

SENATE BILL No. 393

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-3.

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 an employee for whom a certificate is issued no longer meets the requirements for a certificate, the employee and the employee's employer are required to notify the board in writing. Requires the employer to provide worker's compensation and occupational diseases coverage for that employee beginning on the date of the notice.

Effective: July 1, 2020.

Bassler

January 13, 2020, read first time and referred to Committee on Pensions and Labor.



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. 393

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, 2020]: 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) a person who is exempt under IC 22-3-5-1.5 from**
14 **compliance with the provisions of IC 22-3-2 through**
15 **IC 22-3-6.**
16 IC 22-3-2 through IC 22-3-6 do not apply to the employers or
17 contractors of the persons listed in this subsection.



1 (b) An employer who is exempt under this section from the
 2 operation of the compensation provisions of this chapter may at any
 3 time waive such exemption and thereby accept the provisions of this
 4 chapter by giving notice as provided in subsection (c).

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

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

22 SECTION 2. IC 22-3-5-1.5 IS ADDED TO THE INDIANA CODE
 23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 24 1, 2020]: **Sec. 1.5. (a) An employee may file an application
 25 described in subsection (b), including the form described in
 26 subsection (c), with the board to obtain a certificate of exemption
 27 from compliance with the provisions of IC 22-3-2 through
 28 IC 22-3-6.**

29 (b) **The application for an exemption under this section, on a
 30 form or forms provided by the board, must include at least the
 31 following information:**

- 32 (1) **The employee's name, address, date of birth, and Social
 33 Security number.**
 34 (2) **The name of the religious sect or the division of a religious
 35 sect to which the employee belongs.**
 36 (3) **A verified affidavit signed by the employee stating that:**
 37 (A) **the employee is a member of the sect or division listed
 38 in subdivision (2);**
 39 (B) **the employee adheres to the sect's or division's
 40 established tenets or teachings that conscientiously oppose
 41 the acceptance of public or private insurance benefits as
 42 the result of injury, disability, or death, or for medical care**



1 **for injuries or illnesses, including the benefits from any**
 2 **insurance system established by the federal Social Security**
 3 **Act, 42 U.S.C. 301, et seq.;**

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

7 **(D) the employee participates in a system approved under**
 8 **section 4 of this chapter in lieu of the provisions of**
 9 **IC 22-3-2 through IC 22-3-6; and**

10 **(E) the employee knowingly and voluntarily waives the**
 11 **employee's rights to all benefits available to the employee**
 12 **under the provisions of IC 22-3-2 through IC 22-3-6.**

13 **(4) A statement by a leader of the religious sect or division of**
 14 **the religious sect listed in subdivision (2) that the employee is**
 15 **a member of the sect or division.**

16 **(c) A copy of an approved Internal Revenue Service Form 4029,**
 17 **Application for Exemption from Social Security and Medicare**
 18 **Taxes and Waiver of Benefits, or a successor form, for the**
 19 **employee must be filed with the application described in subsection**
 20 **(b).**

21 **(d) The board shall issue the certificate of exemption not later**
 22 **than forty-five (45) days after the board receives a completed**
 23 **application and the form described in subsection (c). The**
 24 **exemption is effective on the date the certificate is issued and**
 25 **remains in effect until rescinded as provided in subsection (f).**

26 **(e) The board shall maintain a data base consisting of the**
 27 **certificates issued under this section and on request verify that a**
 28 **certificate is on file.**

29 **(f) If an employee for whom a certificate is issued no longer**
 30 **meets the requirements of this section, the employee and the**
 31 **employee's employer are required to notify the board in writing**
 32 **not later than thirty (30) days after the date the employee no longer**
 33 **meets the requirements of this section. The employer shall comply**
 34 **with the provisions of IC 22-3-2 through IC 22-3-6 for that**
 35 **employee beginning on the date of the notice under this subsection.**

36 **SECTION 3. IC 22-3-6-1, AS AMENDED BY P.L.63-2019,**
 37 **SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
 38 **JULY 1, 2020]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the**
 39 **context otherwise requires:**

40 **(a) "Employer" includes the state and any political subdivision, any**
 41 **municipal corporation within the state, any individual or the legal**
 42 **representative of a deceased individual, firm, association, limited**



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

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

34 (1) An executive officer elected or appointed and empowered in
35 accordance with the charter and bylaws of a corporation, other
36 than a municipal corporation or governmental subdivision or a
37 charitable, religious, educational, or other nonprofit corporation,
38 is an employee of the corporation under IC 22-3-2 through
39 IC 22-3-6. An officer of a corporation who is an employee of the
40 corporation under IC 22-3-2 through IC 22-3-6 may elect not to
41 be an employee of the corporation under IC 22-3-2 through
42 IC 22-3-6. An officer of a corporation who is also an owner of any



1 interest in the corporation may elect not to be an employee of the
2 corporation under IC 22-3-2 through IC 22-3-6. If an officer
3 makes this election, the officer must serve written notice of the
4 election on the corporation's insurance carrier and the board. An
5 officer of a corporation may not be considered to be excluded as
6 an employee under IC 22-3-2 through IC 22-3-6 until the notice
7 is received by the insurance carrier and the board.

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

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

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

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

35 (B) is an independent contractor and does not make the
36 election provided under this subdivision, the owner may obtain
37 a certificate of exemption under IC 22-3-2-14.5.

38 (5) A partner in a partnership may elect to include the partner as
39 an employee under IC 22-3-2 through IC 22-3-6 if the partner is
40 actually engaged in the partnership business. If a partner makes
41 this election, the partner must serve upon the partner's insurance
42 carrier and upon the board written notice of the election. No



1 partner may be considered an employee under IC 22-3-2 through
2 IC 22-3-6 until the notice has been received. If a partner in a
3 partnership:

4 (A) is an independent contractor in the construction trades and
5 does not make the election provided under this subdivision,
6 the partner must obtain a certificate of exemption under
7 IC 22-3-2-14.5; or

8 (B) is an independent contractor and does not make the
9 election provided under this subdivision, the partner may
10 obtain a certificate of exemption under IC 22-3-2-14.5.

11 (6) Real estate professionals are not employees under IC 22-3-2
12 through IC 22-3-6 if:

13 (A) they are licensed real estate agents;

14 (B) substantially all their remuneration is directly related to
15 sales volume and not the number of hours worked; and

16 (C) they have written agreements with real estate brokers
17 stating that they are not to be treated as employees for tax
18 purposes.

19 (7) A person is an independent contractor and not an employee
20 under IC 22-3-2 through IC 22-3-6 if the person is an independent
21 contractor under the guidelines of the United States Internal
22 Revenue Service.

23 (8) An owner-operator that provides a motor vehicle and the
24 services of a driver under a written contract that is subject to
25 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376 to a motor carrier
26 is not an employee of the motor carrier for purposes of IC 22-3-2
27 through IC 22-3-6. The owner-operator may elect to be covered
28 and have the owner-operator's drivers covered under a worker's
29 compensation insurance policy or authorized self-insurance that
30 insures the motor carrier if the owner-operator pays the premiums
31 as requested by the motor carrier. An election by an
32 owner-operator under this subdivision does not terminate the
33 independent contractor status of the owner-operator for any
34 purpose other than the purpose of this subdivision.

35 (9) A member or manager in a limited liability company may elect
36 to include the member or manager as an employee under
37 IC 22-3-2 through IC 22-3-6 if the member or manager is actually
38 engaged in the limited liability company business. If a member or
39 manager makes this election, the member or manager must serve
40 upon the member's or manager's insurance carrier and upon the
41 board written notice of the election. A member or manager may
42 not be considered an employee under IC 22-3-2 through IC 22-3-6



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



1 and who has not reached seventeen (17) years of age and who at
2 the time of the accident is employed, suffered, or permitted to
3 work at any occupation which is not prohibited by law, this
4 subdivision does not apply.

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

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

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

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

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



- 1 employed, by a person in the same grade employed in the same
 2 class of employment in the same district.
- 3 (3) Wherever allowances of any character made to an employee
 4 in lieu of wages are a specified part of the wage contract, they
 5 shall be deemed a part of the employee's earnings.
- 6 (4) In computing the average weekly wages to be used in
 7 calculating an award for permanent impairment under
 8 IC 22-3-3-10 for a student employee in an approved training
 9 program under IC 20-37-2-7, the following formula shall be used.
 10 Calculate the product of:
- 11 (A) the student employee's hourly wage rate; multiplied by
 12 (B) forty (40) hours.
- 13 The result obtained is the amount of the average weekly wages for
 14 the student employee.
- 15 (e) "Injury" and "personal injury" mean only injury by accident
 16 arising out of and in the course of the employment and do not include
 17 a disease in any form except as it results from the injury.
- 18 (f) "Billing review service" refers to a person or an entity that
 19 reviews a medical service provider's bills or statements for the purpose
 20 of determining pecuniary liability. The term includes an employer's
 21 worker's compensation insurance carrier if the insurance carrier
 22 performs such a review.
- 23 (g) "Billing review standard" means the data used by a billing
 24 review service to determine pecuniary liability.
- 25 (h) "Community" means a geographic service area based on ZIP
 26 code districts defined by the United States Postal Service according to
 27 the following groupings:
- 28 (1) The geographic service area served by ZIP codes with the first
 29 three (3) digits 463 and 464.
- 30 (2) The geographic service area served by ZIP codes with the first
 31 three (3) digits 465 and 466.
- 32 (3) The geographic service area served by ZIP codes with the first
 33 three (3) digits 467 and 468.
- 34 (4) The geographic service area served by ZIP codes with the first
 35 three (3) digits 469 and 479.
- 36 (5) The geographic service area served by ZIP codes with the first
 37 three (3) digits 460, 461 (except 46107), and 473.
- 38 (6) The geographic service area served by the 46107 ZIP code and
 39 ZIP codes with the first three (3) digits 462.
- 40 (7) The geographic service area served by ZIP codes with the first
 41 three (3) digits 470, 471, 472, 474, and 478.
- 42 (8) The geographic service area served by ZIP codes with the first



1 three (3) digits 475, 476, and 477.

2 (i) "Medical service provider" refers to a person or an entity that
3 provides services or products to an employee under IC 22-3-2 through
4 IC 22-3-6. Except as otherwise provided in IC 22-3-2 through
5 IC 22-3-6, the term includes a medical service facility.

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

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

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

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

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

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

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

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

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

36 (i) The employer.

37 (ii) The employer's insurance carrier.

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

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

42 (B) Two hundred percent (200%) of the amount that would be



1 paid to the medical service facility on the same date for the
 2 same service or product under the medical service facility's
 3 Medicare reimbursement rate, if an amount has not been
 4 negotiated as described in clause (A).

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

8 SECTION 4. IC 22-3-7-9, AS AMENDED BY P.L.204-2018,
 9 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2020]: Sec. 9. (a) As used in this chapter, "employer" includes
 11 the state and any political subdivision, any municipal corporation
 12 within the state, any individual or the legal representative of a deceased
 13 individual, firm, association, limited liability company, limited liability
 14 partnership, or corporation or the receiver or trustee of the same, using
 15 the services of another for pay. A corporation, limited liability
 16 company, or limited liability partnership that controls the activities of
 17 another corporation, limited liability company, or limited liability
 18 partnership, or a corporation and a limited liability company or a
 19 corporation and a limited liability partnership that are commonly
 20 owned entities, or the controlled corporation, limited liability company,
 21 limited liability partnership, or commonly owned entities, and a parent
 22 corporation and its subsidiaries shall each be considered joint
 23 employers of the corporation's, the controlled corporation's, the limited
 24 liability company's, the limited liability partnership's, the commonly
 25 owned entities', the parent's, or the subsidiaries' employees for purposes
 26 of sections 6 and 33 of this chapter. Both a lessor and a lessee of
 27 employees shall each be considered joint employers of the employees
 28 provided by the lessor to the lessee for purposes of sections 6 and 33
 29 of this chapter. The term also includes an employer that provides
 30 on-the-job training under the federal School to Work Opportunities Act
 31 (20 U.S.C. 6101 et seq.) to the extent set forth under section 2.5 of this
 32 chapter. If the employer is insured, the term includes the employer's
 33 insurer so far as applicable. However, the inclusion of an employer's
 34 insurer within this definition does not allow an employer's insurer to
 35 avoid payment for services rendered to an employee with the approval
 36 of the employer. The term does not include a nonprofit corporation that
 37 is recognized as tax exempt under Section 501(c)(3) of the Internal
 38 Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the
 39 corporation enters into an independent contractor agreement with a
 40 person for the performance of youth coaching services on a part-time
 41 basis.

42 (b) As used in this chapter, "employee" means every person,



1 including a minor, in the service of another, under any contract of hire
 2 or apprenticeship written or implied, except one whose employment is
 3 both casual and not in the usual course of the trade, business,
 4 occupation, or profession of the employer. For purposes of this chapter
 5 the following apply:

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

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

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

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

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

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

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

40 (4) Real estate professionals are not employees under this chapter
 41 if:

42 (A) they are licensed real estate agents;



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



1 of a mobile support unit on duty for training, an exercise, or a
2 response, as set forth in IC 10-14-3-19(c)(2)(B).

3 **(11) An individual who is a member of a religious sect or a**
4 **division of a religious sect and obtains under section 34.2 of**
5 **this chapter a certificate of exemption from compliance with**
6 **the provisions of this chapter is not considered an employee**
7 **for purposes of this chapter.**

8 (c) As used in this chapter, "minor" means an individual who has
9 not reached seventeen (17) years of age. A minor employee shall be
10 considered as being of full age for all purposes of this chapter.
11 However, if the employee is a minor who, at the time of the last
12 exposure, is employed, required, suffered, or permitted to work in
13 violation of the child labor laws of this state, the amount of
14 compensation and death benefits, as provided in this chapter, shall be
15 double the amount which would otherwise be recoverable. The
16 insurance carrier shall be liable on its policy for one-half (1/2) of the
17 compensation or benefits that may be payable on account of the
18 disability or death of the minor, and the employer shall be wholly liable
19 for the other one-half (1/2) of the compensation or benefits. If the
20 employee is a minor who is not less than sixteen (16) years of age and
21 who has not reached seventeen (17) years of age, and who at the time
22 of the last exposure is employed, suffered, or permitted to work at any
23 occupation which is not prohibited by law, the provisions of this
24 subsection prescribing double the amount otherwise recoverable do not
25 apply. The rights and remedies granted to a minor under this chapter on
26 account of disease shall exclude all rights and remedies of the minor,
27 the minor's parents, the minor's personal representatives, dependents,
28 or next of kin at common law, statutory or otherwise, on account of any
29 disease.

30 (d) This chapter does not apply to:

- 31 **(1) casual laborers as defined in subsection (b); ~~nor to~~**
32 **(2) farm or agricultural employees; ~~nor to~~**
33 **(3) household employees; ~~nor to~~**
34 **(4) railroad employees engaged in train service as engineers,**
35 **firemen, conductors, brakemen, flagmen, baggagemen, or**
36 **foremen in charge of yard engines and helpers assigned thereto;**
37 **(5) a person who is exempt under section 34.2 of this chapter**
38 **from compliance with this chapter; ~~nor to their or~~**
39 **(6) employers with respect to these of employees listed in**
40 **subdivisions (1) through (5).**

41 Also, this chapter does not apply to employees or their employers with
42 respect to employments in which the laws of the United States provide



1 for compensation or liability for injury to the health, disability, or death
2 by reason of diseases suffered by these employees.

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

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

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

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

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

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

37 (5) In all cases of occupational disease caused by the inhalation
38 of asbestos dust in which the last date of the last exposure occurs
39 on or after July 1, 1988, no compensation shall be payable unless
40 disablement (as defined in subsection (e)) occurs within
41 thirty-five (35) years after the last day of the last exposure.

42 (g) For the purposes of this chapter, no compensation shall be



1 payable for or on account of death resulting from any occupational
 2 disease unless death occurs within two (2) years after the date of
 3 disablement. However, this subsection does not bar compensation for
 4 death:

5 (1) where death occurs during the pendency of a claim filed by an
 6 employee within two (2) years after the date of disablement and
 7 which claim has not resulted in a decision or has resulted in a
 8 decision which is in process of review or appeal; or

9 (2) where, by agreement filed or decision rendered, a
 10 compensable period of disability has been fixed and death occurs
 11 within two (2) years after the end of such fixed period, but in no
 12 event later than three hundred (300) weeks after the date of
 13 disablement.

14 (h) As used in this chapter, "billing review service" refers to a
 15 person or an entity that reviews a medical service provider's bills or
 16 statements for the purpose of determining pecuniary liability. The term
 17 includes an employer's worker's compensation insurance carrier if the
 18 insurance carrier performs such a review.

19 (i) As used in this chapter, "billing review standard" means the data
 20 used by a billing review service to determine pecuniary liability.

21 (j) As used in this chapter, "community" means a geographic service
 22 area based on ZIP code districts defined by the United States Postal
 23 Service according to the following groupings:

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

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

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

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

32 (5) The geographic service area served by ZIP codes with the first
 33 three (3) digits 460, 461 (except 46107), and 473.

34 (6) The geographic service area served by the 46107 ZIP code and
 35 ZIP codes with the first three (3) digits 462.

36 (7) The geographic service area served by ZIP codes with the first
 37 three (3) digits 470, 471, 472, 474, and 478.

38 (8) The geographic service area served by ZIP codes with the first
 39 three (3) digits 475, 476, and 477.

40 (k) As used in this chapter, "medical service provider" refers to a
 41 person or an entity that provides services or products to an employee
 42 under this chapter. Except as otherwise provided in this chapter, the



1 term includes a medical service facility.

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

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

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

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

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

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

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

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

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

32 (i) The employer.

33 (ii) The employer's insurance carrier.

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

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

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



1 (n) "Service or product" or "services and products" refers to
 2 medical, hospital, surgical, or nursing service, treatment, and supplies
 3 provided under this chapter.

4 SECTION 5. IC 22-3-7-34.2 IS ADDED TO THE INDIANA CODE
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 6 1, 2020]: **Sec. 34.2. (a) An employee may file an application
 7 described in subsection (b), including the form described in
 8 subsection (c), with the board to obtain a certificate of exemption
 9 from compliance with the provisions of this chapter.**

10 **(b) The application for an exemption under this section, on a
 11 form or forms provided by the board, must include at least the
 12 following information:**

13 **(1) The employee's name, address, date of birth, and Social
 14 Security number.**

15 **(2) The name of the religious sect or the division of a religious
 16 sect to which the employee belongs.**

17 **(3) A verified affidavit signed by the employee stating that:**

18 **(A) the employee is a member of the sect or division listed
 19 in subdivision (2);**

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

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

30 **(D) the employee participates in a system approved under
 31 section 34(f)(1) of this chapter in lieu of the provisions of
 32 this chapter; and**

33 **(E) the employee knowingly and voluntarily waives the
 34 employee's rights to all benefits available to the employee
 35 under the provisions of this chapter.**

36 **(4) A statement by a leader of the religious sect or division of
 37 the religious sect listed in subdivision (2) that the employee is
 38 a member of the sect or division.**

39 **(c) A copy of an approved Internal Revenue Service Form 4029,
 40 Application for Exemption from Social Security and Medicare
 41 Taxes and Waiver of Benefits, or a successor form, for the
 42 employee must be filed with the application described in subsection**



- 1 (b).
- 2 (d) The board shall issue the certificate of exemption not later
- 3 than forty-five (45) days after the board receives a completed
- 4 application and the form described in subsection (c). The
- 5 exemption is effective on the date the certificate is issued and
- 6 remains in effect until rescinded as provided in subsection (f).
- 7 (e) The board shall maintain a data base consisting of the
- 8 certificates issued under this section and on request verify that a
- 9 certificate is on file.
- 10 (f) If an employee for whom a certificate is issued no longer
- 11 meets the requirements of this section, the employee and the
- 12 employer are required to notify the board in writing not later than
- 13 thirty (30) days after the date the employee no longer meets the
- 14 requirements of this section. The employer shall comply with the
- 15 provisions of this chapter for that employee beginning on the date
- 16 of the notice under this subsection.

