



January 26, 2024

SENATE BILL No. 264

DIGEST OF SB 264 (Updated January 24, 2024 11:30 am - DI 153)

Citations Affected: IC 22-3; IC 34-30.

Synopsis: Religious exemption from worker's compensation. Provides an exemption from worker's compensation and occupational diseases coverage for a member of certain religious sects or a division of a religious sect who meets certain requirements and obtains a certificate of exemption (certificate) from the worker's compensation board (board). Provides that if certain information about an individual who holds a certificate is no longer true: (1) the individual and the individual's employer must take certain steps; and (2) the certificate is no longer effective. Makes conforming changes.

Effective: July 1, 2024.

Bassler

January 16, 2024, read first time and referred to Committee on Pensions and Labor.
January 25, 2024, amended, reported favorably — Do Pass.

SB 264—LS 6545/DI 153



January 26, 2024

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

SENATE BILL No. 264

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 22-3-2-9, AS AMENDED BY P.L.201-2005,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 9. (a) IC 22-3-2 through IC 22-3-6 shall not apply
4 to:
5 (1) casual laborers (as defined in IC 22-3-6-1);
6 (2) farm or agricultural employees;
7 (3) household employees; ~~or~~
8 (4) a person who enters into an independent contractor agreement
9 with a nonprofit corporation that is recognized as tax exempt
10 under Section 501(c)(3) of the Internal Revenue Code (as defined
11 in IC 6-3-1-11(a)) to perform youth coaching services on a
12 part-time basis; **or**
13 **(5) an individual who is exempt under IC 22-3-5-1.5 from**
14 **compliance with IC 22-3-2 through IC 22-3-6.**
15 IC 22-3-2 through IC 22-3-6 do not apply to the employers or
16 contractors of the persons listed in this subsection.
17 (b) An employer who is exempt under this section from the

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1 operation of the compensation provisions of this chapter may at any
 2 time waive such exemption and thereby accept the provisions of this
 3 chapter by giving notice as provided in subsection (c).

4 (c) The notice of acceptance referred to in subsection (b) shall be
 5 given thirty (30) days prior to any accident resulting in injury or death,
 6 provided that if any such injury occurred less than thirty (30) days after
 7 the date of employment, notice of acceptance given at the time of
 8 employment shall be sufficient notice thereof. The notice shall be in
 9 writing or print in a substantial form prescribed by the worker's
 10 compensation board and shall be given by the employer by posting the
 11 same in a conspicuous place in the plant, shop, office, room, or place
 12 where the employee is employed, or by serving it personally upon the
 13 employee; and shall be given by the employee by sending the same in
 14 a registered letter addressed to the employer at the employer's last
 15 known residence or place of business, or by giving it personally to the
 16 employer, or any of the employer's agents upon whom a summons in
 17 civil actions may be served under the laws of the state.

18 (d) A copy of the notice in prescribed form shall also be filed with
 19 the worker's compensation board, within five (5) days after its service
 20 in such manner upon the employee or employer.

21 SECTION 2. IC 22-3-5-1.5 IS ADDED TO THE INDIANA CODE
 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 23 1, 2024]: **Sec. 1.5. (a) An individual may file with the worker's
 24 compensation board, in a form prescribed by the board, an
 25 application for a certificate of exemption from compliance with
 26 IC 22-3-2 through IC 22-3-6.**

27 **(b) An application filed under this section must include the
 28 following information:**

- 29 **(1) The individual's name, address, date of birth, and Social
 30 Security number.**
 31 **(2) The name of the religious sect or division of a religious sect
 32 to which the individual belongs.**
 33 **(3) A verified affidavit signed by the individual stating that:**
 34 **(A) the individual is a member of the sect or division
 35 described in subdivision (2);**
 36 **(B) the individual adheres to the sect's or division's
 37 established tenets or teachings that conscientiously oppose
 38 the acceptance of public or private insurance benefits as
 39 the result of injury, disability, or death, or for medical care
 40 for injuries or illnesses, including the benefits from any
 41 insurance system established by the federal Social Security
 42 Act (42 U.S.C. 301 et seq.);**



- 1 **(C) members of the sect or division have a method for**
- 2 **sharing the costs of work related medical expenses and loss**
- 3 **of income; and**
- 4 **(D) the individual knowingly and voluntarily waives the**
- 5 **individual's rights to all benefits available to the individual**
- 6 **under IC 22-3-2 through IC 22-3-6.**
- 7 **(4) A statement by a leader of the religious sect or division of**
- 8 **the religious sect described in subdivision (2) that the**
- 9 **individual is a member of the sect or division.**
- 10 **(c) A copy of an approved Internal Revenue Service Form 4029,**
- 11 **Application for Exemption from Social Security and Medicare**
- 12 **Taxes and Waiver of Benefits, or a successor form, for the**
- 13 **individual must be filed with an application filed under this section.**
- 14 **(d) The board shall issue a certificate of exemption not later**
- 15 **than forty-five (45) days after the board receives a completed**
- 16 **application and the form described in subsection (c).**
- 17 **(e) A certificate of exemption issued under this section is**
- 18 **effective on the date the certificate is issued and remains in effect**
- 19 **until the date provided in subsection (f)(3).**
- 20 **(f) If information contained in an affidavit described in**
- 21 **subsection (b)(3) is no longer true, the following apply:**
- 22 **(1) Not later than seven (7) days after the date on which the**
- 23 **change occurs, the individual shall notify the individual's**
- 24 **employer in writing of the change.**
- 25 **(2) Not later than thirty (30) days after the date on which the**
- 26 **employer receives the notice described in subdivision (1), the**
- 27 **individual and the individual's employer shall each notify the**
- 28 **board in writing of the change.**
- 29 **(3) Beginning on the date the individual and the individual's**
- 30 **employer send to the board the notice described in subdivision**
- 31 **(2), the individual and the individual's employer shall each**
- 32 **comply with IC 22-3-2 through IC 22-3-6.**
- 33 **(g) The board shall maintain a data base consisting of the**
- 34 **certificates issued under this section and on request verify that a**
- 35 **certificate is on file.**
- 36 **(h) An employer of an individual holding an effective certificate**
- 37 **of compliance is immune from civil liability in an action brought by**
- 38 **the individual if the claim is based on personal injury or death by**
- 39 **accident arising out of and in the course of the employment. This**
- 40 **subsection does not apply if the conduct constitutes gross**
- 41 **negligence or intentional, wanton, or willful misconduct.**
- 42 **SECTION 3. IC 22-3-6-1, AS AMENDED BY P.L.160-2022,**



1 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2024]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the
3 context otherwise requires:

4 (a) "Employer" includes the state and any political subdivision, any
5 municipal corporation within the state, any individual or the legal
6 representative of a deceased individual, firm, association, limited
7 liability company, limited liability partnership, or corporation or the
8 receiver or trustee of the same, using the services of another for pay. A
9 corporation, limited liability company, or limited liability partnership
10 that controls the activities of another corporation, limited liability
11 company, or limited liability partnership, or a corporation and a limited
12 liability company or a corporation and a limited liability partnership
13 that are commonly owned entities, or the controlled corporation,
14 limited liability company, limited liability partnership, or commonly
15 owned entities, and a parent corporation and its subsidiaries shall each
16 be considered joint employers of the corporation's, the controlled
17 corporation's, the limited liability company's, the limited liability
18 partnership's, the commonly owned entities', the parent's, or the
19 subsidiaries' employees for purposes of IC 22-3-2-6 and IC 22-3-3-31.
20 Both a lessor and a lessee of employees shall each be considered joint
21 employers of the employees provided by the lessor to the lessee for
22 purposes of IC 22-3-2-6 and IC 22-3-3-31. If the employer is insured,
23 the term includes the employer's insurer so far as applicable. However,
24 the inclusion of an employer's insurer within this definition does not
25 allow an employer's insurer to avoid payment for services rendered to
26 an employee with the approval of the employer. The term also includes
27 an employer that provides on-the-job training under the federal School
28 to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set
29 forth in IC 22-3-2-2.5. The term does not include a nonprofit
30 corporation that is recognized as tax exempt under Section 501(c)(3)
31 of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the
32 extent the corporation enters into an independent contractor agreement
33 with a person for the performance of youth coaching services on a
34 part-time basis.

35 (b) "Employee" means every person, including a minor, in the
36 service of another, under any contract of hire or apprenticeship, written
37 or implied, except one whose employment is both casual and not in the
38 usual course of the trade, business, occupation, or profession of the
39 employer.

40 (1) An executive officer elected or appointed and empowered in
41 accordance with the charter and bylaws of a corporation, other
42 than a municipal corporation or governmental subdivision or a



1 charitable, religious, educational, or other nonprofit corporation,
 2 is an employee of the corporation under IC 22-3-2 through
 3 IC 22-3-6. An officer of a corporation who is an employee of the
 4 corporation under IC 22-3-2 through IC 22-3-6 may elect not to
 5 be an employee of the corporation under IC 22-3-2 through
 6 IC 22-3-6. An officer of a corporation who is also an owner of any
 7 interest in the corporation may elect not to be an employee of the
 8 corporation under IC 22-3-2 through IC 22-3-6. If an officer
 9 makes this election, the officer must serve written notice of the
 10 election on the corporation's insurance carrier and the board. An
 11 officer of a corporation may not be considered to be excluded as
 12 an employee under IC 22-3-2 through IC 22-3-6 until the notice
 13 is received by the insurance carrier and the board.

14 (2) An executive officer of a municipal corporation or other
 15 governmental subdivision or of a charitable, religious,
 16 educational, or other nonprofit corporation may, notwithstanding
 17 any other provision of IC 22-3-2 through IC 22-3-6, be brought
 18 within the coverage of its insurance contract by the corporation by
 19 specifically including the executive officer in the contract of
 20 insurance. The election to bring the executive officer within the
 21 coverage shall continue for the period the contract of insurance is
 22 in effect, and during this period, the executive officers thus
 23 brought within the coverage of the insurance contract are
 24 employees of the corporation under IC 22-3-2 through IC 22-3-6.

25 (3) Any reference to an employee who has been injured, when the
 26 employee is dead, also includes the employee's legal
 27 representatives, dependents, and other persons to whom
 28 compensation may be payable.

29 (4) An owner of a sole proprietorship may elect to include the
 30 owner as an employee under IC 22-3-2 through IC 22-3-6 if the
 31 owner is actually engaged in the proprietorship business. If the
 32 owner makes this election, the owner must serve upon the owner's
 33 insurance carrier and upon the board written notice of the
 34 election. No owner of a sole proprietorship may be considered an
 35 employee under IC 22-3-2 through IC 22-3-6 until the notice has
 36 been received. If the owner of a sole proprietorship:

37 (A) is an independent contractor in the construction trades and
 38 does not make the election provided under this subdivision,
 39 the owner must obtain a certificate of exemption under
 40 IC 22-3-2-14.5; or

41 (B) is an independent contractor and does not make the
 42 election provided under this subdivision, the owner may obtain



- 1 a certificate of exemption under IC 22-3-2-14.5.
- 2 (5) A partner in a partnership may elect to include the partner as
- 3 an employee under IC 22-3-2 through IC 22-3-6 if the partner is
- 4 actually engaged in the partnership business. If a partner makes
- 5 this election, the partner must serve upon the partner's insurance
- 6 carrier and upon the board written notice of the election. No
- 7 partner may be considered an employee under IC 22-3-2 through
- 8 IC 22-3-6 until the notice has been received. If a partner in a
- 9 partnership:
- 10 (A) is an independent contractor in the construction trades and
- 11 does not make the election provided under this subdivision,
- 12 the partner must obtain a certificate of exemption under
- 13 IC 22-3-2-14.5; or
- 14 (B) is an independent contractor and does not make the
- 15 election provided under this subdivision, the partner may
- 16 obtain a certificate of exemption under IC 22-3-2-14.5.
- 17 (6) Real estate professionals are not employees under IC 22-3-2
- 18 through IC 22-3-6 if:
- 19 (A) they are licensed real estate agents;
- 20 (B) substantially all their remuneration is directly related to
- 21 sales volume and not the number of hours worked; and
- 22 (C) they have written agreements with real estate brokers
- 23 stating that they are not to be treated as employees for tax
- 24 purposes.
- 25 (7) A person is an independent contractor and not an employee
- 26 under IC 22-3-2 through IC 22-3-6 if the person is an independent
- 27 contractor under the guidelines of the United States Internal
- 28 Revenue Service.
- 29 (8) An owner-operator that provides a motor vehicle and the
- 30 services of a driver under a written contract that is subject to
- 31 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376 to a motor carrier
- 32 is not an employee of the motor carrier for purposes of IC 22-3-2
- 33 through IC 22-3-6. The owner-operator may elect to be covered
- 34 and have the owner-operator's drivers covered under a worker's
- 35 compensation insurance policy or authorized self-insurance that
- 36 insures the motor carrier if the owner-operator pays the premiums
- 37 as requested by the motor carrier. An election by an
- 38 owner-operator under this subdivision does not terminate the
- 39 independent contractor status of the owner-operator for any
- 40 purpose other than the purpose of this subdivision.
- 41 (9) A member or manager in a limited liability company may elect
- 42 to include the member or manager as an employee under



- 1 IC 22-3-2 through IC 22-3-6 if the member or manager is actually
 2 engaged in the limited liability company business. If a member or
 3 manager makes this election, the member or manager must serve
 4 upon the member's or manager's insurance carrier and upon the
 5 board written notice of the election. A member or manager may
 6 not be considered an employee under IC 22-3-2 through IC 22-3-6
 7 until the notice has been received.
- 8 (10) An unpaid participant under the federal School to Work
 9 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the
 10 extent set forth in IC 22-3-2-2.5.
- 11 (11) A person who enters into an independent contractor
 12 agreement with a nonprofit corporation that is recognized as tax
 13 exempt under Section 501(c)(3) of the Internal Revenue Code (as
 14 defined in IC 6-3-1-11(a)) to perform youth coaching services on
 15 a part-time basis is not an employee for purposes of IC 22-3-2
 16 through IC 22-3-6.
- 17 (12) An individual who is not an employee of the state or a
 18 political subdivision is considered to be a temporary employee of
 19 the state for purposes of IC 22-3-2 through IC 22-3-6 while
 20 serving as a member of a mobile support unit on duty for training,
 21 an exercise, or a response, as set forth in IC 10-14-3-19(c)(2)(B).
- 22 (13) A driver providing drive away operations is an independent
 23 contractor and not an employee when:
- 24 (A) the vehicle being driven is the commodity being delivered;
 25 and
- 26 (B) the driver has entered into an agreement with the party
 27 arranging for the transportation that specifies the driver is an
 28 independent contractor and not an employee.
- 29 **(14) An individual who is a member of a religious sect or a**
 30 **division of a religious sect and holds an effective certificate of**
 31 **exemption from compliance under IC 22-3-5-1.5 is not**
 32 **considered an employee for purposes of IC 22-3-2 through**
 33 **IC 22-3-6.**
- 34 (c) "Minor" means an individual who has not reached seventeen
 35 (17) years of age.
- 36 (1) Unless otherwise provided in this subsection, a minor
 37 employee shall be considered as being of full age for all purposes
 38 of IC 22-3-2 through IC 22-3-6.
- 39 (2) If the employee is a minor who, at the time of the accident, is
 40 employed, required, suffered, or permitted to work in violation of
 41 IC 22-2-18-40 (before its expiration on June 30, 2021) and
 42 IC 22-2-18.1-23, the amount of compensation and death benefits,



1 as provided in IC 22-3-2 through IC 22-3-6, shall be double the
 2 amount which would otherwise be recoverable. The insurance
 3 carrier shall be liable on its policy for one-half (1/2) of the
 4 compensation or benefits that may be payable on account of the
 5 injury or death of the minor, and the employer shall be liable for
 6 the other one-half (1/2) of the compensation or benefits. If the
 7 employee is a minor who is not less than sixteen (16) years of age
 8 and who has not reached seventeen (17) years of age and who at
 9 the time of the accident is employed, suffered, or permitted to
 10 work at any occupation which is not prohibited by law, this
 11 subdivision does not apply.

12 (3) A minor employee who, at the time of the accident, is a
 13 student performing services for an employer as part of an
 14 approved program under IC 20-37-2-7 shall be considered a
 15 full-time employee for the purpose of computing compensation
 16 for permanent impairment under IC 22-3-3-10. The average
 17 weekly wages for such a student shall be calculated as provided
 18 in subsection (d)(4).

19 (4) The rights and remedies granted in this subsection to a minor
 20 under IC 22-3-2 through IC 22-3-6 on account of personal injury
 21 or death by accident shall exclude all rights and remedies of the
 22 minor, the minor's parents, or the minor's personal
 23 representatives, dependents, or next of kin at common law,
 24 statutory or otherwise, on account of the injury or death. This
 25 subsection does not apply to minors who have reached seventeen
 26 (17) years of age.

27 (d) "Average weekly wages" means the earnings of the injured
 28 employee in the employment in which the employee was working at the
 29 time of the injury during the period of fifty-two (52) weeks
 30 immediately preceding the date of injury, divided by fifty-two (52),
 31 except as follows:

32 (1) If the injured employee lost seven (7) or more calendar days
 33 during this period, although not in the same week, then the
 34 earnings for the remainder of the fifty-two (52) weeks shall be
 35 divided by the number of weeks and parts thereof remaining after
 36 the time lost has been deducted.

37 (2) Where the employment prior to the injury extended over a
 38 period of less than fifty-two (52) weeks, the method of dividing
 39 the earnings during that period by the number of weeks and parts
 40 thereof during which the employee earned wages shall be
 41 followed, if results just and fair to both parties will be obtained.

42 Where by reason of the shortness of the time during which the



1 employee has been in the employment of the employee's employer
 2 or of the casual nature or terms of the employment it is
 3 impracticable to compute the average weekly wages, as defined
 4 in this subsection, regard shall be had to the average weekly
 5 amount which during the fifty-two (52) weeks previous to the
 6 injury was being earned by a person in the same grade employed
 7 at the same work by the same employer or, if there is no person so
 8 employed, by a person in the same grade employed in the same
 9 class of employment in the same district.

10 (3) Wherever allowances of any character made to an employee
 11 in lieu of wages are a specified part of the wage contract, they
 12 shall be deemed a part of the employee's earnings.

13 (4) In computing the average weekly wages to be used in
 14 calculating an award for permanent impairment under
 15 IC 22-3-3-10 for a student employee in an approved training
 16 program under IC 20-37-2-7, the following formula shall be used.
 17 Calculate the product of:

18 (A) the student employee's hourly wage rate; multiplied by

19 (B) forty (40) hours.

20 The result obtained is the amount of the average weekly wages for
 21 the student employee.

22 (e) "Injury" and "personal injury" mean only injury by accident
 23 arising out of and in the course of the employment and do not include
 24 a disease in any form except as it results from the injury.

25 (f) "Billing review service" refers to a person or an entity that
 26 reviews a medical service provider's bills or statements for the purpose
 27 of determining pecuniary liability. The term includes an employer's
 28 worker's compensation insurance carrier if the insurance carrier
 29 performs such a review.

30 (g) "Billing review standard" means the data used by a billing
 31 review service to determine pecuniary liability.

32 (h) "Community" means a geographic service area based on ZIP
 33 code districts defined by the United States Postal Service according to
 34 the following groupings:

35 (1) The geographic service area served by ZIP codes with the first
 36 three (3) digits 463 and 464.

37 (2) The geographic service area served by ZIP codes with the first
 38 three (3) digits 465 and 466.

39 (3) The geographic service area served by ZIP codes with the first
 40 three (3) digits 467 and 468.

41 (4) The geographic service area served by ZIP codes with the first
 42 three (3) digits 469 and 479.



- 1 (5) The geographic service area served by ZIP codes with the first
- 2 three (3) digits 460, 461 (except 46107), and 473.
- 3 (6) The geographic service area served by the 46107 ZIP code and
- 4 ZIP codes with the first three (3) digits 462.
- 5 (7) The geographic service area served by ZIP codes with the first
- 6 three (3) digits 470, 471, 472, 474, and 478.
- 7 (8) The geographic service area served by ZIP codes with the first
- 8 three (3) digits 475, 476, and 477.
- 9 (i) "Medical service provider" refers to a person or an entity that
- 10 provides services or products to an employee under IC 22-3-2 through
- 11 IC 22-3-6. Except as otherwise provided in IC 22-3-2 through
- 12 IC 22-3-6, the term includes a medical service facility.
- 13 (j) "Medical service facility" means any of the following that
- 14 provides a service or product under IC 22-3-2 through IC 22-3-6 and
- 15 uses the CMS 1450 (UB-04) form or the CMS 1500 (HCFA-1500)
- 16 form for Medicare reimbursement:
- 17 (1) An ambulatory outpatient surgical center (as defined in
- 18 IC 16-18-2-14).
- 19 (2) A hospital (as defined in IC 16-18-2-179).
- 20 (3) A hospital based health facility (as defined in
- 21 IC 16-18-2-180).
- 22 (4) A medical center (as defined in IC 16-18-2-223.4).
- 23 (k) "Pecuniary liability" means the responsibility of an employer or
- 24 the employer's insurance carrier for the payment of the charges for each
- 25 specific service or product for human medical treatment provided
- 26 under IC 22-3-2 through IC 22-3-6, as follows:
- 27 (1) This subdivision applies before July 1, 2014, to all medical
- 28 service providers, and after June 30, 2014, to a medical service
- 29 provider that is not a medical service facility. Payment of the
- 30 charges in a defined community, equal to or less than the charges
- 31 made by medical service providers at the eightieth percentile in
- 32 the same community for like services or products.
- 33 (2) Payment of the charges in a reasonable amount, which is
- 34 established by payment of one (1) of the following:
- 35 (A) The amount negotiated at any time between the medical
- 36 service facility and any of the following, if an amount has been
- 37 negotiated:
- 38 (i) The employer.
- 39 (ii) The employer's insurance carrier.
- 40 (iii) A billing review service on behalf of a person described
- 41 in item (i) or (ii).
- 42 (iv) A direct provider network that has contracted with a



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person described in item (i) or (ii).
(B) Two hundred percent (200%) of the amount that would be paid to the medical service facility on the same date for the same service or product under the medical service facility's Medicare reimbursement rate, if, after conducting the negotiations described in clause (A), an agreement has not been reached.

(l) "Service or product" or "services and products" refers to medical, hospital, surgical, or nursing service, treatment, and supplies provided under IC 22-3-2 through IC 22-3-6.

SECTION 4. IC 22-3-7-9, AS AMENDED BY P.L.160-2022, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 9. (a) As used in this chapter, "employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, limited liability partnership, or corporation or the receiver or trustee of the same, using the services of another for pay. A corporation, limited liability company, or limited liability partnership that controls the activities of another corporation, limited liability company, or limited liability partnership, or a corporation and a limited liability company or a corporation and a limited liability partnership that are commonly owned entities, or the controlled corporation, limited liability company, limited liability partnership, or commonly owned entities, and a parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the controlled corporation's, the limited liability company's, the limited liability partnership's, the commonly owned entities', the parent's, or the subsidiaries' employees for purposes of sections 6 and 33 of this chapter. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of sections 6 and 33 of this chapter. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth under section 2.5 of this chapter. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a



1 person for the performance of youth coaching services on a part-time
2 basis.

3 (b) As used in this chapter, "employee" means every person,
4 including a minor, in the service of another, under any contract of hire
5 or apprenticeship written or implied, except one whose employment is
6 both casual and not in the usual course of the trade, business,
7 occupation, or profession of the employer. For purposes of this chapter
8 the following apply:

9 (1) Any reference to an employee who has suffered disablement,
10 when the employee is dead, also includes the employee's legal
11 representative, dependents, and other persons to whom
12 compensation may be payable.

13 (2) An owner of a sole proprietorship may elect to include the
14 owner as an employee under this chapter if the owner is actually
15 engaged in the proprietorship business. If the owner makes this
16 election, the owner must serve upon the owner's insurance carrier
17 and upon the board written notice of the election. No owner of a
18 sole proprietorship may be considered an employee under this
19 chapter unless the notice has been received. If the owner of a sole
20 proprietorship:

21 (A) is an independent contractor in the construction trades and
22 does not make the election provided under this subdivision,
23 the owner must obtain a certificate of exemption under section
24 34.5 of this chapter; or

25 (B) is an independent contractor and does not make the
26 election provided under this subdivision, the owner may obtain
27 a certificate of exemption under section 34.5 of this chapter.

28 (3) A partner in a partnership may elect to include the partner as
29 an employee under this chapter if the partner is actually engaged
30 in the partnership business. If a partner makes this election, the
31 partner must serve upon the partner's insurance carrier and upon
32 the board written notice of the election. No partner may be
33 considered an employee under this chapter until the notice has
34 been received. If a partner in a partnership:

35 (A) is an independent contractor in the construction trades and
36 does not make the election provided under this subdivision,
37 the partner must obtain a certificate of exemption under
38 section 34.5 of this chapter; or

39 (B) is an independent contractor and does not make the
40 election provided under this subdivision, the partner may
41 obtain a certificate of exemption under section 34.5 of this
42 chapter.



- 1 (4) Real estate professionals are not employees under this chapter
2 if:
3 (A) they are licensed real estate agents;
4 (B) substantially all their remuneration is directly related to
5 sales volume and not the number of hours worked; and
6 (C) they have written agreements with real estate brokers
7 stating that they are not to be treated as employees for tax
8 purposes.
9 (5) A person is an independent contractor in the construction
10 trades and not an employee under this chapter if the person is an
11 independent contractor under the guidelines of the United States
12 Internal Revenue Service.
13 (6) An owner-operator that provides a motor vehicle and the
14 services of a driver under a written contract that is subject to
15 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376, to a motor
16 carrier is not an employee of the motor carrier for purposes of this
17 chapter. The owner-operator may elect to be covered and have the
18 owner-operator's drivers covered under a worker's compensation
19 insurance policy or authorized self-insurance that insures the
20 motor carrier if the owner-operator pays the premiums as
21 requested by the motor carrier. An election by an owner-operator
22 under this subdivision does not terminate the independent
23 contractor status of the owner-operator for any purpose other than
24 the purpose of this subdivision.
25 (7) An unpaid participant under the federal School to Work
26 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the
27 extent set forth under section 2.5 of this chapter.
28 (8) A person who enters into an independent contractor agreement
29 with a nonprofit corporation that is recognized as tax exempt
30 under Section 501(c)(3) of the Internal Revenue Code (as defined
31 in IC 6-3-1-11(a)) to perform youth coaching services on a
32 part-time basis is not an employee for purposes of this chapter.
33 (9) An officer of a corporation who is an employee of the
34 corporation under this chapter may elect not to be an employee of
35 the corporation under this chapter. An officer of a corporation
36 who is also an owner of any interest in the corporation may elect
37 not to be an employee of the corporation under this chapter. If an
38 officer makes this election, the officer must serve written notice
39 of the election on the corporation's insurance carrier and the
40 board. An officer of a corporation may not be considered to be
41 excluded as an employee under this chapter until the notice is
42 received by the insurance carrier and the board.



- 1 (10) An individual who is not an employee of the state or a
- 2 political subdivision is considered to be a temporary employee of
- 3 the state for purposes of this chapter while serving as a member
- 4 of a mobile support unit on duty for training, an exercise, or a
- 5 response, as set forth in IC 10-14-3-19(c)(2)(B).
- 6 **(11) An individual who is a member of a religious sect or a**
- 7 **division of a religious sect and holds an effective certificate of**
- 8 **exemption from compliance under section 34.2 of this chapter**
- 9 **is not considered an employee for purposes of this chapter.**
- 10 (c) As used in this chapter, "minor" means an individual who has
- 11 not reached seventeen (17) years of age. A minor employee shall be
- 12 considered as being of full age for all purposes of this chapter.
- 13 However, if the employee is a minor who, at the time of the last
- 14 exposure, is employed, required, suffered, or permitted to work in
- 15 violation of the employment of minors laws of this state, the amount of
- 16 compensation and death benefits, as provided in this chapter, shall be
- 17 double the amount which would otherwise be recoverable. The
- 18 insurance carrier shall be liable on its policy for one-half (1/2) of the
- 19 compensation or benefits that may be payable on account of the
- 20 disability or death of the minor, and the employer shall be wholly liable
- 21 for the other one-half (1/2) of the compensation or benefits. If the
- 22 employee is a minor who is not less than sixteen (16) years of age and
- 23 who has not reached seventeen (17) years of age, and who at the time
- 24 of the last exposure is employed, suffered, or permitted to work at any
- 25 occupation which is not prohibited by law, the provisions of this
- 26 subsection prescribing double the amount otherwise recoverable do not
- 27 apply. The rights and remedies granted to a minor under this chapter on
- 28 account of disease shall exclude all rights and remedies of the minor,
- 29 the minor's parents, the minor's personal representatives, dependents,
- 30 or next of kin at common law, statutory or otherwise, on account of any
- 31 disease.
- 32 (d) This chapter does not apply to:
- 33 (1) casual laborers as defined in subsection (b); ~~nor to~~
- 34 (2) farm or agricultural employees; ~~nor to~~
- 35 (3) household employees; ~~nor to~~
- 36 (4) railroad employees engaged in train service as engineers,
- 37 firemen, conductors, brakemen, flagmen, baggagemen, or
- 38 foremen in charge of yard engines and helpers assigned thereto;
- 39 ~~nor to their~~
- 40 (5) **an individual who is exempt under section 34.2 of this**
- 41 **chapter from compliance with this chapter; or**
- 42 (6) employers ~~with respect to these~~ of employees listed in



1 **subdivisions (1) through (5).**

2 Also, this chapter does not apply to employees or their employers with
3 respect to employments in which the laws of the United States provide
4 for compensation or liability for injury to the health, disability, or death
5 by reason of diseases suffered by these employees.

6 (e) As used in this chapter, "disablement" means the event of
7 becoming disabled from earning full wages at the work in which the
8 employee was engaged when last exposed to the hazards of the
9 occupational disease by the employer from whom the employee claims
10 compensation or equal wages in other suitable employment, and
11 "disability" means the state of being so incapacitated.

12 (f) For the purposes of this chapter, no compensation shall be
13 payable for or on account of any occupational diseases unless
14 disablement, as defined in subsection (e), occurs within two (2) years
15 after the last day of the last exposure to the hazards of the disease
16 except for the following:

17 (1) In all cases of occupational diseases caused by the inhalation
18 of silica dust or coal dust, no compensation shall be payable
19 unless disablement, as defined in subsection (e), occurs within
20 three (3) years after the last day of the last exposure to the hazards
21 of the disease.

22 (2) In all cases of occupational disease caused by the exposure to
23 radiation, no compensation shall be payable unless disablement,
24 as defined in subsection (e), occurs within two (2) years from the
25 date on which the employee had knowledge of the nature of the
26 employee's occupational disease or, by exercise of reasonable
27 diligence, should have known of the existence of such disease and
28 its causal relationship to the employee's employment.

29 (3) In all cases of occupational diseases caused by the inhalation
30 of asbestos dust, no compensation shall be payable unless
31 disablement, as defined in subsection (e), occurs within three (3)
32 years after the last day of the last exposure to the hazards of the
33 disease if the last day of the last exposure was before July 1, 1985.

34 (4) In all cases of occupational disease caused by the inhalation
35 of asbestos dust in which the last date of the last exposure occurs
36 on or after July 1, 1985, and before July 1, 1988, no compensation
37 shall be payable unless disablement, as defined in subsection (e),
38 occurs within twenty (20) years after the last day of the last
39 exposure.

40 (5) In all cases of occupational disease caused by the inhalation
41 of asbestos dust in which the last date of the last exposure occurs
42 on or after July 1, 1988, no compensation shall be payable unless



- 1 disablement (as defined in subsection (e)) occurs within
2 thirty-five (35) years after the last day of the last exposure.
- 3 (g) For the purposes of this chapter, no compensation shall be
4 payable for or on account of death resulting from any occupational
5 disease unless death occurs within two (2) years after the date of
6 disablement. However, this subsection does not bar compensation for
7 death:
- 8 (1) where death occurs during the pendency of a claim filed by an
9 employee within two (2) years after the date of disablement and
10 which claim has not resulted in a decision or has resulted in a
11 decision which is in process of review or appeal; or
- 12 (2) where, by agreement filed or decision rendered, a
13 compensable period of disability has been fixed and death occurs
14 within two (2) years after the end of such fixed period, but in no
15 event later than three hundred (300) weeks after the date of
16 disablement.
- 17 (h) As used in this chapter, "billing review service" refers to a
18 person or an entity that reviews a medical service provider's bills or
19 statements for the purpose of determining pecuniary liability. The term
20 includes an employer's worker's compensation insurance carrier if the
21 insurance carrier performs such a review.
- 22 (i) As used in this chapter, "billing review standard" means the data
23 used by a billing review service to determine pecuniary liability.
- 24 (j) As used in this chapter, "community" means a geographic service
25 area based on ZIP code districts defined by the United States Postal
26 Service according to the following groupings:
- 27 (1) The geographic service area served by ZIP codes with the first
28 three (3) digits 463 and 464.
- 29 (2) The geographic service area served by ZIP codes with the first
30 three (3) digits 465 and 466.
- 31 (3) The geographic service area served by ZIP codes with the first
32 three (3) digits 467 and 468.
- 33 (4) The geographic service area served by ZIP codes with the first
34 three (3) digits 469 and 479.
- 35 (5) The geographic service area served by ZIP codes with the first
36 three (3) digits 460, 461 (except 46107), and 473.
- 37 (6) The geographic service area served by the 46107 ZIP code and
38 ZIP codes with the first three (3) digits 462.
- 39 (7) The geographic service area served by ZIP codes with the first
40 three (3) digits 470, 471, 472, 474, and 478.
- 41 (8) The geographic service area served by ZIP codes with the first
42 three (3) digits 475, 476, and 477.



1 (k) As used in this chapter, "medical service provider" refers to a
 2 person or an entity that provides services or products to an employee
 3 under this chapter. Except as otherwise provided in this chapter, the
 4 term includes a medical service facility.

5 (l) As used in this chapter, "medical service facility" means any of
 6 the following that provides a service or product under this chapter and
 7 uses the CMS 1450 (UB-04) form or the CMS 1500 (HCFA-1500)
 8 form for Medicare reimbursement:

9 (1) An ambulatory outpatient surgical center (as defined in
 10 IC 16-18-2-14).

11 (2) A hospital (as defined in IC 16-18-2-179).

12 (3) A hospital based health facility (as defined in
 13 IC 16-18-2-180).

14 (4) A medical center (as defined in IC 16-18-2-223.4).

15 (m) As used in this chapter, "pecuniary liability" means the
 16 responsibility of an employer or the employer's insurance carrier for the
 17 payment of the charges for each specific service or product for human
 18 medical treatment provided under this chapter as follows:

19 (1) This subdivision applies before July 1, 2014, to all medical
 20 service providers, and after June 30, 2014, to a medical service
 21 provider that is not a medical service facility. Payment of the
 22 charges in a defined community, equal to or less than the charges
 23 made by medical service providers at the eightieth percentile in
 24 the same community for like services or products.

25 (2) Payment of the charges in a reasonable amount, which is
 26 established by payment of one (1) of the following:

27 (A) The amount negotiated at any time between the medical
 28 service facility and any of the following, if an amount has been
 29 negotiated:

30 (i) The employer.

31 (ii) The employer's insurance carrier.

32 (iii) A billing review service on behalf of a person described
 33 in item (i) or (ii).

34 (iv) A direct provider network that has contracted with a
 35 person described in item (i) or (ii).

36 (B) Two hundred percent (200%) of the amount that would be
 37 paid to the medical service facility on the same date for the
 38 same service or product under the medical service facility's
 39 Medicare reimbursement rate, if, after conducting the
 40 negotiations described in clause (A), an agreement has not
 41 been reached.

42 (n) "Service or product" or "services and products" refers to



1 medical, hospital, surgical, or nursing service, treatment, and supplies
2 provided under this chapter.

3 SECTION 5. IC 22-3-7-34.2 IS ADDED TO THE INDIANA CODE
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2024]: **Sec. 34.2. (a) An individual may file with the worker's
6 compensation board, in a form prescribed by the board, an
7 application for a certificate of exemption from compliance with
8 this chapter.**

9 **(b) An application filed under this section must include the
10 following information:**

11 **(1) The individual's name, address, date of birth, and Social
12 Security number.**

13 **(2) The name of the religious sect or division of a religious sect
14 to which the individual belongs.**

15 **(3) A verified affidavit signed by the individual stating that:**

16 **(A) the individual is a member of the sect or division
17 described in subdivision (2);**

18 **(B) the individual adheres to the sect's or division's
19 established tenets or teachings that conscientiously oppose
20 the acceptance of public or private insurance benefits as
21 the result of injury, disability, or death, or for medical care
22 for injuries or illnesses, including the benefits from any
23 insurance system established by the federal Social Security
24 Act (42 U.S.C. 301 et seq.);**

25 **(C) members of the sect or division have a method for
26 sharing the costs of work related medical expenses and loss
27 of income; and**

28 **(D) the individual knowingly and voluntarily waives the
29 individual's rights to all benefits available to the individual
30 under this chapter.**

31 **(4) A statement by a leader of the religious sect or division of
32 the religious sect described in subdivision (2) that the
33 individual is a member of the sect or division.**

34 **(c) A copy of an approved Internal Revenue Service Form 4029,
35 Application for Exemption from Social Security and Medicare
36 Taxes and Waiver of Benefits, or a successor form, for the
37 individual must be filed with an application filed under this section.**

38 **(d) The board shall issue a certificate of exemption not later
39 than forty-five (45) days after the board receives a completed
40 application and the form described in subsection (c).**

41 **(e) A certificate of exemption issued under this section is
42 effective on the date the certificate is issued and remains in effect**



1 until the date provided in subsection (f)(3).

2 (f) If information contained in an affidavit described in
3 subsection (b)(3) is no longer true, the following apply:

4 (1) Not later than seven (7) days after the date on which the
5 change occurs, the individual shall notify the individual's
6 employer in writing of the change.

7 (2) Not later than thirty (30) days after the date on which the
8 employer receives the notice described in subdivision (1), the
9 individual and the individual's employer shall each notify the
10 board in writing of the change.

11 (3) Beginning on the date the individual and the individual's
12 employer send to the board the notice described in subdivision
13 (2), the individual and the individual's employer shall each
14 comply with this chapter.

15 (g) The board shall maintain a data base consisting of the
16 certificates issued under this section and on request verify that a
17 certificate is on file.

18 (h) An employer of an individual holding an effective certificate
19 of compliance is immune from civil liability in an action brought by
20 the individual if the claim is based on disablement or death by
21 occupational disease arising out of and in the course of the
22 employment. This subsection does not apply if the conduct
23 constitutes gross negligence or intentional, wanton, or willful
24 misconduct.

25 SECTION 6. IC 34-30-2.1-296.5 IS ADDED TO THE INDIANA
26 CODE AS A NEW SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2024]: **Sec. 296.5. IC 22-3-5-1.5 (Concerning**
28 **employers of individuals who hold an effective certificate of**
29 **exemption).**

30 SECTION 7. IC 34-30-2.1-296.7 IS ADDED TO THE INDIANA
31 CODE AS A NEW SECTION TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2024]: **Sec. 296.7. IC 22-3-7-34.2 (Concerning**
33 **employers of individuals who hold an effective certificate of**
34 **exemption).**



COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 264, 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 3, between lines 35 and 36, begin a new paragraph and insert:

"(h) An employer of an individual holding an effective certificate of compliance is immune from civil liability in an action brought by the individual if the claim is based on personal injury or death by accident arising out of and in the course of the employment. This subsection does not apply if the conduct constitutes gross negligence or intentional, wanton, or willful misconduct."

Page 19, after line 11, begin a new paragraph and insert:

"(h) An employer of an individual holding an effective certificate of compliance is immune from civil liability in an action brought by the individual if the claim is based on disablement or death by occupational disease arising out of and in the course of the employment. This subsection does not apply if the conduct constitutes gross negligence or intentional, wanton, or willful misconduct."

SECTION 6. IC 34-30-2.1-296.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 296.5. IC 22-3-5-1.5 (Concerning employers of individuals who hold an effective certificate of exemption).**

SECTION 7. IC 34-30-2.1-296.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 296.7. IC 22-3-7-34.2 (Concerning employers of individuals who hold an effective certificate of exemption)."**

and when so amended that said bill do pass.

(Reference is to SB 264 as introduced.)

ROGERS, Chairperson

Committee Vote: Yeas 10, Nays 0.

SB 264—LS 6545/DI 153

