

SENATE BILL No. 342

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-6-6-39; IC 3-11.5-4-23; IC 9-24-2; IC 20-23-18-3; IC 20-24-8-5; IC 20-33; IC 20-37-2-8; IC 22-1-1-5; IC 22-3; IC 22-10-3-1.

Synopsis: Employment of minors. Eliminates limitations on the employment of students. Makes conforming amendments.

Effective: July 1, 2019.

Perfect

January 8, 2019, read first time and referred to Committee on Pensions and Labor.



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.

SENATE BILL No. 342

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 3-6-6-39, AS AMENDED BY P.L.76-2014,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 39. (a) The county election board by unanimous
4 vote of the entire membership of the board may permit an individual
5 who is not a voter to serve as any precinct election officer (other than
6 inspector), or to assist a precinct election officer, if the individual
7 satisfies all the following:

- 8 (1) The individual is at least sixteen (16) years of age but not
- 9 eighteen (18) years of age or older.
- 10 (2) The individual is a citizen of the United States.
- 11 (3) The individual is a resident of the county.
- 12 (4) The individual has a cumulative grade point average
- 13 equivalent to not less than 3.0 on a 4.0 scale.
- 14 (5) The individual has the written approval of the principal of the
- 15 school the individual attends at the time of the appointment or, if
- 16 the student is educated in the home, the approval of the individual
- 17 responsible for the education of the student.



1 (6) The individual has the approval of the individual's parent or
2 legal guardian.

3 (7) The individual has satisfactorily completed any training
4 required by the county election board.

5 (8) The individual otherwise is eligible to serve as a precinct
6 election officer under this chapter but is not required to be a
7 registered voter of the county.

8 ~~(b) An individual appointed to a precinct election office or assistant~~
9 ~~under this section, while serving as a precinct election officer or~~
10 ~~assistant:~~

11 ~~(1) is not required to obtain an employment certificate under~~
12 ~~IC 20-33-3; and~~

13 ~~(2) is not subject to the limitations on time and duration of~~
14 ~~employment under IC 20-33-3.~~

15 SECTION 2. IC 3-11.5-4-23, AS AMENDED BY P.L.201-2017,
16 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2019]: Sec. 23. (a) Not later than noon fifty (50) days before
18 election day, each county election board shall notify the county
19 chairmen of the two (2) political parties that have appointed members
20 on the county election board of the number of:

21 (1) absentee voter boards;

22 (2) teams of absentee ballot counters; and

23 (3) teams of couriers;

24 to be appointed under section 22 of this chapter.

25 (b) The county chairmen shall make written recommendations for
26 the appointments to the county election board not later than forty-six
27 (46) days before election day. The county election board shall make the
28 appointments as recommended.

29 (c) If a county chairman fails to make any recommendations, then
30 the county election board may appoint any voters of the county who
31 comply with section 22 of this chapter.

32 (d) The county election board may permit an individual who is not
33 a voter to serve as an absentee ballot counter or courier if the
34 individual:

35 (1) satisfies the requirements under IC 3-6-6-39; and

36 (2) is approved by the unanimous vote of the entire membership
37 of the county election board.

38 ~~(e) An individual appointed to serve as an absentee ballot counter~~
39 ~~or courier under subsection (d), while serving as an absentee ballot~~
40 ~~counter or courier:~~

41 ~~(1) is not required to obtain an employment certificate under~~
42 ~~IC 20-33-3; and~~



1 (2) is not subject to the limitations on time and duration of
2 employment under IC 20-33-3.

3 SECTION 3. IC 9-24-2-1, AS AMENDED BY P.L.125-2012,
4 SECTION 166, IS AMENDED TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2019]: Sec. 1. ~~(a)~~ The bureau shall suspend the
6 driving privileges or invalidate the learner's permit of an individual less
7 than eighteen (18) years of age who meets any of the following
8 conditions:

- 9 (1) Is a habitual truant under IC 20-33-2-11.
10 (2) Is under at least a second suspension from school for the
11 school year under IC 20-33-8-14 or IC 20-33-8-15.
12 (3) Is under an expulsion from school under IC 20-33-8-14,
13 IC 20-33-8-15, or IC 20-33-8-16.
14 ~~(4) Is considered a dropout under IC 20-33-2-28.5.~~

15 ~~(b) At least five (5) days before holding an exit interview under~~
16 ~~IC 20-33-2-28.5, the school corporation shall give notice by certified~~
17 ~~mail or personal delivery to the student, the student's parent, or the~~
18 ~~student's guardian that the student's failure to attend an exit interview~~
19 ~~under IC 20-33-2-28.5 or return to school if the student does not meet~~
20 ~~the requirements to withdraw from school under IC 20-33-2-28.5 will~~
21 ~~result in the revocation or denial of the student's:~~

- 22 ~~(1) driver's license or learner's permit; and~~
23 ~~(2) employment certificate.~~

24 SECTION 4. IC 9-24-2-4, AS AMENDED BY P.L.198-2016,
25 SECTION 426, IS AMENDED TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) If an individual is less than
27 eighteen (18) years of age and is a habitual truant, ~~or~~ is under a
28 suspension or an expulsion, ~~or has withdrawn from school as described~~
29 ~~in section 4 of this chapter,~~ the bureau shall, upon notification by an
30 authorized representative of the individual's school corporation,
31 suspend the individual's driving privileges until the earliest of the
32 following:

- 33 (1) The individual becomes eighteen (18) years of age.
34 (2) One hundred twenty (120) days after the individual is
35 suspended.
36 (3) The suspension, expulsion, or exclusion is reversed after the
37 individual has had a hearing under IC 20-33-8.

38 (b) The bureau shall promptly mail a notice to the individual's last
39 known address that states the following:

- 40 (1) That the individual's driving privileges will be suspended for
41 a specified period commencing five (5) days after the date of the
42 notice.



- 1 (2) That the individual has the right to appeal the suspension of
 2 the driving privileges.
- 3 (c) If an aggrieved individual believes that:
 4 (1) the information provided was technically incorrect; or
 5 (2) the bureau committed a technical or procedural error;
 6 the aggrieved individual may appeal the invalidation of a driver's
 7 license under section 5 of this chapter.
- 8 (d) If an individual satisfies the conditions for reinstatement of a
 9 driver's license under this section, the individual may submit to the
 10 bureau for review the necessary information certifying that at least one
 11 (1) of the events described in subsection (a) has occurred.
- 12 (e) Upon reviewing and certifying the information received under
 13 subsection (d), the bureau shall reinstate the individual's driving
 14 privileges.
- 15 (f) An individual may not operate a motor vehicle in violation of this
 16 section.
- 17 (g) An individual whose driving privileges are suspended under this
 18 section is eligible to apply for specialized driving privileges under
 19 IC 9-30-16.
- 20 (h) The bureau shall reinstate the driving privileges of an individual
 21 whose driving privileges were suspended under this section if the
 22 individual does the following:
 23 (1) Establishes to the satisfaction of the principal of the school
 24 where the action occurred that caused the suspension of the
 25 driving privileges that the individual has:
 26 (A) enrolled in a full-time or part-time program of education;
 27 and
 28 (B) participated for thirty (30) or more days in the program of
 29 education.
- 30 (2) Submits to the bureau a form developed by the bureau that
 31 contains:
 32 (A) the verified signature of the principal or the president of
 33 the governing body of the school described in subdivision (1);
 34 and
 35 (B) notification to the bureau that the person has complied
 36 with subdivision (1).
- 37 An individual may appeal the decision of a principal under subdivision
 38 (1) to the governing body of the school corporation where the
 39 principal's school is located.
- 40 SECTION 5. IC 20-23-18-3, AS ADDED BY P.L.213-2018(ss),
 41 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2019]: Sec. 3. (a) Except as provided in subsection (c), the



1 Muncie Community school corporation is subject to all applicable
2 federal and state laws.

3 (b) If a provision of this chapter conflicts with any other law,
4 including IC 20-23-4, the provision in this chapter controls.

5 (c) Notwithstanding subsection (a), to provide all administrative and
6 academic flexibility to implement innovative strategies, the Muncie
7 Community school corporation is subject only to the following IC 20
8 provisions:

9 (1) IC 20-26-5-10 (criminal history).

10 (2) IC 20-28-5-8 (conviction of certain felonies; notice and
11 hearing; permanent revocation of license; data base of school
12 employees who have been reported).

13 (3) IC 20-28-10-17 (school counselor immunity).

14 (4) IC 20-29 (collective bargaining) to the extent required by
15 subsection (e).

16 (5) IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative
17 observances).

18 (6) The following:

19 (A) IC 20-30-5-0.5 (display of the United States flag; Pledge
20 of Allegiance).

21 (B) IC 20-30-5-1, IC 20-30-5-2, and IC 20-30-5-3 (the
22 constitutions of Indiana and the United States; writings,
23 documents, and records of American history or heritage).

24 (C) IC 20-30-5-4 (system of government; American history).

25 (D) IC 20-30-5-5 (morals instruction).

26 (E) IC 20-30-5-6 (good citizenship instruction).

27 (7) IC 20-32-4, concerning graduation requirements.

28 (8) IC 20-32-5.1, concerning the Indiana's Learning Evaluation
29 Assessment Readiness Network (ILEARN) program.

30 (9) IC 20-32-8.5 (IRead3).

31 (10) IC 20-33-2 (compulsory school attendance).

32 ~~(11) IC 20-33-3 (limitations on employment of students).~~

33 ~~(12)~~ **(11)** IC 20-33-8-16 (firearms and deadly weapons).

34 ~~(13)~~ **(12)** IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22
35 (student due process and judicial review).

36 ~~(14)~~ **(13)** IC 20-33-7 (parental access to education records).

37 ~~(15)~~ **(14)** IC 20-33-9 (reporting of student violations of law).

38 ~~(16)~~ **(15)** IC 20-34-3 (health and safety measures).

39 ~~(17)~~ **(16)** IC 20-35, concerning special education.

40 ~~(18)~~ **(17)** IC 20-39 (accounting and financial reporting
41 procedures).

42 ~~(19)~~ **(18)** IC 20-40 (government funds and accounts).



- 1 ~~(20)~~ **(19)** IC 20-41 (extracurricular funds and accounts).
 2 ~~(21)~~ **(20)** IC 20-42 (fiduciary funds and accounts).
 3 ~~(22)~~ **(21)** IC 20-42.5 (allocation of expenditures to student
 4 instruction and learning).
 5 ~~(23)~~ **(22)** IC 20-43 (state tuition support).
 6 ~~(24)~~ **(23)** IC 20-44 (property tax levies).
 7 ~~(25)~~ **(24)** IC 20-46 (levies other than general fund levies).
 8 ~~(26)~~ **(25)** IC 20-47 (related entities; holding companies; lease
 9 agreements).
 10 ~~(27)~~ **(26)** IC 20-48 (borrowing and bonds).
 11 ~~(28)~~ **(27)** IC 20-49 (state management of common school funds;
 12 state advances and loans).
 13 ~~(29)~~ **(28)** IC 20-50 (concerning homeless children and foster care
 14 children).

15 (d) The Muncie Community school corporation is subject to
 16 required audits by the state board of accounts under IC 5-11-1-9.

17 (e) Except to the extent required under a collective bargaining
 18 agreement entered into before July 1, 2018, the Muncie Community
 19 school corporation is not subject to IC 20-29 unless the school
 20 corporation voluntarily recognizes an exclusive representative under
 21 IC 20-29-5-2. If the school corporation voluntarily recognizes an
 22 exclusive representative under IC 20-29-5-2, the school corporation
 23 may authorize a school within the corporation to opt out of bargaining
 24 allowable subjects or discussing discussion items by specifying the
 25 excluded items on the notice required under IC 20-29-5-2(b). The
 26 notice must be provided to the education employment relations board
 27 at the time the notice is posted.

28 SECTION 6. IC 20-24-8-5, AS AMENDED BY P.L.242-2017,
 29 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2019]: Sec. 5. The following statutes and rules and guidelines
 31 adopted under the following statutes apply to a charter school:

- 32 (1) IC 5-11-1-9 (required audits by the state board of accounts).
 33 (2) IC 20-39-1-1 (unified accounting system).
 34 (3) IC 20-35 (special education).
 35 (4) IC 20-26-5-10 (criminal history).
 36 (5) IC 20-26-5-6 (subject to laws requiring regulation by state
 37 agencies).
 38 (6) IC 20-28-10-12 (nondiscrimination for teacher marital status).
 39 (7) IC 20-28-10-14 (teacher freedom of association).
 40 (8) IC 20-28-10-17 (school counselor immunity).
 41 (9) For conversion charter schools only if the conversion charter
 42 school elects to collectively bargain under IC 20-24-6-3(b),



- 1 IC 20-28-6, IC 20-28-7.5, IC 20-28-8, IC 20-28-9, and
 2 IC 20-28-10.
 3 (10) IC 20-33-2 (compulsory school attendance).
 4 ~~(11) IC 20-33-3 (limitations on employment of children).~~
 5 ~~(12)~~ **(11)** IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22
 6 (student due process and judicial review).
 7 ~~(13)~~ **(12)** IC 20-33-8-16 (firearms and deadly weapons).
 8 ~~(14)~~ **(13)** IC 20-34-3 (health and safety measures).
 9 ~~(15)~~ **(14)** IC 20-33-9 (reporting of student violations of law).
 10 ~~(16)~~ **(15)** IC 20-30-3-2 and IC 20-30-3-4 (patriotic
 11 commemorative observances).
 12 ~~(17)~~ **(16)** IC 20-31-3, IC 20-32-4, IC 20-32-5 (for a school year
 13 ending before July 1, 2018), IC 20-32-5.1 (for a school year
 14 beginning after June 30, 2018), IC 20-32-8, and IC 20-32-8.5, as
 15 provided in IC 20-32-8.5-2(b) (academic standards, accreditation,
 16 assessment, and remediation).
 17 ~~(18)~~ **(17)** IC 20-33-7 (parental access to education records).
 18 ~~(19)~~ **(18)** IC 20-31 (accountability for school performance and
 19 improvement).
 20 ~~(20)~~ **(19)** IC 20-30-5-19 (personal financial responsibility
 21 instruction).
 22 ~~(21)~~ **(20)** IC 20-26-5-37.3, before its expiration (career and
 23 technical education reporting).
 24 SECTION 7. IC 20-33-2-28.5, AS AMENDED BY P.L.185-2006,
 25 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2019]: Sec. 28.5. (a) This section applies to an individual:
 27 (1) who:
 28 (A) attends or last attended a public school;
 29 (B) is at least sixteen (16) years of age but less than eighteen
 30 (18) years of age; and
 31 (C) has not completed the requirements for graduation;
 32 (2) who:
 33 (A) wishes to withdraw from school before graduation;
 34 (B) fails to return at the beginning of a semester; or
 35 (C) stops attending school during a semester; and
 36 (3) who has no record of transfer to another school.
 37 (b) An individual to whom this section applies may withdraw from
 38 school only if all of the following conditions are met:
 39 (1) An exit interview is conducted.
 40 (2) The individual's parent consents to the withdrawal.
 41 (3) The school principal approves of the withdrawal.
 42 (4) The withdrawal is due to:



- 1 (A) financial hardship and the individual must be employed to
2 support the individual's family or a dependent;
3 (B) illness; or
4 (C) an order by a court that has jurisdiction over the child.
- 5 During the exit interview, the school principal shall provide to the
6 student and the student's parent a copy of statistics compiled by the
7 department concerning the likely consequences of life without a high
8 school diploma. ~~The school principal shall advise the student and the~~
9 ~~student's parent that the student's withdrawal from school may prevent~~
10 ~~the student from receiving or result in the revocation of the student's~~
11 ~~employment certificate and driver's license or learner's permit.~~
- 12 (c) For purposes of this section, the following must be in written
13 form:
- 14 (1) An individual's request to withdraw from school.
15 (2) A parent's consent to a withdrawal.
16 (3) A principal's consent to a withdrawal.
- 17 (d) If the individual's principal does not consent to the individual's
18 withdrawal under this section, the individual's parent may appeal the
19 denial of consent to the governing body of the public school that the
20 individual last attended.
- 21 (e) Each public school, including each school corporation and each
22 charter school (as defined in IC 20-24-1-4), shall provide an annual
23 report to the department setting forth the following information:
- 24 (1) The total number of individuals:
25 (A) who withdrew from school under this section; and
26 (B) who either:
27 (i) failed to return to school at the beginning of a semester;
28 or
29 (ii) stopped attending school during a semester;
30 and for whom there is no record of transfer to another school.
31 (2) The number of individuals who withdrew from school
32 following an exit interview.
- 33 (f) ~~If an individual to which this section applies:~~
34 ~~(1) has not received consent to withdraw from school under this~~
35 ~~section; and~~
36 ~~(2) fails to return to school at the beginning of a semester or~~
37 ~~during the semester;~~
38 ~~the principal of the school that the individual last attended shall deliver~~
39 ~~by certified mail or personal delivery to the bureau of child labor a~~
40 ~~record of the individual's failure to return to school so that the bureau~~
41 ~~of child labor revokes any employment certificates issued to the~~
42 ~~individual and does not issue any additional employment certificates~~



1 to the individual. For purposes of IC 20-33-3-13, the individual shall
2 be considered a dropout.

3 (g) At the same time that a school principal delivers the record
4 under subsection (f), the principal shall deliver by certified mail or
5 personal delivery to the bureau of motor vehicles a record of the
6 individual's failure to return to school so that the bureau of motor
7 vehicles revokes any driver's license or learner's permit issued to the
8 individual and does not issue any additional driver's licenses or
9 learner's permits to the individual before the individual is at least
10 eighteen (18) years of age. For purposes of IC 9-24-2-1, the individual
11 shall be considered a dropout.

12 (h) If:

13 (1) a principal has delivered the record required under subsection
14 (f) or (g); or both; and

15 (2) the school subsequently gives consent to the individual to
16 withdraw from school under this section;

17 the principal of the school shall send a notice of withdrawal to the
18 bureau of child labor and the bureau of motor vehicles by certified mail
19 or personal delivery and; for purposes of IC 20-33-3-13 and
20 IC 9-24-2-1, the individual shall no longer be considered a dropout.

21 SECTION 8. IC 20-33-2-28.6, AS ADDED BY P.L.268-2013,
22 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2019]: Sec. 28.6. (a) This section applies to a high school
24 student who is transferring to a nonaccredited nonpublic school.

25 (b) Before a student withdraws from a public school, the principal
26 of the student's school shall provide to the student and to the student's
27 parent information on a form developed by the department and
28 approved by the state board that explains the legal requirements of
29 attending a nonaccredited nonpublic school located in Indiana. The
30 principal and a parent of the student shall both sign the form to
31 acknowledge that the parent understands the content of the form.

32 (c) If the parent of the student refuses to sign the form provided by
33 the principal under subsection (b), the student is considered a dropout.
34 and the principal shall report the student to the bureau of motor
35 vehicles for action under section 28.5(g) of this chapter. The student is
36 considered a dropout for purposes of calculating a high school's
37 graduation rate under IC 20-26-13-10.

38 SECTION 9. IC 20-33-3 IS REPEALED [EFFECTIVE JULY 1,
39 2019]. (Limitations on the Employment of Students).

40 SECTION 10. IC 20-33-8-33, AS AMENDED BY P.L.233-2015,
41 SECTION 264, IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2019]: Sec. 33. Before February 1 and before



1 October 1 of each year, ~~except when a hearing has been requested to~~
 2 ~~determine financial hardship under IC 9-24-2-1(a)(4)~~; a principal may
 3 submit to the bureau of motor vehicles the pertinent information
 4 concerning an individual's ineligibility under IC 9-24-2-1 to be issued
 5 a driver's license or learner's permit, or concerning the suspension of
 6 driving privileges under IC 9-24-2-4.

7 SECTION 11. IC 20-37-2-8, AS AMENDED BY P.L.234-2007,
 8 SECTION 129, IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) A student in career and
 10 technical education and employed under section 7 of this chapter:

- 11 (1) is entitled to the rights of recovery of a worker of at least
 12 seventeen (17) years of age under the worker's compensation and
 13 occupational diseases laws (IC 22-3-2 through IC 22-3-7); and
 14 (2) may not recover any additional benefit otherwise payable as
 15 a result of being less than seventeen (17) years of age under the
 16 definition of a minor in IC 22-3-6-1.

17 The student is considered the employee of the employer while
 18 performing services for the employer under section 7 of this chapter.

19 (b) A student performing services for an employer under section 7
 20 of this chapter is considered a full-time employee in computing
 21 compensation for permanent impairment under the worker's
 22 compensation law (IC 22-3-2 through IC 22-3-6).

23 (c) ~~Employers and students under section 7 of this chapter are~~
 24 ~~exempt from IC 20-33-3-35.~~

25 SECTION 12. IC 22-1-1-5, AS AMENDED BY P.L.35-2007,
 26 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2019]: Sec. 5. ~~(a)~~ The bureau of mines and mining safety shall
 28 do the following:

- 29 (1) Have immediate charge of the administration of the
 30 underground mine laws of this state.
 31 (2) Provide safety consultation services to any underground mine
 32 operator at the request of the operator.
 33 (3) Provide mine safety and health education information to all
 34 underground mine operators. ~~and~~
 35 (4) Investigate all fatalities occurring in underground mine
 36 operations for the purpose of data collection; however, an
 37 investigation shall not interfere with investigations by the federal
 38 Mine Safety and Health Administration.

39 (b) ~~The bureau of child labor shall have immediate charge of the~~
 40 ~~supervision of children who are gainfully employed, including~~
 41 ~~employment certificate violations under IC 20-33-3-38.5,~~
 42 ~~IC 20-33-3-39, and IC 20-33-3-40. A child employee under the~~



1 jurisdiction of the bureau of child labor may file a complaint with the
 2 bureau of child labor if the employer of the child employee requires
 3 noncompliance by the child employee with the provisions of
 4 IC 20-33-3-38.5.

5 SECTION 13. IC 22-3-6-1, AS AMENDED BY P.L.204-2018,
 6 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2019]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the
 8 context otherwise requires:

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

40 (b) "Employee" means every person, including a minor, in the
 41 service of another, under any contract of hire or apprenticeship, written
 42 or implied, except one whose employment is both casual and not in the



1 usual course of the trade, business, occupation, or profession of the
2 employer.

3 (1) An executive officer elected or appointed and empowered in
4 accordance with the charter and bylaws of a corporation, other
5 than a municipal corporation or governmental subdivision or a
6 charitable, religious, educational, or other nonprofit corporation,
7 is an employee of the corporation under IC 22-3-2 through
8 IC 22-3-6. An officer of a corporation who is an employee of the
9 corporation under IC 22-3-2 through IC 22-3-6 may elect not to
10 be an employee of the corporation under IC 22-3-2 through
11 IC 22-3-6. An officer of a corporation who is also an owner of any
12 interest in the corporation may elect not to be an employee of the
13 corporation under IC 22-3-2 through IC 22-3-6. If an officer
14 makes this election, the officer must serve written notice of the
15 election on the corporation's insurance carrier and the board. An
16 officer of a corporation may not be considered to be excluded as
17 an employee under IC 22-3-2 through IC 22-3-6 until the notice
18 is received by the insurance carrier and the board.

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

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

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

42 (A) is an independent contractor in the construction trades and



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



1 owner-operator under this subdivision does not terminate the
 2 independent contractor status of the owner-operator for any
 3 purpose other than the purpose of this subdivision.

4 (9) A member or manager in a limited liability company may elect
 5 to include the member or manager as an employee under
 6 IC 22-3-2 through IC 22-3-6 if the member or manager is actually
 7 engaged in the limited liability company business. If a member or
 8 manager makes this election, the member or manager must serve
 9 upon the member's or manager's insurance carrier and upon the
 10 board written notice of the election. A member or manager may
 11 not be considered an employee under IC 22-3-2 through IC 22-3-6
 12 until the notice has been received.

13 (10) An unpaid participant under the federal School to Work
 14 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the
 15 extent set forth in IC 22-3-2-2.5.

16 (11) A person who enters into an independent contractor
 17 agreement with a nonprofit corporation that is recognized as tax
 18 exempt under Section 501(c)(3) of the Internal Revenue Code (as
 19 defined in IC 6-3-1-11(a)) to perform youth coaching services on
 20 a part-time basis is not an employee for purposes of IC 22-3-2
 21 through IC 22-3-6.

22 (12) An individual who is not an employee of the state or a
 23 political subdivision is considered to be a temporary employee of
 24 the state for purposes of IC 22-3-2 through IC 22-3-6 while
 25 serving as a member of a mobile support unit on duty for training,
 26 an exercise, or a response, as set forth in IC 10-14-3-19(c)(2)(B).

27 (c) "Minor" means an individual who has not reached seventeen
 28 (17) years of age.

29 (1) Unless otherwise provided in this subsection, a minor
 30 employee shall be considered as being of full age for all purposes
 31 of IC 22-3-2 through IC 22-3-6.

32 (2) If the employee is a minor who, at the time of the accident, is
 33 employed, required, suffered, or permitted to work in violation of
 34 IC 20-33-3-35, the amount of compensation and death benefits,
 35 as provided in IC 22-3-2 through IC 22-3-6, shall be double the
 36 amount which would otherwise be recoverable. The insurance
 37 carrier shall be liable on its policy for one-half (1/2) of the
 38 compensation or benefits that may be payable on account of the
 39 injury or death of the minor, and the employer shall be liable for
 40 the other one-half (1/2) of the compensation or benefits. If the
 41 employee is a minor who is not less than sixteen (16) years of age
 42 and who has not reached seventeen (17) years of age and who at



1 the time of the accident is employed, suffered, or permitted to
 2 work at any occupation which is not prohibited by law, this
 3 subdivision does not apply.

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

11 ~~(4)~~ (3) The rights and remedies granted in this subsection to a
 12 minor under IC 22-3-2 through IC 22-3-6 on account of personal
 13 injury or death by accident shall exclude all rights and remedies
 14 of the minor, the minor's parents, or the minor's personal
 15 representatives, dependents, or next of kin at common law,
 16 statutory or otherwise, on account of the injury or death. This
 17 subsection does not apply to minors who have reached seventeen
 18 (17) years of age.

19 (d) "Average weekly wages" means the earnings of the injured
 20 employee in the employment in which the employee was working at the
 21 time of the injury during the period of fifty-two (52) weeks
 22 immediately preceding the date of injury, divided by fifty-two (52),
 23 except as follows:

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

29 (2) Where the employment prior to the injury extended over a
 30 period of less than fifty-two (52) weeks, the method of dividing
 31 the earnings during that period by the number of weeks and parts
 32 thereof during which the employee earned wages shall be
 33 followed, if results just and fair to both parties will be obtained.
 34 Where by reason of the shortness of the time during which the
 35 employee has been in the employment of the employee's employer
 36 or of the casual nature or terms of the employment it is
 37 impracticable to compute the average weekly wages, as defined
 38 in this subsection, regard shall be had to the average weekly
 39 amount which during the fifty-two (52) weeks previous to the
 40 injury was being earned by a person in the same grade employed
 41 at the same work by the same employer or, if there is no person so
 42 employed, by a person in the same grade employed in the same



1 class of employment in the same district.

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

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

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

11 (B) forty (40) hours.

12 The result obtained is the amount of the average weekly wages for
13 the student employee.

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

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

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

24 (h) "Community" means a geographic service area based on ZIP
25 code districts defined by the United States Postal Service according to
26 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 (i) "Medical service provider" refers to a person or an entity that
 2 provides services or products to an employee under IC 22-3-2 through
 3 IC 22-3-6. Except as otherwise provided in IC 22-3-2 through
 4 IC 22-3-6, the term includes a medical service facility.

5 (j) "Medical service facility" means any of the following that
 6 provides a service or product under IC 22-3-2 through IC 22-3-6 and
 7 uses the CMS 1450 (UB-04) form for Medicare reimbursement:

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

9 (2) A hospital based health facility (as defined in
 10 IC 16-18-2-180).

11 (3) A medical center (as defined in IC 16-18-2-223.4).

12 The term does not include a professional corporation (as defined in
 13 IC 23-1.5-1-10) comprised of health care professionals (as defined in
 14 IC 23-1.5-1-8) formed to render professional services as set forth in
 15 IC 23-1.5-2-3(a)(4) or a health care professional (as defined in
 16 IC 23-1.5-1-8) who bills for a service or product provided under
 17 IC 22-3-2 through IC 22-3-6 as an individual or a member of a group
 18 practice or another medical service provider that uses the CMS 1500
 19 form for Medicare reimbursement.

20 (k) "Pecuniary liability" means the responsibility of an employer or
 21 the employer's insurance carrier for the payment of the charges for each
 22 specific service or product for human medical treatment provided
 23 under IC 22-3-2 through IC 22-3-6, as follows:

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

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

32 (A) The amount negotiated at any time between the medical
 33 service facility and any of the following, if an amount has been
 34 negotiated:

35 (i) The employer.

36 (ii) The employer's insurance carrier.

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

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

41 (B) Two hundred percent (200%) of the amount that would be
 42 paid to the medical service facility on the same date for the



1 same service or product under the medical service facility's
 2 Medicare reimbursement rate, if an amount has not been
 3 negotiated as described in clause (A).
 4 (l) "Service or product" or "services and products" refers to medical,
 5 hospital, surgical, or nursing service, treatment, and supplies provided
 6 under IC 22-3-2 through IC 22-3-6.
 7 SECTION 14. IC 22-3-7-9.2 IS REPEALED [EFFECTIVE JULY
 8 1, 2019]. ~~Sec. 9-2: As used in section 9(c) of this chapter, the term~~
 9 ~~"violation of the child labor laws of this state" means a violation of~~
 10 ~~IC 20-33-3-35. The term does not include a violation of any other~~
 11 ~~provision of IC 20-33-3.~~
 12 SECTION 15. IC 22-10-3-1, AS AMENDED BY P.L.10-2012,
 13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2019]: Sec. 1. As used in this article:
 15 "Active workings" means all places in a mine that are ventilated and
 16 inspected regularly.
 17 "Belt examiner" means an individual designated by the mine
 18 foreman to perform the functions as required by 30 CFR Part 75 in
 19 connection with examinations to ensure that the belt, belt drives, dump
 20 points, air movement, roof, and ribs of a mine are in safe condition.
 21 "Board" refers to the mining board established under
 22 IC 22-10-1.5-2.
 23 "Commercial mine" means any underground mine from which coal
 24 is produced for sale, exchange, or commercial use.
 25 "Director" means the director of the bureau of mines and mine
 26 safety established under IC 22-1-1-4.
 27 "Hoisting engineer" means an individual who is capable of
 28 transporting people and material in and out of a mine by means of a
 29 hoist.
 30 "Interested persons" means the director, safety personnel designated
 31 by the operator, state and federal coal mine inspectors, and, to the
 32 extent required by law, any other person.
 33 "Mine" means an underground commercial coal mine.
 34 "Mine electrician" means a properly certified individual who can
 35 perform electrical work in:
 36 (1) a surface coal mine;
 37 (2) surface areas of underground coal mines; and
 38 (3) underground coal mines.
 39 "Mine examiner" means a properly certified person designated by
 40 the mine foreman to examine the mine for gas and other dangers. A
 41 mine examiner may temporarily act as a section foreman if designated
 42 to act as such by the mine foreman.



1 "Mine foreman" means the person charged with the responsibility
2 of the general supervision of the underground working of a mine and
3 the persons employed in the mine and for the health and safety of those
4 employees.

5 "Mine inspector" means the person appointed to assist in
6 administering this article.

7 "Mine Safety Administration" refers to the Mine Safety and Health
8 Administration, United States Department of Labor.

9 "Mining laws" means:

- 10 (1) this article;
11 (2) ~~IC 22-1-1-5(a)~~; **IC 22-1-1-5**;
12 (3) 30 CFR part 75; and
13 (4) 30 CFR part 77.

14 "Operator" means an individual, firm, association, partnership,
15 limited liability company, or corporation operating an underground
16 coal mine or any part of a mine.

17 "Shot-firer" means a properly certified person designated by the
18 mine foreman to perform the functions as required in this article in
19 connection with breaking down coal or rock.

