

HOUSE BILL No. 1213

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-1-2-1; IC 22-2.

Synopsis: Overtime compensation for certain employees. Provides that certain employees must be paid compensation for employment in certain circumstances at a rate not less than 1.5 times the regular rate at which the employee is employed and, under certain circumstances, not less than two times the regular rate at which the employee is employed. Removes outdated language. Relocates language concerning the tip credit.

Effective: January 1, 2018.

Hatfield

January 10, 2017, read first time and referred to Committee on Employment, Labor and Pensions.



First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1213

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 4-1-2-1, AS AMENDED BY P.L.13-2008,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2018]: Sec. 1. (a) It is the intent of this chapter that state
4 offices be open and able to conduct public business at all times during
5 an eight and one-half (8 1/2) hour working day.

6 (b) Each employee shall work for a full seven and one-half (7 1/2)
7 hours each working day and provision for a one (1) hour lunch period
8 shall be provided each employee. Lunch hours of employees shall be
9 staggered to permit the conduct of business at all times during a
10 working day. Breaks shall be provided as set forth in IC 5-10-6-2.

11 (c) It shall be lawful for state offices to close their doors for business
12 from the close of the working day each Friday or in the event Friday is
13 a legal holiday, then from the close of the working day on the Thursday
14 which immediately precedes such legal holiday, until the
15 commencement of the working day on the next following Monday, or
16 in the event Monday is a legal holiday, then until the commencement
17 of the working day on the Tuesday which immediately follows such



1 legal holiday. ~~provided;~~ However, ~~that~~ the state library may be kept
 2 open until noon Saturdays in the discretion of the Indiana library and
 3 historical board.

4 SECTION 2. IC 22-2-2-4, AS AMENDED BY P.L.165-2007,
 5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JANUARY 1, 2018]: Sec. 4. (a) Every employer employing four (4) or
 7 more employees during a work week shall:

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

12 (2) in any work week beginning on or after July 1, 1977; in which
 13 the employer is subject to this chapter; pay each of the employer's
 14 employees wages of not less than one dollar and fifty cents
 15 (\$1.50) per hour;

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

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

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

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

35 (1) the cash wage paid the employee; which for purposes of the
 36 determination shall be not less than the cash wage required to be
 37 paid to employees covered under the federal Fair Labor Standards
 38 Act of 1938; as amended (29 U.S.C. 203(m)(1)) on August 20;
 39 1996; which amount is two dollars and thirteen cents (\$2.13) an
 40 hour; and

41 (2) an additional amount on account of the tips received by the
 42 employee; which amount is equal to the difference between the



1 wage specified in subdivision (1) and the wage in effect under
2 subsections (b), (f), (g), and (h):

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

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

14 (1) a seniority system;

15 (2) a merit system;

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

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

19 (e) (b) An employer who is paying a wage rate differential in
20 violation of subsection (d) (a) shall not, in order to comply with
21 subsection (d) (a), reduce the wage rate of any employee, and no labor
22 organization, or its agents, representing employees of an employer
23 having employees subject to subsection (d) (a) shall cause or attempt
24 to cause such an employer to discriminate against an employee in
25 violation of subsection (d) (a).

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

32 (g) Except as provided in subsections (e) and (f), every employer
33 employing at least two (2) employees during a work week shall, in any
34 work week in which the employer is subject to this chapter, pay each
35 of the employees in any work week beginning on or after March 1,
36 1999, and before July 1, 2007, wages of not less than five dollars and
37 fifteen cents (\$5.15) an hour:

38 (h) (c) Except as provided in subsections (e) (d) and (f), (f), every
39 employer employing at least two (2) employees during a work week
40 shall, in any work week in which the employer is subject to this
41 chapter, pay each of the employees in any work week beginning on or
42 after June 30, 2007, wages of not less than the minimum wage payable



1 under the federal Fair Labor Standards Act of 1938, as amended (29
2 U.S.C. 201 et seq.).

3 **(d) An employer subject to subsection (c) is permitted to apply**
4 **a tip credit in determining the amount of cash wage paid to tipped**
5 **employees. In determining the wage an employer is required to pay**
6 **a tipped employee, the amount paid the employee by the**
7 **employee's employer must be an amount equal to:**

8 **(1) the cash wage paid the employee, which for purposes of**
9 **the determination may be not less than the cash wage**
10 **required to be paid to employees covered under the federal**
11 **Fair Labor Standards Act of 1938, as amended (29 U.S.C.**
12 **203(m)(1)) on August 20, 1996, which amount is two dollars**
13 **and thirteen cents (\$2.13) an hour; and**

14 **(2) an additional amount on account of the tips received by**
15 **the employee, which amount is equal to the difference between**
16 **the wage specified in subdivision (1) and the wage in effect**
17 **under subsection (c).**

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

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

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

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

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

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

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

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



1 ~~(g)~~ (g) Except as otherwise provided in this section, no employer
2 shall employ any employee:

3 **(1) for a work week longer than forty (40) hours unless the**
4 **employee receives compensation for employment in excess of ~~the~~**
5 **forty (40) hours above specified at a rate not less than one and**
6 **one-half (1.5) times the regular rate at which the employee is**
7 **employed, ~~except as provided in subdivision (3);~~**

8 **(2) longer during a workday than the prior scheduled time**
9 **unless the employee receives compensation for employment in**
10 **excess of the hours above specified at a rate not less than one**
11 **and one-half (1.5) times the regular rate at which the**
12 **employee is employed; or**

13 **(3) for a work week longer than fifty-two (52) hours unless the**
14 **employee receives compensation for employment in excess of**
15 **the hours above fifty-two (52) hours specified at a rate not less**
16 **than two (2) times the regular rate at which the employee is**
17 **employed.**

18 **Subdivisions (1), (2), and (3) may apply in a single work week.**

19 ~~(h)~~ (h) For purposes of this section the following apply:

20 (1) "Overtime compensation" means the compensation required
21 by subsection ~~(k)~~: (g).

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

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

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

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



1 compensation for the employee's hours of employment.

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

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

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

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

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

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

29 (F) Extra compensation provided by a premium rate paid for
30 work by the employee on Saturdays, Sundays, holidays, or
31 regular days of rest, or on the sixth or seventh day of the work
32 week, where the premium rate is not less than one and one-half
33 (1.5) times the rate established in good faith for like work
34 performed in nonovertime hours on other days.

35 (G) Extra compensation provided by a premium rate paid to
36 the employee, in pursuance of an applicable employment
37 contract or collective bargaining agreement, for work outside
38 of the hours established in good faith by the contract or
39 agreement as the basic, normal, or regular workday (not
40 exceeding eight (8) hours) or work week (not exceeding the
41 maximum work week applicable to the employee under
42 subsection ~~(k)~~ (g)) where the premium rate is not less than



1 one and one-half (1.5) times the rate established in good faith
 2 by the contract or agreement for like work performed during
 3 the workday or work week.

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

9 (1) in pursuance of an agreement, made as a result of collective
 10 bargaining by representatives of employees certified as bona fide
 11 by the National Labor Relations Board, which provides that no
 12 employee shall be employed more than one thousand forty (1,040)
 13 hours during any period of twenty-six (26) consecutive weeks; or
 14 (2) in pursuance of an agreement, made as a result of collective
 15 bargaining by representatives of employees certified as bona fide
 16 by the National Labor Relations Board, which provides that
 17 during a specified period of fifty-two (52) consecutive weeks the
 18 employee shall be employed not more than two thousand two
 19 hundred forty (2,240) hours and shall be guaranteed not less than
 20 one thousand eight hundred forty (1,840) hours (or not less than
 21 forty-six (46) weeks at the normal number of hours worked per
 22 week, but not less than thirty (30) hours per week) and not more
 23 than two thousand eighty (2,080) hours of employment for which
 24 the employee shall receive compensation for all hours guaranteed
 25 or worked at rates not less than those applicable under the
 26 agreement to the work performed and for all hours in excess of
 27 the guaranty which are also in excess of the maximum work week
 28 applicable to the employee under subsection ~~(k)~~ (g) or two
 29 thousand eighty (2,080) in that period at rates not less than one
 30 and one-half (1.5) times the regular rate at which the employee is
 31 employed.

32 **An agreement made before January 1, 2018, continues in full force**
 33 **and effect until the date of termination of the agreement. An**
 34 **agreement entered into after December 31, 2017, must contain**
 35 **payment for overtime hours as set forth in subsection (g).**

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



- 1 agreement includes the following:
- 2 (1) Specifies a regular rate of pay of not less than the minimum
- 3 hourly rate provided in subsections (c), ~~(h)~~, **(d)**, and ~~(j)~~ **(f)**,
- 4 (whichever is applicable) and compensation at not less than one
- 5 and one-half (1.5) times that rate for all hours worked in excess
- 6 of the maximum work week.
- 7 (2) Provides a weekly guaranty of pay for not more than sixty (60)
- 8 hours based on the rates so specified.
- 9 ~~(o)~~ **(k)** No employer shall be considered to have violated subsection
- 10 ~~(k)~~ **(g)** by employing any employee for a work week in excess of the
- 11 maximum work week applicable to the employee under that subsection
- 12 if, pursuant to an agreement or understanding arrived at between the
- 13 employer and the employee before performance of the work, the
- 14 amount paid to the employee for the number of hours worked by the
- 15 employee in the work week in excess of the maximum work week
- 16 applicable to the employee under that subsection:
- 17 (1) in the case of an employee employed at piece rates, is
- 18 computed at piece rates not less than one and one-half (1.5) times
- 19 the bona fide piece rates applicable to the same work when
- 20 performed during nonovertime hours;
- 21 (2) in the case of an employee performing two (2) or more kinds
- 22 of work for which different hourly or piece rates have been
- 23 established, is computed at rates not less than one and one-half
- 24 (1.5) times those bona fide rates applicable to the same work
- 25 when performed during nonovertime hours; or
- 26 (3) is computed at a rate not less than one and one-half (1.5) times
- 27 the rate established by the agreement or understanding as the
- 28 basic rate to be used in computing overtime compensation
- 29 thereunder, provided that the rate so established shall be
- 30 substantially equivalent to the average hourly earnings of the
- 31 employee, exclusive of overtime premiums, in the particular work
- 32 over a representative period of time;
- 33 and if the employee's average hourly earnings for the work week
- 34 exclusive of payments described in this section are not less than the
- 35 minimum hourly rate required by applicable law, and extra overtime
- 36 compensation is properly computed and paid on other forms of
- 37 additional pay required to be included in computing the regular rate.
- 38 ~~(p)~~ **(l)** Extra compensation paid as described in this section shall be
- 39 creditable toward overtime compensation payable pursuant to this
- 40 section.
- 41 ~~(q)~~ **(m)** No employer shall be considered to have violated subsection
- 42 ~~(k)~~ **(g)** by employing any employee of a retail or service establishment



1 for a work week in excess of the applicable work week specified
2 therein, if:

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

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

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

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

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

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

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

42 (2) If employment in the charter activities is not part of the



1 employee's regular employment.

2 ~~(tt)~~ (q) Any employer may employ any employee for a period or
 3 periods of not more than ten (10) hours in the aggregate in any work
 4 week in excess of the maximum work week specified in subsection ~~(k)~~
 5 (g) without paying the compensation for overtime employment
 6 prescribed in subsection ~~(k)~~, (g), if during that period or periods the
 7 employee is receiving remedial education that:

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

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

12 (3) does not include job specific training.

13 ~~(v)~~ (r) Subsection ~~(k)~~ (g) does not apply to an employee of a motion
 14 picture theater.

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

20 SECTION 3. IC 22-2-17 IS ADDED TO THE INDIANA CODE AS
 21 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 22 JANUARY 1, 2018]:

23 **Chapter 17. Overtime Compensation**

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

26 **Sec. 2. As used in this chapter, "employee" means a person**
 27 **employed or permitted to work or perform any service for**
 28 **remuneration or under any contract of hire, written or oral,**
 29 **express or implied, by an employer in any occupation subject to the**
 30 **provisions of the federal Fair Labor Standards Act. The term:**

31 (1) includes an employee of the state who is subject to
 32 IC 4-1-2-1(b) and an employee of a state educational
 33 institution (as defined in IC 21-7-13-32); and

34 (2) does not include an employee exempt or partially exempt
 35 from the overtime pay requirements of the federal Fair Labor
 36 Standards Act.

37 **Sec. 3. As used in this chapter, "employer" means an employer**
 38 **that is subject to the provisions of the federal Fair Labor**
 39 **Standards Act but does not include the following:**

40 (1) The federal government, including the armed forces of the
 41 United States.

42 (2) A railroad doing business in Indiana.



1 **Sec. 4.** As used in this chapter, "Fair Labor Standards Act"
2 means the federal Fair Labor Standards Act of 1938, as amended
3 (29 U.S.C. 201 et seq.).

4 **Sec. 5.** As used in this chapter, "regular rate" means the rate at
5 which an employee is employed is considered to include all
6 remuneration for employment paid to, or on behalf of, the
7 employee, but is not considered to include the following:

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

12 (2) Payments made for occasional periods when no work is
13 performed due to vacation, holiday, illness, failure of the
14 employer to provide sufficient work, or other similar cause,
15 reasonable payments for traveling expenses, or other
16 expenses, incurred by an employee in the furtherance of the
17 employer's interests and properly reimbursable by the
18 employer, and other similar payments to an employee that are
19 not made as compensation for the employee's hours of
20 employment.

21 (3) Sums paid in recognition of services performed during a
22 given period if:

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

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

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

37 (4) Contributions irrevocably made by an employer to a
38 trustee or third person under a bona fide plan for providing
39 old age, retirement, life, accident, or health insurance or
40 similar benefits for employees.

41 (5) Extra compensation provided by a premium rate paid for
42 certain hours worked by the employee in any day or work



1 week because those hours are hours worked in accordance
2 with section 6 of this chapter.

3 (6) Extra compensation provided by a premium rate paid to
4 the employee, under an applicable employment contract or
5 collective bargaining agreement, for work outside the hours
6 established in good faith by the contract or agreement as the
7 basic, normal, or regular workday or work week.

8 **Sec. 6. An employer may not employ an employee:**

9 (1) longer during a workday than the prior scheduled time
10 unless the employee receives compensation for employment in
11 excess of the hours above specified at a rate not less than one
12 and one-half (1.5) times the regular rate at which the
13 employee is employed;

14 (2) longer for a work week in excess of the work week agreed
15 upon between the employee and employer unless the employee
16 receives compensation for employment in excess of the hours
17 above the agreed upon work week at a rate not less than one
18 and one-half (1.5) times the regular rate at which the
19 employee is employed, except as provided in subdivision (3);
20 or

21 (3) for a work week longer than fifty-two (52) hours unless the
22 employee receives compensation for employment in excess of
23 the hours above fifty-two (52) hours specified at a rate not less
24 than two (2) times the regular rate at which the employee is
25 employed.

26 Subdivisions (1), (2), and (3) may apply in a single work week.

27 **Sec. 7. A labor agreement entered into before January 1, 2018,**
28 **continues in full force and effect until the date of termination of the**
29 **agreement. A labor agreement entered into after December 31,**
30 **2017, must contain payment for overtime hours in the manner**
31 **provided as set forth in section 6 of this chapter.**

32 **Sec. 8. (a) The department and authorized inspectors and agents**
33 **of the department shall:**

34 (1) enforce and ensure compliance with the provisions of this
35 chapter;

36 (2) investigate any violations of any of the provisions of this
37 chapter; and

38 (3) institute or cause to be instituted actions for compensation
39 due as provided under this chapter.

40 (b) The commissioner of the department may refer claims for
41 compensation due under this chapter to the attorney general, and
42 the attorney general may initiate civil actions on behalf of the



1 claimant or may refer the claim to an attorney admitted to the
2 practice of law in Indiana.
3 (c) It is unlawful for any person to:
4 (1) interfere with, obstruct, or hinder an inspector or agent of
5 the department while the inspector or agent performs official
6 duties of the department; or
7 (2) refuse to properly answer questions asked by an inspector
8 or agent of the department.
9 Sec. 9. This chapter does not prohibit an employer from
10 providing compensation in excess of that required by this chapter.

