SEC.28; P.L.1-2006, SEC.360.

IC 22-13-3-3
Class 1 structures; rules prohibiting occupancy or use

Sec. 3. The commission shall adopt fire safety rules that prohibit the occupancy or use of Class 1 structures that do not comply with the commission's rules governing the number, type, location, identification, repair, and maintenance of emergency exits, smoke detection devices, and other emergency communication devices.
As added by P.L.245-1987, SEC.2.

IC 22-13-4

Chapter 4. Standards for Building Rules; Exemption From Design Release Requirement

IC 22-13-4-1

Conditions to be promoted by rules

Sec. 1. (a) The building rules adopted by the commission to govern new construction must promote the following:

(1) Safety.

(2) Sanitary conditions.

(3) Energy conservation.

(4) Access by a person with a physical disability to Class 1 structures.

(b) Rules that:

(1) are adopted by the commission or the rules board under this article; and

(2) are not covered by subsection (a);

must promote safety.

As added by P.L.245-1987, SEC.2. Amended by P.L.23-1993, SEC.151.

IC 22-13-4-1.5

Compliance with Americans with Disabilities Act

Sec. 1.5. (a) The commission shall adopt building rules for the purpose of complying with and implementing the Americans with Disabilities Act (42 U.S.C. 12181 et seq.) and any amendments and regulations relating to the Act, to be consistent with the Americans with Disabilities Act Accessibility Guidelines (28 CFR 36.101 et seq.).

(b) The rules adopted under this section must:

(1) require that new construction must be readily accessible to and usable by individuals with disabilities, unless it is structurally impracticable to meet the accessibility requirements according to the standards established by the Americans with Disabilities Act Accessibility Guidelines (28 CFR 36.101 et seq.);

(2) require that an alteration of an existing facility must be made so that the alteration complies with the readily achievable barrier removal provisions of the Americans with Disabilities Act Accessibility Guidelines (28 CFR 36.101 et seq.); and

(3) allow the use of reasonable and cost-effective alternative means of public access or service if the alternative means are consistent with the Americans with Disabilities Act (42 U.S.C. 12181 et seq.).

As added by P.L.118-1994, SEC.3. Amended by P.L.168-1997, SEC.1.

IC 22-13-4-2

Industrialized building systems and mobile structures

Sec. 2. The commission shall adopt building rules to govern the

construction of industrialized building systems and mobile structures. In these rules, industrialized building systems and mobile structures may be exempted from requirements that otherwise apply to buildings or other structures.
As added by P.L.245-1987, SEC.2.

IC 22-13-4-3
Models or offices for sale of family dwellings; buildings used primarily as dwellings; exemption from rules and design release requirement

Sec. 3. (a) This section applies to a building or other structure that is:

(1) temporarily used as a model or office for the sale of a one (1) or two (2) family dwelling; or

(2) used for an occupation that is compatible, as determined by criteria established by the commission, with its primary use as a dwelling.

(b) The commission may adopt building rules that exempt a building or other structure described in subsection (a) from:

(1) building rules that otherwise apply to Class 1 structures; and

(2) the design release requirement under IC 22-15-3.

As added by P.L.245-1987, SEC.2.

IC 22-13-4-4
Minor construction; exemptions

Sec. 4. The commission may adopt building rules that exempt minor construction (as defined in the rules adopted by the commission) from the design release requirement under IC 22-15-3 and the regulated lifting device installation or alteration permit requirement under IC 22-15-5.
As added by P.L.245-1987, SEC.2.

IC 22-13-4-5
Conversion of buildings; exemption from rules

Sec. 5. (a) The commission shall adopt building rules that allow a person to convert a building or other structure, in whole or in part, from one (1) class of occupancy and use established under the commission's rules to another without complying with all of the commission's rules governing new construction.

(b) The rules adopted under this section must protect the public from significant health hazards and safety hazards.

(c) Subject to subsection (b), the rules must promote the following:

(1) The preservation of architecturally significant and historically significant parts of buildings and other structures.

(2) The economically efficient reuse of buildings and other structures.

(d) The rules adopted under this section may condition an exemption upon:

(1) passing an inspection conducted by the department; and

(2) paying the fee set under IC 22-12-6-6.
As added by P.L.245-1987, SEC.2.

IC 22-13-4-6
Class 1 structures within seismic zone 2A; structural resistance to earthquakes

Sec. 6. (a) This section applies to Class 1 structures that are partially or entirely located within the geographic area included in seismic zone 2A.

(b) As used in this section, "seismic zone 2A" refers to the geographic boundaries that comprise seismic zone 2A as established in the rules adopted by the commission.

(c) The commission shall adopt building rules under IC 4-22-2 that prohibit or limit occupancy or use of Class 1 structures that do not comply with the commission's rules governing structural resistance to earthquakes.

(d) The rules adopted under this section must cover essential buildings and public utility services:

(1) designated by the department of homeland security; and

(2) needed for disaster recovery operations.

(e) The rules adopted under this section may not apply to a Class 1 structure if construction of the structure began before July 1, 1993.
As added by P.L.204-1993, SEC.1. Amended by P.L.1-2006, SEC.361.

IC 22-13-4-7
Visitability standards

Sec. 7. (a) This section applies only to new construction of the following dwellings:

(1) A detached one (1) or two (2) family dwelling.

(2) A townhouse.

(b) This section does not apply to a mobile structure or an industrialized building system.

(c) As used in this section, "environmental controls" means switches or devices that control or regulate lights, temperature, fuses, fans, doors, security system features, or other features.

(d) As used in this section, "new construction" means the construction of a new dwelling on a vacant lot. The term does not include an addition to or remodeling of an existing building.

(e) As used in this section, "townhouse" means a single family dwelling unit constructed in a row of attached units separated by property lines and with open space on at least two (2) sides.

(f) As used in this section, "visitability feature" means a design feature of a dwelling that allows a person with a mobility impairment to enter and comfortably stay in a dwelling for a duration of time. The term includes features that allow a person with a mobility impairment to get in and out through one (1) exterior door of the dwelling without any steps and to pass through all main floor interior doors, including a bathroom door.

(g) If a person contracts with a designer and a builder for

construction of a visitability feature in the new construction of a dwelling, the designer and builder shall comply with the standards adopted by the commission under this section for the construction and design of the visitability feature. The standards adopted under this section:

(1) shall be enforced by a political subdivision that enforces the commission's standards with respect to Class 2 structures; and

(2) may not be enforced by the department.

(h) The commission shall adopt minimum standards by rule under IC 4-22-2 for visitability features in the new construction of a dwelling. The rules shall include minimum standards for the following:

(1) Entrances to the dwelling, including paths from the dwelling to the street.

(2) Room dimensions.

(3) The width of exterior and interior doors.

(4) The width of interior hallways.

(5) The grade of interior thresholds and hallways.

(6) The height and location of environmental controls.

(7) The reinforcement of bathroom walls sufficient to attach grab bars.

As added by P.L.112-2003, SEC.1. Amended by P.L.97-2004, SEC.85.

IC 22-13-5

Chapter 5. Power of Building Law Compliance Officer to Interpret Building Laws

IC 22-13-5-1

"Interested person"

Sec. 1. As used in this chapter, "interested person" refers to a person that has a dispute with a county or a municipality regarding the interpretation of a building law or a fire safety law.

As added by P.L.71-1999, SEC.1. Amended by P.L.22-2005, SEC.37.

IC 22-13-5-2

Written interpretation of building law issued

Sec. 2. (a) Upon the written request of an interested person, the building law compliance officer in the department of homeland security may issue a written interpretation of a building law or a fire safety law. An interpretation issued by the building law compliance officer in the department of homeland security must be consistent with building laws and fire safety laws enacted by the general assembly or adopted by the commission.

(b) The building law compliance officer in the department of homeland security may issue a written interpretation of a building law or fire safety law under subsection (a) whether or not the county or municipality has taken any action to enforce the building law or fire safety law.

As added by P.L.71-1999, SEC.1. Amended by P.L.64-2003, SEC.1; P.L.22-2005, SEC.38.

IC 22-13-5-3

Written interpretation binding on interested person and county or municipality

Sec. 3. (a) A written interpretation issued under section 2 of this chapter binds the interested person and the county or municipality with whom the interested person has the dispute until the written interpretation is overruled in a proceeding under IC 4-21.5.

(b) For purposes of IC 4-21.5, the commission is the ultimate authority regarding a written interpretation issued under section 2 of this chapter.

As added by P.L.71-1999, SEC.1.

IC 22-13-5-4

Published interpretation binding on all counties and municipalities

Sec. 4. (a) A written interpretation of a building law or fire safety law binds all counties and municipalities if the building law compliance officer in the department of homeland security publishes the written interpretation of the building law or fire safety law in the Indiana Register under IC 4-22-7-7(b). For purposes of IC 4-22-7-7, a written interpretation of a building law or fire safety law published by the building law compliance officer in the department of homeland security is considered adopted by an agency.

(b) A written interpretation of a building law or fire safety law published under subsection (a) binds all counties and municipalities until the earlier of the following:

(1) The general assembly enacts a statute that substantively changes the building law or fire safety law interpreted or voids the written interpretation.

(2) The commission adopts a rule under IC 4-22-2 to state a different interpretation of the building law or fire safety law.

(3) The written interpretation is found to be an erroneous interpretation of the building law or fire safety law in a judicial proceeding.

(4) The building law compliance officer in the department of homeland security publishes a different written interpretation of the building law or fire safety law.

As added by P.L.71-1999, SEC.1. Amended by P.L.22-2005, SEC.39.

IC 22-14

ARTICLE 14. FIRE SAFETY LAWS: ENFORCEMENT

IC 22-14-1

Chapter 1. General Provisions

IC 22-14-1-1

Separate infractions

Sec. 1. Each day that an infraction under this article occurs constitutes a separate infraction.

As added by P.L.245-1987, SEC.3.

IC 22-14-1-2

Compliance with variance as compliance with fire safety law

Sec. 2. (a) This section applies to a provision of this article that requires an applicant for a certification, registration, permit, approval, or other license to:

(1) demonstrate that a person is in compliance with all fire safety laws; or

(2) submit proof that a person is acting or will act in conformity with all fire safety laws.

(b) Compliance with the conditions of a variance issued under IC 22-13-2-11 shall be treated under this article as compliance with the fire safety law from which the variance is granted.

As added by P.L.245-1987, SEC.3.

IC 22-14-1-3

Definitions

Sec. 3. The definitions set forth in IC 22-12-1 and this chapter apply throughout this article.

As added by P.L.245-1987, SEC.3.

IC 22-14-1-4

"Division" defined

Sec. 4. "Division" refers to the division of fire and building safety established by IC 10-19-7-1.

As added by P.L.245-1987, SEC.3. Amended by P.L.22-2005, SEC.40; P.L.1-2006, SEC.362.

IC 22-14-2

Chapter 2. Office of the State Fire Marshal; Board of Firefighting Personnel Standards and Education

IC 22-14-2-1

Repealed

(Repealed by P.L.22-2005, SEC.56.)

IC 22-14-2-2

State fire marshal; appointment; qualifications

Sec. 2. (a) The governor shall appoint a state fire marshal to direct the division. The state fire marshal serves at the pleasure of the governor.

(b) The state fire marshal must have:

(1) a recognized interest and knowledge in the areas of fire prevention and fire protection; and

(2) experience as an administrator.

(c) The state fire marshal shall serve as a full-time employee of the division.

As added by P.L.245-1987, SEC.3. Amended by P.L.1-2006, SEC.363.

IC 22-14-2-3

Repealed

(Repealed by P.L.22-2005, SEC.56.)

IC 22-14-2-4

Powers of the division and the state fire marshal

Sec. 4. (a) To carry out its responsibilities, the division may:

(1) enter and inspect any property, at a reasonable hour;

(2) issue and enforce administrative orders under IC 22-12-7 and apply for judicial orders under IC 22-12-7-13;

(3) direct a fire department to assist the division;

(4) cooperate with law enforcement officers; and

(5) provide hazardous materials and counterterrorism:

(A) training;

(B) support; and

(C) response assistance.

(b) To carry out the state fire marshal's responsibility to conduct an investigation into the causes and circumstances surrounding a fire or an explosion, the state fire marshal or a division fire investigator authorized by the state fire marshal may:

(1) exercise the powers of a law enforcement officer to prevent fires and conduct arson investigations;

(2) direct a fire department to assist the state fire marshal or division fire investigator; and

(3) cooperate with law enforcement officers.

As added by P.L.245-1987, SEC.3. Amended by P.L.63-2003, SEC.1; P.L.1-2006, SEC.364.

IC 22-14-2-5

Public information on fire prevention; copies of fire safety rules

Sec. 5. (a) The division shall carry out a program to provide public information concerning fire prevention and maintain data and statistics concerning fires and fire prevention activities.

(b) The division shall provide a copy of the fire safety rules adopted by the commission to the chief of each fire department. The division may exclude, from the rules distributed under this subsection, any text that is incorporated by reference into the rules published in the Indiana Administrative Code.

As added by P.L.245-1987, SEC.3. Amended by P.L.1-2006, SEC.365.

IC 22-14-2-6

Training programs for fire department personnel

Sec. 6. (a) The division shall develop programs to train fire department personnel and volunteers. The division may develop these training programs in cooperation with any accredited educational institution or fire fighting association. The division or the institution may conduct the programs.

(b) The programs under this section must cover the areas of fire prevention and firefighting.

(c) The division shall establish inspection training requirements for members of volunteer fire companies and certify individuals who meet these requirements.

(d) The division shall provide staff and meeting facilities to the education board to carry out section 7 of this chapter.

As added by P.L.245-1987, SEC.3. Amended by P.L.1-2006, SEC.366.

IC 22-14-2-7

Firefighting training and education programs; certification; fee

Sec. 7. (a) This section does not limit the powers, rights, duties, and other responsibilities of municipal or county governments or impose requirements affecting pension laws or any other laws.

(b) This section does not require a member of a fire department to be certified.

(c) The education board may:

(1) certify firefighting training and education programs that meet the standards set by the education board;

(2) certify fire department instructors who meet the qualifications set by the education board;

(3) direct research in the field of firefighting and fire prevention and accept gifts and grants to direct this research;

(4) recommend curricula for advanced training courses and seminars in fire science or fire engineering training to public and private postsecondary educational institutions;

(5) certify fire service personnel and nonfire service personnel who meet the qualifications set by the education board;

(6) require fire service personnel certified at any level to fulfill

continuing education requirements in order to maintain certification;

(7) contract or cooperate with any person and adopt rules under IC 4-22-2, including emergency rules in the manner provided under IC 4-22-2-37.1 and as authorized under IC 36-8-10.5-7, to carry out its responsibilities under this section; or

(8) grant a variance to a rule the education board has adopted.

(d) The education board may impose a reasonable fee for the issuance of a certification described in subsection (c). The board shall deposit the fee in the fire and building services fund established by IC 22-12-6-1.

As added by P.L.245-1987, SEC.3. Amended by P.L.170-1996, SEC.1; P.L.30-2001, SEC.1; P.L.22-2005, SEC.41; P.L.101-2006, SEC.35; P.L.2-2007, SEC.308; P.L.78-2013, SEC.9.

IC 22-14-2-8

Investigations; powers of office; subpoenas; discovery orders; per diem and mileage allowance

Sec. 8. (a) Regardless of the extent of the investigation conducted by a fire department under IC 36-8-17-7, the state fire marshal or a division fire investigator authorized by the state fire marshal may conduct an investigation into the causes and circumstances surrounding any fire or explosion.

(b) To carry out this section, the state fire marshal or a division fire investigator authorized by the state fire marshal may:

(1) exercise its powers under section 4 of this chapter;

(2) assist a prosecuting attorney with any criminal investigation;

(3) subpoena witnesses and order the production of books, documents, and other evidence;

(4) give oaths and affirmations;

(5) take depositions and conduct hearings;

(6) separate witnesses and otherwise regulate the course of proceedings; and

(7) obtain and secure evidence.

(c) Subpoenas, discovery orders, and protective orders issued under this section shall be enforced under IC 4-21.5-6-2.

(d) A person who is summoned and testifies under this section is entitled to receive a minimum salary per diem and a mileage allowance from the fire and building services fund. The budget agency shall set the amount of the per diem and mileage allowance.

(e) The state fire marshal and the division fire investigators authorized by the state fire marshal have law enforcement authority at all times while discharging their duties under this section as employees of the department.

(f) The executive director of the department of homeland security has law enforcement authority at all times while discharging the duties of the executive director under this section.

As added by P.L.245-1987, SEC.3. Amended by P.L.5-1988, SEC.120; P.L.38-1990, SEC.5; P.L.13-1994, SEC.10; P.L.167-1997, SEC.5; P.L.30-1998, SEC.2; P.L.1-2006, SEC.367.

IC 22-14-2-9
Plans and specifications for design release; review and approval

Sec. 9. The division shall review and may approve plans and specifications presented to the division for a design release under IC 22-15-3 for compliance with the fire safety laws.

As added by P.L.245-1987, SEC.3. Amended by P.L.1-2006, SEC.368.

IC 22-14-2-10
Fire safety enforcement program and complaint investigation program

Sec. 10. (a) The division shall carry out a program to:

(1) enforce all fire safety laws and related variances and other orders; and

(2) protect the public from fire hazards.

(b) The division shall carry out a program to investigate complaints.

As added by P.L.245-1987, SEC.3. Amended by P.L.1-2006, SEC.369.

IC 22-14-2-11
Inspection programs

Sec. 11. The division shall carry out a program to periodically inspect structures and other property that are used by the state, a county, a city, a town, or a school corporation, including institutions where inmates are involuntarily detained. Inspections shall be conducted under the schedule specified by the division. The division may exclude a class of buildings or other property from inspection under this section, if the division determines that the public interest will be served without inspection.

As added by P.L.245-1987, SEC.3. Amended by P.L.1-2006, SEC.370.

IC 22-14-2-12
Fire investigator retirement

Sec. 12. Whenever a division fire investigator retires after at least twenty (20) years of service, the division shall, in recognition of the investigator's service to the division, do the following:

(1) Allow the investigator to retain the service weapon issued to the investigator by the division.

(2) Issue the investigator a badge that indicates the investigator is a retired division fire investigator.

(3) Issue the investigator an identification card that contains the following information:

(A) The name of the division.

(B) The name of the investigator.

(C) The investigator's position title before the investigator's retirement.

(D) A statement that the investigator is retired.

(E) A statement that the investigator is authorized to retain

the service weapon issued to the investigator by the division.

As added by P.L.140-2005, SEC.4. Amended by P.L.1-2006, SEC.371.

IC 22-14-3

Chapter 3. Regulated Places of Amusement or Entertainment

IC 22-14-3-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 2 of this chapter by P.L.57-2008 apply to amusement and entertainment permits issued after June 30, 2008.

As added by P.L.220-2011, SEC.376.

IC 22-14-3-1

Application of chapter; inspections

Sec. 1. (a) Except as provided in subsection (c), this chapter does not apply to a nonpublic school (as defined in IC 20-18-2-12) or a school operated by a school corporation (as defined in IC 20-18-2-16).

(b) The division shall carry out an inspection program to periodically inspect regulated places of amusement or entertainment. These inspections shall be conducted at least annually.

(c) A school that holds amusement or entertainment events shall be inspected at least one (1) time each year. The inspection may be performed by either the division or the fire department that has jurisdiction over the school.

(d) At the time of each annual inspection performed by the division, the division shall provide a fire safety checklist to each school that holds amusement or entertainment events. Each school shall be responsible for ensuring compliance with the items on the fire safety checklist for each amusement or entertainment event held at the school.

As added by P.L.245-1987, SEC.3. Amended by P.L.159-1995, SEC.5; P.L.1-2005, SEC.190; P.L.1-2006, SEC.372.

IC 22-14-3-2

Permits; issuance; expiration date

Sec. 2. (a) The division shall issue an amusement and entertainment permit to an applicant who qualifies under section 3 of this chapter.

(b) A permit issued under section 3 of this chapter expires one (1) year after the date of issuance. The permit applies only to the place, maximum occupancy, and use specified in the permit.

As added by P.L.245-1987, SEC.3. Amended by P.L.1-2006, SEC.373; P.L.57-2008, SEC.6; P.L.110-2009, SEC.9.

IC 22-14-3-3

Permits; qualifications; applications; fees

Sec. 3. To qualify for an amusement and entertainment permit, an applicant must:

(1) submit an application sworn or affirmed under penalties of perjury on forms provided by the division upon request;

(2) provide:

(A) the applicant's full name and address;
(B) the full name and address of each of the applicant's partners (if the applicant is a partnership), members or managers, if any (if the applicant is a limited liability company), and principal officers (if the applicant is a corporation);
(C) an indication of whether the applicant is an owner, lessee, occupant, or agent for the place covered by the application;
(D) a description of the place covered by the application, including a description of every building and room covered by the application; and
(E) any information required under the commission's rules;

(3) demonstrate through an inspection that the place covered by the application complies with applicable fire safety laws; and
(4) pay the fee set under IC 22-12-6-7.

As added by P.L.245-1987, SEC.3. Amended by P.L.8-1993, SEC.299; P.L.1-2006, SEC.374.

IC 22-14-3-4
Special event endorsements on permits

Sec. 4. (a) The division may modify an amusement and entertainment permit with a special event endorsement that covers one (1) or more events not specified in the initial permit.

(b) To qualify for a special event endorsement, an applicant must:
(1) provide the information required by the commission;
(2) demonstrate through an inspection that the special events covered by the application will be conducted in compliance with applicable fire safety laws; and
(3) pay the inspection fee set under IC 22-12-6-7.

As added by P.L.245-1987, SEC.3. Amended by P.L.1-2006, SEC.375.

IC 22-14-3-5
Operation without permit or special event endorsement; infraction

Sec. 5. (a) This section applies to the following:
(1) Each person who has control over the performance of an amusement or entertainment described in IC 22-12-1-23.
(2) Each person who has control over a regulated place of entertainment.

(b) A person described in subsection (a) commits a Class C infraction if:
(1) a regulated place of amusement or entertainment is used for an amusement or entertainment described in IC 22-12-1-23; and
(2) no regulated place of amusement or entertainment permit or special event endorsement issued under this chapter covers the conditions at the regulated place of amusement or entertainment that affect fire and explosion safety.

As added by P.L.245-1987, SEC.3.

IC 22-14-4
Repealed

(Repealed by P.L.123-2002, SEC.51.)

IC 22-14-5
Repealed

(Repealed by P.L.107-2007, SEC.18.)

IC 22-14-6

Chapter 6. Fire Training Infrastructure Fund

IC 22-14-6-1

"Fund"

Sec. 1. As used in this chapter, "fund" refers to the fire training infrastructure fund established by section 2 of this chapter.

As added by P.L.107-2007, SEC.14.

IC 22-14-6-2

Establishment

Sec. 2. The fire training infrastructure fund is established to do the following:

(1) Provide grants to construct fire training facilities and purchase fire training equipment.

(2) Pay the costs of administering this chapter.

As added by P.L.107-2007, SEC.14.

IC 22-14-6-3

Administration

Sec. 3. The division shall administer the fund.

As added by P.L.107-2007, SEC.14.

IC 22-14-6-4

Funding sources

Sec. 4. The fund consists of the following:

(1) Amounts appropriated by the general assembly.

(2) Donations, grants, and money received from any other source.

(3) Amounts that the department transfers to the fund from the fire and building services fund.

(4) Amounts that the department transfers to the fund from the regional public safety training fund established by IC 10-15-3-12.

As added by P.L.107-2007, SEC.14.

IC 22-14-6-5

Investment

Sec. 5. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

As added by P.L.107-2007, SEC.14.

IC 22-14-6-6

Reversion

Sec. 6. Money in the fund at the end of the fiscal year does not revert to the state general fund.

As added by P.L.107-2007, SEC.14.

IC 22-14-6-7

Audit

Sec. 7. The fund is subject to an annual audit by the state board of accounts. The fund shall pay all costs of the audit.

As added by P.L.107-2007, SEC.14.

IC 22-14-6-8

Status of firefighting and emergency equipment revolving loan fund; nonreversion; deposits and transfers; transfer of money to fund; abolition of firefighting and emergency equipment revolving loan fund; status of loans under prior statute; expiration of section

Sec. 8. (a) Notwithstanding the repeal of IC 22-14-5, the firefighting and emergency equipment revolving loan fund established by IC 22-14-5-1 (before its repeal) remains in existence after June 30, 2007, if any money remains in the fund on June 30, 2007. Money that remains in the firefighting and emergency equipment revolving loan fund on June 30, 2007, does not revert to the state general fund. Deposits or transfers may not be made to the firefighting and emergency equipment revolving loan fund, and new loans may not be made from the firefighting and emergency equipment revolving loan fund after June 30, 2007.

(b) Money remaining in the firefighting and emergency equipment revolving loan fund on June 30, 2007, must be transferred before August 1, 2007, to the fund.

(c) If money in the firefighting and emergency equipment revolving loan fund is transferred under subsection (b), the firefighting and emergency equipment revolving loan fund is abolished immediately after the transfer under subsection (b) is completed.

(d) Notwithstanding the repeal of IC 22-14-5, if a loan provided under IC 22-14-5-1 (before its repeal) remains outstanding on June 30, 2007, the qualified entity to whom the loan was provided shall repay the loan, subject to the original terms and conditions of the loan, to the department of homeland security established by IC 10-19-2-1 for deposit in the fund.

(e) This section expires on the later of the following:

(1) August 1, 2007.

(2) The date on which the last outstanding loan provided under IC 22-14-5-1 (before its repeal) is repaid to the department of homeland security under subsection (d).

As added by P.L.220-2011, SEC.377.

IC 22-14-7

Chapter 7. Reduced Ignition Propensity Standards for Cigarettes

IC 22-14-7-0.5

Application date

Sec. 0.5. Sections 1 through 28 of this chapter apply beginning July 1, 2009.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-1

"Agent"

Sec. 1. As used in this chapter, "agent" means a person authorized by the department of state revenue to purchase and affix stamps (as defined by IC 6-7-1-9) on packages of cigarettes.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-2

"Brand family"

Sec. 2. As used in this chapter, "brand family" has the meaning set forth in IC 24-3-5.4-1.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-3

"Cigarette"

Sec. 3. As used in this chapter, "cigarette" has the meaning set forth in IC 6-7-1-2.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-4

"Manufacturer"

Sec. 4. As used in this chapter, "manufacturer" means:

(1) an entity that manufactures or produces cigarettes or causes cigarettes to be manufactured or produced that the manufacturer intends to be sold in Indiana, including cigarettes intended to be sold in the United States through an importer;

(2) a first purchaser that intends to resell in the United States cigarettes that the original manufacturer or maker does not intend to be sold in the United States; or

(3) an entity that becomes a successor of an entity described in subdivision (1) or (2).

As added by P.L.82-2008, SEC.1.

IC 22-14-7-5

"Quality control and quality assurance program"

Sec. 5. As used in this chapter, "quality control and quality assurance program" means the laboratory procedures implemented to ensure that:

(1) operator bias, systematic and nonsystematic methodological errors, and equipment related problems do not affect the results

of the testing; and

(2) the testing repeatability remains within the required repeatability values in section 13(f) of this chapter for all test trials used to certify cigarettes under this chapter.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-6
"Repeatability"

Sec. 6. As used in this chapter, "repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent (95%) of the time.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-7
"Retail dealer"

Sec. 7. As used in this chapter, "retail dealer" means a person, other than a manufacturer or wholesale dealer, that sells cigarettes.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-8
"Sale"

Sec. 8. As used in this chapter, "sale" means any of the following:

(1) Transfer of title or possession, or both.

(2) Exchange or barter, including conditional exchanges or agreements.

(3) Giving cigarettes as samples, prizes, or gifts.

(4) Exchange of cigarettes for consideration other than money.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-9
"Sell"

Sec. 9. As used in this chapter, "sell" means to:

(1) sell; or

(2) offer or agree to sell.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-10
"UPC bar code"

Sec. 10. As used in this chapter, "UPC bar code" means the universal product code or another product identification code that includes:

(1) a unique symbol that consists of a machine readable code; and

(2) numbers that are readable by an individual;

that meets the standards established by GS1 US.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-11
"Wholesale dealer"

Sec. 11. As used in this chapter, "wholesale dealer" means any of

the following:

(1) A person, other than a manufacturer, that sells cigarettes to a retail dealer or other person for purposes of resale.

(2) A person who owns, operates, or maintains a cigarette vending machine in, at, or upon premises owned or occupied by another person.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-12

Requirements for cigarettes to be sold

Sec. 12. Except as provided in section 19 of this chapter, cigarettes may not be sold or offered for sale in Indiana unless the cigarettes:

(1) have been tested according to the test method and meet the performance standard specified in section 13 or 15 of this chapter;

(2) have been certified under section 21 of this chapter; and

(3) have been marked under section 23 of this chapter.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-13

Cigarette testing

Sec. 13. (a) Testing of cigarettes must be conducted according to the American Society of Testing and Materials (ASTM) standard E2187-04, Standard Test Method for Measuring the Ignition Strength of Cigarettes.

(b) Testing must be conducted on ten (10) layers of filter paper.

(c) Not more than twenty-five percent (25%) of the cigarettes tested in a test trial under this section may exhibit full length burns. Forty (40) replicate tests comprise a complete test trial for each cigarette tested.

(d) The performance standard required by this section may be applied only to a complete test trial.

(e) Written certifications must be based upon testing conducted by a laboratory that has been accredited under standard ISO/IEC 17025 of the International Organization for Standardization (ISO) or other comparable accreditation standard required by the state fire marshal.

(f) Laboratories conducting testing under this section must implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value may not be greater than nineteen hundredths (0.19).

(g) This section does not require additional testing if cigarettes are tested consistent with this chapter for any other purpose.

(h) Testing performed or sponsored by the state fire marshal to determine a cigarette's compliance with the required performance standard must be conducted according to this section.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-14

Use of lower permeability bands

Sec. 14. Each cigarette listed in a certification submitted under section 21 of this chapter that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard in section 13 or 15 of this chapter must have at least two (2) nominally identical bands on the paper surrounding the tobacco column. At least one (1) complete band must be located at least fifteen (15) millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there must be at least two (2) bands fully located at least fifteen (15) millimeters from the lighting end and ten (10) millimeters from the filter end of the tobacco column, or for nonfiltered cigarettes ten (10) millimeters from the labeled end of the tobacco column.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-15

Alternative test methods and performance standards

Sec. 15. (a) A manufacturer of a cigarette that the state fire marshal determines cannot be tested by the test method in section 13(a) of this chapter shall propose a test method and performance standard for the cigarette to the state fire marshal. Upon approval of the proposed test method and a determination by the state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard in section 13(c) of this chapter, the manufacturer may use the test method and performance standard to certify the cigarette under section 21 of this chapter.

(b) If the state fire marshal determines that:

(1) another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this chapter; and

(2) the officials in that state responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or rule under a legal provision comparable to this section;

the state fire marshal shall authorize that manufacturer to use the alternative test method and performance standard to certify that cigarette for sale in Indiana, unless the state fire marshal demonstrates a reasonable basis for why the alternative test should not be accepted under this chapter. All other applicable requirements of this chapter apply to the manufacturer.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-16

Retention of records; penalty

Sec. 16. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three (3) years and make copies of these reports available to the state

fire marshal and the attorney general upon written request. Any manufacturer that fails to make copies of these reports available within sixty (60) days after receiving a written request is subject to a civil penalty not to exceed ten thousand dollars ($10,000) for each day after the sixty (60) days that the manufacturer does not make the copies available.
As added by P.L.82-2008, SEC.1.

IC 22-14-7-17
Adoption of subsequent test methods

Sec. 17. The commission may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that the subsequent method does not result in a change in the percentage of full length burns exhibited by any tested cigarette when compared to the percentage of full length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in section 13(c) of this chapter.
As added by P.L.82-2008, SEC.1.

IC 22-14-7-18
Review and recommendations by state fire marshal

Sec. 18. (a) Beginning July 1, 2011, every three (3) years the state fire marshal shall review the effectiveness of this chapter and issue a report that includes the state fire marshal's findings and, if appropriate, recommendations for legislation.

(b) The state fire marshal shall transmit a copy of the report required under subsection (a) in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly.
As added by P.L.82-2008, SEC.1.

IC 22-14-7-19
Exemption for existing cigarettes and consumer testing

Sec. 19. The requirements of section 12 of this chapter do not prohibit any of the following:

(1) A wholesale or retail dealer from selling the dealer's existing inventory of cigarettes on or after July 1, 2009, if the wholesale or retail dealer can establish that state tax stamps (as defined in IC 6-7-1-9) were affixed to the cigarettes before the effective date and if the wholesale or retailer dealer can establish that the inventory was purchased before the effective date in comparable quantity to the inventory purchased during the same period of the prior year.

(2) The sale of cigarettes solely for the purpose of consumer testing. For purposes of this subdivision, the term "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer (or under the control and direction of a manufacturer) for the purpose of evaluating consumer acceptance of the cigarettes, using only the quantity of

cigarettes that is reasonably necessary for the assessment.
As added by P.L.82-2008, SEC.1.

IC 22-14-7-20
Implementation by state fire marshal

Sec. 20. Subject to the requirements of this chapter, the state fire marshal shall implement this chapter in a manner to obtain uniformity with the implementation and substance of the New York Fire Safety Standards for Cigarettes (N.Y. Exec. Law Section 156-c).
As added by P.L.82-2008, SEC.1.

IC 22-14-7-21
Submission of certification; required information; fees; altered cigarettes

Sec. 21. (a) Except as provided in subsection (d), each manufacturer shall submit to the state fire marshal a written certification attesting that:

(1) each cigarette listed in the certification has been tested as required under section 13 or 15 of this chapter; and

(2) each cigarette listed in the certification meets the performance standard in section 13(c) or 15 of this chapter.

(b) Each cigarette listed in the certification must include the following information:

(1) Brand, or trade name on the package.

(2) Style, such as light or ultra light.

(3) Length in millimeters.

(4) Circumference in millimeters.

(5) Flavor, such as menthol, if applicable.

(6) Filter or nonfilter.

(7) Package description, such as soft pack or box.

(8) Marking under section 23 of this chapter.

(9) The name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test.

(10) The date that the testing occurred.

(c) The certifications must be made available to the attorney general for purposes consistent with this chapter and the department of state revenue and the alcohol and tobacco commission for the purposes of ensuring compliance with this section.

(d) Notwithstanding subsection (a), the state fire marshal may accept as evidence of compliance with this chapter a certification issued to:

(1) the New York State Department of State's Office of Fire Prevention and Control; or

(2) the responsible entity of another state that has:

(A) substantially equivalent certification requirements relating to reduced ignition propensity cigarettes; and

(B) the same test method and performance standard requirements as provided in sections 13 and 15 of this chapter.

(e) Each cigarette listed in a certification submitted under this

section must be recertified every three (3) years.

(f) For each brand family listed in a certification submitted under subsection (a) or (d), a manufacturer shall pay a fee to the state fire marshal of eight hundred dollars ($800). The state fire marshal may adjust the fee every three (3) years to ensure that the fee defrays the actual costs of the processing, testing, enforcement, and oversight activities required by this chapter under rules adopted by the fire prevention and building safety commission. However, the fee for each brand family may not exceed one thousand dollars ($1,000).

(g) If a manufacturer has certified a cigarette under this section, and after submitting the certification, makes a change to the cigarette that is likely to alter the cigarette's compliance with the reduced cigarette ignition propensity standards required by this chapter, that cigarette may not be sold or offered for sale in Indiana until the manufacturer retests the cigarette under the testing standards in section 13 or 15 of this chapter and maintains records of that retesting as required by section 16 of this chapter. An altered cigarette that does not meet the performance standard in section 13 or 15 of this chapter may not be sold in Indiana.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-22

Reduced ignition propensity standards for cigarettes fund

Sec. 22. (a) The reduced ignition propensity standards for cigarettes fund is established. Money in the fund may be used to support processing, testing, enforcement, and oversight activities under this chapter. The fund shall be administered by the state fire marshal.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) The fund consists of:

(1) certification fees collected under section 21 of this chapter; and

(2) grants, gifts, and donations intended for deposit in the fund.

(e) The money in the fund at the end of the state fiscal year does not revert to the state general fund.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-23

Cigarette packaging marks

Sec. 23. (a) Packages of cigarettes that are certified by a manufacturer under section 21 of this chapter must be marked to indicate compliance with the requirements of section 12 of this chapter. The marking must be in eight (8) point type or larger and consist of:

(1) modification of the product UPC bar code to include a visible mark printed at or around the area of the UPC bar code.

The mark may consist of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed in conjunction with the UPC bar code;

(2) any visible combination of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed upon the cigarette package or cellophane wrap; or

(3) stamped, engraved, embossed, or printed text that indicates that the cigarettes meet the standards of this chapter.

(b) A manufacturer shall use only one (1) marking and shall apply this marking uniformly for all packages, including packs, cartons, and cases, and brands marketed by that manufacturer.

(c) The manufacturer shall notify the state fire marshal of the marking that is selected.

(d) Before certification of any cigarette, a manufacturer shall submit the manufacturer's proposed marking to the state fire marshal for approval. Upon receipt of the request, the state fire marshal shall approve or disapprove the marking offered, except that the state fire marshal shall approve:

(1) a marking in use and approved for sale in New York under the New York Fire Safety Standards for Cigarettes; or

(2) the letters "FSC," which signifies Fire Standards Compliant, appearing in eight (8) point type or larger and permanently stamped, engraved, embossed, or printed on the package at or near the UPC bar code.

Proposed markings are considered approved if the state fire marshal fails to act within ten (10) business days after receiving a request for approval.

(e) A manufacturer may not modify its approved marking unless the modification has been approved by the state fire marshal under this section.

(f) A manufacturer certifying cigarettes under section 21 of this chapter shall:

(1) provide a copy of the certifications to all wholesale dealers and agents to which the manufacturer sells cigarettes; and

(2) provide sufficient copies of an illustration of the package marking used by the manufacturer under this section for each retail dealer to which the wholesale dealers or agents sell cigarettes.

Wholesale dealers and agents shall provide a copy of the package markings received from the manufacturers to all retail dealers to which the wholesale dealer or agent sells cigarettes. Wholesale dealers, agents, and retail dealers shall permit the state fire marshal, the department of state revenue, the alcohol and tobacco commission, and their employees to inspect markings on the cigarette packaging.
As added by P.L.82-2008, SEC.1.

IC 22-14-7-24
Penalties; forfeiture; seizure

Sec. 24. (a) A manufacturer, a wholesale dealer, an agent, or another person or entity that knowingly sells or offers to sell

cigarettes, other than through retail sale, in violation of section 12 of this chapter is subject to a civil penalty not to exceed one hundred dollars ($100) for each pack of cigarettes sold or offered for sale. However, the penalty against a person or an entity may not exceed one hundred thousand dollars ($100,000) during any thirty (30) day period.

(b) A retail dealer who knowingly sells or offers to sell cigarettes in violation of section 12 of this chapter is subject to a civil penalty not to exceed one hundred dollars ($100) for each pack of cigarettes sold or offered for sale. However, the penalty against a retail dealer may not exceed twenty-five thousand dollars ($25,000) during any thirty (30) day period.

(c) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification under section 21 of this chapter is subject to a civil penalty of at least seventy-five thousand dollars ($75,000). However, the penalty may not exceed two hundred fifty thousand dollars ($250,000) for each false certification.

(d) A person that violates any other provision of this chapter is subject to a civil penalty for a first offense not to exceed one thousand dollars ($1,000), and for a subsequent offense not to exceed five thousand dollars ($5,000), for each violation.

(e) A cigarette that has been sold or offered for sale that does not comply with the performance standard required by section 13 or 15 of this chapter is subject to forfeiture. Cigarettes forfeited under this section must be destroyed. However, before the destruction of any cigarette forfeited under this section, the holder of the trademark rights in the cigarette brand is allowed to inspect the cigarette.

(f) In addition to any other remedy provided by law, the state fire marshal may file an action in a court of competent jurisdiction for a violation of this chapter, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of this chapter, including enforcement costs relating to the specific violation and attorney's fees. Each violation of this chapter or rules adopted under this chapter constitutes a separate civil violation for which the state fire marshal may obtain relief.

(g) A law enforcement officer or representative of the state fire marshal may seize and take possession of any cigarettes that have not been marked in the manner required by section 23 of this chapter. The seized cigarettes must be turned over to the department of state revenue. Cigarettes seized under this section are forfeited to the state and must be destroyed. However, before the destruction of any cigarette seized under this section, the holder of the trademark rights in the cigarette brand is allowed to inspect the cigarette.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-25

Compliance inspections

Sec. 25. (a) The:

(1) department of state revenue, in the regular course of conducting inspections of wholesale dealers, agents, and retail dealers, as authorized under IC 6-7; and

(2) alcohol and tobacco commission;

may inspect cigarettes to determine if the cigarettes are marked as required by section 23 of this chapter.

(b) The department of state revenue and the alcohol and tobacco commission shall notify the state fire marshal upon the discovery of cigarettes that are not marked as required.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-26

Examination of records, premises, and cigarettes

Sec. 26. To enforce this chapter, the attorney general and the state fire marshal, their authorized representatives, and law enforcement officers may examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale, as well as the stock of cigarettes on the premises. Every person in the possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale is required to give the attorney general, the department of state revenue, the alcohol and tobacco commission, the state fire marshal, their authorized representatives, and law enforcement officers the means, facilities, and opportunity for the examinations authorized by this chapter.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-27

Fire prevention and public safety fund

Sec. 27. (a) The fire prevention and public safety fund is established. The fund shall be administered by the state fire marshal. Money in the fund may used to support fire safety and prevention programs.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) The fund consists of:

(1) penalties recovered under section 24 of this chapter; and

(2) grants, gifts, and donations intended for deposit in the fund.

(e) The money in the fund at the end of the state fiscal year does not revert to the state general fund.

As added by P.L.82-2008, SEC.1.

IC 22-14-7-28

Exemption for cigarettes to be sold outside Indiana

Sec. 28. Nothing in this chapter prohibits a person or entity from manufacturing or selling cigarettes that do not meet the requirements of section 12 of this chapter if the cigarettes:

(1) are or will be stamped for sale in another state; or
(2) are packaged for sale outside the United States;
and the person or entity has taken reasonable steps to ensure that the cigarettes will not be sold or offered for sale to persons in Indiana.
As added by P.L.82-2008, SEC.1.

IC 22-14-7-29
Rules
Sec. 29. The commission may adopt rules under IC 4-22-2 to implement this chapter.
As added by P.L.82-2008, SEC.1.

IC 22-14-7-30
Local ordinances prohibited
Sec. 30. A local governmental unit may not adopt an ordinance concerning any subject regulated by this chapter.
As added by P.L.82-2008, SEC.1.

IC 22-14-7-31
Supremacy of federal law
Sec. 31. This chapter may not be construed to supersede or preempt applicable federal laws or regulations concerning reduced ignition propensity standards for cigarettes.
As added by P.L.82-2008, SEC.1.

IC 22-15

ARTICLE 15. BUILDING AND EQUIPMENT LAWS: ENFORCEMENT

IC 22-15-1

Chapter 1. General Provisions

IC 22-15-1-1

Separate infraction

Sec. 1. Each day that an infraction under this article occurs constitutes a separate infraction.

As added by P.L.245-1987, SEC.4.

IC 22-15-1-2

Application of section; variances

Sec. 2. (a) This section applies to a provision of this article that requires an applicant for a certification, registration, permit, approval, or other license to:

(1) demonstrate that the person is in compliance with all building laws, fire safety laws, or equipment laws; or

(2) submit proof that a person is acting or will act in conformity with all building laws, fire safety laws, or equipment laws.

(b) Compliance with the conditions of a variance issued under IC 22-13-2-11 shall be treated under this article as compliance with the building law, fire safety law, or equipment law from which the variance is granted.

As added by P.L.245-1987, SEC.4. Amended by P.L.22-2005, SEC.42.

IC 22-15-1-3

Application of definitions

Sec. 3. The definitions set forth in IC 22-12-1 and this chapter apply throughout this article.

As added by P.L.245-1987, SEC.4.

IC 22-15-1-4

"Division"

Sec. 4. "Division" refers to the division of fire and building safety established by IC 10-19-7-1.

As added by P.L.245-1987, SEC.4. Amended by P.L.22-2005, SEC.43; P.L.1-2006, SEC.383.

IC 22-15-2

Chapter 2. Office of the State Building Commissioner

IC 22-15-2-1
Repealed

(Repealed by P.L.22-2005, SEC.56.)

IC 22-15-2-2
Repealed

(Repealed by P.L.22-2005, SEC.56.)

IC 22-15-2-3
Repealed

(Repealed by P.L.22-2005, SEC.56.)

IC 22-15-2-4
Repealed

(Repealed by P.L.22-2005, SEC.56.)

IC 22-15-2-5
Repealed

(Repealed by P.L.22-2005, SEC.56.)

IC 22-15-2-6
Powers

Sec. 6. (a) To carry out the division's responsibilities, the division or an employee or another agent of the division may:

(1) exercise any program of supervision that is approved by the commission, if the responsibility involves the administration or enforcement of a building law;

(2) enter and inspect any property, at a reasonable hour;

(3) issue and enforce administrative orders under IC 22-12-7 and apply for judicial orders under IC 22-12-7-13; and

(4) cooperate with law enforcement officers and political subdivisions that have jurisdiction over a matter.

(b) To carry out the building law compliance officer's responsibilities, the building law compliance officer may issue a written interpretation of any building law under IC 22-13-5.

As added by P.L.245-1987, SEC.4. Amended by P.L.71-1999, SEC.2; P.L.1-2006, SEC.384.

IC 22-15-2-7
Enforcement program

Sec. 7. The division shall carry out a program to enforce all laws described by one (1) or more of the following:

(1) Building laws and related variances and other orders that apply to Class 1 structures.

(2) Building laws and related variances and other orders that apply to industrialized building systems.

(3) Building laws and related variances and other orders that

apply to mobile structures.

(4) Building laws, equipment laws, and related variances and other orders that apply to regulated lifting devices.

(5) Equipment laws and related variances and other orders.

As added by P.L.245-1987, SEC.4. Amended by P.L.119-2002, SEC.11; P.L.1-2006, SEC.385.

IC 22-15-3

Chapter 3. Design Releases

IC 22-15-3-1

Issuance; plan review by county or municipality; expiration

Sec. 1. (a) The building law compliance officer employed under IC 10-19-7-4 shall issue a design release for:

(1) the construction of a Class 1 structure to an applicant who qualifies under section 2 or 3 of this chapter; and

(2) the fabrication of an industrial building system or mobile structure under section 4 of this chapter.

(b) The building law compliance officer may issue a design release based on a plan review performed by a city, town, or county if:

(1) the building law compliance officer has certified that the city, town, or county is competent; and

(2) the city, town, or county has adopted the rules of the commission under IC 22-13-2-3.

(c) For the purposes of subsection (e)(1), competency must be established by a test approved by the commission and administered by the division of education and information.

(d) A design release issued under this chapter expires on the date specified in the rules adopted by the commission.

As added by P.L.245-1987, SEC.4. Amended by P.L.22-2005, SEC.44.

IC 22-15-3-2

Qualification of applicants

Sec. 2. To qualify for a design release under this section, an applicant must:

(1) demonstrate, through the submission of plans and specifications for the construction covered by the application, that the construction will comply with all applicable building laws and fire safety laws;

(2) pay the fees set under IC 22-12-6-6;

(3) have the plans and specifications:

(A) prepared by a registered architect or professional engineer who is:

(i) competent to design the construction covered by the application as determined by the division; and

(ii) registered under IC 25-4 or IC 25-31;

(B) include on each page of all drawings and the title page of all specifications the seal of the registered architect or professional engineer described by clause (A) or the person's technical or professional staff; and

(C) filed by the registered architect or professional engineer described by clause (A) or the person's technical or professional staff; and

(4) submit a certificate prepared on a form provided by the division and sworn or affirmed under penalty of perjury by the

registered architect or professional engineer described in subdivision (3)(A):

(A) providing an estimate of the cost of the construction covered by the application, its square footage, and any other information required under the rules of the commission;

(B) stating that the plans and specifications submitted for the application were prepared either by or under the immediate supervision of the person making the statement;

(C) stating that the plans and specifications submitted for the application provide for construction that will meet all building laws; and

(D) stating that the construction covered by the application will be subject to inspection at intervals appropriate to the stage of the construction by a registered architect or professional engineer identified in the statement for the purpose of determining in general if work is proceeding in accordance with the released plans and specifications.

As added by P.L.245-1987, SEC.4. Amended by P.L.22-2005, SEC.45; P.L.1-2006, SEC.386.

IC 22-15-3-3

Class 1 structures; construction; additions or alterations; qualification

Sec. 3. (a) This section applies only to an application for a design release to construct:

(1) A Class 1 structure with thirty thousand (30,000) or fewer cubic feet of space;

(2) An addition to a Class 1 structure, if the addition adds thirty thousand (30,000) or fewer cubic feet of space;

(3) An alteration to a Class 1 structure, if the alteration does not involve changes affecting the structural safety of the Class 1 structure; or

(4) An installation or alteration of an automatic fire sprinkler system in a Class 1 structure by persons qualified pursuant to rules set forth by the fire prevention and building safety commission.

(b) To qualify for a design release under this section, an applicant must do the following:

(1) Demonstrate, through the submission of plans and specifications for the construction covered by the application, that the construction will comply with all applicable building laws and fire safety laws.

(2) Pay the fees set under IC 22-12-6-6.

As added by P.L.245-1987, SEC.4. Amended by P.L.222-1989, SEC.15; P.L.20-1991, SEC.5; P.L.22-2005, SEC.46.

IC 22-15-3-4

Fabrication of a model or other series of similar industrialized building systems or mobile structures; qualification

Sec. 4. (a) This section applies to a design release for the

fabrication of a model or other series of similar industrialized building systems or mobile structures.

(b) To qualify for a design release under this section, an applicant must:

(1) demonstrate, through the submission of plans and specifications for the construction covered by the application, that the construction will comply with all applicable building laws and fire safety laws;

(2) have the submitted plans and specifications prepared by an architect registered under IC 25-4 or a professional engineer registered under IC 25-31, if required under the rules adopted by the commission; and

(3) pay the fees set under IC 22-12-6-6.

As added by P.L.245-1987, SEC.4. Amended by P.L.22-2005, SEC.47.

IC 22-15-3-5

Rules; scope; evaluation report as evidence of compliance

Sec. 5. (a) This section does not authorize a variance from any rule adopted by the commission.

(b) The rules adopted by the commission do not prevent the use of:

(1) materials;

(2) methods of construction; or

(3) design procedures;

if they are not specifically prohibited in the rules and if they are approved under subsection (c).

(c) The state fire marshal and the division may, in the review of an application for a design release, consider as evidence of compliance with the rules adopted by the commission any evaluation report that:

(1) contains limitations, conditions, or standards for alternative materials, methods of construction, or design procedures; and

(2) is published by an independent, nationally recognized testing laboratory or other organization that is approved under the rules adopted by the commission.

As added by P.L.245-1987, SEC.4. Amended by P.L.1-2006, SEC.387.

IC 22-15-3-6

Partial or provisional design releases

Sec. 6. Pending the completion of the review of an application, the division may issue:

(1) a design release for part of the construction proposed in an application, if that part of the construction qualifies for release under this chapter; or

(2) a provisional release for any part of the construction proposed in an application, under the conditions specified by the division.

As added by P.L.245-1987, SEC.4. Amended by P.L.1-2006,

SEC.388.

IC 22-15-3-7
Class C infractions; application of section

Sec. 7. (a) This section does not apply to construction that is exempted from this section in the rules adopted by the commission under IC 22-13-4.

(b) This section applies to the following:

(1) Each person who engages in the construction.

(2) Each person who has control over the construction.

(3) Each person who has control over the Class 1 structure industrialized building system or mobile home that is constructed.

(c) A person described in subsection (b) commits a Class C infraction if:

(1) a Class 1 structure is constructed, or construction is begun, at the site where it is to be used; and

(2) no design release issued under section 2 or 3 of this chapter covers the construction.

(d) A person described in subsection (b) commits a Class C infraction if:

(1) an industrialized building system or a mobile structure is fabricated; and

(2) no design release issued under section 4 of this chapter covers the fabrication.

As added by P.L.245-1987, SEC.4. Amended by P.L.222-1989, SEC.16.

IC 22-15-3-8
Implementation schedule; outdoor stage equipment regulation

Sec. 8. (a) Outdoor stage equipment may be used for an outdoor performance before the later of:

(1) July 1, 2012; or

(2) sixty (60) days after the date the commission adopts its initial rules under IC 22-13-2-8.5(a) or IC 22-13-2-8.5(b);

without a design release (including a conditional design release) issued under this chapter unless an ordinance of a city, town, or county adopted before March 15, 2012, requires a design release in the city, town, or county to which the ordinance applies before the applicable date under subdivision (1) or (2).

(b) If a design release is not required before the applicable date under subdivision (1) or (2), under an ordinance adopted before March 15, 2012, by a city, town, or county, installation of outdoor stage equipment may begin before the later of:

(1) July 1, 2012; or

(2) sixty (60) days after the date the commission adopts its initial rules under IC 22-13-2-8.5(a) or IC 22-13-2-8.5(b);

without a design release (including a conditional design release) issued under this chapter. However, the outdoor stage equipment may not be used for an outdoor performance after June 30, 2012,

without a design release (including a conditional design release) issued under this chapter.

(c) This section expires January 1, 2014.

As added by P.L.92-2012, SEC.6.

IC 22-15-4

Chapter 4. Certification of Industrialized Building Systems and Mobile Structures

IC 22-15-4-1

Industrialized building systems; qualification for certification; seal; exemption

Sec. 1. (a) The division shall certify an industrialized building system for use in Indiana to an applicant who qualifies under this section. If an applicant qualifies for certification under this section, the division shall provide the applicant with a seal for the certified industrial building system.

(b) To qualify for a certification under this section, an applicant must:

(1) submit proof that the division has issued a design release under IC 22-15-3 for the model or series of industrialized building systems being constructed;

(2) demonstrate, in an in-plant inspection, that the industrialized building system covered by the application has been constructed in conformity with all applicable building laws and fire safety laws; and

(3) pay the fee set by the commission under IC 22-12-6-6.

(c) The exemption under IC 22-13-4-2 applies to an industrialized building system certified under this section.

As added by P.L.245-1987, SEC.4. Amended by P.L.22-2005, SEC.48; P.L.1-2006, SEC.389.

IC 22-15-4-2

Mobile structures; qualification for certification; seal; exemption

Sec. 2. (a) The division shall certify a mobile structure for sale and use in Indiana for an applicant who qualifies under this section. If an applicant qualifies for certification under this section, the division shall provide the applicant with a seal for the certified mobile structure.

(b) To qualify for certification under this section, an applicant must:

(1) submit proof that the division has issued a design release under IC 22-15-3 for the model or series of mobile structures being constructed;

(2) demonstrate, in an in-plant inspection, that the mobile structure covered by the application has been constructed in conformity with all applicable building laws and fire safety laws;

(3) certify in an affidavit that a seal provided by the division will not be attached to a mobile structure that does not conform to the requirements adopted by the commission in its rules; and

(4) pay the fee set by the commission under IC 22-12-6-6.

(c) The exemption under IC 22-13-4-2 applies to a mobile structure certified under this chapter.

As added by P.L.245-1987, SEC.4. Amended by P.L.22-2005,

SEC.49; P.L.1-2006, SEC.390.

IC 22-15-4-3
Inspections and certifications; authorization

Sec. 3. The commission may authorize any qualified person to conduct inspections and issue certifications under this chapter.
As added by P.L.245-1987, SEC.4.

IC 22-15-4-4
Agreements for certification outside Indiana; requirements

Sec. 4. (a) The department may enter into an agreement under IC 22-13-2-12 to authorize the sale and use of industrialized building systems and mobile structures that are not certified under section 1 or 2 of this chapter but are certified under the requirements of any of the following:

(1) The United States Department of Housing and Urban Development.
(2) Another state.
(3) A foreign country.

(b) The department may enter into an agreement under IC 22-13-2-12 to inspect and certify industrial building systems and mobile structures under the requirements of any of the following:

(1) The United States Department of Housing and Urban Development.
(2) Another state.
(3) A foreign country.

As added by P.L.245-1987, SEC.4. Amended by P.L.101-2006, SEC.36.

IC 22-15-4-5
Sale or offering for sale of manufactured mobile structure that is kept or transported without required seal and affidavit; offense

Sec. 5. A person who offers to sell or sells for money or other consideration a mobile structure that:

(1) is manufactured after:
(A) January 1, 1972, if the mobile structure is designed to be a dwelling; or
(B) June 30, 1987, if the mobile structure is not designed to be a dwelling; and
(2) is kept or transported without:
(A) a seal issued under IC 9-8-1.5 (before its repeal on July 1, 1987) or section 2 or 4 of this chapter; and
(B) an affidavit from the manufacturer (if the mobile structure was manufactured in Indiana or the mobile structure was manufactured outside Indiana and has not been used by its owner) or a dealer who has sold at least three (3) mobile structures in the previous twelve (12) month period (if the mobile structure was manufactured outside Indiana and the mobile structure has been used by its owner) that states that the mobile structure meets or exceeds the

applicable requirements adopted by the commission in its rules or an agreement under IC 22-13-2-12;

commits a Class C infraction.

As added by P.L.245-1987, SEC.4. Amended by P.L.3-1990, SEC.79.

IC 22-15-4-6

Sale or offering for sale of certified mobile structure altered or converted in violation of rule; offense

Sec. 6. A person who offers to sell or sells a mobile structure that:

(1) was certified under IC 9-8-1.5 (before its repeal on July 1, 1987) or certified by the division under section 2 or 4 of this chapter; and

(2) has been altered or converted in violation of a rule adopted by the commission;

commits a Class C infraction.

As added by P.L.245-1987, SEC.4. Amended by P.L.3-1990, SEC.80; P.L.1-2006, SEC.391.

IC 22-15-4-7

Manufactured home standards; violations of 42 U.S.C. 5409, or regulation or final order issued thereunder; maximum judgment; offenses

Sec. 7. (a) For purposes of this section, a reference to 42 U.S.C. 5409 refers to that section as it existed on January 1, 2003.

(b) As used in this section, "purchaser" means the first person purchasing a manufactured home in good faith for purposes other than resale.

(c) A person who violates 42 U.S.C. 5409, or any regulation or final order issued under 42 U.S.C. 5409, is liable to the department for a civil penalty not to exceed one thousand dollars ($1,000) for each violation. Each violation of 42 U.S.C. 5409, or any regulation or final order issued under 42 U.S.C. 5409, constitutes a separate violation with respect to:

(1) each manufactured home; or

(2) each failure or refusal to allow or perform an act required by 42 U.S.C. 5409 or a regulation or order issued under 42 U.S.C. 5409.

However, the maximum judgment imposed under this subsection may not exceed one million dollars ($1,000,000) for any related series of violations occurring within one (1) year after the date of the first violation.

(d) The department may recover the civil penalty described in subsection (c) in a civil action commenced in any court with jurisdiction.

(e) Notwithstanding IC 35-50-3-2, an individual or a director, an officer, or an agent of a corporation who knowingly violates 42 U.S.C. 5409 in a manner that threatens the health or safety of any purchaser commits a Class A misdemeanor and shall be fined not more than one thousand dollars ($1,000) dollars or imprisoned not more than one (1) year, or both.

As added by P.L.245-1987, SEC.4. Amended by P.L.222-1989, SEC.17; P.L.141-2003, SEC.12.

IC 22-15-5

Chapter 5. Regulated Lifting Devices

IC 22-15-5-1

Installation or alteration permit; issuance; qualification of applicants

Sec. 1. (a) The division shall issue a regulated lifting device installation or alteration permit to an applicant who qualifies under this section.

(b) To qualify for a permit under this section, an applicant must meet the following requirements:

(1) Demonstrate through the submission of complete plans, including:

(A) copies of specifications and accurately scaled and fully dimensioned plans showing the location of the installation in relation to the plans and elevation of the building;

(B) plans showing the location of the machine room and the equipment to be installed, relocated, or altered;

(C) plans showing the structural supporting members, including foundations; and

(D) a specification of all materials employed and loads to be supported or conveyed;

that the installation or alteration covered by the application will comply with all applicable equipment laws. All plans and specifications must be sufficiently complete to illustrate all details of construction and design.

(2) Pay the fee set under IC 22-12-6-6(a)(7).

(3) Be the holder of a current elevator contractor license, if applicable, as set forth under IC 22-15-5-7.

(c) A copy of the permit shall be kept at the construction site at all times while the work is in progress.

(d) The regulated lifting device must be installed or altered in compliance with:

(1) applicable codes; and

(2) the details of the application, plans, specifications, and conditions of the permit.

(e) The regulated lifting device must be installed or altered under the direction and control of a licensed contractor. The elevator contractor does not have to be present at the site.

(f) The responsibilities of the division under this section may be carried out by a political subdivision that is approved by the commission under IC 22-13-2-10.

As added by P.L.245-1987, SEC.4. Amended by P.L.119-2002, SEC.12; P.L.1-2006, SEC.392.

IC 22-15-5-1.3

Sanctions

Sec. 1.3. A permit issued under section 1 of this chapter is subject to sanctions as provided in IC 22-12-7-7 for any of the following reasons:

(1) A false statement or misrepresentation of the material fact in the application, plan, or specification on which the permit was based.

(2) The work being performed is not in compliance with the applicable code.

(3) The work is not being performed in accordance with the details of the application, plans, specifications, or conditions of the permit.

(4) The elevator contractor to whom the permit was issued is the subject of an order issued under IC 22-12-7-4 and IC 22-12-7-6.

As added by P.L.119-2002, SEC.13.

IC 22-15-5-1.5
Permit expiration

Sec. 1.5. A permit granted under section 1 of this chapter expires for the following reasons:

(1) The work authorized by the permit has not begun within one (1) year after the date of issuance or within a shorter period if specified at the time of issuance of the permit.

(2) The work authorized by the permit has been suspended or abandoned for at least one hundred eighty (180) days or a shorter period if specified at the time of the issuance of the permit.

As added by P.L.119-2002, SEC.14.

IC 22-15-5-2
Installation or alteration without a permit; offense; application of section

Sec. 2. (a) This section does not apply to minor construction that is exempted from this section under IC 22-13-4.

(b) This section applies to the following:

(1) Each person who installs or alters a regulated lifting device, whether or not required to be licensed under IC 22-15-5-7, IC 22-15-5-8, IC 22-15-5-9, IC 22-15-5-10, IC 22-15-5-11, or IC 22-15-5-12. However, the installation, alteration, or maintenance of a regulated lifting device to which ASME A18.1 applies is not required to be performed by a mechanic licensed under IC 22-15-5-12 or by a contractor licensed under IC 22-15-5-7.

(2) Each person who has control over the installation or alteration of a regulated lifting device.

(3) Each person who has control over the place where the regulated lifting device is installed or altered.

(c) A person described in subsection (b) commits a Class C infraction if:

(1) a regulated lifting device is installed or altered; and

(2) no regulated lifting device installation or alteration permit issued under section 1 of this chapter covers the installation or alteration.

As added by P.L.245-1987, SEC.4. Amended by P.L.119-2002, SEC.15.

IC 22-15-5-3
Registration; qualification; required information

Sec. 3. (a) All regulated lifting devices shall be registered under this section.

(b) The division shall issue a registration for a regulated lifting device to an applicant who qualifies under this section.

(c) To register a regulated lifting device under this section, an applicant must submit, on a form approved by the division, the following information:

(1) Type, rated load and speed, name of manufacturer, location, and the nature of the use of the regulated lifting device.

(2) Any information required under the rules adopted by the commission.

As added by P.L.245-1987, SEC.4. Amended by P.L.119-2002, SEC.16; P.L.1-2006, SEC.393.

IC 22-15-5-4
Inspection program; initial operating certificate; renewal certificate; temporary permit

Sec. 4. (a) The division shall carry out a program for the periodic inspection of regulated lifting devices being operated in Indiana. A regulated lifting device may not be operated without an operating certificate that covers the operation of the regulated lifting device.

(b) A permit issued under this section expires on the earlier of:

(1) one (1) year after issuance; or

(2) when the regulated lifting device is altered.

(c) After a regulated lifting device has been installed or altered, an applicant shall apply for an initial operating certificate. The division shall issue an initial operating certificate for a regulated lifting device if:

(1) the applicant demonstrates:

(A) through an acceptance inspection made by an elevator inspector licensed under IC 22-15-5-11 that the regulated lifting device covered by the application complies with the laws governing its construction, repair, maintenance, and operation; and

(B) that the applicant has paid the fee set under IC 22-12-6-6(a)(7); and

(2) the division verifies, through an inspection, that the regulated lifting device complies with the laws governing the construction, repair, maintenance, and operation of the regulated lifting device.

(d) The division shall issue a renewal operating certificate if the applicant:

(1) demonstrates through the completion of applicable safety tests that the regulated lifting device complies with the laws governing the construction, repair, maintenance, and operation

of the regulated lifting device; and

(2) has paid the fee set under IC 22-12-6-6(a)(7).

(e) The division may issue a temporary operating permit to an applicant under this section who does not comply with subsection (c)(1)(A) for a new or altered regulated lifting device or subsection (d)(1) for an existing unaltered regulated lifting device. The applicant must pay the fee set under IC 22-12-6-6(a)(7) to qualify for the temporary operating permit. Except as provided in subsection (f), the permit, including all renewal periods, is limited to sixty (60) days.

(f) The division may renew a temporary operating permit issued under subsection (e) for thirty (30) day periods during the construction of a building if the regulated lifting device is used for the transportation of construction personnel, tools, and materials.

(g) The responsibilities of the division under this section may be carried out by a political subdivision that is approved by the commission under IC 22-13-2-10.

(h) A copy of the operating certificate shall be displayed in or on each regulated lifting device or in an associated machine room.

(i) A licensed elevator mechanic shall perform the maintenance on a regulated lifting device.

As added by P.L.245-1987, SEC.4. Amended by P.L.137-1990, SEC.1; P.L.119-2002, SEC.17; P.L.1-2006, SEC.394.

IC 22-15-5-5

Operation without a permit; offense; application of section

Sec. 5. (a) This section does not apply to a person who uses a regulated lifting device unless the person also has authority to:

(1) construct, repair, or maintain the regulated lifting device; or

(2) place the regulated lifting device out of service.

(b) This section applies to the following:

(1) Each person who operates a regulated lifting device.

(2) Each person who has control over the operation of a regulated lifting device.

(3) Each person who has control over the place where a regulated lifting device is operated.

(c) A person described in subsection (b) commits a Class C infraction if:

(1) a regulated lifting device is operated; and

(2) no regulated lifting device operating permit covers the operation.

As added by P.L.245-1987, SEC.4.

IC 22-15-5-6

Definitions

Sec. 6. (a) The following definitions apply to sections 7 through 16 of this chapter:

(1) "Competency examination" means an examination that thoroughly tests the scope of the knowledge and skill of the applicant for the license.

(2) "Elevator apprentice" means an individual who works under the direct supervision of a licensed elevator mechanic. The term includes an individual commonly known as an elevator helper while working under the direct supervision of a licensed elevator mechanic.

(3) "Elevator contractor" means a person who alone or with other persons, constructs, repairs, alters, remodels, adds to, subtracts from, or improves a regulated lifting device and who is responsible for substantially all the regulated lifting devices within the entire project, or who fabricates elevator lifting devices substantially completed and ready for installation.

(4) "Elevator inspector" means an individual who conducts the acceptance inspection of a regulated lifting device required by section 4(c)(1)(A) of this chapter.

(5) "Elevator mechanic" means an individual who engages in the construction, reconstruction, alteration, maintenance, mechanical, or electrical work or adjustments of a regulated lifting device.

(6) "License" means a certificate issued by the department that confers upon the holder the privilege to act as an elevator contractor, elevator inspector, or elevator mechanic.

(7) "Licensing program" means the program for licensing elevator contractors, elevator inspectors, and elevator mechanics established under this section and sections 7 through 16 of this chapter.

(8) "Municipality" has the meaning set forth in IC 36-1-2-11.

(9) "Person" means:

(A) a natural person;

(B) the partners or members of a partnership or a limited partnership;

(C) a state educational institution; or

(D) a corporation or the officers, directors, and employees of the corporation.

(10) "Practitioner" means a person that holds:

(A) an unlimited license;

(B) a limited or probationary license;

(C) a temporary license;

(D) an emergency license; or

(E) an inactive license.

(b) The commission and the department shall establish a program to license elevator contractors, elevator mechanics, and elevator inspectors.

(c) The department shall issue a license as an elevator contractor, an elevator mechanic, or an elevator inspector to a person who qualifies and complies with the provisions of the licensing program. A person who receives a license under this chapter is subject to the supervision and control of the department.

(d) The department may contract with public and private institutions, agencies, businesses, and organizations to implement all or part of its duties established under this chapter.

(e) The commission may adopt rules under IC 4-22-2 to implement the licensing program.

As added by P.L.119-2002, SEC.18. Amended by P.L.1-2006, SEC.395; P.L.2-2007, SEC.309.

IC 22-15-5-7

Elevator contractor license; requirements for license; invalid license

Sec. 7. (a) After May 1, 2003, an individual may not act as an elevator contractor unless the individual:

(1) holds an elevator contractor license issued under this chapter; or

(2) is an employee of a partnership, a limited partnership, a corporation, or a state educational institution that holds an elevator contractor license issued under this chapter.

(b) After May 1, 2003, a partnership, a limited partnership, a corporation, or a state educational institution may not act as an elevator contractor unless it holds an elevator contractor license issued under this chapter.

(c) An individual who is an applicant for an elevator contractor license shall:

(1) hold a valid elevator contractor license issued by another state that has a licensing program that, as determined by the department or the commission, is equivalent to the elevator contractor licensing program established under this chapter; or

(2) except as otherwise provided, satisfy both of the following requirements:

(A) Have at least five (5) years of documented work experience in the elevator industry in construction, maintenance, and service or repair in Indiana.

(B) Successfully complete a written competency examination approved by the commission.

An applicant for an elevator contractor license is entitled to a license without examination if the applicant applies for the license on or before May 1, 2003.

(d) A corporation or a state educational institution that is an applicant for an elevator contractor license must have at least one (1) officer or employee of the corporation or a state educational institution that holds a valid elevator contractor license issued under this chapter. A license granted to a corporation or a state educational institution to act as an elevator contractor under this chapter becomes invalid when an officer or employee of the corporation or state educational institution no longer holds a valid elevator contractor license issued under this chapter.

(e) A partnership or limited partnership that is an applicant for an elevator contractor license must have at least one (1) partner or general partner that holds a valid elevator contractor license issued under this chapter. A license granted to a partnership or limited partnership to act as an elevator contractor under this chapter becomes invalid when the partner of a partnership or general partner

of a limited partnership named in the application no longer holds a valid elevator contractor license as provided by this chapter.
As added by P.L.119-2002, SEC.19. Amended by P.L.141-2003, SEC.13; P.L.2-2007, SEC.310.

IC 22-15-5-8
Initial license application; renewal license application

Sec. 8. (a) An applicant for an initial elevator contractor license must do the following:

(1) Submit to the department an application on the form that the department provides.

(2) Submit to the department any proof of eligibility the department requires.

(3) Demonstrate proof of insurance as required by section 14 of this chapter.

(4) Demonstrate proof of worker's compensation coverage under IC 22-3-2-5.

(5) Pay the license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application or applies to take the examination.

(6) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(b) An applicant for a renewal elevator contractor license must do the following:

(1) Submit an application on the form that the department provides.

(2) Submit proof of completion of the continuing education required by section 15 of this chapter.

(3) Demonstrate proof of insurance as required by section 14 of this chapter.

(4) Demonstrate proof of worker's compensation coverage under IC 22-3-2-5.

(5) Pay the license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(6) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

As added by P.L.119-2002, SEC.20. Amended by P.L.1-2003, SEC.72.

IC 22-15-5-9
Required information for application; license expiration and renewal

Sec. 9. (a) An application for an elevator contractor license must contain the following information:

(1) If the applicant is an individual, the name, business address, telephone number, and electronic mail address of the applicant.

(2) If the applicant is a corporation or a state educational institution, the following:

(A) The name and address of the corporation.

(B) The name, business address, phone number, and electronic mail address of every officer or employee in the corporation who holds a valid elevator contractor license as provided by this chapter.

(C) The name and address of the resident agent of the corporation.

(3) If the applicant is a partnership or limited partnership, the following:

(A) The name and address of the partnership or limited partnership.

(B) The name, business address, phone number, and electronic mail address of every partner, for a partnership, or every general partner, for a limited partnership, who holds a valid elevator contractor license as provided by this chapter.

(4) Any other information the department requires.

(b) An initial elevator contractor license issued under this chapter expires on December 31 of the second year after it was issued.

(c) A renewal of an elevator contractor license is valid for two (2) years.

As added by P.L.119-2002, SEC.21. Amended by P.L.2-2007, SEC.311.

IC 22-15-5-10

License presentation upon request

Sec. 10. An individual engaged in the business of an elevator contractor shall carry:

(1) the individual's license; or

(2) a facsimile of the license of the partnership, corporation, or state educational institution by which the individual is employed;

and present the license for inspection by a representative of the department upon request.

As added by P.L.119-2002, SEC.22. Amended by P.L.2-2007, SEC.312.

IC 22-15-5-11

Elevator inspector license; initial license requirements; renewal license; license expiration; invalid license

Sec. 11. (a) After May 1, 2003, an individual may not act as an elevator inspector unless the individual holds an elevator inspector license issued under this chapter.

(b) An individual who is an applicant for an elevator inspector license shall meet the standards set forth in American Society of Mechanical Engineers (ASME) American National Standard QEI-1 (Standard for the Qualification of Elevator Inspectors) or other nationally accepted standard qualifying authority that the commission has determined has equivalent requirements as ASME

QEI-1 for obtaining and retaining certification.

(c) An applicant for an initial elevator inspector license must do the following:

(1) Submit to the department an application provided by the department that contains the following information:

(A) The name, address, telephone number, and electronic mail address of the applicant.

(B) Any other information the department requires.

(2) Submit to the department any proof of eligibility the department requires.

(3) Demonstrate proof of insurance as required by section 14 of this chapter.

(4) Pay the license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(5) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(d) An applicant for a renewal elevator inspector license shall:

(1) Submit to the department an application provided by the department that contains the following information:

(A) The name, address, telephone number, and electronic mail address of the applicant.

(B) Any other information the department requires.

(2) Submit proof of completion of the continuing education required by section 15 of this chapter.

(3) Demonstrate proof of insurance as required by section 14 of this chapter.

(4) Pay the license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(5) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(e) An initial elevator inspector license issued under this chapter expires on December 31 of the second year after the license was issued.

(f) A renewal of an elevator inspector license is valid for two (2) years.

(g) An individual who engages in the business of an elevator inspector shall carry the individual's license and present the license for inspection by a representative of the department upon request.

(h) If the QEI-1 certification or other certification standard approved by the commission that made the individual eligible for an inspector license under subsection (b):

(1) is terminated;

(2) expires; or

(3) becomes invalid for any other reason;

the elevator inspector's license immediately becomes invalid.

As added by P.L.119-2002, SEC.23. Amended by P.L.141-2003,

SEC.14.

IC 22-15-5-12
Elevator mechanic license; eligibility criteria; initial license requirements; renewal license; license expiration

Sec. 12. (a) After May 1, 2003, an individual may not act as an elevator mechanic unless the individual holds an elevator mechanic license issued under this chapter. A license is not required for an elevator apprentice.

(b) An individual who is an applicant for an elevator mechanic license must meet one (1) of the following eligibility criteria:

(1) Hold an active elevator mechanic license issued by a state that has a licensing program that is at least equivalent to the elevator mechanic licensing program established under this chapter.

(2) Satisfy both of the following:

(A) Have at least one (1) of the following types of work experience or training:

(i) Have at least three (3) years of documented work experience in the elevator industry in construction, maintenance, and service or repair.

(ii) Have at least eighteen (18) months experience in the elevator industry in construction, maintenance, and service or repair and have at least three (3) years experience in a related field that is certified by a licensed elevator contractor.

(iii) Complete an apprenticeship program that is registered with the Bureau of Apprenticeship and Training of the United States Department of Labor or a state apprenticeship program and that the commission determines is at least equivalent to three (3) years of work experience in the elevator industry in construction, maintenance, and service or repair.

(B) Successfully complete a written competency examination approved by the commission.

(3) Successfully complete an elevator mechanic's program that consists of a combination of extensive training and a comprehensive examination that the commission has determined is at least equivalent to both the work experience required under subdivision (2)(A)(i) and the competency examination established under subdivision (2)(B).

(4) Furnish acceptable proof to the department of:

(A) at least three (3) years work experience in the elevator industry in construction, maintenance, service or repair; and

(B) current performance of the duties of an elevator mechanic in Indiana without direct supervision;

and apply for the license on or before May 1, 2003.

(c) An applicant for an initial elevator mechanic license must do the following:

(1) Submit to the department an application provided by the

department that contains the following information:

(A) The name, business address, telephone number, and electronic mail address of the applicant.

(B) Any other information the department requires.

(2) Submit to the department any proof of eligibility the department requires.

(3) Pay the nonrefundable and nontransferable license fee established under IC 22-12-6-6.

(4) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(d) An applicant for a renewal elevator mechanic license must do the following:

(1) Submit to the department an application provided by the department that contains the following information:

(A) The name, business address, telephone number, and electronic mail address of the applicant.

(B) Any other information the department requires.

(2) Submit proof of completion of the continuing education required by section 15 of this chapter.

(3) Pay the nonrefundable and nontransferable license fee established under IC 22-12-6-6.

(4) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(e) An initial elevator mechanic license issued under this chapter expires on December 31 of the second year after the license was issued.

(f) A renewal of an elevator mechanic license is valid for two (2) years.

(g) An individual engaged in the business of an elevator mechanic shall carry the individual's license and present the license for inspection by a representative of the department upon request.

As added by P.L.119-2002, SEC.24. Amended by P.L.141-2003, SEC.15.

IC 22-15-5-13

Temporary elevator mechanic license; emergency elevator mechanic license

Sec. 13. (a) A temporary elevator mechanic license may be issued by the department upon receipt of the following:

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators.

(2) An application on the form that the department provides.

(3) A certification by the licensed elevator contractor that the individual to receive the temporary license possesses sufficient documented experience and education to perform elevator construction, maintenance, or service and repair.

(4) A temporary mechanic license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(5) An affirmation under penalty of perjury made by both the individual who would receive the temporary license and the licensed elevator contractor that all information provided to the department is true to the best of their knowledge and belief.

(b) A temporary elevator mechanic license is valid for sixty (60) days after the date of issuance and is valid only for work performed for the licensed elevator contractor that has made the certifications under subsection (a).

(c) A temporary elevator mechanic license issued under this section may be renewed for two (2) subsequent sixty (60) day periods. To renew the license, the license holder must submit the following:

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators.

(2) An application on the form that the department provides.

(3) A temporary mechanic license renewal fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(4) An affirmation by both the individual that would receive the temporary license and the licensed elevator contractor under penalty for perjury that all information provided to the department is true to the best of their knowledge and belief.

(d) An emergency elevator mechanic license may be issued by the department upon receipt of the following:

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators due to a disaster (as defined in IC 10-14-3-1).

(2) An application on the form that the department provides.

(3) A certification by the licensed elevator contractor that the individual to receive the temporary license possesses sufficient documented experience and education to perform elevator construction, maintenance, or service and repair.

(4) An emergency mechanic license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(5) An affirmation by both the individual that would receive the temporary license and the licensed elevator contractor under penalty for perjury that all information provided to the department is true to the best of their knowledge and belief.

(e) An emergency elevator mechanic license is valid for sixty (60) days after the date of issuance and is valid only for work performed for the licensed elevator contractor that has made the certifications under subsection (d).

(f) An emergency elevator mechanic license issued under this section may be renewed for two (2) subsequent sixty (60) day periods. To renew the license, the license holder must submit the following:

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators.

(2) An application on the form that the department provides.

(3) An emergency mechanic license renewal fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(4) An affirmation by both the individual who would receive the emergency license and the licensed elevator contractor under penalty for perjury that all information provided to the department is true to the best of their knowledge and belief.

As added by P.L.119-2002, SEC.25. Amended by P.L.2-2003, SEC.61.

IC 22-15-5-14

Liability insurance requirement; exemptions; failure to file certificate of insurance

Sec. 14. (a) This section does not apply to the following:

(1) An individual employed by the following:

(A) The state.

(B) A county.

(C) A municipality.

(D) A state educational institution.

(2) A state educational institution.

(b) The department may not issue an elevator inspector or elevator contractor license until the applicant has filed with the department a certificate of insurance indicating that the applicant has liability insurance:

(1) in effect with an insurer that is authorized to write insurance in Indiana; and

(2) that provides general liability coverage to a limit of at least:

(A) one million dollars ($1,000,000) for the injury or death of any number of persons in any one (1) occurrence; and

(B) five hundred thousand dollars ($500,000) for property damage in any one (1) occurrence.

(c) An insurance policy required under this section may include a deductible clause if the clause provides that any settlement made by the insurance company with an injured person or a personal representative must be paid as though the deductible clause did not apply.

(d) An insurance policy required under this section must provide by the policy's original terms or an endorsement that the insurer may not cancel the policy without:

(1) thirty (30) days written notice; and

(2) a complete report of the reasons for the cancellation to the

division.

(e) An insurance policy required under this section must provide by the policy's original terms or an endorsement that the insurer shall report to the department within twenty-four (24) hours after the insurer pays a claim or reserves any amount to pay an anticipated claim that reduces the liability coverage below the amounts established in this section.

(f) If an insurance policy required under this section:

(1) is canceled during the policy's term;

(2) lapses for any reason; or

(3) has the policy's coverage fall below the required amount;

the license holder shall replace the policy with another policy that complies with this section.

(g) If a license holder fails to file a certificate of insurance for new or replacement insurance, the license holder:

(1) must cease all operations under the license immediately; and

(2) may not conduct further operations until the license holder receives the approval of the department to resume operations after the license holder complies with the requirements of this section.

As added by P.L.119-2002, SEC.26. Amended by P.L.1-2006, SEC.396; P.L.2-2007, SEC.313.

IC 22-15-5-15

Continuing education requirements; exemptions; temporary waiver

Sec. 15. (a) This section does not apply to a licensed elevator contractor that is not an individual.

(b) To renew a license issued under this licensing program, the license holder must satisfy the continuing education requirement and submit a proof of completion of training to the department.

(c) The continuing education requirement is at least eight (8) hours of instruction that must be attended and completed within one (1) year before a license renewal.

(d) The continuing education courses designed to ensure the continuing education of an individual holding a license regarding new and existing provisions of the rules of the commission may include:

(1) programs sponsored by the commission;

(2) trade association seminars;

(3) labor training programs; or

(4) joint labor management apprenticeship and journeyman upgrade training programs.

For an individual's completion of a continuing education course to satisfy the individual's continuing education requirement under this chapter, the continuing education provider, instructor and the curriculum must have been approved by the department.

(e) All instructors of continuing education courses must be approved by the department. If an instructor is approved by the department, has worked as an instructor teaching a curriculum

approved by the department at any time within the year preceding the expiration date of the license, and submits proof of this work to the department, the instructor is exempt from the requirements of subsection (c).

(f) Continuing education providers shall keep uniform records of attendance at approved continuing education courses for at least ten (10) years on forms designed and distributed by the department.

(g) A license holder who is unable to complete the continuing education required under this chapter before the expiration of the individual's license due to temporary physical or mental disability may apply for a waiver from the department in accordance with the following:

(1) A waiver application must be submitted to the department on a form established by the department.

(2) A waiver application must be signed and accompanied by an affidavit signed by the physician of the applicant attesting to the applicant's temporary disability.

(h) After the cessation of the temporary disability, the applicant must submit to the department a certification from the same physician, if the physician is still the treating physician of the applicant, or from a subsequent treating physician attesting to the termination of the temporary disability.

(i) Upon the submission of the certification under subsection (h), the department shall issue a temporary waiver of the continuing education requirement. A temporary waiver is valid for ninety (90) days after the date of issue and allows the individual to work as an elevator contractor, elevator inspector, or elevator mechanic without the completion of the continuing education requirement for ninety (90) days.

(j) A temporary waiver of the continuing education requirement may not be renewed.

As added by P.L.119-2002, SEC.27.

IC 22-15-5-16 Version a

Sanctions; disciplinary proceedings; license denial, suspension, and revocation; appeals; costs

Note: This version of section amended by P.L.196-2013, SEC.7. See also following version of this section amended by P.L.158-2013, SEC.261, effective 7-1-2014.

Sec. 16. (a) A practitioner shall comply with the standards established under this licensing program. A practitioner is subject to the exercise of the disciplinary sanctions under subsection (b) if the department finds that a practitioner has:

(1) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a licensing examination;

(2) engaged in fraud or material deception in the course of professional services or activities;

(3) advertised services or goods in a false or misleading manner;

(4) falsified or knowingly allowed another person to falsify attendance records or certificates of completion of continuing education courses provided under this chapter;

(5) been convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently;

(6) knowingly violated a state statute or rule or federal statute or regulation regulating the profession for which the practitioner is licensed;

(7) continued to practice although the practitioner has become unfit to practice due to:

(A) professional incompetence;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction to, abuse of, or severe dependency on alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;

(8) engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;

(9) allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual or business who renders services beyond the scope of that individual's or business's training, experience, or competence;

(10) had disciplinary action taken against the practitioner or the practitioner's license to practice in another state or jurisdiction on grounds similar to those under this chapter;

(11) assisted another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or

(12) allowed a license issued by the department to be:

(A) used by another person; or

(B) displayed to the public when the license has expired, is inactive, is invalid, or has been revoked or suspended.

For purposes of subdivision (10), a certified copy of a record of disciplinary action constitutes prima facie evidence of a disciplinary action in another jurisdiction.

(b) The department may impose one (1) or more of the following sanctions if the department finds that a practitioner is subject to disciplinary sanctions under subsection (a):

(1) Permanent revocation of a practitioner's license.

(2) Suspension of a practitioner's license.

(3) Censure of a practitioner.

(4) Issuance of a letter of reprimand.

(5) Assess a civil penalty against the practitioner in accordance with the following:

(A) The civil penalty may not be more than one thousand dollars ($1,000) for each violation listed in subsection (a), except for a finding of incompetency due to a physical or mental disability.

(B) When imposing a civil penalty, the department shall

consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the department, the department may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.

(6) Place a practitioner on probation status and require the practitioner to:

(A) report regularly to the department upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the department;

(C) continue or renew professional education approved by the department until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the department considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

The department may withdraw or modify this probation if the department finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

(c) If an applicant or a practitioner has engaged in or knowingly cooperated in fraud or material deception to obtain a license to practice, including cheating on the licensing examination, the department may rescind the license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the license for a length of time established by the department.

(d) The department may deny licensure to an applicant who has had disciplinary action taken against the applicant or the applicant's license to practice in another state or jurisdiction or who has practiced without a license in violation of the law. A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action.

(e) The department may order a practitioner to submit to a reasonable physical or mental examination if the practitioner's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding. Failure to comply with a department order to submit to a physical or mental examination makes a practitioner liable to temporary suspension under subsection (j).

(f) Except as provided under subsection (g) or (h), a license may not be denied, revoked, or suspended because the applicant or holder has been convicted of an offense. The acts from which the applicant's or holder's conviction resulted may, however, be considered as to whether the applicant or holder should be entrusted to serve the public in a specific capacity.

(g) The department may deny, suspend, or revoke a license issued under this chapter if the individual who holds the license is convicted of any of the following:

(1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.

(2) Possession of methamphetamine under IC 35-48-4-6.1.

(3) Possession of a controlled substance under IC 35-48-4-7(a).

(4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b).

(5) Manufacture of paraphernalia as a Class D felony under IC 35-48-4-8.1(b).

(6) Dealing in paraphernalia as a Class D felony under IC 35-48-4-8.5(b).

(7) Possession of paraphernalia as a Class D felony under IC 35-48-4-8.3(b).

(8) Possession of marijuana, hash oil, hashish, or salvia as a Class D felony under IC 35-48-4-11.

(9) Possession of a synthetic drug or synthetic drug lookalike substance as a Class D felony under IC 35-48-4-11.5 (or under IC 35-48-4-11 before its amendment in 2013).

(10) Maintaining a common nuisance under IC 35-48-4-13.

(11) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.

(12) Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.

(13) Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.

(14) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this subsection.

(h) The department shall deny, revoke, or suspend a license issued under this chapter if the individual who holds the license is convicted of any of the following:

(1) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.

(2) Dealing in methamphetamine under IC 35-48-4-1.1.

(3) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.

(4) Dealing in a schedule IV controlled substance under IC 35-48-4-3.

(5) Dealing in a schedule V controlled substance under IC 35-48-4-4.

(6) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.

(7) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.

(8) Dealing in a counterfeit substance under IC 35-48-4-5.

(9) Dealing in marijuana, hash oil, hashish, or salvia under IC 35-48-4-10(b).

(10) Dealing in a synthetic drug or synthetic drug lookalike substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b) before its amendment in 2013).

(11) Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.

(12) Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.

(13) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this subsection.

(14) A violation of any federal or state drug law or rule related to wholesale legend drug distributors licensed under IC 25-26-14.

(i) A decision of the department under subsections (b) through (h) may be appealed to the commission under IC 4-21.5-3-7.

(j) The department may temporarily suspend a practitioner's license under IC 4-21.5-4 before a final adjudication or during the appeals process if the department finds that a practitioner represents a clear and immediate danger to the public's health, safety, or property if the practitioner is allowed to continue to practice.

(k) On receipt of a complaint or an information alleging that a person licensed under this chapter has engaged in or is engaging in a practice that jeopardizes the public health, safety, or welfare, the department shall initiate an investigation against the person.

(l) Any complaint filed with the office of the attorney general alleging a violation of this licensing program shall be referred to the department for summary review and for its general information and any authorized action at the time of the filing.

(m) The department shall conduct a fact finding investigation as the department considers proper in relation to the complaint.

(n) The department may reinstate a license that has been suspended under this section if, after a hearing, the department is satisfied that the applicant is able to practice with reasonable skill, safety, and competency to the public. As a condition of reinstatement, the department may impose disciplinary or corrective measures authorized under this chapter.

(o) The department may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

(p) The department shall seek to achieve consistency in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the department's findings or orders.

(q) A practitioner may petition the department to accept the surrender of the practitioner's license instead of having a hearing before the commission. The practitioner may not surrender the practitioner's license without the written approval of the department, and the department may impose any conditions appropriate to the

surrender or reinstatement of a surrendered license.

(r) A practitioner who has been subjected to disciplinary sanctions may be required by the commission to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. The costs are limited to costs for the following:

(1) Court reporters.
(2) Transcripts.
(3) Certification of documents.
(4) Photo duplication.
(5) Witness attendance and mileage fees.
(6) Postage.
(7) Expert witnesses.
(8) Depositions.
(9) Notarizations.

As added by P.L.119-2002, SEC.28. Amended by P.L.151-2006, SEC.9; P.L.1-2007, SEC.161; P.L.138-2011, SEC.5; P.L.182-2011, SEC.5; P.L.78-2012, SEC.6; P.L.196-2013, SEC.7.

IC 22-15-5-16 Version b

Sanctions; disciplinary proceedings; license denial, suspension, and revocation; appeals; costs

Note: This version of section amended by P.L.158-2013, SEC.261 effective 7-1-2014. See also preceding version of this section amended by P.L.196-2013, SEC.7.

Sec. 16. (a) A practitioner shall comply with the standards established under this licensing program. A practitioner is subject to the exercise of the disciplinary sanctions under subsection (b) if the department finds that a practitioner has:

(1) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a licensing examination;

(2) engaged in fraud or material deception in the course of professional services or activities;

(3) advertised services or goods in a false or misleading manner;

(4) falsified or knowingly allowed another person to falsify attendance records or certificates of completion of continuing education courses provided under this chapter;

(5) been convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently;

(6) knowingly violated a state statute or rule or federal statute or regulation regulating the profession for which the practitioner is licensed;

(7) continued to practice although the practitioner has become unfit to practice due to:

(A) professional incompetence;

(B) failure to keep abreast of current professional theory or

practice;

(C) physical or mental disability; or

(D) addiction to, abuse of, or severe dependency on alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;

(8) engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;

(9) allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual or business who renders services beyond the scope of that individual's or business's training, experience, or competence;

(10) had disciplinary action taken against the practitioner or the practitioner's license to practice in another state or jurisdiction on grounds similar to those under this chapter;

(11) assisted another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or

(12) allowed a license issued by the department to be:

(A) used by another person; or

(B) displayed to the public when the license has expired, is inactive, is invalid, or has been revoked or suspended.

For purposes of subdivision (10), a certified copy of a record of disciplinary action constitutes prima facie evidence of a disciplinary action in another jurisdiction.

(b) The department may impose one (1) or more of the following sanctions if the department finds that a practitioner is subject to disciplinary sanctions under subsection (a):

(1) Permanent revocation of a practitioner's license.

(2) Suspension of a practitioner's license.

(3) Censure of a practitioner.

(4) Issuance of a letter of reprimand.

(5) Assess a civil penalty against the practitioner in accordance with the following:

(A) The civil penalty may not be more than one thousand dollars ($1,000) for each violation listed in subsection (a), except for a finding of incompetency due to a physical or mental disability.

(B) When imposing a civil penalty, the department shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the department, the department may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.

(6) Place a practitioner on probation status and require the practitioner to:

(A) report regularly to the department upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the

department;

(C) continue or renew professional education approved by the department until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the department considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

The department may withdraw or modify this probation if the department finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

(c) If an applicant or a practitioner has engaged in or knowingly cooperated in fraud or material deception to obtain a license to practice, including cheating on the licensing examination, the department may rescind the license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the license for a length of time established by the department.

(d) The department may deny licensure to an applicant who has had disciplinary action taken against the applicant or the applicant's license to practice in another state or jurisdiction or who has practiced without a license in violation of the law. A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action.

(e) The department may order a practitioner to submit to a reasonable physical or mental examination if the practitioner's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding. Failure to comply with a department order to submit to a physical or mental examination makes a practitioner liable to temporary suspension under subsection (j).

(f) Except as provided under subsection (g) or (h), a license may not be denied, revoked, or suspended because the applicant or holder has been convicted of an offense. The acts from which the applicant's or holder's conviction resulted may, however, be considered as to whether the applicant or holder should be entrusted to serve the public in a specific capacity.

(g) The department may deny, suspend, or revoke a license issued under this chapter if the individual who holds the license is convicted of any of the following:

(1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.

(2) Possession of methamphetamine under IC 35-48-4-6.1.

(3) Possession of a controlled substance under IC 35-48-4-7(a).

(4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b) (for a crime committed before July 1, 2014) or IC 35-48-4-7(c) (for a crime committed after June 30, 2014).

(5) Manufacture of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under

IC 35-48-4-8.1(b).

(6) Dealing in paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.5(b).

(7) Possession of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.3(b).

(8) Possession of marijuana, hash oil, hashish, salvia, or a synthetic drug as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-11.

(9) Maintaining a common nuisance under IC 35-48-4-13.

(10) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.

(11) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (10).

(12) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (10).

(13) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in subdivisions (1) through (12).

(h) The department shall deny, revoke, or suspend a license issued under this chapter if the individual who holds the license is convicted of any of the following:

(1) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.

(2) Dealing in methamphetamine under IC 35-48-4-1.1.

(3) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.

(4) Dealing in a schedule IV controlled substance under IC 35-48-4-3.

(5) Dealing in a schedule V controlled substance under IC 35-48-4-4.

(6) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.

(7) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.

(8) Dealing in a counterfeit substance under IC 35-48-4-5.

(9) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic drug under IC 35-48-4-10(b).

(10) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (9).

(11) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (9).

(12) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in subdivisions (1) through (11).

(13) A violation of any federal or state drug law or rule related to wholesale legend drug distributors licensed under IC 25-26-14.

(i) A decision of the department under subsections (b) through (h) may be appealed to the commission under IC 4-21.5-3-7.

(j) The department may temporarily suspend a practitioner's license under IC 4-21.5-4 before a final adjudication or during the appeals process if the department finds that a practitioner represents a clear and immediate danger to the public's health, safety, or property if the practitioner is allowed to continue to practice.

(k) On receipt of a complaint or an information alleging that a person licensed under this chapter has engaged in or is engaging in a practice that jeopardizes the public health, safety, or welfare, the department shall initiate an investigation against the person.

(l) Any complaint filed with the office of the attorney general alleging a violation of this licensing program shall be referred to the department for summary review and for its general information and any authorized action at the time of the filing.

(m) The department shall conduct a fact finding investigation as the department considers proper in relation to the complaint.

(n) The department may reinstate a license that has been suspended under this section if, after a hearing, the department is satisfied that the applicant is able to practice with reasonable skill, safety, and competency to the public. As a condition of reinstatement, the department may impose disciplinary or corrective measures authorized under this chapter.

(o) The department may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

(p) The department shall seek to achieve consistency in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the department's findings or orders.

(q) A practitioner may petition the department to accept the surrender of the practitioner's license instead of having a hearing before the commission. The practitioner may not surrender the practitioner's license without the written approval of the department, and the department may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

(r) A practitioner who has been subjected to disciplinary sanctions may be required by the commission to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. The costs are limited to costs for the following:

(1) Court reporters.

(2) Transcripts.

(3) Certification of documents.

(4) Photo duplication.
(5) Witness attendance and mileage fees.
(6) Postage.
(7) Expert witnesses.
(8) Depositions.
(9) Notarizations.

As added by P.L.119-2002, SEC.28. Amended by P.L.151-2006, SEC.9; P.L.1-2007, SEC.161; P.L.138-2011, SEC.5; P.L.182-2011, SEC.5; P.L.78-2012, SEC.6; P.L.158-2013, SEC.261.

IC 22-15-6

Chapter 6. Regulated Boilers and Pressure Vessels; Boiler and Pressure Vessel Inspectors

IC 22-15-6-0.5

Chapter application

Sec. 0.5. This chapter applies to a regulated boiler and pressure vessel as set forth in rules adopted by the rules board under IC 4-22-2.

As added by P.L.141-2003, SEC.16.

IC 22-15-6-1

IC 22-15-6-2 through IC 22-15-6-3 not applicable to certain boilers and pressure vessels

Sec. 1. Sections 2 through 3 of this chapter do not apply to any regulated boiler or pressure vessel exempted by a rule adopted by the rules board under IC 4-22-2.

As added by P.L.245-1987, SEC.4. Amended by P.L.141-2003, SEC.17.

IC 22-15-6-2

Inspection program; operating permit; qualification of applicants; rules

Sec. 2. (a) The division shall conduct a program of periodic inspections of regulated boilers and pressure vessels.

(b) The division or a boiler and pressure vessel inspector acting under section 4 of this chapter shall issue a regulated boiler and pressure vessel operating permit to an applicant who qualifies under this section.

(c) Except as provided in subsection (f), a permit issued under this section expires one (1) year after it is issued. The permit terminates if it was issued by an insurance company acting under section 4 of this chapter and the applicant ceases to insure the boiler or pressure vessel covered by the permit against loss by explosion with an insurance company authorized to do business in Indiana.

(d) To qualify for a permit or to renew a permit under this section, an applicant must do the following:

(1) Demonstrate through an inspection that the regulated boiler or pressure vessel covered by the application complies with the rules adopted by the rules board.

(2) Pay the fee set under IC 22-12-6-6(a)(8).

(e) An inspection under subsection (d)(2) shall be conducted as follows:

(1) An inspection for an initial permit shall be conducted by:

(A) the division; or

(B) an owner or user inspection agency.

(2) An inspection for a renewal permit shall be conducted by one (1) of the following:

(A) An insurance company inspection agency, if the vessel is insured under a boiler and pressure vessel insurance policy

and the renewal inspection is not conducted by an owner or user inspection agency.

(B) An owner or user inspection agency.

(C) The division, if:

(i) the owner or user of a vessel is not licensed as an owner or user inspection agency and the vessel is not insured under a boiler and pressure vessel insurance policy; or

(ii) the regulated boiler or pressure vessel operating permit has lapsed.

(f) The rules board may, by rule adopted under IC 4-22-2, specify a period between inspections of more than one (1) year. However, the rules board may not set an inspection period of greater than five (5) years for regulated pressure vessels or steam generating equipment that is an integral part of a continuous processing unit.

As added by P.L.245-1987, SEC.4. Amended by P.L.136-1990, SEC.3; P.L.119-2002, SEC.29; P.L.141-2003, SEC.18; P.L.1-2006, SEC.397; P.L.68-2009, SEC.5.

IC 22-15-6-3

Operation without a permit; offense; application of section

Sec. 3. (a) This section does not apply to a person who uses a regulated boiler or pressure vessel unless the person has authority to:

(1) construct, repair, or maintain the regulated boiler or pressure vessel; or

(2) place the regulated boiler or pressure vessel out of service.

(b) This section applies to the following:

(1) Each person who operates a regulated boiler or pressure vessel.

(2) Each person who controls the operation of a regulated boiler or pressure vessel.

(3) Each person who controls the place where the regulated boiler or pressure vessel is operated.

(c) A person described in subsection (b) commits a Class C infraction if:

(1) a regulated boiler or pressure vessel is operated; and

(2) no regulated boiler and pressure vessel permit issued under this chapter covers the operation.

As added by P.L.245-1987, SEC.4.

IC 22-15-6-4

"Inspection agency" defined; authority of licensed inspector; reports; violations; notice; disciplinary action

Sec. 4. (a) As used in this chapter, "inspection agency" means:

(1) an insurance company inspection agency; or

(2) an owner or user inspection agency;

licensed under section 6 of this chapter.

(b) A boiler and pressure vessel inspector licensed under section 5 of this chapter and employed by an inspection agency may perform any of the following:

(1) An inspection required by section 3 of this chapter.

(2) The issuance of a permit under section 3 of this chapter.

(3) The issuance of an appropriate order under IC 22-12-7 when an equipment law has been violated.

(c) The authority of an inspector acting under this chapter is limited to enforcement related to regulated boilers or pressure vessels insured, owned, or operated by the inspection agency employing the inspector.

(d) Unless an annual report is substituted under subsection (e), an inspection agency shall, within thirty (30) days after the completion of an inspection, submit to the division the report required by the rules board. In addition to any other information required by the rules board, the inspector conducting the inspection shall cite on the report any violation of the equipment law applicable to the regulated boiler or pressure vessel.

(e) In the case of boilers or pressure vessels inspected by an owner or user inspection agency, an annual report filed on or before the annual date as the rules board may prescribe for each report may be substituted. An annual report of an owner or user inspection agency must list, by number and abbreviated description necessary for identification, each boiler and pressure vessel inspected during the covered period, the date of the last inspection of each unit, and for each pressure vessel the approximate date for its next inspection under the rules of the rules board. Each annual report of an owner or user inspection must also contain the certificate of a professional engineer registered under IC 25-31 and having supervision over the inspections reported, swearing or affirming under penalty of perjury that each inspection was conducted in conformity with the equipment laws.

(f) An owner or user inspection agency shall pay the fee set under IC 22-12-6 with a report under subsection (e).

(g) In addition to the reports required by subsections (d) and (e), an owner, a user, or an inspection agency shall immediately notify the division when an incident occurs to render a boiler or pressure vessel inoperative.

(h) An inspection agency, an owner, or a user that violates this section is subject to a disciplinary action under IC 22-12-7.

As added by P.L.245-1987, SEC.4. Amended by P.L.141-2003, SEC.19; P.L.1-2006, SEC.398.

IC 22-15-6-5

Inspector license; qualification of applicants; examination; exemption

Sec. 5. (a) The division shall issue a boiler and pressure vessel inspector license to an applicant who qualifies under this section.

(b) To qualify for a license under this section an applicant must:

(1) meet the qualifications set by the rules board in its rules;

(2) pass an examination approved by the rules board and conducted, supervised, and graded as prescribed by the rules board; and

(3) pay the fee set under IC 22-12-6-6(a)(9).

(c) The rules board may exempt an applicant from any part of the examination required by subsection (b) if the applicant has:

(1) a boiler and pressure vessel inspector's license issued by another state with qualifications substantially equal to the qualifications for a license under this section; or

(2) a commission as a boiler and pressure vessel inspector issued by the National Board of Boiler and Pressure Vessel Inspectors.

As added by P.L.245-1987, SEC.4. Amended by P.L.119-2002, SEC.30; P.L.1-2006, SEC.399.

IC 22-15-6-6

Owner or user inspection agency; license; qualification of applicants; required information; enforcement

Sec. 6. (a) The division shall issue a license to act as an owner or user boiler and pressure vessel inspection agency to an applicant who qualifies under this section.

(b) A license issued under this section expires if the bond required by subsection (c)(3) becomes invalid.

(c) To qualify for a license under this section an applicant must:

(1) submit the name and address of the applicant;

(2) submit proof that inspections will be supervised by one (1) or more professional engineers licensed under IC 25-31 and regularly employed by the applicant;

(3) provide a surety bond issued by a surety qualified to do business in Indiana for one hundred thousand dollars ($100,000), made payable to the division and conditioned upon compliance with the equipment laws applicable to inspections and the true accounting for all funds due to the division; and

(4) pay the fee set under IC 22-12-6-6(a)(9).

(d) An owner or user boiler and pressure vessel inspection agency licensee under this section shall maintain with the division the most current name and address of the licensee and the name of the professional engineer supervising the licensee's inspections and notify the division of any changes within thirty (30) days after the change occurs. An inspection agency that violates this subsection is subject to a disciplinary action under IC 22-12-7.

(e) The rules board may establish standards for the operation of inspection agencies.

(f) An inspection agency that violates this section is subject to a disciplinary action under IC 22-12-7.

As added by P.L.245-1987, SEC.4. Amended by P.L.119-2002, SEC.31; P.L.141-2003, SEC.20; P.L.1-2006, SEC.400.

IC 22-15-7

Chapter 7. Regulated Amusement Devices

IC 22-15-7-0.5

"Applicant" or "permittee" defined

Sec. 0.5. As used in this chapter, "applicant" or "permittee" includes a successor in interest to an applicant or permittee, a renamed applicant or permittee, a trustee in bankruptcy of an applicant or a permittee, a reorganized form of an applicant or permittee following merger, acquisition, or any other successor entity.

As added by P.L.166-1997, SEC.5.

IC 22-15-7-1

Inspection program; erection and operation of devices

Sec. 1. The division shall carry out a program of periodic on-site inspections of the erection and operation of regulated amusement devices. These inspections are not a prerequisite for operation of a device that is covered by a regulated amusement device operating permit.

As added by P.L.245-1987, SEC.4. Amended by P.L.1-2006, SEC.401.

IC 22-15-7-2

Amusement device operating permits; issuance; expiration; qualifications

Sec. 2. (a) The division shall issue a regulated amusement device operating permit to an applicant who qualifies under this section. If an applicant qualifies for a permit under this section, an inspector shall place an inspection seal on the device that is covered by the permit.

(b) A permit issued under this section:

(1) expires one (1) year from the date the permit was issued; and

(2) may be renewed if the applicant continues to qualify for a permit under this section.

(c) To qualify for a permit under this section, an applicant or an authorized officer of the applicant shall pay the inspection fee set under IC 22-12-6-6 and execute an application form affirming under penalties for perjury the following:

(1) That all information provided in the application is true to the best of the applicant's or officer's knowledge and belief after reasonable investigation.

(2) That all personnel employed by the applicant having maintenance responsibility for the amusement devices have or will have sufficient background, knowledge, skills, and training to adequately maintain the amusement devices under the rules of the commission.

(3) That all persons employed by the applicant having operational responsibility for the amusement devices have or

will have sufficient background, knowledge, skills, and training to adequately operate the amusement devices under the rules of the commission.

(4) That adequate training will be provided or otherwise made available on an ongoing basis to maintenance and operational personnel to ensure the continuous compliance of the personnel with the standards set forth in subdivisions (2) and (3).

(5) That all maintenance and operational personnel will be trained to recognize and report any condition that would prohibit the safe operation of the amusement device.

(6) That, upon discovering a condition that would prohibit the safe operation of an amusement device, both operational and maintenance personnel must possess the requisite authority to immediately shut down the amusement device and report the condition of the amusement device to supervisory personnel. An amusement device that is shut down under this subdivision may not be returned to operation until the amusement device complies with ASTM standards for operation.

(7) That the applicant assumes full financial responsibility for:

(A) any condition or circumstance occasioned by, caused by, or resulting from noncompliance with the maintenance and operational standards set forth in subdivisions (2) through (6); and

(B) any death, injury, or other loss occasioned by, caused by, or resulting from noncompliance with the maintenance and operational standards set forth in subdivisions (2) through (6).

(d) The execution of an application under subsection (c) by an officer of an applicant corporation does not create individual financial liability for the officer.

(e) The applicant must satisfy an inspector for the division that the regulated amusement device meets the safety requirements set by the commission.

As added by P.L.245-1987, SEC.4. Amended by P.L.246-1987, SEC.1; P.L.222-1989, SEC.18; P.L.166-1997, SEC.6; P.L.1-2006, SEC.402.

IC 22-15-7-2.5

Certificate of insurance; insurance policy; coverage; exceptions

Sec. 2.5. (a) Except as provided in subsection (g) or (h), the division may not issue a permit under this chapter until the applicant has filed with the division a certificate of insurance indicating that the applicant has liability insurance:

(1) in effect with an insurer that is authorized to write insurance in Indiana on the operation of regulated amusement devices; and

(2) except for an applicant that is subject to the provisions of IC 34-13-3, that provides coverage to a limit of at least:

(A) one million dollars ($1,000,000) per occurrence and five million dollars ($5,000,000) in the annual aggregate;

(B) five hundred thousand dollars ($500,000) per occurrence and two million dollars ($2,000,000) in the annual aggregate if the applicant operates only:

(i) a ski lift;

(ii) a surface lift or tow; or

(iii) both items (i) and (ii); or

(C) one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) in the annual aggregate if the applicant operates only regulated amusement devices that are designed to be used and are ridden by persons who are not more than forty-two (42) inches in height.

(b) An insurance policy required under this section may include a deductible clause if the clause provides that any settlement made by the insurance company with an injured person or a personal representative must be paid as though the deductible clause did not apply.

(c) An insurance policy required under this section must provide by the policy's original terms or an endorsement that the insurer may not cancel the policy without:

(1) thirty (30) days written notice; and

(2) a complete report of the reasons for the cancellation to the division.

(d) An insurance policy required under this section must provide by the policy's original terms or an endorsement that the insurer shall report to the division within twenty-four (24) hours after the insurer pays a claim or reserves any amount to pay an anticipated claim that reduces the liability coverage to a limit of less than one million dollars ($1,000,000) because of bodily injury or death in an occurrence.

(e) If an insurance policy required under this section:

(1) is canceled during the policy's term;

(2) lapses for any reason; or

(3) has the policy's coverage fall below the required amount;

the permittee shall replace the policy with another policy that complies with this section.

(f) If a permittee fails to file a certificate of insurance for new or replacement insurance, the permittee:

(1) must cease all operations under the permit immediately; and

(2) may not conduct further operations until the permittee receives the approval of the division to resume operations after the permittee complies with the requirements of this section.

(g) The division may issue a permit under this chapter to an applicant that:

(1) is subject to IC 34-13-3; and

(2) has not filed a certificate of insurance under subsection (a);

if the applicant has filed with the division a notification indicating that the applicant is self-insured for liability.

(h) The division may reduce the annual aggregate liability insurance coverage required under subsection (a)(2)(A) to one million dollars ($1,000,000) in the annual aggregate for an applicant

that:

(1) operates only regulated amusement devices that are bull ride simulators that are multiride electric units with bull ride attachments; and

(2) otherwise complies with the requirements of this chapter.

As added by P.L.166-1997, SEC.7. Amended by P.L.141-2003, SEC.21; P.L.166-2005, SEC.2; P.L.1-2006, SEC.403.

IC 22-15-7-3

Operation without a permit; offense; application of section

Sec. 3. (a) This section does not apply to a person who uses a regulated amusement device unless the person has authority to:

(1) construct, repair, or maintain the regulated amusement device; or

(2) place the regulated amusement device out of service.

(b) This section applies to the following:

(1) Each person who operates a regulated amusement device.

(2) Each person who has control over the operation of a regulated amusement device.

(3) Each person who has control over the place where a regulated amusement device is operated.

(c) A person described in subsection (b) commits a Class C infraction if:

(1) a regulated amusement device is operated; and

(2) no regulated amusement device operating permit issued under this chapter covers the operation.

As added by P.L.245-1987, SEC.4.

IC 22-15-7-4

Training for inspectors; minimum standards

Sec. 4. (a) The commission shall adopt rules under IC 4-22-2 to define appropriate training for a person who inspects regulated amusement devices.

(b) The rules required under this section must, at a minimum, provide the following:

(1) The adoption by reference of:

(A) ASTM F 698 (1994 edition) ("Specification for Physical Information to be Provided to Amusement Rides and Devices");

(B) ASTM F 770 (1993 edition) ("Practice for Operation Procedures for Amusement Rides and Devices");

(C) ASTM F 846 (1992 edition) ("Guide for Testing Performance of Amusement Rides and Devices");

(D) ASTM F 853 (1993 edition) ("Practice for Maintenance Procedures for Amusement Rides and Devices");

(E) ASTM F 893 (1987 edition) ("Guide for Inspection of Amusement Rides and Devices");

(F) ASTM F 1305 (1994 edition) ("Standard Guides for the Classification of Amusement Ride and Device Related Injuries and Illnesses"); or

(G) any subsequent published editions of the ASTM standards described in clauses (A) through (F).

(2) A requirement that inspectors employed or contracted by the division:

(A) have and maintain at least:

(i) a Level 1 certification from the National Association of Amusement Ride Safety Officials or an equivalent organization approved by the commission; or

(ii) an equivalent certification under a process or system approved by the commission; and

(B) conduct inspections that conform to the rules of the commission.

(3) A requirement that regulated amusement devices be operated and maintained in accordance with the rules of the commission.

(4) The commission's chief inspector or supervisor of regulated amusement device inspectors must have and maintain a Level I certification.

As added by P.L.166-1997, SEC.8. Amended by P.L.141-2003, SEC.22; P.L.1-2006, SEC.404; P.L.68-2009, SEC.6.

IC 22-15-7-5

Maintenance of records for regulated amusement devices; penalty

Sec. 5. (a) A permittee shall, during the permit period, maintain at each location operated by the permittee for each regulated amusement device at the location the following:

(1) A current owner's manual.

(2) Any operational manuals or maintenance guides.

(3) Complete maintenance records describing all repairs and modifications.

(4) Daily operation and inspection logs or checklists.

(5) Personnel training records.

(b) The materials described in subsection (a) must be made available to an inspector from the division:

(1) upon request; and

(2) within a reasonable time.

The failure by the permittee to have, maintain, or make available for review the materials described in subsection (a) constitutes grounds for the division to temporarily suspend a permit during the term of failure or refusal.

As added by P.L.166-1997, SEC.9. Amended by P.L.1-2006, SEC.405.

IC 22-15-7-7

Inspection following accident or complaint

Sec. 7. In addition to a regularly scheduled inspection of a regulated amusement device, the commission may, upon demand by the commission, inspect a regulated amusement device at any time following:

(1) the report of an accident involving the regulated amusement

device; or

(2) a complaint concerning the regulated amusement device.

As added by P.L.166-1997, SEC.10.

IC 22-15-7-8

Qualifications; powers of operators

Sec. 8. (a) The operator of a regulated amusement device:

(1) must be at least sixteen (16) years of age;

(2) must be in attendance whenever the regulated amusement device is in operation; and

(3) may not operate more than one (1) regulated amusement device at a time.

(b) The operator of a regulated amusement device may deny entrance to the regulated amusement device to any person if the operator believes the entry of the person may jeopardize the safety of the person, other riders of the regulated amusement device, or any other person.

As added by P.L.166-1997, SEC.11.

IC 22-15-7-9

Operation without permit; penalty

Sec. 9. A person that knowingly or intentionally operates a regulated amusement device without a valid permit for the regulated amusement device commits a Class A misdemeanor.

As added by P.L.166-1997, SEC.12.