



January 29, 2020

SENATE BILL No. 309

DIGEST OF SB 309 (Updated January 28, 2020 3:33 pm - DI 125)

Citations Affected: IC 6-8.1; IC 22-1; IC 22-3; IC 22-4.

Synopsis: Employee misclassification. Requires the department of state revenue, the state department of labor, the worker's compensation board of Indiana, and the department of workforce development to report before November 1 of each year for three years, beginning November 1, 2020, to the interim study committee on employment and labor for the immediately preceding state fiscal year: (1) the number of employers that each department or the board determined during the immediately preceding state fiscal year improperly classified at least one worker as an independent contractor; (2) the total number of improperly classified workers employed by those employers; (3) the department's or board's calculation of actual revenue not collected or the additional costs to the state that the department or board attributes to the improperly classified workers; (4) the amount of the penalties and interest assessed against those employers by each department or the board, and the amount of the penalties and interest assessed that has been collected; and (5) the classification criteria used by the department to classify workers. Requires that the reports include only information in the form of aggregate statistics and not include information that can be used to identify specific employers or workers.

Effective: July 1, 2020.

Niezgodski

January 13, 2020, read first time and referred to Committee on Tax and Fiscal Policy.
January 28, 2020, amended, reported favorably — Do Pass.

SB 309—LS 6660/DI 128



January 29, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 309

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 6-8.1-3-21.3 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2020]: **Sec. 21.3. (a) The department shall**
4 **report before November 1 of each year to the interim study**
5 **committee on employment and labor (established by IC 2-5-1.3-4)**
6 **for the immediately preceding state fiscal year:**

7 **(1) the number of employers that the department determined**
8 **during the immediately preceding state fiscal year improperly**
9 **classified at least one (1) worker as an independent**
10 **contractor;**

11 **(2) the total number of improperly classified workers**
12 **employed by the employers described in subdivision (1);**

13 **(3) based on the findings reported under subdivision (2), a**
14 **calculation of actual revenue not collected by the state that the**
15 **department attributes to the improperly classified workers;**

16 **(4) the amount of the penalties and interest assessed against**
17 **the employers described in subdivision (1) by the department,**

SB 309—LS 6660/DI 128



1 and the amount of the penalties and interest assessed that has
2 been collected; and

3 (5) the classification criteria used by the department to
4 classify workers.

5 (b) The information required by subsection (a)(1) through (a)(4)
6 must be in the form of aggregate statistics. The report must not
7 include information that can be used to identify specific employers
8 or workers.

9 (c) This section expires December 31, 2022.

10 SECTION 2. IC 22-1-1-23 IS ADDED TO THE INDIANA CODE
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 2020]: Sec. 23. (a) The department of labor shall report before
13 November 1 of each year to the interim study committee on
14 employment and labor (established by IC 2-5-1.3-4) for the
15 immediately preceding state fiscal year:

16 (1) the number of employers that the department of labor
17 determined during the immediately preceding state fiscal year
18 improperly classified at least one (1) worker as an
19 independent contractor;

20 (2) the total number of improperly classified workers
21 employed by the employers described in subdivision (1);

22 (3) based on the findings reported under subdivision (2), a
23 calculation of actual revenue not collected by the state that the
24 department of labor attributes to the improperly classified
25 workers;

26 (4) the amount of the penalties and interest assessed against
27 the employers described in subdivision (1) by the department
28 of labor, and the amount of the penalties and interest assessed
29 that has been collected; and

30 (5) the classification criteria used by the department of labor
31 to classify workers.

32 (b) The information required by subsection (a)(1) through (a)(4)
33 must be in the form of aggregate statistics. The report must not
34 include information that can be used to identify specific employers
35 or workers.

36 (c) This section expires December 31, 2022.

37 SECTION 3. IC 22-3-1-6 IS ADDED TO THE INDIANA CODE
38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
39 1, 2020]: Sec. 6. (a) The worker's compensation board shall report
40 before November 1 of each year to the interim study committee on
41 employment and labor (established by IC 2-5-1.3-4) for the
42 immediately preceding state fiscal year:



(1) the number of employers that the worker's compensation board determined during the immediately preceding state fiscal year improperly classified at least one (1) worker as an independent contractor;

(2) the total number of improperly classified workers employed by the employers described in subdivision (1);

(3) based on the findings reported under subdivision (2), a calculation of actual additional costs to the state that the worker's compensation board attributes to the improperly classified workers;

(4) the amount of the penalties and interest assessed against the employers described in subdivision (1) by the worker's compensation board, and the amount of the penalties and interest assessed that has been collected; and

(5) the classification criteria used by the worker's compensation board to classify workers.

(b) The information required by subsection (a)(1) through (a)(4) must be in the form of aggregate statistics. The report must not include information that can be used to identify specific employers or workers.

(c) This section expires December 31, 2022.

SECTION 4. IC 22-4-19-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 16. (a) The department shall report before November 1 of each year to the interim study committee on employment and labor (established by IC 2-5-1.3-4) for the immediately preceding state fiscal year:

(1) the number of employers that the department determined during the immediately preceding state fiscal year improperly classified at least one (1) worker as an independent contractor;

(2) the total number of improperly classified workers employed by the employers described in subdivision (1);

(3) based on the findings reported under subdivision (2), a calculation of actual additional costs to the state that the department attributes to the improperly classified workers;

(4) the amount of the penalties and interest assessed against the employers described in subdivision (1) by the department, and the amount of the penalties and interest assessed that has been collected; and

(5) the classification criteria used by the department to classify workers.



- 1 **(b) The information required by subsection (a)(1) through (a)(4)**
2 **must be in the form of aggregate statistics. The report must not**
3 **include information that can be used to identify specific employers**
4 **or workers.**
5 **(c) This section expires December 31, 2022.**



COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 309, 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 1, delete lines 1 through 17.

Page 2, delete lines 1 through 9.

Page 2, delete lines 22 through 28, begin a new line block indented and insert:

"(3) based on the findings reported under subdivision (2), a calculation of actual revenue not collected by the state that the department attributes to the improperly classified workers; (4) the amount of the penalties and interest assessed against the employers described in subdivision (1) by the department, and the amount of the penalties and interest assessed that has been collected; and (5) the classification criteria used by the department to classify workers."

Page 2, line 29, delete "(a)(5)" and insert "(a)(4)".

Page 2, line 39, delete "year the number of tips received" and insert "year:

(1) the number of employers that the department of labor determined during the immediately preceding state fiscal year improperly classified at least one (1) worker as an independent contractor;
(2) the total number of improperly classified workers employed by the employers described in subdivision (1);
(3) based on the findings reported under subdivision (2), a calculation of actual revenue not collected by the state that the department of labor attributes to the improperly classified workers;
(4) the amount of the penalties and interest assessed against the employers described in subdivision (1) by the department of labor, and the amount of the penalties and interest assessed that has been collected; and
(5) the classification criteria used by the department of labor to classify workers."

Page 2, delete line 40.

Page 2, line 41, delete "(a)" and insert "(a)(1) through (a)(4)".

Page 3, delete lines 4 through 29.

Page 3, delete lines 36 through 42, begin a new line block indented and insert:

SB 309—LS 6660/DI 128



"(1) the number of employers that the worker's compensation board determined during the immediately preceding state fiscal year improperly classified at least one (1) worker as an independent contractor;
(2) the total number of improperly classified workers employed by the employers described in subdivision (1);
(3) based on the findings reported under subdivision (2), a calculation of actual additional costs to the state that the worker's compensation board attributes to the improperly classified workers;
(4) the amount of the penalties and interest assessed against the employers described in subdivision (1) by the worker's compensation board, and the amount of the penalties and interest assessed that has been collected; and
(5) the classification criteria used by the worker's compensation board to classify workers."

Page 4, delete lines 1 through 4.

Page 4, delete lines 10 through 39.

Page 5, delete lines 10 through 16, begin a new line block indented and insert:

"(3) based on the findings reported under subdivision (2), a calculation of actual additional costs to the state that the department attributes to the improperly classified workers;
(4) the amount of the penalties and interest assessed against the employers described in subdivision (1) by the department, and the amount of the penalties and interest assessed that has been collected; and
(5) the classification criteria used by the department to classify workers."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 309 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 10, Nays 2.

