

HOUSE BILL No. 1425

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-35; IC 34-30-31.

Synopsis: Tax incentive for hiring ex-offenders. Provides a tax credit against state tax liability each taxable year for a taxpayer that hires an individual who has been convicted of a felony. Specifies that the amount of the credit is \$3,000 for each qualified individual the employer hires during the taxable year. Provides that the maximum amount of credits allowed per state fiscal year may not exceed \$2,500,000 in the state fiscal year. Requires a report on the tax credit before August 1, 2021. Provides immunity to employers for hiring ex-offenders.

Effective: July 1, 2018.

Mayfield, Shackelford

January 16, 2018, read first time and referred to Committee on Ways and Means.



Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1425

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

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

1 SECTION 1. IC 6-3.1-35 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]:

4 **Chapter 35. Tax Credit for Hiring Qualified Individuals**

5 **Sec. 1. As used in this chapter, "department" refers to:**

6 (1) the department of state revenue; or

7 (2) the department of insurance;

8 **whichever is obligated to administer the tax against which a tax**
9 **credit is applied.**

10 **Sec. 2. As used in this chapter, "pass through entity" means:**

11 (1) a corporation that is exempt from the adjusted gross
12 income tax under IC 6-3-2-2.8(2);

13 (2) a partnership;

14 (3) a limited liability company; or

15 (4) a limited liability partnership.

16 **Sec. 3. As used in this chapter, "person" means any individual,**
17 **partnership, firm, association, joint venture, limited liability**



1 company, or corporation.

2 Sec. 4. As used in this chapter, "qualified individual" means an
3 individual who:

4 (1) has been convicted of a felony under federal or state law;
5 and

6 (2) is hired by the taxpayer not more than eighteen (18)
7 months after the later of:

8 (A) the date of the individual's most recent felony
9 conviction; or

10 (B) the individual's release from prison.

11 Sec. 5. As used in this chapter, "state tax liability" means a
12 taxpayer's total tax liability that is incurred under:

13 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
14 and

15 (2) IC 27-1-18-2 (the insurance premiums tax);

16 as computed after the application of the credits that under
17 IC 6-3.1-1-2 are to be applied before the credit provided by this
18 chapter.

19 Sec. 6. As used in this chapter, "taxpayer" means a person
20 engaged in a trade or business.

21 Sec. 7. (a) Except as otherwise provided in subsection (b) and
22 section 11 of this chapter, a taxpayer is entitled to a credit against
23 the taxpayer's state tax liability for each qualified individual the
24 taxpayer hires during a taxable year for employment in Indiana.
25 The amount of the credit is equal to:

26 (1) three thousand dollars (\$3,000); multiplied by

27 (2) the number of qualified individuals hired by the taxpayer
28 for employment in Indiana during the taxable year.

29 (b) A taxpayer may not claim the credit provided by subsection
30 (a) for hiring a qualified individual if any of the following apply:

31 (1) The taxpayer is required by federal or state law to hire or
32 rehire the qualified individual.

33 (2) The taxpayer claims any other credit under this article for
34 hiring the qualified individual.

35 (3) The taxpayer hires the qualified individual to replace a
36 laid off employee or an employee who is on strike against the
37 taxpayer.

38 (4) The taxpayer lays off and rehires an individual who was a
39 qualified individual at the time of being laid off.

40 Sec. 8. If a pass through entity does not have state tax liability
41 for a taxable year but is otherwise entitled to the tax credit
42 provided by this chapter, each shareholder, partner, or member of



1 the pass through entity is entitled to a share of the tax credit equal
2 to:

- 3 (1) the amount of the tax credit determined for the pass
4 through entity for the taxable year; multiplied by
5 (2) the percentage of the pass through entity's distributive
6 income to which the shareholder, partner, or member is
7 entitled.

8 **Sec. 9. (a)** If the credit provided by this chapter exceeds a
9 taxpayer's state tax liability for the taxable year for which the
10 credit is first claimed, the excess may be carried forward to
11 succeeding taxable years and used as a credit against the
12 taxpayer's state tax liability during those taxable years. Each time
13 the credit is carried forward to a succeeding taxable year, the
14 credit is to be reduced by the amount that was used as a credit
15 during the immediately preceding taxable year. The credit
16 provided by this chapter may be carried forward and applied to
17 succeeding taxable years for not more than nine (9) taxable years
18 following the first year for which the credit is claimed.

19 (b) A taxpayer is not entitled to a carryback or refund of any
20 unused credit under this chapter.

21 **Sec. 10.** To receive the tax credit under this chapter, a taxpayer
22 must claim the credit on the taxpayer's annual state tax return or
23 returns in the manner prescribed by the department.

24 **Sec. 11. (a)** The amount of tax credits allowed under this chapter
25 may not exceed two million five hundred thousand dollars
26 (\$2,500,000) in a state fiscal year.

27 (b) The department shall record the time of filing of each tax
28 return claiming a credit under section 10 of this chapter and shall
29 approve the claims, if they otherwise qualify for a tax credit under
30 this chapter, in the chronological order in which the returns are
31 filed in the state fiscal year.

32 (c) The department may not approve a return claiming a credit
33 under this chapter after the total amount of credits approved
34 under this section equals the maximum amount allowable in a
35 particular state fiscal year.

36 (d) The department of state revenue and the department of
37 insurance shall assist each other in implementing this section.

38 **Sec. 12.** Before August 1, 2021, the department of insurance, the
39 department of state revenue, and the department of correction
40 shall submit a joint report describing the use and effectiveness of
41 the tax credit to the governor and, in an electronic format under
42 IC 5-14-6, the legislative council. The report must include the



- 1 following information:
- 2 (1) The total amount of credits claimed in the reporting
- 3 period.
- 4 (2) The geographic areas in which the credit was claimed.
- 5 (3) The types of employers claiming the credit.
- 6 (4) An evaluation of the credit's impact on individuals hired
- 7 through the credit, on the department of correction, and on
- 8 community corrections programs.
- 9 SECTION 2. IC 34-30-31 IS ADDED TO THE INDIANA CODE
- 10 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 11 JULY 1, 2018]:
- 12 **Chapter 31. Immunity for Hiring Ex-Offenders**
- 13 **Sec. 1. As used in this chapter, "ex-offender" means an**
- 14 **individual who:**
- 15 (1) has been convicted of a felony under federal or state law;
- 16 and
- 17 (2) is hired by an employer not more than eighteen (18)
- 18 months after the later of:
- 19 (A) the date of the individual's most recent felony
- 20 conviction; or
- 21 (B) the individual's release from prison.
- 22 **Sec. 2. As used in this chapter, "employer" means any**
- 23 **individual, partnership, firm, association, joint venture, limited**
- 24 **liability company, or corporation.**
- 25 **Sec. 3. An employer is immune from civil liability for any**
- 26 **damage resulting from an act, that is a felony or misdemeanor,**
- 27 **committed by an ex-offender while in the course of the**
- 28 **ex-offender's employment.**
- 29 **Sec. 4. The conviction of an ex-offender is not admissible as**
- 30 **evidence in an action for negligent hiring against an employer who**
- 31 **has hired an ex-offender.**
- 32 SECTION 3. [EFFECTIVE JULY 1, 2018] (a) IC 6-3.1-35, as
- 33 added by this act, applies to taxable years beginning after
- 34 December 31, 2018.
- 35 (b) This SECTION expires June 30, 2020.

