

# HOUSE BILL No. 1118

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-4.

**Synopsis:** Work sharing unemployment benefit. Establishes a work sharing unemployment insurance program. Requires an employer to submit a work sharing plan for approval by the commissioner of the department of workforce development. Establishes the work sharing benefit as equal to the employee's unemployment benefit reduced by a percentage that is equivalent to the number of hours by which the employee's normal weekly work hours are reduced.

**Effective:** July 1, 2014.

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January 9, 2014, read first time and referred to Committee on Employment, Labor and Pensions.

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Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

# HOUSE BILL No. 1118



A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 22-4-15-1, AS AMENDED BY P.L.175-2009,  
2 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2014]: Sec. 1. (a) With respect to benefit periods established  
4 on and after July 6, 1980, an individual who has voluntarily left the  
5 individual's most recent employment without good cause in connection  
6 with the work or who was discharged from the individual's most recent  
7 employment for just cause is ineligible for waiting period or benefit  
8 rights for the week in which the disqualifying separation occurred and  
9 until the individual has earned remuneration in employment equal to  
10 or exceeding the weekly benefit amount of the individual's claim in  
11 each of eight (8) weeks. If the qualification amount has not been earned  
12 at the expiration of an individual's benefit period, the unearned amount  
13 shall be carried forward to an extended benefit period or to the benefit  
14 period of a subsequent claim.  
15 (b) When it has been determined that an individual has been  
16 separated from employment under disqualifying conditions as outlined



1 in this section, the maximum benefit amount of the individual's current  
2 claim, as initially determined, shall be reduced by an amount  
3 determined as follows:

4 (1) For the first separation from employment under disqualifying  
5 conditions, the maximum benefit amount of the individual's  
6 current claim is equal to the result of:

7 (A) the maximum benefit amount of the individual's current  
8 claim, as initially determined; multiplied by

9 (B) seventy-five percent (75%);

10 rounded (if not already a multiple of one dollar (\$1)) to the next  
11 higher dollar.

12 (2) For the second separation from employment under  
13 disqualifying conditions, the maximum benefit amount of the  
14 individual's current claim is equal to the result of:

15 (A) the maximum benefit amount of the individual's current  
16 claim determined under subdivision (1); multiplied by

17 (B) eighty-five percent (85%);

18 rounded (if not already a multiple of one dollar (\$1)) to the next  
19 higher dollar.

20 (3) For the third and any subsequent separation from employment  
21 under disqualifying conditions, the maximum benefit amount of  
22 the individual's current claim is equal to the result of:

23 (A) the maximum benefit amount of the individual's current  
24 claim determined under subdivision (2); multiplied by

25 (B) ninety percent (90%);

26 rounded (if not already a multiple of one dollar (\$1)) to the next  
27 higher dollar.

28 (c) The disqualifications provided in this section shall be subject to  
29 the following modifications:

30 (1) An individual shall not be subject to disqualification because  
31 of separation from the individual's employment if:

32 (A) the individual left to accept with another employer  
33 previously secured permanent full-time work which offered  
34 reasonable expectation of continued covered employment and  
35 betterment of wages or working conditions and thereafter was  
36 employed on said job;

37 (B) having been simultaneously employed by two (2)  
38 employers, the individual leaves one (1) such employer  
39 voluntarily without good cause in connection with the work  
40 but remains in employment with the second employer with a  
41 reasonable expectation of continued employment; or

42 (C) the individual left to accept recall made by a base period



- 1           employer.
- 2           (2) An individual whose unemployment is the result of medically  
3           substantiated physical disability and who is involuntarily  
4           unemployed after having made reasonable efforts to maintain the  
5           employment relationship shall not be subject to disqualification  
6           under this section for such separation.
- 7           (3) An individual who left work to enter the armed forces of the  
8           United States shall not be subject to disqualification under this  
9           section for such leaving of work.
- 10          (4) An individual whose employment is terminated under the  
11          compulsory retirement provision of a collective bargaining  
12          agreement to which the employer is a party, or under any other  
13          plan, system, or program, public or private, providing for  
14          compulsory retirement and who is otherwise eligible shall not be  
15          deemed to have left the individual's work voluntarily without  
16          good cause in connection with the work. However, if such  
17          individual subsequently becomes reemployed and thereafter  
18          voluntarily leaves work without good cause in connection with the  
19          work, the individual shall be deemed ineligible as outlined in this  
20          section.
- 21          (5) An otherwise eligible individual shall not be denied benefits  
22          for any week because the individual is in training approved under  
23          Section 236(a)(1) of the Trade Act of 1974, nor shall the  
24          individual be denied benefits by reason of leaving work to enter  
25          such training, provided the work left is not suitable employment,  
26          or because of the application to any week in training of provisions  
27          in this law (or any applicable federal unemployment  
28          compensation law), relating to availability for work, active search  
29          for work, or refusal to accept work. For purposes of this  
30          subdivision, the term "suitable employment" means with respect  
31          to an individual, work of a substantially equal or higher skill level  
32          than the individual's past adversely affected employment (as  
33          defined for purposes of the Trade Act of 1974), and wages for  
34          such work at not less than eighty percent (80%) of the individual's  
35          average weekly wage as determined for the purposes of the Trade  
36          Act of 1974.
- 37          (6) An individual is not subject to disqualification because of  
38          separation from the individual's employment if:
- 39                (A) the employment was outside the individual's labor market;  
40                (B) the individual left to accept previously secured full-time  
41                work with an employer in the individual's labor market; and  
42                (C) the individual actually became employed with the



- 1 employer in the individual's labor market.
- 2 (7) An individual who, but for the voluntary separation to move
- 3 to another labor market to join a spouse who had moved to that
- 4 labor market, shall not be disqualified for that voluntary
- 5 separation, if the individual is otherwise eligible for benefits.
- 6 Benefits paid to the spouse whose eligibility is established under
- 7 this subdivision shall not be charged against the employer from
- 8 whom the spouse voluntarily separated.
- 9 (8) An individual shall not be subject to disqualification if the
- 10 individual voluntarily left employment or was discharged due to
- 11 circumstances directly caused by domestic or family violence (as
- 12 defined in IC 31-9-2-42). An individual who may be entitled to
- 13 benefits based on this modification may apply to the office of the
- 14 attorney general under IC 5-26.5 to have an address designated by
- 15 the office of the attorney general to serve as the individual's
- 16 address for purposes of this article.
- 17 **(9) An individual who is an affected employee (as defined in**
- 18 **IC 22-4-44-1) and is subject to the work sharing**
- 19 **unemployment insurance program under IC 22-4-44 is not**
- 20 **disqualified for participating in the work sharing**
- 21 **unemployment insurance program.**
- 22 As used in this subsection, "labor market" means the area surrounding
- 23 an individual's permanent residence, outside which the individual
- 24 cannot reasonably commute on a daily basis. In determining whether
- 25 an individual can reasonably commute under this subdivision, the
- 26 department shall consider the nature of the individual's job.
- 27 (d) "Discharge for just cause" as used in this section is defined to
- 28 include but not be limited to:
- 29 (1) separation initiated by an employer for falsification of an
- 30 employment application to obtain employment through
- 31 subterfuge;
- 32 (2) knowing violation of a reasonable and uniformly enforced rule
- 33 of an employer, including a rule regarding attendance;
- 34 (3) if an employer does not have a rule regarding attendance, an
- 35 individual's unsatisfactory attendance, if the individual cannot
- 36 show good cause for absences or tardiness;
- 37 (4) damaging the employer's property through willful negligence;
- 38 (5) refusing to obey instructions;
- 39 (6) reporting to work under the influence of alcohol or drugs or
- 40 consuming alcohol or drugs on employer's premises during
- 41 working hours;
- 42 (7) conduct endangering safety of self or coworkers;



1 (8) incarceration in jail following conviction of a misdemeanor or  
2 felony by a court of competent jurisdiction; or

3 (9) any breach of duty in connection with work which is  
4 reasonably owed an employer by an employee.

5 (e) To verify that domestic or family violence has occurred, an  
6 individual who applies for benefits under subsection (c)(8) shall  
7 provide one (1) of the following:

8 (1) A report of a law enforcement agency (as defined in  
9 IC 10-13-3-10).

10 (2) A protection order issued under IC 34-26-5.

11 (3) A foreign protection order (as defined in IC 34-6-2-48.5).

12 (4) An affidavit from a domestic violence service provider  
13 verifying services provided to the individual by the domestic  
14 violence service provider.

15 SECTION 2. IC 22-4-44 IS ADDED TO THE INDIANA CODE AS  
16 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
17 1, 2014]:

18 **Chapter 44. Work Sharing Unemployment Insurance Program**

19 **Sec. 1. As used in this chapter, "affected employee" means an**  
20 **individual:**

21 **(1) who has been continuously on the payroll of an affected**  
22 **unit for at least three (3) months; and**

23 **(2) who works at least thirty (30) normal weekly work hours**  
24 **for the affected unit before a reduction under an approved**  
25 **work sharing plan.**

26 **Sec. 2. As used in this chapter, "affected unit" means a specific**  
27 **plant, department, shift, or other definable unit of an employing**  
28 **unit:**

29 **(1) that has at least two (2) employees; and**

30 **(2) to which an approved work sharing plan applies.**

31 **Sec. 3. As used in this chapter, "approved work sharing plan"**  
32 **means a plan that satisfies the purposes set forth in section 13 of**  
33 **this chapter and has the approval of the commissioner.**

34 **Sec. 4. As used in this chapter, "commissioner" refers to the**  
35 **commissioner of workforce development appointed under**  
36 **IC 22-4.1-3-1.**

37 **Sec. 5. As used in this chapter, "intermittent employment"**  
38 **means periodic intervals that are not continuous during which an**  
39 **individual works for an employing unit.**

40 **Sec. 6. As used in this chapter, "normal weekly work hours"**  
41 **means the lesser of the following:**

42 **(1) The number of hours that an employee in the affected unit**



1 works when the unit is operating on its normal full-time basis.

2 (2) Forty (40) hours.

3 Sec. 7. As used in this chapter, "part-time employment" means  
4 that an individual works in a position for an employing unit in  
5 which the number of scheduled work hours are fewer than the  
6 normal weekly work hours for the position.

7 Sec. 8. As used in this chapter, "payment in lieu of  
8 contributions" has the meaning set forth in IC 22-4-2-32.

9 Sec. 9. As used in this chapter, "seasonal employment" has the  
10 meaning set forth in IC 22-4-8-4.

11 Sec. 10. As used in this chapter, "work sharing benefit" means  
12 a benefit payable to an affected employee for work performed  
13 under an approved work sharing plan, but does not include  
14 benefits that are otherwise payable under this article.

15 Sec. 11. As used in this chapter, "work sharing employer"  
16 means an employing unit for which a work sharing plan has been  
17 approved.

18 Sec. 12. As used in this chapter, "work sharing plan" means a  
19 plan of an employing unit under which:

20 (1) normal weekly work hours of the affected employees are  
21 reduced instead of a layoff of a part or all of the affected  
22 employees; and

23 (2) the affected employees share the work that remains after  
24 the reduction.

25 Sec. 13. The work sharing unemployment insurance program  
26 seeks to:

27 (1) preserve the jobs of employees and the work force of an  
28 employer during lowered economic activity by a reduction in  
29 work hours or workdays rather than by a layoff of some  
30 employees while other employees continue their normal  
31 weekly work hours or work days; and

32 (2) ameliorate the adverse effect of reduction in business  
33 activity by providing benefits for the part of the normal  
34 weekly work hours or work days in which an employee does  
35 not work.

36 Sec. 14. (a) An employing unit that meets all the following  
37 requirements is eligible to participate in the work sharing  
38 unemployment insurance program established by this chapter:

39 (1) The employing unit is subject to this article for wages paid  
40 during a calendar year.

41 (2) The employing unit's:

42 (A) contribution rate for the calendar year; or



- 1           **(B) payment in lieu of contributions;**  
 2           **is determined under IC 22-4-10, IC 22-4-11, IC 22-4-11.5, or**  
 3           **IC 22-4-37-3.**  
 4           **(3) The employing unit is not delinquent as determined under**  
 5           **IC 22-4-11-2.**  
 6           **(b) An employing unit that:**  
 7               **(1) meets the eligibility requirements under subsection (a);**  
 8               **and**  
 9               **(2) wishes to participate in the work sharing unemployment**  
 10              **insurance program established by this chapter;**  
 11           **shall submit to the commissioner a written work sharing plan.**  
 12           **Sec. 15. (a) Not later than fifteen (15) days after receipt of a**  
 13           **work sharing plan, the commissioner shall give written approval**  
 14           **or disapproval of the plan to the employing unit.**  
 15           **(b) The decision of the commissioner to disapprove a work**  
 16           **sharing plan is final and may not be appealed.**  
 17           **(c) An employing unit may not submit a new work sharing plan**  
 18           **less than fifteen (15) days after the date of the commissioner's**  
 19           **disapproval of a work sharing plan under subsection (a).**  
 20           **Sec. 16. The commissioner shall approve a work sharing plan**  
 21           **that meets the following requirements:**  
 22               **(1) The work sharing plan must apply to:**  
 23                   **(A) at least ten percent (10%) of the employees in an**  
 24                   **affected unit; or**  
 25                   **(B) at least two (2) employees in an affected unit.**  
 26               **(2) The normal weekly work hours of the affected employees**  
 27               **in the affected unit shall be reduced by at least ten percent**  
 28               **(10%), but the reduction may not exceed fifty percent (50%).**  
 29               **The reduction in normal weekly work hours must be spread**  
 30               **equally among the affected employees.**  
 31           **Sec. 17. (a) A work sharing plan must:**  
 32               **(1) identify the affected unit or units to which the work**  
 33               **sharing plan applies;**  
 34               **(2) state:**  
 35                   **(A) the reason or reasons resulting in the reduction in**  
 36                   **normal weekly work hours under section 16(2) of this**  
 37                   **chapter; and**  
 38                   **(B) the expected duration of the reduction in normal**  
 39                   **weekly work hours under section 16(2) of this chapter;**  
 40               **(3) specify the effective date of the work sharing plan;**  
 41               **(4) identify each employee in the affected unit by:**  
 42                   **(A) name;**





- 1           **(B) Social Security number;**  
 2           **(C) the employee's normal weekly work hours;**  
 3           **(D) the reductions in the number of hours and the amount**  
 4           **of wages proposed for the employee by the work sharing**  
 5           **plan; and**  
 6           **(E) any other information the commissioner requires;**  
 7           **(5) specify an expiration date that is not more than twelve (12)**  
 8           **months after the effective date of the work sharing plan;**  
 9           **(6) specify that the work sharing plan will not affect the fringe**  
 10           **benefits of any employee in the affected unit, including:**  
 11           **(A) health insurance for hospital, medical, dental, and**  
 12           **similar services;**  
 13           **(B) retirement benefits under benefit pension plans as**  
 14           **defined in the federal Employee Retirement Income**  
 15           **Security Act (29 U.S.C. 1001 et seq.);**  
 16           **(C) holiday and vacation pay;**  
 17           **(D) sick leave; and**  
 18           **(E) other similar benefits that are incidents of**  
 19           **employment; and**  
 20           **(7) certify that:**  
 21           **(A) each affected employee:**  
 22           **(i) has been continuously on the payroll of the employing**  
 23           **unit for at least three (3) months; and**  
 24           **(ii) works at least thirty (30) normal weekly work hours**  
 25           **for the affected unit;**  
 26           **immediately before the date on which the employing unit**  
 27           **submits the work sharing plan;**  
 28           **(B) the total reduction in normal weekly work hours is in**  
 29           **place of layoffs that would have:**  
 30           **(i) affected at least the number of employees specified in**  
 31           **section 16(1) of this chapter; and**  
 32           **(ii) resulted in an equivalent reduction in work hours;**  
 33           **and**  
 34           **(C) the work sharing plan will not serve as a subsidy of:**  
 35           **(i) seasonal employment outside the employer's seasonal**  
 36           **period or periods as determined by the department**  
 37           **under IC 22-4-7-3;**  
 38           **(ii) temporary part-time employment; or**  
 39           **(iii) intermittent employment.**  
 40           **(b) A work sharing plan may include an option that allows an**  
 41           **affected employee to attend work related training or retraining**  
 42           **approved by the employing unit during the affected employee's**



1 work hours. The commissioner shall approve the training offered  
2 under this subsection.

3 **Sec. 18.** If the affected unit includes employees covered by one  
4 (1) or more collective bargaining agreements, the employing unit  
5 shall submit with the written work sharing plan described in  
6 section 17 of this chapter the written approval of the collective  
7 bargaining agent or representative for each collective bargaining  
8 agreement that covers any affected employee in the affected unit.

9 **Sec. 19.** If the affected unit does not have any employees covered  
10 by a collective bargaining agreement, the employing unit shall  
11 submit with the written work sharing plan described in section 17  
12 of this chapter a certification that the proposed work sharing plan,  
13 or a summary of the work sharing plan, has been made available  
14 to each affected employee in the affected unit.

15 **Sec. 20.** A work sharing employer shall agree to:

16 (1) submit reports that are necessary to administer the work  
17 sharing plan; and

18 (2) allow the department to have access to all records  
19 necessary to:

20 (A) verify the work sharing plan before its approval; and

21 (B) monitor and evaluate the application of the work  
22 sharing plan after its approval.

23 **Sec. 21. (a)** An approved work sharing plan may be modified if:

24 (1) the modification meets the requirements for approval  
25 under section 17 of this chapter; and

26 (2) the commissioner approves the modification.

27 (b) An employing unit may add an employee who works at least  
28 thirty (30) normal weekly work hours to a work sharing plan when  
29 the employee has been continuously on the payroll for at least three  
30 (3) months.

31 (c) The commissioner shall not approve a modification of a work  
32 sharing plan that changes the expiration date of the work sharing  
33 plan.

34 (d) The decision of the commissioner to disapprove a  
35 modification to a work sharing plan is final and may not be  
36 appealed.

37 **Sec. 22. (a)** An affected employee is eligible under this chapter  
38 to receive work sharing benefits for each week in which the  
39 commissioner determines that the affected employee is:

40 (1) able to work; and

41 (2) available for more hours of work or full-time work for the  
42 work sharing employer.



1 (b) An affected employee who otherwise is eligible may not be  
 2 denied work sharing benefits for lack of effort to secure work as set  
 3 forth in IC 22-4-14-3 or for failure to apply for available suitable  
 4 work as set forth in IC 22-4-15-2 from a person other than the  
 5 work sharing employer.

6 (c) An affected employee shall apply for benefits under  
 7 IC 22-4-17-1.

8 (d) An affected employee who otherwise is eligible for benefits  
 9 is:

10 (1) considered to be unemployed for the purpose of the work  
 11 sharing unemployment insurance program; and

12 (2) not subject to the requirements of IC 22-4-14-2.

13 **Sec. 23.** The weekly work sharing unemployment compensation  
 14 benefit due to an affected worker is determined in STEP FIVE of  
 15 the following formula:

16 **STEP ONE:** Determine the weekly benefit that would be due  
 17 to the affected employee under IC 22-4-12-4.

18 **STEP TWO:** Subtract the number of the employee's work  
 19 hours under the approved work sharing plan from the  
 20 number of the employee's normal weekly work hours.

21 **STEP THREE:** Divide the STEP TWO result by the number  
 22 of the employee's normal weekly work hours.

23 **STEP FOUR:** Multiply the number determined in STEP ONE  
 24 by the quotient determined in STEP THREE.

25 **STEP FIVE:** If the product determined under STEP FOUR is  
 26 not a multiple of one dollar (\$1), round down to the nearest  
 27 lower multiple of one dollar (\$1).

28 **Sec. 24. (a)** An affected employee may not receive more than  
 29 fifty-two (52) weeks of work sharing benefits during each benefit  
 30 year.

31 (b) The total amount of benefits payable under IC 22-4-12-4 and  
 32 work sharing benefits payable under this chapter may not exceed  
 33 the total payable for the benefit year under IC 22-4-12-4(a).

34 **Sec. 25.** During a week in which an affected employee who is  
 35 otherwise eligible for benefits does not work for the work sharing  
 36 employer:

37 (1) the individual shall be paid unemployment insurance  
 38 benefits in accordance with IC 22-4-12; and

39 (2) the week does not count as a week for which a work  
 40 sharing benefit is received.

41 **Sec. 26.** During a week in which an employee earns wages under  
 42 an approved work sharing plan and other wages, the work sharing



1 benefit shall be reduced by the same percentage that the combined  
 2 wages are to the wages for normal weekly work hours if the other  
 3 wages:

- 4 (1) exceed the wages earned under the approved work sharing  
 5 plan; and  
 6 (2) do not exceed ninety percent (90%) of the wages that the  
 7 individual earns for normal weekly work hours.

8 This computation applies regardless of whether the employee  
 9 earned the other wages from the work sharing employer or  
 10 another employer.

11 Sec. 27. While an affected employee applies for or receives work  
 12 sharing benefits, the affected employee is not eligible for:

- 13 (1) extended benefits under IC 22-4-12-4; or  
 14 (2) supplemental federal unemployment compensation.

15 Sec. 28. Work sharing benefits shall be charged to the work  
 16 sharing employer's experience balance in the same manner as  
 17 unemployment insurance is charged under this article. Employers  
 18 liable for payment in lieu of contributions shall have work sharing  
 19 benefits attributed to service in their employ in the same manner  
 20 as unemployment insurance is attributed under this article.

21 Sec. 29. (a) The commissioner may revoke approval of an  
 22 approved work sharing plan for good cause, including:

- 23 (1) conduct or an occurrence that tends to defeat the intent  
 24 and effective operation of the approved work sharing plan;  
 25 (2) failure to comply with an assurance in the approved work  
 26 sharing plan;  
 27 (3) unreasonable revision of a productivity standard of the  
 28 affected unit; and  
 29 (4) violation of a criterion on which the commissioner based  
 30 the approval of the work sharing plan.

31 (b) An affected employee in an affected unit or the collective  
 32 bargaining agent or representative representing an affected  
 33 employee in an affected unit may request that the commissioner  
 34 take action to revoke the approval of an approved work sharing  
 35 plan.

36 (c) The commissioner shall give written notice of the revocation  
 37 to the employing unit specifying:

- 38 (1) the date the revocation is effective; and  
 39 (2) the reason or reasons for the revocation.

40 (d) If the affected unit includes employees covered by one (1) or  
 41 more collective bargaining agreements, the commissioner shall also  
 42 give the written notice described in subsection (c) to the collective



1       **bargaining agent or representative for each collective bargaining**  
2       **agreement that covers any affected employee in the affected unit.**

3       **(e) The commissioner's decision to revoke approval of an**  
4       **approved work sharing plan is final and may not be appealed.**

5       **(f) The department shall review the operation of all approved**  
6       **work sharing plans at least once during the period the work**  
7       **sharing plan is in effect to ensure that the work sharing employer**  
8       **is complying with the requirements of the work sharing plan**  
9       **approved by the commissioner.**

