

# HOUSE BILL No. 1229

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-4; IC 22-5-4.6.

**Synopsis:** Vaccines and employment. Provides that if an employer requires an employee to receive a COVID-19 vaccine, the employer must waive the COVID-19 vaccine requirement if an employee requests a waiver and submits certain statements to the employer on the basis of medical reasons, religious reasons, or previous COVID-19 infection. Provides that an individual is not disqualified from unemployment benefits if the individual has requested an exemption from an employer's COVID-19 immunization requirement, has complied with the requirements for seeking an exemption, and was discharged from employment for failing or refusing to receive an immunization against COVID-19. Provides that charges based on the wage credits shall only be charged to the experience or reimbursable account of the employer who discharged the employee for failing or refusing to receive an immunization against COVID-19.

**Effective:** July 1, 2022.

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## Lindauer

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January 6, 2022, read first time and referred to Committee on Employment, Labor and Pensions.

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Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

# HOUSE BILL No. 1229

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 22-4-2-41 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2022]: **Sec. 41. As used in this article, "COVID-19" has the**  
4 **meaning set forth in IC 34-30-32-3.**

5 SECTION 2. IC 22-4-2-42 IS ADDED TO THE INDIANA CODE  
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
7 1, 2022]: **Sec. 42. As used in this article, "immunization" means the**  
8 **treatment of an individual with a vaccine to produce immunity.**

9 SECTION 3. IC 22-4-11-1, AS AMENDED BY P.L.154-2013,  
10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2022]: Sec. 1. (a) For the purpose of charging employers'  
12 experience or reimbursable accounts with regular benefits paid  
13 subsequent to July 3, 1971, to any eligible individual but except as  
14 provided in IC 22-4-22 and ~~subsection~~ **subsections (f) and (i)**, such  
15 benefits paid shall be charged proportionately against the experience  
16 or reimbursable accounts of the individual's employers in the  
17 individual's base period (on the basis of total wage credits established



1 in such base period) against whose accounts the maximum charges  
2 specified in this section shall not have been previously made. Such  
3 charges shall be made in the inverse chronological order in which the  
4 wage credits of such individuals were established. However, when an  
5 individual's claim has been computed for the purpose of determining  
6 the individual's regular benefit rights, maximum regular benefit  
7 amount, and the proportion of such maximum amount to be charged to  
8 the experience or reimbursable accounts of respective chargeable  
9 employers in the base period, the experience or reimbursable account  
10 of any employer charged with regular benefits paid shall not be  
11 credited or recredited with any portion of such maximum amount  
12 because of any portion of such individual's wage credits remaining  
13 uncharged at the expiration of the individual's benefit period. The  
14 maximum so charged against the account of any employer shall not  
15 exceed twenty-eight percent (28%) of the total wage credits of such  
16 individual with each such employer with which wage credits were  
17 established during such individual's base period. Benefits paid under  
18 provisions of IC 22-4-22-3 in excess of the amount that the claimant  
19 would have been monetarily eligible for under other provisions of this  
20 article shall be paid from the fund and not charged to the experience  
21 account of any employer. This exception shall not apply to those  
22 employers electing to make payments in lieu of contributions who shall  
23 be charged for the full amount of regular benefit payments and the part  
24 of benefits not reimbursed by the federal government under the  
25 Federal-State Extended Unemployment Compensation Act of 1970 that  
26 are attributable to service in their employ. Irrespective of the  
27 twenty-eight percent (28%) maximum limitation provided for in this  
28 section, the part of benefits not reimbursed by the federal government  
29 under the Federal-State Extended Unemployment Compensation Act  
30 of 1970 paid to an eligible individual based on service with a  
31 governmental entity of this state or its political subdivisions shall be  
32 charged to the experience or reimbursable accounts of the employers,  
33 and the part of benefits not reimbursed by the federal government  
34 under the Federal-State Extended Unemployment Compensation Act  
35 of 1970 paid to an eligible individual shall be charged to the experience  
36 or reimbursable accounts of the individual's employers in the  
37 individual's base period, other than governmental entities of this state  
38 or its political subdivisions, in the same proportion and sequence as are  
39 provided in this section for regular benefits paid. Additional benefits  
40 paid under IC 22-4-12-4(c) and benefits paid under IC 22-4-15-1(c)(8)  
41 shall:

42 (1) be paid from the fund; and



1 (2) not be charged to the experience account or the reimbursable  
2 account of any employer.

3 (b) If the aggregate of wages paid to an individual by two (2) or  
4 more employers during the same calendar quarter exceeds the  
5 maximum wage credits (as defined in IC 22-4-4-3) then the experience  
6 or reimbursable account of each such employer shall be charged in the  
7 ratio which the amount of wage credits from such employer bears to the  
8 total amount of wage credits during the base period.

9 (c) When wage records show that an individual has been employed  
10 by two (2) or more employers during the same calendar quarter of the  
11 base period but do not indicate both that such employment was  
12 consecutive and the order of sequence thereof, then and in such cases  
13 it shall be deemed that the employer with whom the individual  
14 established a plurality of wage credits in such calendar quarter is the  
15 most recent employer in such quarter and its experience or  
16 reimbursable account shall be first charged with benefits paid to such  
17 individual. The experience or reimbursable account of the employer  
18 with whom the next highest amount of wage credits were established  
19 shall be charged secondly and the experience or reimbursable accounts  
20 of other employers during such quarters, if any, shall likewise be  
21 charged in order according to plurality of wage credits established by  
22 such individual.

23 (d) Except as provided in ~~subsection~~ **subsections (f) and (i)** or  
24 section 1.5 of this chapter, if an individual:

25 (1) voluntarily leaves an employer without good cause in  
26 connection with the work; or

27 (2) is discharged from an employer for just cause;  
28 wage credits earned with the employer from whom the employee has  
29 separated under these conditions shall be used to compute the  
30 claimant's eligibility for benefits, but charges based on such wage  
31 credits shall be paid from the fund and not charged to the experience  
32 account of any employer. However, this exception shall not apply to  
33 those employers who elect to make payments in lieu of contributions,  
34 who shall be charged for all benefit payments which are attributable to  
35 service in their employ.

36 (e) Any nonprofit organization which elects to make payments in  
37 lieu of contributions into the unemployment compensation fund as  
38 provided in this article is not liable to make the payments with respect  
39 to the benefits paid to any individual whose base period wages include  
40 wages for previously uncovered services as defined in IC 22-4-4-4, nor  
41 is the experience account of any other employer liable for charges for  
42 benefits paid the individual to the extent that the unemployment



1 compensation fund is reimbursed for these benefits pursuant to Section  
2 121 of P.L.94-566. Payments which otherwise would have been  
3 chargeable to the reimbursable or contributing employers shall be  
4 charged to the fund.

5 (f) If an individual:

6 (1) earns wages during the individual's base period through  
7 employment with two (2) or more employers concurrently;

8 (2) is separated from work by one (1) of the employers for reasons  
9 that would not result in disqualification under IC 22-4-15-1; and

10 (3) continues to work for one (1) or more of the other employers  
11 after the end of the base period and continues to work during the  
12 applicable benefit year on substantially the same basis as during  
13 the base period;

14 wage credits earned with the base period employers shall be used to  
15 compute the claimant's eligibility for benefits, but charges based on the  
16 wage credits from the employer who continues to employ the individual  
17 shall be charged to the experience or reimbursable account of the  
18 separating employer.

19 (g) Subsection (f) does not affect the eligibility of a claimant who  
20 otherwise qualifies for benefits nor the computation of benefits.

21 (h) Unemployment benefits paid shall not be charged to the  
22 experience account of a base period employer when the claimant's  
23 unemployment from the employer was a direct result of the  
24 condemnation of property by a municipal corporation (as defined in  
25 IC 36-1-2-10), the state, or the federal government, a fire, a flood, or an  
26 act of nature, when at least fifty percent (50%) of the employer's  
27 employees, including the claimant, became unemployed as a result.  
28 This exception does not apply when the unemployment was an  
29 intentional result of the employer or a person acting on behalf of the  
30 employer.

31 **(i) This subsection applies to an individual who has requested an  
32 exemption from an employer's COVID-19 immunization  
33 requirement and has complied with the requirements set forth in  
34 IC 22-5-4.6. If an individual:**

35 **(1) earns wages during the individual's base period through  
36 employment with two (2) or more employers; and**

37 **(2) is separated from work by an employer for failing or  
38 refusing to receive an immunization against COVID-19;**

39 **wage credits earned with the base period employers shall be used  
40 to compute the claimant's eligibility for benefits, but charges based  
41 on the wage credits shall only be charged to the experience or  
42 reimbursable account of the separating employer described in**



1 **subdivision (2).**

2 SECTION 4. IC 22-4-15-1, AS AMENDED BY P.L.224-2017,  
 3 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 4 JULY 1, 2022]: Sec. 1. (a) Regarding an individual's most recent  
 5 separation from employment before filing an initial or additional claim  
 6 for benefits, an individual who voluntarily left the employment without  
 7 good cause in connection with the work or was discharged from the  
 8 employment for just cause is ineligible for waiting period or benefit  
 9 rights for the week in which the disqualifying separation occurred and  
 10 until:

- 11 (1) the individual has earned remuneration in employment in at  
 12 least eight (8) weeks; and  
 13 (2) the remuneration earned equals or exceeds the product of the  
 14 weekly benefit amount multiplied by eight (8).

15 If the qualification amount has not been earned at the expiration of an  
 16 individual's benefit period, the unearned amount shall be carried  
 17 forward to an extended benefit period or to the benefit period of a  
 18 subsequent claim.

19 (b) When it has been determined that an individual has been  
 20 separated from employment under disqualifying conditions as outlined  
 21 in this section, the maximum benefit amount of the individual's current  
 22 claim, as initially determined, shall be reduced by an amount  
 23 determined as follows:

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

- 27 (A) the maximum benefit amount of the individual's current  
 28 claim, as initially determined; multiplied by  
 29 (B) seventy-five percent (75%);  
 30 rounded (if not already a multiple of one dollar (\$1)) to the next  
 31 higher dollar.

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

- 35 (A) the maximum benefit amount of the individual's current  
 36 claim determined under subdivision (1); multiplied by  
 37 (B) eighty-five percent (85%);  
 38 rounded (if not already a multiple of one dollar (\$1)) to the next  
 39 higher dollar.

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



- 1 (A) the maximum benefit amount of the individual's current  
 2 claim determined under subdivision (2); multiplied by  
 3 (B) ninety percent (90%);  
 4 rounded (if not already a multiple of one dollar (\$1)) to the next  
 5 higher dollar.
- 6 (c) The disqualifications provided in this section shall be subject to  
 7 the following modifications:
- 8 (1) An individual shall not be subject to disqualification because  
 9 of separation from the individual's employment if:
- 10 (A) the individual left to accept with another employer  
 11 previously secured permanent full-time work which offered  
 12 reasonable expectation of continued covered employment and  
 13 betterment of wages or working conditions and thereafter was  
 14 employed on said job;
- 15 (B) having been simultaneously employed by two (2)  
 16 employers, the individual leaves one (1) such employer  
 17 voluntarily without good cause in connection with the work  
 18 but remains in employment with the second employer with a  
 19 reasonable expectation of continued employment; or
- 20 (C) the individual left to accept recall made by a base period  
 21 employer.
- 22 (2) An individual whose unemployment is the result of medically  
 23 substantiated physical disability and who is involuntarily  
 24 unemployed after having made reasonable efforts to maintain the  
 25 employment relationship shall not be subject to disqualification  
 26 under this section for such separation.
- 27 (3) An individual who left work to enter the armed forces of the  
 28 United States shall not be subject to disqualification under this  
 29 section for such leaving of work.
- 30 (4) An individual whose employment is terminated under the  
 31 compulsory retirement provision of a collective bargaining  
 32 agreement to which the employer is a party, or under any other  
 33 plan, system, or program, public or private, providing for  
 34 compulsory retirement and who is otherwise eligible shall not be  
 35 deemed to have left the individual's work voluntarily without  
 36 good cause in connection with the work. However, if such  
 37 individual subsequently becomes reemployed and thereafter  
 38 voluntarily leaves work without good cause in connection with the  
 39 work, the individual shall be deemed ineligible as outlined in this  
 40 section.
- 41 (5) An otherwise eligible individual shall not be denied benefits  
 42 for any week because the individual is in training approved under



1 Section 236(a)(1) of the Trade Act of 1974, nor shall the  
2 individual be denied benefits by reason of leaving work to enter  
3 such training, provided the work left is not suitable employment,  
4 or because of the application to any week in training of provisions  
5 in this law (or any applicable federal unemployment  
6 compensation law), relating to availability for work, active search  
7 for work, or refusal to accept work. For purposes of this  
8 subdivision, the term "suitable employment" means with respect  
9 to an individual, work of a substantially equal or higher skill level  
10 than the individual's past adversely affected employment (as  
11 defined for purposes of the Trade Act of 1974), and wages for  
12 such work at not less than eighty percent (80%) of the individual's  
13 average weekly wage as determined for the purposes of the Trade  
14 Act of 1974.

15 (6) An individual is not subject to disqualification because of  
16 separation from the individual's employment if:

17 (A) the employment was outside the individual's labor market;

18 (B) the individual left to accept previously secured full-time  
19 work with an employer in the individual's labor market; and

20 (C) the individual actually became employed with the  
21 employer in the individual's labor market.

22 (7) An individual who, but for the voluntary separation to move  
23 to another labor market to join a spouse who had moved to that  
24 labor market, shall not be disqualified for that voluntary  
25 separation, if the individual is otherwise eligible for benefits.  
26 Benefits paid to the spouse whose eligibility is established under  
27 this subdivision shall not be charged against the employer from  
28 whom the spouse voluntarily separated.

29 (8) An individual shall not be subject to disqualification if the  
30 individual voluntarily left employment or was discharged due to  
31 circumstances directly caused by domestic or family violence (as  
32 defined in IC 31-9-2-42). An individual who may be entitled to  
33 benefits based on this modification may apply to the office of the  
34 attorney general under IC 5-26.5 to have an address designated by  
35 the office of the attorney general to serve as the individual's  
36 address for purposes of this article.

37 **(9) An individual whose employment is terminated because**  
38 **the individual refused to receive an immunization against**  
39 **COVID-19 (as defined in IC 22-5-4.6-1) and whose employer**  
40 **did not allow for an exemption as required by IC 22-5-4.6**  
41 **shall not be subject to disqualification under this section for**  
42 **these separations.**



1 As used in this subsection, "labor market" means the area surrounding  
 2 an individual's permanent residence, outside which the individual  
 3 cannot reasonably commute on a daily basis. In determining whether  
 4 an individual can reasonably commute under this subdivision, the  
 5 department shall consider the nature of the individual's job.

6 (d) "Discharge for just cause" as used in this section is defined to  
 7 include but not be limited to:

8 (1) separation initiated by an employer for falsification of an  
 9 employment application to obtain employment through  
 10 subterfuge;

11 (2) knowing violation of a reasonable and uniformly enforced rule  
 12 of an employer, including a rule regarding attendance;

13 (3) if an employer does not have a rule regarding attendance, an  
 14 individual's unsatisfactory attendance, if good cause for absences  
 15 or tardiness is not established;

16 (4) damaging the employer's property through willful negligence;

17 (5) refusing to obey instructions;

18 (6) reporting to work under the influence of alcohol or drugs or  
 19 consuming alcohol or drugs on employer's premises during  
 20 working hours;

21 (7) conduct endangering safety of self or coworkers;

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

24 (9) any breach of duty in connection with work which is  
 25 reasonably owed an employer by an employee; or

26 (10) testing positive on a drug test under IC 16-27-2.5.

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

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

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

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

34 (4) An affidavit from a domestic violence service provider  
 35 verifying services provided to the individual by the domestic  
 36 violence service provider.

37 SECTION 5. IC 22-5-4.6 IS ADDED TO THE INDIANA CODE  
 38 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 39 JULY 1, 2022]:

40 **Chapter 4.6. Exemptions from COVID-19 Immunization**  
 41 **Requirements**

42 **Sec. 1. As used in this chapter, "COVID-19" has the meaning set**



- 1       **forth in IC 34-30-32-3.**
- 2       **Sec. 2. As used in this chapter, "employee" means an individual**
- 3       **who is employed for wages by an employer. The term includes an**
- 4       **applicant for employment.**
- 5       **Sec. 3. As used in this chapter, "employer" means a person who**
- 6       **employs an individual for wages.**
- 7       **Sec. 4. An employer that requires an employee to receive a**
- 8       **COVID-19 vaccine must waive the COVID-19 vaccine requirement**
- 9       **if the employee, or if the employee is less than eighteen (18) years**
- 10       **of age, the employee's parent or guardian, requests a waiver and**
- 11       **submits any of the following to the employer:**
- 12               **(1) A statement that receiving the vaccine would be injurious**
- 13               **to the health and well-being of the employee or an individual**
- 14               **residing with the employee.**
- 15               **(2) A statement that receiving the vaccine would conflict with**
- 16               **the tenets and practices of a religion of which the employee is**
- 17               **an adherent or member.**
- 18               **(3) A statement that the individual has had a prior COVID-19**
- 19               **infection and has recovered from the infection.**

