



March 29, 2019

ENGROSSED
SENATE BILL No. 133

DIGEST OF SB 133 (Updated March 27, 2019 8:18 pm - DI 77)

Citations Affected: IC 12-23; IC 16-42.

Synopsis: Addiction assistance. Amends the definition of "employee" to remove exclusion of employees who are covered by an employee assistance program. Specifies that all the requirements for the treatment program must be met to be compliant. Provides that if a pharmacist dispenses a prescription drug that contains or is derived from opium, the prescription label must bear a statement that the drug is an opioid.

Effective: Upon passage; July 1, 2019.

Leising, Becker, Rogers,
Randolph Lonnie M

(HOUSE SPONSORS — DAVISSON, KIRCHHOFER)

January 3, 2019, read first time and referred to Committee on Health and Provider Services.

February 21, 2019, amended, reported favorably — Do Pass.

February 25, 2019, read second time, ordered engrossed. Engrossed.

February 26, 2019, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 4, 2019, read first time and referred to Committee on Public Health.

March 28, 2019, amended, reported — Do Pass.

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March 29, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

ENGROSSED SENATE BILL No. 133

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

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

1 SECTION 1. IC 12-23-23-1, AS ADDED BY P.L.195-2018,
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 1. As used in this chapter, "employee" means
4 an individual who:

5 (1) has recently been hired by an employer; or
6 (2) is a current employee;
7 and failed a drug screening. ~~and is not covered by an employment~~
8 ~~assistance program.~~

9 SECTION 2. IC 12-23-23-12, AS ADDED BY P.L.195-2018,
10 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 UPON PASSAGE]: Sec. 12. (a) If an employer complies with the
12 requirements under this chapter, the employer is not liable for a civil
13 action alleging negligent hiring for a negligent action by the employee
14 as a result of the employee's drug addiction in the scope of
15 employment.

16 (b) **Referral and treatment by an employee assistance program**
17 **is not sufficient to constitute compliance with this chapter unless all**

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1 **the other requirements of this chapter are met.**

2 ~~(b)~~ (c) In a civil action that is against an employer, an employer's
3 agent, or an employer's employee, an employer's participation in a drug
4 education or addiction treatment program is not admissible as
5 evidence.

6 SECTION 3. IC 16-42-19-11 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. (a) Except as
8 provided in section 21 of this chapter, a person may not sell a legend
9 drug unless either of the following conditions exist:

10 (1) Except as provided in subsection (b), the legend drug is
11 dispensed by a pharmacist upon an original prescription or drug
12 order with the drug product specified on the prescription or drug
13 order or by the authorization of the practitioner and there is
14 affixed to the immediate container in which the drug is delivered
15 a label bearing the following:

16 (A) The name, address, and phone number of the
17 establishment from which the drug was dispensed.

18 (B) The date on which the prescription for the drug was filled.

19 (C) The number of the prescription as filed in the prescription
20 files of the pharmacist who filled the prescription.

21 (D) The name of the practitioner who prescribed the drug.

22 (E) The name of the patient, or if the drug was prescribed for
23 an animal, a statement of the species of the animal.

24 (F) The directions for the use of the drug as contained in the
25 prescription.

26 **(G) If the drug contains or is derived from opium, a
27 statement that the drug is an opioid.**

28 (2) The legend drug is delivered by the practitioner in good faith
29 in the course of practice and the immediate container in which the
30 drug is delivered bears a label on which appears the following:

31 (A) The directions for use of the drug.

32 (B) The name and address of the practitioner.

33 (C) The name of the patient.

34 (D) If the drug is prescribed for an animal, a statement of the
35 species of the animal.

36 This section does not prohibit a practitioner from delivering
37 professional samples of legend drugs in their original containers in the
38 course of the practitioner's practice when oral directions for use are
39 given at the time of delivery.

40 (b) Notwithstanding subsection (a)(1), the following apply:

41 (1) A pharmacist at a hospital licensed under IC 16-21 may fill a
42 drug order for a legend drug with a drug product allowed under



1 the hospital's policies and procedures for the use, selection, and
 2 procurement of drugs.

3 (2) A pharmacist who fills a prescription for a legend drug must
 4 comply with IC 16-42-22 and IC 25-26-16.

5 SECTION 4. IC 16-42-19-27, AS AMENDED BY P.L.59-2016,
 6 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2019]: Sec. 27. (a) **This section does not apply to section
 8 11(a)(1)(G) of this chapter (opioid labeling requirement).**

9 (b) Unless otherwise specified, a person who knowingly violates
 10 this chapter, except sections 25(b) and 30(c) of this chapter, commits
 11 a Level 6 felony. However, the offense is a Level 5 felony if the person
 12 has a prior conviction under this subsection or IC 16-6-8-10(a) before
 13 its repeal.

14 ~~(b)~~ (c) A person who violates section 25(b) of this chapter commits
 15 dealing in an anabolic steroid, a Level 5 felony. However, the offense
 16 is a Level 4 felony if the person delivered the anabolic steroid to a
 17 person who is:

18 (1) less than eighteen (18) years of age; and

19 (2) at least three (3) years younger than the delivering person.

20 ~~(c)~~ (d) A person who violates section 30(c) of this chapter commits
 21 a Class A infraction.

22 SECTION 5. **An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 133, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, after line 24, begin a new paragraph and insert:

"SECTION 2. IC 16-42-19-27, AS AMENDED BY P.L.59-2016, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 27. (a) **This section does not apply to section 11(a)(1)(G) of this chapter (opioid labeling requirement).**

(b) Unless otherwise specified, a person who knowingly violates this chapter, except sections 25(b) and 30(c) of this chapter, commits a Level 6 felony. However, the offense is a Level 5 felony if the person has a prior conviction under this subsection or IC 16-6-8-10(a) before its repeal.

(~~b~~) (c) A person who violates section 25(b) of this chapter commits dealing in an anabolic steroid, a Level 5 felony. However, the offense is a Level 4 felony if the person delivered the anabolic steroid to a person who is:

- (1) less than eighteen (18) years of age; and
- (2) at least three (3) years younger than the delivering person.

(~~c~~) (d) A person who violates section 30(c) of this chapter commits a Class A infraction."

and when so amended that said bill do pass.

(Reference is to SB 133 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 7, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 133, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

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"SECTION 1. IC 12-23-23-1, AS ADDED BY P.L.195-2018, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "employee" means an individual who:

- (1) has recently been hired by an employer; or
- (2) is a current employee;

and failed a drug screening. ~~and is not covered by an employment assistance program.~~

SECTION 2. IC 12-23-23-12, AS ADDED BY P.L.195-2018, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) If an employer complies with the requirements under this chapter, the employer is not liable for a civil action alleging negligent hiring for a negligent action by the employee as a result of the employee's drug addiction in the scope of employment.

(b) Referral and treatment by an employee assistance program is not sufficient to constitute compliance with this chapter unless all the other requirements of this chapter are met.

~~(b)~~ (c) In a civil action that is against an employer, an employer's agent, or an employer's employee, an employer's participation in a drug education or addiction treatment program is not admissible as evidence."

Page 2, after line 41, begin a new paragraph and insert:

"SECTION 5. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 133 as printed February 22, 2019.)

KIRCHHOFER

Committee Vote: yeas 13, nays 0.

