

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 ENROLLED ACT No. 409

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AN ACT to amend the Indiana Code concerning labor and safety.

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

SECTION 1. IC 3-6-6-39, AS AMENDED BY P.L.76-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 39. (a) The county election board by unanimous vote of the entire membership of the board may permit an individual who is not a voter to serve as any precinct election officer (other than inspector), or to assist a precinct election officer, if the individual satisfies all the following:

- (1) The individual is at least sixteen (16) years of age but not eighteen (18) years of age or older.
- (2) The individual is a citizen of the United States.
- (3) The individual is a resident of the county.
- (4) The individual has a cumulative grade point average equivalent to not less than 3.0 on a 4.0 scale.
- (5) The individual has the written approval of the principal of the school the individual attends at the time of the appointment or, if the student is educated in the home, the approval of the individual responsible for the education of the student.
- (6) The individual has the approval of the individual's parent or legal guardian.
- (7) The individual has satisfactorily completed any training

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required by the county election board.

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

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

(1) is not required to obtain an employment certificate under ~~IC 20-33-3~~; **IC 22-2-18 (before its expiration on June 30, 2021)**; and

(2) is not subject to the limitations on time and duration of employment under ~~IC 20-33-3~~. **IC 22-2-18 (before its expiration on June 30, 2021) or IC 22-2-18.1.**

**(c) The county election board is not required to register as an employer under IC 22-2-18.1.**

SECTION 2. IC 3-11.5-4-23, AS AMENDED BY P.L.201-2017, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 23. (a) Not later than noon fifty (50) days before election day, each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of:

- (1) absentee voter boards;
- (2) teams of absentee ballot counters; and
- (3) teams of couriers;

to be appointed under section 22 of this chapter.

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

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

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

- (1) satisfies the requirements under IC 3-6-6-39; and
- (2) is approved by the unanimous vote of the entire membership of the county election board.

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

- (1) is not required to obtain an employment certificate under



~~IC 20-33-3~~; **IC 22-2-18 (before its expiration on June 30, 2021)**; and

(2) is not subject to the limitations on time and duration of employment under ~~IC 20-33-3~~. **IC 22-2-18 (before its expiration on June 30, 2021) or IC 22-2-18.1.**

**(f) The county election board is not required to register as an employer under IC 22-2-18.1.**

SECTION 3. IC 9-24-2-1, AS AMENDED BY P.L.125-2012, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 1. (a) The bureau shall suspend the driving privileges or invalidate the learner's permit of an individual less than eighteen (18) years of age who meets any of the following conditions:

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

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

- (1) driver's license or learner's permit; and
- (2) employment certificate **issued under IC 22-2-18 (before its expiration on June 30, 2021).**

SECTION 4. IC 20-23-18-3, AS ADDED BY P.L.213-2018(ss), SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 3. (a) Except as provided in subsection (c), the Muncie Community school corporation is subject to all applicable federal and state laws.

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

(c) Notwithstanding subsection (a), to provide all administrative and academic flexibility to implement innovative strategies, the Muncie Community school corporation is subject only to the following IC 20 **and IC 22** provisions:

- (1) IC 20-26-5-10 (criminal history).
- (2) IC 20-28-5-8 (conviction of certain felonies; notice and



hearing; permanent revocation of license; data base of school employees who have been reported).

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

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

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

(6) The following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(20)~~ **(19)** IC 20-41 (extracurricular funds and accounts).

~~(21)~~ **(20)** IC 20-42 (fiduciary funds and accounts).

~~(22)~~ **(21)** IC 20-42.5 (allocation of expenditures to student instruction and learning).

~~(23)~~ **(22)** IC 20-43 (state tuition support).

~~(24)~~ **(23)** IC 20-44 (property tax levies).

~~(25)~~ **(24)** IC 20-46 (levies other than general fund levies).

~~(26)~~ **(25)** IC 20-47 (related entities; holding companies; lease agreements).

~~(27)~~ **(26)** IC 20-48 (borrowing and bonds).



~~(28)~~ **(27)** IC 20-49 (state management of common school funds; state advances and loans).

~~(29)~~ **(28)** IC 20-50 (concerning homeless children and foster care children).

**(29) IC 22-2-18, before its expiration on June 30, 2021 (limitation on employment of minors).**

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

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

SECTION 5. IC 20-24-8-5, AS AMENDED BY P.L.242-2017, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 5. The following statutes and rules and guidelines adopted under the following statutes apply to a charter school:

- (1) IC 5-11-1-9 (required audits by the state board of accounts).
- (2) IC 20-39-1-1 (unified accounting system).
- (3) IC 20-35 (special education).
- (4) IC 20-26-5-10 (criminal history).
- (5) IC 20-26-5-6 (subject to laws requiring regulation by state agencies).
- (6) IC 20-28-10-12 (nondiscrimination for teacher marital status).
- (7) IC 20-28-10-14 (teacher freedom of association).
- (8) IC 20-28-10-17 (school counselor immunity).
- (9) For conversion charter schools only if the conversion charter school elects to collectively bargain under IC 20-24-6-3(b), IC 20-28-6, IC 20-28-7.5, IC 20-28-8, IC 20-28-9, and IC 20-28-10.
- (10) IC 20-33-2 (compulsory school attendance).
- ~~(11) IC 20-33-3 (limitations on employment of children):~~
- ~~(12)~~ **(11)** IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22 (student due process and judicial review).
- ~~(13)~~ **(12)** IC 20-33-8-16 (firearms and deadly weapons).



- ~~(14)~~ **(13)** IC 20-34-3 (health and safety measures).
- ~~(15)~~ **(14)** IC 20-33-9 (reporting of student violations of law).
- ~~(16)~~ **(15)** IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative observances).
- ~~(17)~~ **(16)** IC 20-31-3, IC 20-32-4, IC 20-32-5 (for a school year ending before July 1, 2018), IC 20-32-5.1 (for a school year beginning after June 30, 2018), IC 20-32-8, and IC 20-32-8.5, as provided in IC 20-32-8.5-2(b) (academic standards, accreditation, assessment, and remediation).
- ~~(18)~~ **(17)** IC 20-33-7 (parental access to education records).
- ~~(19)~~ **(18)** IC 20-31 (accountability for school performance and improvement).
- ~~(20)~~ **(19)** IC 20-30-5-19 (personal financial responsibility instruction).
- ~~(21)~~ **(20)** IC 20-26-5-37.3, before its expiration (career and technical education reporting).
- (21) IC 22-2-18, before its expiration on June 30, 2021 (limitations on employment of minors).**

SECTION 6. IC 20-30-2-2.2, AS AMENDED BY P.L.192-2018, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 2.2. (a) As used in this section, "eligible student" means a student in grade 11 or 12 who has:

- (1) failed the graduation exam (before July 1, 2022) or is not on track to complete a postsecondary readiness competency;
- (2) been determined to be chronically absent, by missing ten percent (10%) or more of a school year for any reason;
- (3) been determined to be a habitual truant, as identified under IC 20-33-2-11;
- (4) been significantly behind in credits for graduation, as identified by an individual's school principal;
- (5) previously undergone at least a second suspension from school for the school year under IC 20-33-8-14 or IC 20-33-8-15;
- (6) previously undergone an expulsion from school under IC 20-33-8-14, IC 20-33-8-15, or IC 20-33-8-16; or
- (7) been determined by the individual's principal and the individual's parent or guardian to benefit by participating in the school flex program.

(b) An eligible student who participates in a school flex program must:

- (1) attend school for at least three (3) hours of instructional time per school day;
- (2) pursue a timely graduation;

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(3) provide evidence of college or technical career education enrollment and attendance or proof of employment and labor that is aligned with the student's career academic sequence under rules established by the ~~Indiana~~ bureau of ~~child labor~~; **youth employment**;

(4) not be suspended or expelled while participating in a school flex program;

(5) pursue course and credit requirements for an Indiana diploma with a general designation; and

(6) maintain a ninety-five percent (95%) attendance rate.

(c) A school may allow an eligible student in grade 11 or 12 to complete an instructional day that consists of three (3) hours of instructional time if the student participates in the school flex program.

SECTION 7. IC 20-33-2-28.5, AS AMENDED BY P.L.185-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 28.5. (a) This section applies to an individual:

(1) who:

(A) attends or last attended a public school;

(B) is at least sixteen (16) years of age but less than eighteen (18) years of age; and

(C) has not completed the requirements for graduation;

(2) who:

(A) wishes to withdraw from school before graduation;

(B) fails to return at the beginning of a semester; or

(C) stops attending school during a semester; and

(3) who has no record of transfer to another school.

(b) An individual to whom this section applies may withdraw from school only if all of the following conditions are met:

(1) An exit interview is conducted.

(2) The individual's parent consents to the withdrawal.

(3) The school principal approves of the withdrawal.

(4) The withdrawal is due to:

(A) financial hardship and the individual must be employed to support the individual's family or a dependent;

(B) illness; or

(C) an order by a court that has jurisdiction over the child.

During the exit interview, the school principal shall provide to the student and the student's parent a copy of statistics compiled by the department concerning the likely consequences of life without a high school diploma. The school principal shall advise the student and the student's parent that the student's withdrawal from school may prevent the student from receiving or result in the revocation of the student's



employment certificate and driver's license or learner's permit.

(c) For purposes of this section, the following must be in written form:

- (1) An individual's request to withdraw from school.
- (2) A parent's consent to a withdrawal.
- (3) A principal's consent to a withdrawal.

(d) If the individual's principal does not consent to the individual's withdrawal under this section, the individual's parent may appeal the denial of consent to the governing body of the public school that the individual last attended.

(e) Each public school, including each school corporation and each charter school (as defined in IC 20-24-1-4), shall provide an annual report to the department setting forth the following information:

- (1) The total number of individuals:
  - (A) who withdrew from school under this section; and
  - (B) who either:
    - (i) failed to return to school at the beginning of a semester; or
    - (ii) stopped attending school during a semester;
 and for whom there is no record of transfer to another school.

(2) The number of individuals who withdrew from school following an exit interview.

(f) If an individual to which this section applies:

- (1) has not received consent to withdraw from school under this section; and
- (2) fails to return to school at the beginning of a semester or during the semester;

the principal of the school that the individual last attended ~~shall~~ **may** deliver by certified mail or personal delivery to the bureau of ~~child labor~~ **youth employment** a record of the individual's failure to return to school so that the bureau of ~~child labor~~ **youth employment** revokes any employment certificates issued **under IC 22-2-18 (before its expiration on June 30, 2021)** to the individual and does not issue any additional employment certificates to the individual. For purposes of ~~IC 20-33-3-13~~, **IC 22-2-18-20 (before its expiration on June 30, 2021)**, the individual shall be considered a dropout.

(g) At the same time that a school principal delivers the record under subsection (f), the principal ~~shall~~ **may** deliver by certified mail or personal delivery to the bureau of motor vehicles a record of the individual's failure to return to school so that the bureau of motor vehicles revokes any driver's license or learner's permit issued to the individual and does not issue any additional driver's licenses or





learner's permits to the individual before the individual is at least eighteen (18) years of age. For purposes of IC 9-24-2-1, the individual shall be considered a dropout.

(h) If:

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

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

the principal of the school shall send a notice of withdrawal to the bureau of ~~child labor~~ **youth employment** and the bureau of motor vehicles by certified mail or personal delivery and, for purposes of ~~IC 20-33-3-13~~ **IC 22-2-18-20 (before its expiration on June 30, 2021)** and IC 9-24-2-1, the individual shall no longer be considered a dropout.

SECTION 8. IC 20-33-2-28.6, AS ADDED BY P.L.268-2013, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 28.6. (a) This section applies to a high school student who is transferring to a nonaccredited nonpublic school.

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

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

SECTION 9. IC 20-33-3 IS REPEALED [EFFECTIVE APRIL 1, 2020]. (Limitations on the Employment of Students).

SECTION 10. IC 20-37-2-8, AS AMENDED BY P.L.234-2007, SECTION 129, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 8. (a) A student in career and technical education and employed under section 7 of this chapter:

(1) is entitled to the rights of recovery of a worker of at least seventeen (17) years of age under the worker's compensation and occupational diseases laws (IC 22-3-2 through IC 22-3-7); and

(2) may not recover any additional benefit otherwise payable as a result of being less than seventeen (17) years of age under the definition of a minor in IC 22-3-6-1.



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

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

(c) Employers and students under section 7 of this chapter are exempt from ~~IC 20-33-3-35~~. **IC 22-2-18-40 (before its expiration on June 30, 2021) and IC 22-2-18.1-23.**

SECTION 11. IC 22-1-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 4. The following bureaus are created within the department of labor:

- (1) The bureau of mines and mine safety.
- (2) The bureau of ~~child labor~~: **youth employment**.

SECTION 12. IC 22-1-1-5, AS AMENDED BY P.L.35-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 5. (a) The bureau of mines and mining safety shall do the following:

- (1) have immediate charge of the administration of the underground mine laws of this state;
- (2) provide safety consultation services to any underground mine operator at the request of the operator;
- (3) provide mine safety and health education information to all underground mine operators; and
- (4) investigate all fatalities occurring in underground mine operations for the purpose of data collection; however, an investigation shall not interfere with investigations by the federal Mine Safety and Health Administration.

(b) The bureau of ~~child labor~~ **youth employment** shall have immediate charge of the supervision of children who are gainfully employed, including employment certificate violations under ~~IC 20-33-3-38.5~~; ~~IC 20-33-3-39~~; and ~~IC 20-33-3-40~~. **IC 22-2-18-43 (before its expiration on June 30, 2021), IC 22-2-18-44 (before its expiration on June 30, 2021), and IC 22-2-18-45 (before its expiration on June 30, 2021) or violations under IC 22-2-18.1-30.** A child employee under the jurisdiction of the bureau of ~~child labor~~ **youth employment** may file a complaint with the bureau of ~~child labor~~ **youth employment** if the employer of the child employee requires noncompliance by the child employee with the provisions of ~~IC 20-33-3-38.5~~. **IC 22-2-18-43 (before its expiration).**

SECTION 13. IC 22-1-1-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE



UPON PASSAGE]: **Sec. 23. (a) Before August 1, 2020, the department shall prepare a report outlining a plan to develop and maintain, before July 1, 2021, a data base that is accessible by the public that displays an employer that has registered as an employer who employs minors to the interim study committee on employment and labor (established by IC 2-5-1.3-4). The report must be in an electronic format under IC 5-14-6.**

**(b) Before July 1, 2021, the department shall develop a data base that is accessible by the public that displays an employer that has registered as an employer who employs minors.**

**(c) This section expires July 1, 2022.**

SECTION 14. IC 22-2-2-4, AS AMENDED BY P.L.38-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: **Sec. 4. (a) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which employees are employed, between employees on the basis of sex by paying to employees in such establishment a rate less than the rate at which the employer pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to:**

- (1) a seniority system;
- (2) a merit system;
- (3) a system which measures earnings by quantity or quality of production; or
- (4) a differential based on any other factor other than sex.

**(b) An employer who is paying a wage rate differential in violation of subsection (a) shall not, in order to comply with subsection (a), reduce the wage rate of any employee, and no labor organization, or its agents, representing employees of an employer having employees subject to subsection (a) shall cause or attempt to cause such an employer to discriminate against an employee in violation of subsection (a).**

**(c) Except as provided in ~~subsections~~ **subsection (d), and (f)**, every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on or after June 30, 2007, wages of not less than the minimum wage payable under the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.).**

**(d) An employer subject to subsection (c) is permitted to apply a tip**

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credit in determining the amount of cash wage paid to tipped employees. In determining the wage an employer is required to pay a tipped employee, the amount paid the employee by the employee's employer must be an amount equal to:

- (1) the cash wage paid the employee, which for purposes of the determination may be not less than the cash wage required to be paid to employees covered under the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 203(m)(1)) on August 20, 1996, which amount is two dollars and thirteen cents (\$2.13) an hour; and
- (2) an additional amount on account of the tips received by the employee, which amount is equal to the difference between the wage specified in subdivision (1) and the wage in effect under subsection (c).

An employer is responsible for supporting the amount of tip credit taken through reported tips by the employees.

(e) This section does not apply if an employee:

- (1) provides companionship services to the aged and infirm (as defined in 29 CFR 552.6); and
- (2) is employed by an employer or agency other than the family or household using the companionship services, as provided in 29 CFR 552.109 (a).

(f) This subsection applies only to an employee who has not attained the age of twenty (20) years. Instead of the rates prescribed by subsections (c) and (d), an employer may pay an employee of the employer, during the first ninety (90) consecutive calendar days after the employee is initially employed by the employer, a wage which is not less than the amount payable under the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.), during the first ninety (90) consecutive calendar days after initial employment to an employee who has not attained twenty (20) years of age. However, no employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in this subsection.

(g) (f) Except as otherwise provided in this section, no employer shall employ any employee for a work week longer than forty (40) hours unless the employee receives compensation for employment in excess of forty (40) hours at a rate not less than one and one-half (1.5) times the regular rate at which the employee is employed.

(h) (g) For purposes of this section the following apply:

- (1) "Overtime compensation" means the compensation required



by subsection ~~(g)~~: **(f)**.

(2) "Compensatory time" and "compensatory time off" mean hours during which an employee is not working, which are not counted as hours worked during the applicable work week or other work period for purposes of overtime compensation, and for which the employee is compensated at the employee's regular rate.

(3) "Regular rate" means the rate at which an employee is employed is considered to include all remuneration for employment paid to, or on behalf of, the employee, but is not considered to include the following:

(A) Sums paid as gifts, payments in the nature of gifts made at Christmas time or on other special occasions, as a reward for service, the amounts of which are not measured by or dependent on hours worked, production, or efficiency.

(B) Payments made for occasional periods when no work is performed due to vacation, holiday, illness, failure of the employer to provide sufficient work, or other similar cause, reasonable payments for traveling expenses, or other expenses, incurred by an employee in the furtherance of the employer's interests and properly reimbursable by the employer, and other similar payments to an employee which are not made as compensation for the employee's hours of employment.

(C) Sums paid in recognition of services performed during a given period if:

(i) both the fact that payment is to be made and the amount of the payment are determined at the sole discretion of the employer at or near the end of the period and not pursuant to any prior contract, agreement, or promise causing the employee to expect the payments regularly;

(ii) the payments are made pursuant to a bona fide profit sharing plan or trust or bona fide thrift or savings plan, meeting the requirements of the administrator set forth in appropriately issued regulations, having due regard among other relevant factors, to the extent to which the amounts paid to the employee are determined without regard to hours of work, production, or efficiency; or

(iii) the payments are talent fees paid to performers, including announcers, on radio and television programs.

(D) Contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for providing old age, retirement, life, accident, or health



insurance or similar benefits for employees.

(E) Extra compensation provided by a premium rate paid for certain hours worked by the employee in any day or work week because those hours are hours worked in excess of eight (8) in a day or in excess of the maximum work week applicable to the employee under subsection ~~(g)~~ (f) or in excess of the employee's normal working hours or regular working hours, as the case may be.

(F) Extra compensation provided by a premium rate paid for work by the employee on Saturdays, Sundays, holidays, or regular days of rest, or on the sixth or seventh day of the work week, where the premium rate is not less than one and one-half (1.5) times the rate established in good faith for like work performed in nonovertime hours on other days.

(G) Extra compensation provided by a premium rate paid to the employee, in pursuance of an applicable employment contract or collective bargaining agreement, for work outside of the hours established in good faith by the contract or agreement as the basic, normal, or regular workday (not exceeding eight (8) hours) or work week (not exceeding the maximum work week applicable to the employee under subsection ~~(g)~~ (f) where the premium rate is not less than one and one-half (1.5) times the rate established in good faith by the contract or agreement for like work performed during the workday or work week.

~~(g)~~ (h) No employer shall be considered to have violated subsection ~~(g)~~ (f) by employing any employee for a work week in excess of that specified in subsection ~~(g)~~ (f) without paying the compensation for overtime employment prescribed therein if the employee is so employed:

- (1) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand forty (1,040) hours during any period of twenty-six (26) consecutive weeks; or
- (2) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that during a specified period of fifty-two (52) consecutive weeks the employee shall be employed not more than two thousand two hundred forty (2,240) hours and shall be guaranteed not less than one thousand eight hundred forty (1,840) hours (or not less than



forty-six (46) weeks at the normal number of hours worked per week, but not less than thirty (30) hours per week) and not more than two thousand eighty (2,080) hours of employment for which the employee shall receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of the maximum work week applicable to the employee under subsection ~~(g)~~ **(f)** or two thousand eighty (2,080) in that period at rates not less than one and one-half (1.5) times the regular rate at which the employee is employed.

~~(g)~~ **(i)** No employer shall be considered to have violated subsection ~~(g)~~ **(f)** by employing any employee for a work week in excess of the maximum work week applicable to the employee under subsection ~~(g)~~ **(f)** if the employee is employed pursuant to a bona fide individual contract, or pursuant to an agreement made as a result of collective bargaining by representatives of employees, if the duties of the employee necessitate irregular hours of work, and the contract or agreement includes the following:

(1) Specifies a regular rate of pay of not less than the minimum hourly rate provided in subsections (c) **and** (d) **and** ~~(f)~~, (whichever is applicable) and compensation at not less than one and one-half (1.5) times that rate for all hours worked in excess of the maximum work week.

(2) Provides a weekly guaranty of pay for not more than sixty (60) hours based on the rates so specified.

~~(h)~~ **(j)** No employer shall be considered to have violated subsection ~~(g)~~ **(f)** by employing any employee for a work week in excess of the maximum work week applicable to the employee under that subsection if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, the amount paid to the employee for the number of hours worked by the employee in the work week in excess of the maximum work week applicable to the employee under that subsection:

(1) in the case of an employee employed at piece rates, is computed at piece rates not less than one and one-half (1.5) times the bona fide piece rates applicable to the same work when performed during nonovertime hours;

(2) in the case of an employee performing two (2) or more kinds of work for which different hourly or piece rates have been established, is computed at rates not less than one and one-half (1.5) times those bona fide rates applicable to the same work



when performed during nonovertime hours; or  
 (3) is computed at a rate not less than one and one-half (1.5) times the rate established by the agreement or understanding as the basic rate to be used in computing overtime compensation thereunder, provided that the rate so established shall be substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time;

and if the employee's average hourly earnings for the work week exclusive of payments described in this section are not less than the minimum hourly rate required by applicable law, and extra overtime compensation is properly computed and paid on other forms of additional pay required to be included in computing the regular rate.

~~(j)~~ **(k)** Extra compensation paid as described in this section shall be creditable toward overtime compensation payable pursuant to this section.

~~(m)~~ **(l)** No employer shall be considered to have violated subsection ~~(g)~~ **(f)** by employing any employee of a retail or service establishment for a work week in excess of the applicable work week specified therein, if:

- (1) the regular rate of pay of the employee is in excess of one and one-half (1.5) times the minimum hourly rate applicable to the employee under section 2 of this chapter; and
- (2) more than half of the employee's compensation for a representative period (not less than one (1) month) represents commissions on goods or services.

In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be considered commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.

~~(n)~~ **(m)** No employer engaged in the operation of a hospital or an establishment which is an institution primarily engaged in the care of the sick, the aged, or individuals with a mental illness or defect who reside on the premises shall be considered to have violated subsection ~~(g)~~ **(f)** if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of fourteen (14) consecutive days is accepted in lieu of the work week of seven (7) consecutive days for purposes of overtime computation and if, for the employee's employment in excess of eight (8) hours in any workday and in excess of eighty (80) hours in that fourteen (14) day period, the employee receives compensation at a rate





not less than one and one-half (1.5) times the regular rate at which the employee is employed.

~~(e)~~ **(n)** No employer shall employ any employee in domestic service in one (1) or more households for a work week longer than forty (40) hours unless the employee receives compensation for that employment in accordance with subsection ~~(g)~~: **(f)**.

~~(p)~~ **(o)** In the case of an employee of an employer engaged in the business of operating a street, a suburban or interurban electric railway, or a local trolley or motorbus carrier (regardless of whether or not the railway or carrier is public or private or operated for profit or not for profit), in determining the hours of employment of such an employee to which the rate prescribed by subsection ~~(g)~~ **(f)** applies, there shall be excluded the hours the employee was employed in charter activities by the employer if both of the following apply:

- (1) The employee's employment in the charter activities was pursuant to an agreement or understanding with the employer arrived at before engaging in that employment.
- (2) If employment in the charter activities is not part of the employee's regular employment.

~~(q)~~ **(p)** Any employer may employ any employee for a period or periods of not more than ten (10) hours in the aggregate in any work week in excess of the maximum work week specified in subsection ~~(g)~~ **(f)** without paying the compensation for overtime employment prescribed in subsection ~~(g)~~: **(f)**, if during that period or periods the employee is receiving remedial education that:

- (1) is provided to employees who lack a high school diploma or educational attainment at the eighth grade level;
- (2) is designed to provide reading and other basic skills at an eighth grade level or below; and
- (3) does not include job specific training.

~~(r)~~ **(q)** Subsection ~~(g)~~ **(f)** does not apply to an employee of a motion picture theater.

~~(s)~~ **(r)** Subsection ~~(g)~~ **(f)** does not apply to an employee of a seasonal amusement or recreational establishment, an organized camp, or a religious or nonprofit educational conference center that is exempt under the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 213).

~~(t)~~ **(s)** Subsection ~~(g)~~ **(f)** does not apply to an employee of an air carrier subject to Title II of the federal Railway Labor Act (45 U.S.C. 181 et seq.) to the extent that the hours worked by the employee during a work week in excess of forty (40) hours are not required by the air carrier but are arranged through a voluntary agreement between



employees to trade or reassign their scheduled work hours.

SECTION 15. IC 22-2-18 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]:

**Chapter 18. Limitations on the Employment of Minors**

**Sec. 1. (a) This chapter does not apply to:**

- (1) a parent who employs the parent's own child;**
- (2) a person standing in place of a parent who employs a child in the person's custody; or**
- (3) a legal entity whose ownership is limited to the parents of the employed child or persons standing in place of the parent of the employed child;**

**except in the instances of underage employment (as set forth in section 35(a) of this chapter), employment during school hours (as set forth in section 35(b) of this chapter), and employment in hazardous occupations designated by federal law (as set forth in section 40 of this chapter).**

**(b) This chapter does not apply to a minor enrolled in a work based learning course (as defined in IC 20-43-8-0.7).**

**Sec. 2. As used in this chapter, "department" refers to the department of labor created by IC 22-1-1-1.**

**Sec. 3. As used in this chapter, "high school" has the meaning set forth in IC 20-18-2-7.**

**Sec. 4. As used in this chapter, "nonpublic school" has the meaning set forth in IC 20-18-2-12.**

**Sec. 5. As used in this chapter, "nonschool week" refers to a week that contains two (2) or fewer school days.**

**Sec. 6. As used in this chapter, "parent" has the meaning set forth in IC 20-18-2-13.**

**Sec. 7. As used in this chapter, "principal" has the meaning set forth in IC 20-18-2-14.**

**Sec. 8. As used in this chapter, "public school" has the meaning set forth in IC 20-18-2-15.**

**Sec. 9. As used in this chapter, "school corporation" has the meaning set forth in IC 20-18-2-16.**

**Sec. 10. As used in this chapter, "school day" refers to a day that contains more than four (4) hours of classroom instruction.**

**Sec. 10.5. As used in this chapter, "school hours" refers to the hours that the school corporation, within the boundaries of which the minor resides while employed, is in session during the regularly scheduled school year.**

**Sec. 11. As used in this chapter, "school week" refers to a week**



that contains at least three (3) school days.

**Sec. 12.** As used in this chapter, "school year" has the meaning set forth in IC 20-18-2-17.

**Sec. 13.** It is unlawful for a person, firm, limited liability company, or corporation to hire, employ, or permit a minor who is:

- (1) at least fourteen (14) years of age; and
- (2) less than eighteen (18) years of age;

to work in a gainful occupation until the person, firm, limited liability company, or corporation has secured and placed on file in its office an employment certificate issued by the proper issuing officer under this chapter.

**Sec. 14. (a)** An employment certificate is not required for a minor who is at least fourteen (14) years of age but less than eighteen (18) years of age to:

- (1) perform:
  - (A) farm labor; or
  - (B) domestic service; or
- (2) act as a:
  - (A) caddie for a person playing the game of golf; or
  - (B) newspaper carrier.

**(b)** An employment certificate is not required for a minor who is:

- (1) at least twelve (12) years of age but less than eighteen (18) years of age; and
- (2) employed or works as a youth athletic program referee, umpire, or official under section 36 of this chapter.

**(c)** An exemption under subsection (a) or (b) applies only when a minor is engaged in an occupation listed in this section during the hours when the minor is not required to be in school.

**(d)** An employment certificate is not required for a minor less than eighteen (18) years of age who:

- (1) works as an actor or performer if the provisions of section 37 of this chapter are met; or
- (2) has graduated from high school.

**(e)** An employment certificate is not required for a minor less than eighteen (18) years of age, who would otherwise be required to obtain an employment certificate under this chapter if the minor is:

- (1) not a resident of Indiana;
- (2) a resident of Indiana but attends a nonpublic school that employs less than one (1) employee; or



(3) a resident of Indiana but is enrolled in a career and technical education program as approved by the Indiana state board of education under IC 20-32-4-1.5(g).

**Sec. 15. (a)** This chapter applies to a minor less than eighteen (18) years of age who is employed or is seeking employment in Indiana.

(b) A minor less than eighteen (18) years of age who requires an employment certificate shall obtain the employment certificate from the issuing officer of the:

- (1) accredited school (as described in IC 20-19-2-8(a)(4)) that the minor attends; or
- (2) school corporation in which the minor resides.

(c) The judge of a court with juvenile jurisdiction may suspend the application of this chapter in cases involving juvenile delinquents or incorrigibles whenever, in the opinion of the judge, the welfare of a minor warrants this action.

**Sec. 16. (a)** The issuing officer in each accredited school (as described in IC 20-19-2-8(a)(4)) shall be an individual who is:

- (1) a guidance counselor;
- (2) a school social worker; or
- (3) an attendance officer for the school corporation and a teacher licensed by the division of professional standards of the department of education under IC 20-28-4 or IC 20-28-5;

and designated in writing by the principal.

(b) During the times in which the individual described in subsection (a) is not employed by the school or when school is not in session, there shall be an issuing officer available:

- (1) who is a teacher licensed by the division of professional standards of the department of education under IC 20-28-4 or IC 20-28-5; and
- (2) whose identity and hours of work shall be determined by the principal.

**Sec. 17. (a)** Except as provided in subsection (b), an issuing officer may issue an employment certificate only to a minor whose employment is necessary and only after receipt of the following two (2) documents:

- (1) Proof of age as set forth under section 18 of this chapter.
- (2) Proof of prospective employment as set forth under section 19 of this chapter.

(b) This subsection applies to a student who attends a nonaccredited nonpublic school. An issuing officer shall issue an employment certificate only after receipt of the following two (2)



documents:

- (1) Proof of age as set forth under section 18 of this chapter.
- (2) Proof of prospective employment as set forth under section 19 of this chapter.

Sec. 18. (a) As proof of age, the issuing officer shall require one (1) of the following documents:

- (1) A birth certificate or duly attested transcript of a birth certificate issued by the registrar of vital statistics or any other officer charged with the duty of recording births. The registrar may not charge a fee for a certificate or transcript as provided by IC 16-37-1-9(c)(2). School records of age that have been verified by a birth certificate may be substituted by the issuing officer for a birth certificate.
- (2) A baptismal certificate or a certified transcript of the record of baptism showing the minor's date of birth and place of baptism.
- (3) Other documentation, including:
  - (A) a bona fide contemporary record of the minor's birth, comprising a part of the family record of births in the Bible;
  - (B) other documentary evidence satisfactory to the department, including a certificate of arrival in the United States issued by United States immigration officers and showing the minor's age; or
  - (C) a life insurance policy.

Documentary evidence under this subdivision must have been in existence for at least one (1) year.

- (4) A sworn statement by a public health physician, a public school physician, or the superintendent that states, in the opinion of the signatory, the minor's physical age. This statement shall show the minor's height and weight and other facts upon which the signatory's opinion is based. The physician's or superintendent's statement shall be accompanied by a statement of the minor's age signed by the minor's parent and by available school records.

(b) The documents that may constitute proof of age under this section are listed in preferential order. The issuing officer shall require the document of age under subsection (a)(1) in preference to a document under subsection (a)(2), (a)(3), or (a)(4). To avoid delay, the documents under subsection (a)(2), (a)(3), or (a)(4) may be accepted if the issuing officer files a written statement that verification of date of birth has been requested from the



appropriate governmental agency but has not been received.

**Sec. 19. (a)** As proof of prospective employment, the issuing officer shall require a written statement that:

- (1) is signed by the person for whom the minor is to work;
- (2) sets forth the nature of work that the minor is to perform;
- and
- (3) specifies the maximum number of hours per week that the minor will work for the employer.

**(b)** When a minor's employment terminates, the employer may notify the issuing officer in writing of the:

- (1) termination; and
- (2) date on which it occurred.

This notice shall be on a blank form attached to the minor's employment certificate.

**(c)** An employment certificate may be used at not more than two (2) locations within the same enterprise if the enterprise complies with the hour restrictions prescribed in sections 30 through 33 of this chapter.

**Sec. 20. (a)** Upon presentation to the issuing officer of the documents required by section 17 of this chapter, an employment certificate shall be issued immediately to the minor. The employment certificate shall state the maximum number of hours that the minor may be employed by the employer. However, an issuing officer may deny an employment certificate to a minor:

- (1) whose attendance is not in good standing; or
- (2) whose academic performance does not meet the school corporation's standard.

**(b)** Not more than five (5) days after issuing an employment certificate, the issuing officer shall send a copy of the employment certificate to the department. The issuing officer shall keep a record in the issuing officer's office of each employment certificate issued. The issuing officer shall keep for each student who has been issued more than one (1) employment certificate a record of the maximum number of hours that the student may work each week for all employers.

**(c)** A student may appeal the denial of an employment certificate under subsection (a) to the principal.

**Sec. 21. (a)** A minor may hold more than one (1) employment certificate at a time. However, a minor who holds more than one (1) employment certificate at a time is subject to the penalties set forth in section 43 of this chapter for any of the following:

- (1) Hour violations under sections 30 through 33 of this



chapter.

(2) A violation of section 31(4) of this chapter.

(b) An employer of a minor who holds more than one (1) employment certificate under subsection (a) is subject to the penalties set forth in sections 44 and 45 of this chapter for:

(1) hour violations under sections 30 through 33 of this chapter; or

(2) a violation of section 31(4) of this chapter;

for the employment of the minor with the employer only.

(c) Subject to section 19(c) of this chapter, an employer is only subject to penalties under subsection (b) for violations occurring at the employer's enterprise.

Sec. 22. (a) The department may revoke an employment certificate at any time, if, in the judgment of the department, the certificate was improperly issued or if the department has knowledge that the minor is or was illegally employed.

(b) To determine when a minor is illegally employed, the department and agents of the department may:

(1) investigate the age of a minor who is employed;

(2) subpoena witnesses;

(3) hear evidence; and

(4) require the production of relevant books or documents.

(c) If the department revokes an employment certificate under this section, the issuing officer and the minor's employer shall be notified in writing. This notice may be delivered in person or by registered mail. Immediately after receiving notice of revocation, the employer shall return the employment certificate to the issuing officer.

(d) A minor whose employment certificate has been revoked may not be employed or allowed to work until the minor legally has obtained a new employment certificate.

Sec. 23. (a) Each employment certificate issued for a minor must state the:

(1) full name and the date and place of birth of the minor;

(2) name and address of the minor's parents;

(3) name and address of the employer; and

(4) nature of the work that the minor is to perform.

(b) The employment certificate must certify that the minor has:

(1) appeared before the issuing officer; and

(2) submitted the proof of age and prospective employment as required under this chapter.

(c) The issuing officer may require the presence of the minor's



parents before issuing the employment certificate.

**Sec. 24.** All forms necessary to carry out this chapter shall be prepared by the department and supplied to issuing officers by means of electronic or printed publication.

**Sec. 25. (a)** An officer charged with enforcement of this chapter may investigate the age of a minor:

- (1) who is employed or allowed to work in an occupation; and
- (2) for whom an employment certificate is not on file.

**(b)** If the officer finds that the age of the minor is below the age authorized for an employee without an employment certificate, the:

- (1) employment; or
  - (2) fact that the minor is allowed to work;
- is prima facie evidence of unlawful employment.

**Sec. 26. (a)** Except as provided in subsection (c), whenever the department requires, a minor who is:

- (1) at least fourteen (14) years of age and less than eighteen (18) years of age; and
- (2) at work in an occupation for which an employment certificate is required under sections 13 and 14 of this chapter;

shall submit to a physical examination. The physical examination shall be conducted by a medical inspector of the department or by a physician designated by the department. A female employee is entitled to have the physical examination made by a female. An employer shall not require or attempt to require a female employee to submit to a physical examination by a male.

**(b)** The result of a physical examination conducted under this section shall be recorded on a printed form furnished by and kept on file at the department.

**(c)** The department may not require a minor to undergo a physical examination under this chapter when the minor's parent objects on religious grounds. A religious objection:

- (1) consists of a good faith reliance on spiritual means or prayer for healing; and
- (2) is not effective unless the objection is:
  - (A) made in writing;
  - (B) signed by the minor's parent; and
  - (C) delivered to the department.

**Sec. 27. (a)** If:

- (1) a minor fails to submit to a physical examination as required under section 26 of this chapter; or
- (2) on examination, the medical inspector finds the minor to





be physically unfit to be employed in the work in which the minor is engaged and files a report to that effect; the department shall revoke the minor's employment certificate. A report of physical incapacity shall be kept at the office of the department.

(b) Written notice of a revocation under this section shall be served on the issuing officer and the minor's employer in person or by registered mail. Immediately after receiving notice of a revocation, the employer shall deliver the revoked employment certificate to the department. A minor whose employment certificate has been revoked under this section may obtain a new certificate if the minor is found, after physical examination, to be physically fit for the new occupation in which the minor proposes to engage.

Sec. 28. (a) An employment certificate may be revoked by the issuing officer if the issuing officer determines that there has been a significant decrease in any of the following since the issuance of the permit:

- (1) The student's grade point average.
- (2) The student's attendance at school.

(b) A student whose employment certificate is revoked under subsection (a) is entitled to a periodic review of the student's grade record or attendance record, or both, to determine whether the revocation should continue. A periodic review may not be conducted less than one (1) time each school year.

(c) If upon review the issuing officer determines that the student's grade point average or attendance, or both, have improved substantially, the issuing officer may reissue an employment certificate to the student.

(d) A student may appeal the revocation of an employment certificate under subsection (a) or the refusal to reissue an employment certificate under subsection (c) to the school principal.

(e) An issuing officer who revokes an employment certificate shall immediately send written notice of the revocation to the student's employer.

Sec. 29. Sections 30 through 34 of this chapter apply only to the following:

- (1) Employment for which a minor who is at least fourteen (14) years of age and less than eighteen (18) years of age must obtain an employment certificate under this chapter.
- (2) Employment for which a minor who is at least fourteen (14) years of age and less than eighteen (18) years of age is not



required to obtain an employment certificate under this chapter because of the application of section 14(e) of this chapter.

**Sec. 30.** The following apply only to a minor who is at least fourteen (14) years of age and less than sixteen (16) years of age:

- (1) The minor may not work before 7 a.m. or after 7 p.m. However, except on a day that precedes a school day when the minor may only work until 7 p.m, the minor may work until 9 p.m. from June 1 through Labor Day.
- (2) The minor may not work:
  - (A) more than three (3) hours on a school day;
  - (B) more than eighteen (18) hours in a school week;
  - (C) more than eight (8) hours on a nonschool day; or
  - (D) more than forty (40) hours in a nonschool week.

**Sec. 31.** A minor who is at least sixteen (16) years of age and less than eighteen (18) years of age may not:

- (1) work for more than nine (9) hours in any one (1) day;
- (2) work for more than forty (40) hours in a school week;
- (3) work for more than forty-eight (48) hours in a nonschool week;
- (4) work for more than six (6) days in any one (1) week; or
- (5) begin a work day before 6 a.m.

**Sec. 32.** A minor who is at least sixteen (16) years of age and less than eighteen (18) years of age may work until 10 p.m. on nights that are followed by a school day in any occupation except those that the commissioner of labor determines to be:

- (1) dangerous to life or limb; or
- (2) injurious to health or morals.

**Sec. 33.** A minor who is at least sixteen (16) years of age and less than eighteen (18) years of age may work until 11 p.m. on a night followed by a school day if the employer has obtained written permission from the minor's parent and placed the written permission on file in the employer's office.

**Sec. 34.** A minor who is at least sixteen (16) years of age and less than eighteen (18) years of age may be employed at the same daily and weekly hours and at the same times of day as adults if the minor is a member of any of the following categories:

- (1) The minor is a high school graduate.
- (2) The minor has completed an approved career and technical education program or special education program.
- (3) The minor is not enrolled in a regular school term.

**Sec. 35. (a)** This subsection does not apply to a minor who is



employed or works as a youth athletic program referee, umpire, or official under section 36 of this chapter. A minor less than:

(1) fourteen (14) years of age may not be employed or allowed to work in any gainful occupation except as a farm laborer, domestic service worker, caddie for persons playing the game of golf, or newspaper carrier; and

(2) twelve (12) years of age may not be permitted to work at farm labor except on a farm operated by the minor's parent.

(b) Except as provided in section 37 of this chapter, a person, firm, limited liability company, or corporation may not employ or permit any minor less than sixteen (16) years of age to work in any occupation during school hours on a school day.

Sec. 36. (a) If the conditions of subsections (b) and (c) are satisfied, a minor who is less than eighteen (18) years of age is exempt from the requirements of this chapter whenever the minor is employed or works as a youth athletic program referee, umpire, or official.

(b) A minor must satisfy all of the following:

(1) The minor is at least twelve (12) years of age.

(2) The minor is certified as a referee, umpire, or official by a national certification program.

(3) The minor is a referee, umpire, or official for an age bracket younger than the minor's own age.

(c) In addition to the requirements of subsection (b), one (1) of the following must be satisfied:

(1) The minor:

(A) works with a person who is:

(i) at least eighteen (18) years of age; and

(ii) also working as a referee, umpire, or official at the same athletic event at which the minor is working as a referee, umpire, or official; and

(B) has on file with the person responsible for assigning the minor to officiate for the youth athletic program the original or a copy of a written consent to the minor's employment as a referee, umpire, or official signed by the minor's parent or guardian.

(2) A minor's parent or guardian is present during the athletic event at which the minor is working as a referee, umpire, or official.

Sec. 37. This chapter may not prevent a minor of any age from singing, playing, or performing in a studio, circus, theatrical, or musical exhibition, concert, or festival, in radio and television



broadcasts, or as a live or photographic model. Employment certificates are not required for employment or appearances set forth in this section, but a minor less than eighteen (18) years of age may not be employed except under the following conditions:

- (1) The activities described in this section must not:
  - (A) be detrimental to the life, health, safety, or welfare of the minor; or
  - (B) interfere with the schooling of the minor.

Provision shall be made for education equivalent to full-time school attendance in the public schools for minors less than sixteen (16) years of age.

- (2) A parent shall accompany a minor less than sixteen (16) years of age at all rehearsals, appearances, and performances.
- (3) The employment or appearance may not be in a cabaret, dance hall, night club, tavern, or other similar place.

**Sec. 38. The employment of minors by the:**

- (1) Indiana School for the Deaf; and
- (2) Indiana School for the Blind and Visually Impaired;

is subject to the general restrictions imposed on the employment of minors under this chapter.

**Sec. 39. Every person, firm, corporation, or company that employs a minor at least fourteen (14) years of age and less than eighteen (18) years of age in an occupation for which the minor must obtain an employment certificate shall post and keep posted a printed notice in a conspicuous place or in places where notices to employees are customarily posted. This notice must state:**

- (1) the maximum number of hours a minor may be employed or permitted to work each day of the week; and
- (2) the hours of beginning and ending each day.

The forms for this notice shall be furnished by the department.

**Sec. 40. The department shall prohibit a minor who is less than eighteen (18) years of age from working in an occupation designated as hazardous by the child labor provisions of the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.), except when the minor is working for the minor's parent or a person standing in the place of the minor's parent on a farm owned or operated by the parent or person.**

**Sec. 40.5. (a) This section does not provide an exception to the limit on the number of hours a minor is permitted to work under sections 30 through 33 of this chapter.**

**(b) It is unlawful for a person, firm, limited liability company, or corporation to permit a minor who is:**



- (1) less than eighteen (18) years of age; and
- (2) employed by the person, firm, limited liability company, or corporation;

to work after 10 p.m. and before 6 a.m. in an establishment that is open to the public unless another employee at least eighteen (18) years of age also works in the establishment during the same hours as the minor.

(c) The requirement for an employee who is at least eighteen (18) years of age to also work in the establishment under subsection (b) does not apply if the establishment does not open to the public until after 6 a.m. and closes to the public before 10 p.m.

(d) A violation of subsection (b) is a hazardous occupation violation subject to section 45 of this chapter.

**Sec. 41.** This chapter does not prevent a student from working on a properly guarded machine in the training department of a school when an instructor provides personal supervision.

**Sec. 42. (a)** The department and its authorized inspectors and agents:

- (1) shall enforce this chapter and ensure that all violators are prosecuted; and
- (2) may visit and inspect, at all reasonable hours and when as practicable and necessary, all establishments affected by this chapter.

(b) It is unlawful for any person to interfere with, obstruct, or hinder any inspector or agent of the department while the inspector or agent performs official duties or to refuse to properly answer questions asked by an inspector or agent of the department.

(c) When requested in writing by the department, the attorney general shall assist the prosecuting attorney in the prosecution of persons charged with a violation of this chapter.

**Sec. 43. (a)** For an hour violation under sections 30 through 33 of this chapter or a violation of section 31(4) of this chapter committed by a minor, the civil penalties are as follows:

- (1) A warning letter for a first violation.
- (2) Revocation of the employment certificate or certificates held by the minor for thirty (30) calendar days.

(b) The department shall assess the civil penalties set forth in subsection (a).

(c) If the department revokes an employment certificate under this section, the issuing officer and the minor's employer shall be notified in writing. The notice may be delivered in person or by registered mail. Immediately after receiving notice of revocation,



the employer shall return the employment certificate to the issuing officer.

(d) A minor whose employment certificate or certificates have been revoked may not be employed or allowed to work until the minor legally has obtained a new employment certificate.

Sec. 44. An individual who is an employer, a firm, a limited liability company, or a corporation that violates this chapter may be assessed the civil penalties described in this section by the department. For an employment certificate violation under section 13 or 22 of this chapter, an hour violation of not more than thirty (30) minutes under sections 30 through 33 of this chapter, a violation of section 31(4) of this chapter, or a posting violation under section 39 of this chapter the civil penalties are as follows:

- (1) A warning letter for any violations identified during an initial inspection.
- (2) Fifty dollars (\$50) per instance for a second violation identified in a subsequent inspection.
- (3) Seventy-five dollars (\$75) per instance for a third violation that is identified in a subsequent inspection.
- (4) One hundred dollars (\$100) per instance for a fourth or subsequent violation that is identified in an inspection subsequent to the inspection under subdivision (3) and occurs not more than two (2) years after a prior violation.

Sec. 45. An individual who is an employer, a firm, a limited liability company, or a corporation that violates this chapter may be assessed the civil penalties described in this section by the department. For an hour violation of more than thirty (30) minutes under sections 30 through 33 of this chapter, an age violation under section 35 or 37 of this chapter, each minor employed in violation of section 35(b) of this chapter, or a hazardous occupation violation under section 40 or 40.5 of this chapter the civil penalties are as follows:

- (1) A warning letter for any violations identified during an initial inspection.
- (2) One hundred dollars (\$100) per instance for each violation identified in a subsequent inspection.
- (3) Two hundred dollars (\$200) per instance for a third violation that is identified in a subsequent inspection.
- (4) Four hundred dollars (\$400) per instance for a fourth or subsequent violation that is identified in an inspection subsequent to the inspection under subdivision (3) and occurs not more than two (2) years after a prior violation.



**Sec. 46. (a)** A civil penalty assessed under section 44 or 45 of this chapter:

- (1) is subject to IC 4-21.5-3-6; and
  - (2) becomes effective without a proceeding under IC 4-21.5-3 unless a person requests an administrative review not later than thirty (30) days after notice of the assessment is given.
- (b)** For purposes of determining:
- (1) whether a second violation has occurred when assessing a civil penalty under subsection (a), a first violation expires one (1) year after the date of issuance of a warning letter by the department under section 44 or 45 of this chapter; and
  - (2) recurring violations of this section, each location of an employer shall be considered separate and distinct from another location of the same employer.

**Sec. 47. (a)** There is established an employment of youth fund to educate affected parties on the purposes and contents of this chapter and the responsibilities of all parties under this chapter.

**(b)** One-half (1/2) of the employment of youth fund each year shall be used for the purpose of the education provision of this subsection, and may be used to award grants to provide educational programs. The remaining one-half (1/2) of the employment of youth fund shall be used each year for the expenses of hiring and salaries of additional inspectors to enforce this chapter under section 44 of this chapter and to develop and maintain the data base under IC 22-1-1-23.

**(c)** The employment of youth fund shall be administered by the department. The expenses of administering the employment of youth fund shall be paid from money in the fund. The treasurer of state shall invest the money in the employment of youth fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the employment of youth fund. Money in the employment of youth fund at the end of a state fiscal year does not revert to the state general fund.

**(d)** Revenue received from civil penalties under this chapter shall be deposited in the employment of youth fund.

**(e)** All inspectors hired to enforce this chapter shall also be available to educate affected parties on the purposes and contents of this chapter and the responsibilities of all parties under this chapter.

**Sec. 48. (a)** An employment certificate shall be issued:



(1) in a form approved by; and  
 (2) under rules adopted under IC 4-22-2 by;  
 the department.

(b) The style of the form and the rules adopted under this section must:

- (1) be consistent with this chapter; and
- (2) promote uniformity and efficiency in the administration of this chapter.

**Sec. 49.** On April 1, 2020, the auditor of state shall transfer the balance that remains on March 31, 2020, in the employment of youth fund established by IC 20-33-3-42 (before its repeal) to the employment of youth fund established by section 47 of this chapter.

**Sec. 50.** This chapter expires June 30, 2021.

SECTION 16. IC 22-2-18.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]:

**Chapter 18.1. Employment of Minors**

**Sec. 1.** This chapter is effective July 1, 2021.

**Sec. 2. (a)** This chapter does not apply to:

- (1) a parent who employs the parent's own child;
- (2) a person standing in place of a parent who employs a child in the person's custody; or
- (3) a legal entity whose ownership is limited to the parents of the employed child or persons standing in place of the parent of the employed child;

except in the instances of underage employment (as set forth in section 12(a) of this chapter), employment during school hours (as set forth in section 12(b) of this chapter), and employment in hazardous occupations designated by federal law (as set forth in section 23 of this chapter).

(b) This chapter does not apply to a minor enrolled in a work based learning course (as defined in IC 20-43-8-0.7).

**Sec. 3.** This chapter applies to a minor less than eighteen (18) years of age who is employed or is seeking employment in Indiana.

**Sec. 4.** As used in this chapter, "department" refers to the department of labor created by IC 22-1-1-1.

**Sec. 5.** As used in this chapter, "employer" means a person, firm, limited liability company, or corporation that hires, employs, or permits a minor to work in a gainful occupation.

**Sec. 6.** As used in this chapter, "high school" has the meaning set forth in IC 20-18-2-7.

**Sec. 7.** As used in this chapter, "nonschool week" refers to a





week that contains two (2) or fewer school days.

**Sec. 8.** As used in this chapter, "parent" has the meaning set forth in IC 20-18-2-13.

**Sec. 9.** As used in this chapter, "public school" has the meaning set forth in IC 20-18-2-15.

**Sec. 10.** As used in this chapter, "school day" refers to a day that contains more than four (4) hours of classroom instruction.

**Sec. 10.5.** As used in this chapter, "school hours" refers to the hours that the school corporation, within the boundaries of which the minor resides while employed, is in session during the regularly scheduled school year.

**Sec. 11.** As used in this chapter, "school week" refers to a week that contains at least three (3) school days.

**Sec. 12. (a)** This subsection does not apply to a minor who is employed or works as a youth athletic program referee, umpire, or official under section 13 of this chapter. A minor less than:

(1) fourteen (14) years of age may not be employed or allowed to work in any gainful occupation except as a farm laborer, domestic service worker, caddie for persons playing the game of golf, or newspaper carrier; and

(2) twelve (12) years of age may not be permitted to work at farm labor except on a farm operated by the minor's parent.

(b) Except as provided in section 14 of this chapter, an employer may not employ or permit any minor less than sixteen (16) years of age to work in any occupation during school hours on a school day.

**Sec. 13. (a)** If the conditions of subsections (b) and (c) are satisfied, a minor who is less than eighteen (18) years of age is exempt from the requirements of this chapter whenever the minor is employed or works as a youth athletic program referee, umpire, or official.

(b) A minor must satisfy all of the following:

(1) The minor is at least twelve (12) years of age.

(2) The minor is certified as a referee, umpire, or official by a national certification program.

(3) The minor is a referee, umpire, or official for an age bracket younger than the minor's own age.

(c) In addition to the requirements of subsection (b), one (1) of the following must be satisfied:

(1) The minor:

(A) works with a person who is:

(i) at least eighteen (18) years of age; and

(ii) also working as a referee, umpire, or official at the



same athletic event at which the minor is working as a referee, umpire, or official; and

(B) has on file with the person responsible for assigning the minor to officiate for the youth athletic program the original or a copy of a written consent to the minor's employment as a referee, umpire, or official signed by the minor's parent or guardian.

(2) A minor's parent or guardian is present during the athletic event at which the minor is working as a referee, umpire, or official.

**Sec. 14.** This chapter may not prevent a minor of any age from singing, playing, or performing in a studio, circus, theatrical, or musical exhibition, concert, or festival, in radio and television broadcasts, or as a live or photographic model. A minor less than eighteen (18) years of age may not be employed except under the following conditions:

(1) The activities described in this section must not:

(A) be detrimental to the life, health, safety, or welfare of the minor; or

(B) interfere with the schooling of the minor.

Provision shall be made for education equivalent to full-time school attendance in the public schools for minors less than sixteen (16) years of age.

(2) A parent shall accompany a minor less than sixteen (16) years of age at all rehearsals, appearances, and performances.

(3) The employment or appearance may not be in a cabaret, dance hall, night club, tavern, or other similar place.

**Sec. 15.** The employment of minors by the:

(1) Indiana School for the Deaf; and

(2) Indiana School for the Blind and Visually Impaired;

is subject to the general restrictions imposed on the employment of minors under this chapter.

**Sec. 16.** (a) Except as provided in subsection (b), sections 17 through 22 of this chapter apply only to the employment of a minor who is less than eighteen (18) years of age.

(b) Sections 17 through 22 of this chapter do not apply to the following:

(1) A minor who is at least fourteen (14) years of age but less than eighteen (18) years of age who:

(A) performs:

(i) farm labor; or

(ii) domestic service; or



- (B) acts as a:
  - (i) caddie for a person playing the game of golf; or
  - (ii) newspaper carrier.
- (2) A minor who is:
  - (A) at least twelve (12) years of age but less than eighteen (18) years of age; and
  - (B) employed or works as a youth athletic program referee, umpire, or official under section 13 of this chapter.
- (3) A minor less than eighteen (18) years of age who:
  - (A) works as an actor or performer if the provisions of section 14 of this chapter are met; or
  - (B) has graduated from high school.

**Sec. 17.** The following apply only to a minor who is at least fourteen (14) years of age and less than sixteen (16) years of age:

- (1) The minor may not work before 7 a.m. or after 7 p.m. However, except on a day that precedes a school day when the minor may only work until 7 p.m., the minor may work until 9 p.m. from June 1 through Labor Day.
- (2) The minor may not work:
  - (A) more than three (3) hours on a school day;
  - (B) more than eighteen (18) hours in a school week;
  - (C) more than eight (8) hours on a nonschool day; or
  - (D) more than forty (40) hours in a nonschool week.

**Sec. 18.** A minor who is at least sixteen (16) years of age and less than eighteen (18) years of age may not:

- (1) work for more than nine (9) hours in any one (1) day;
- (2) work for more than forty (40) hours in a school week;
- (3) work for more than forty-eight (48) hours in a nonschool week;
- (4) work for more than six (6) days in any one (1) week; or
- (5) begin a work day before 6 a.m.

**Sec. 19.** A minor who is at least sixteen (16) years of age and less than eighteen (18) years of age may work until 10 p.m. on nights that are followed by a school day in any occupation except those that the commissioner of labor determines to be:

- (1) dangerous to life or limb; or
- (2) injurious to health or morals.

**Sec. 20.** A minor who is at least sixteen (16) years of age and less than eighteen (18) years of age may work until 11 p.m. on a night followed by a school day if the employer has obtained written permission from the minor's parent and placed the written permission on file in the employer's office.



**Sec. 21.** A minor who is at least sixteen (16) years of age and less than eighteen (18) years of age may be employed at the same daily and weekly hours and at the same times of day as adults if the minor is a member of any of the following categories:

- (1) The minor is a high school graduate.
- (2) The minor has completed an approved career and technical education program or special education program.
- (3) The minor is not enrolled in a regular school term.

**Sec. 22.** Every employer that employs a minor at least fourteen (14) years of age and less than eighteen (18) years of age shall post and keep posted a printed notice in a conspicuous place or in places where notices to employees are customarily posted. This notice must state:

- (1) the maximum number of hours a minor may be employed or permitted to work each day of the week; and
- (2) the hours of beginning and ending each day.

The forms for this notice shall be furnished by the department.

**Sec. 23.** The department shall prohibit a minor who is less than eighteen (18) years of age from working in an occupation designated as hazardous by the child labor provisions of the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.), except when the minor is working for the minor's parent or a person standing in the place of the minor's parent on a farm owned or operated by the parent or person.

**Sec. 23.5. (a)** This section does not provide an exception to the limit on the number of hours a minor is permitted to work under sections 17 through 20 of this chapter.

**(b)** It is unlawful for an employer to permit a minor who is:

- (1) less than eighteen (18) years of age; and
- (2) employed by the employer;

to work after 10 p.m. and before 6 a.m. in an establishment that is open to the public unless another employee at least eighteen (18) years of age also works in the establishment during the same hours as the minor.

**(c)** The requirement for an employee who is at least eighteen (18) years of age to also work in the establishment under subsection (b) does not apply if the establishment does not open to the public until after 6 a.m. and closes to the public before 10 p.m.

**(d)** A violation of subsection (b) is a hazardous occupation violation subject to section 30 of this chapter.

**Sec. 24.** This chapter does not prevent a student from working on a properly guarded machine in the training department of a



school when an instructor provides personal supervision.

**Sec. 25. (a)** The department shall create and maintain a data base that is accessible by the public and that displays each employer that is required to register under this chapter.

**(b)** The data base must include the name and electronic mail address of each employer registered under this chapter.

**Sec. 26. (a)** Each employer that hires, employs, or permits at least five (5) minors who are:

- (1)** at least fourteen (14) years of age; and
- (2)** less than eighteen (18) years of age;

to work in a gainful occupation must register with the department.

**(b)** An employer that must register under this chapter must provide, in the form and manner prescribed by the department, the following information:

- (1)** The name of the employer.
- (2)** The electronic mail address of the employer.
- (3)** The number of minors whom the employer has hired, employed, or permitted to work in a gainful occupation.
- (4)** Any other information required by the department.

**Sec. 27. (a)** The department shall adopt rules under IC 4-22-2, including emergency rules adopted in the manner provided under IC 4-22-2-37.1, to:

- (1)** develop a schedule for the submission of the registration under section 26 of this chapter; and
- (2)** implement this chapter.

**(b)** The department may establish recommendations for rest breaks.

**Sec. 28. (a)** The department and its authorized inspectors and agents:

- (1)** shall enforce this chapter and ensure that all violators are prosecuted; and
- (2)** may visit and inspect, at all reasonable hours and when as practicable and necessary, all establishments affected by this chapter.

**(b)** It is unlawful for any person to interfere with, obstruct, or hinder any inspector or agent of the department while the inspector or agent performs official duties or to refuse to properly answer questions asked by an inspector or agent of the department.

**(c)** When requested in writing by the department, the attorney general shall assist the prosecuting attorney in the prosecution of persons charged with a violation of this chapter.

**Sec. 29. (a)** The department and its authorized inspectors and



agents may investigate the age of a minor who is employed or allowed to work in an occupation.

(b) If the department or its authorized inspectors and agents find that the age of the minor is below the age authorized under this chapter, the:

- (1) employment; or
  - (2) fact that the minor is allowed to work;
- is prima facie evidence of unlawful employment.

Sec. 30. (a) An employer that violates this chapter may be assessed the civil penalties described in this section by the department.

(b) For an hour violation of not more than thirty (30) minutes under sections 17 through 20 of this chapter, a violation of section 18(4) of this chapter, or a posting violation under section 22 of this chapter the civil penalties are as follows:

- (1) A warning letter for any violations identified during an initial inspection.
- (2) Fifty dollars (\$50) per instance for a second violation identified in a subsequent inspection.
- (3) Seventy-five dollars (\$75) per instance for a third violation that is identified in a subsequent inspection.
- (4) One hundred dollars (\$100) per instance for a fourth or subsequent violation that is identified in an inspection subsequent to the inspection under subdivision (3) and that occurs not more than two (2) years after a prior violation.

(c) For a failure to register or failure to register the correct number of minors employed under section 26 of this chapter, an hour violation of more than thirty (30) minutes under sections 17 through 20 of this chapter, an age violation under section 12 or 14 of this chapter, each minor employed in violation of section 12(b) of this chapter, or a hazardous occupation violation under section 23 or 23.5 of this chapter the civil penalties are as follows:

- (1) A warning letter for any violations identified during an initial inspection.
- (2) One hundred dollars (\$100) per instance for each violation identified in a subsequent inspection.
- (3) Two hundred dollars (\$200) per instance for a third violation that is identified in a subsequent inspection.
- (4) Four hundred dollars (\$400) per instance for a fourth or subsequent violation that is identified in an inspection subsequent to the inspection under subdivision (3) and that occurs not more than two (2) years after a prior violation.



**Sec. 31. (a) A civil penalty assessed under section 30 of this chapter:**

- (1) is subject to IC 4-21.5-3-6; and**
- (2) becomes effective without a proceeding under IC 4-21.5-3 unless a person requests an administrative review not later than thirty (30) days after notice of the assessment is given.**
- (b) For purposes of determining:**
  - (1) whether a second violation has occurred when assessing a civil penalty under subsection (a), a first violation expires one (1) year after the date of issuance of a warning letter by the department under section 30 of this chapter; and**
  - (2) recurring violations of this section, each location of an employer shall be considered separate and distinct from another location of the same employer.**

**Sec. 32. (a) There is established a labor education and youth employment fund to educate affected parties on the purposes and contents of this chapter and the responsibilities of all parties under this chapter.**

**(b) The labor education and youth employment fund shall be used each year for the expenses of hiring and salaries of additional inspectors to enforce this chapter under section 30 of this chapter and to develop and maintain the data base under this chapter. Any remaining funds may be used for the purpose of the education provision of this subsection and may be used to award grants to provide educational programs.**

**(c) The labor education and youth employment fund shall be administered by the department. The expenses of administering the labor education and youth employment fund shall be paid from money in the fund. The treasurer of state shall invest the money in the labor education and youth employment fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the labor education and youth employment fund. Money in the labor education and youth employment fund at the end of a state fiscal year does not revert to the state general fund.**

**(d) Revenue received from civil penalties under section 30 of this chapter shall be deposited in the labor education and youth employment fund.**

**(e) All inspectors hired to enforce this chapter shall also be available to educate affected parties on the purposes and contents of this chapter and the responsibilities of all parties under this**



**chapter.**

**Sec. 33. On July 1, 2021, the auditor of state shall transfer the balance that remains on June 30, 2021, in the employment of youth fund established by IC 22-2-18-47 (before its expiration) to the labor education and youth employment fund established by section 32 of this chapter.**

**Sec. 34. The department shall submit, not later than December 1 of each year, an annual report listing all registered employers under section 25 of this chapter to the governor's workforce cabinet established by IC 4-3-27-3.**

SECTION 17. IC 22-3-6-1, AS AMENDED BY P.L.63-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the context otherwise requires:

(a) "Employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, limited liability partnership, or corporation or the receiver or trustee of the same, using the services of another for pay. A corporation, limited liability company, or limited liability partnership that controls the activities of another corporation, limited liability company, or limited liability partnership, or a corporation and a limited liability company or a corporation and a limited liability partnership that are commonly owned entities, or the controlled corporation, limited liability company, limited liability partnership, or commonly owned entities, and a parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the controlled corporation's, the limited liability company's, the limited liability partnership's, the commonly owned entities', the parent's, or the subsidiaries' employees for purposes of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of IC 22-3-2-6 and IC 22-3-3-31. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5. The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the

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extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

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

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

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

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

(4) An owner of a sole proprietorship may elect to include the owner as an employee under IC 22-3-2 through IC 22-3-6 if the owner is actually engaged in the proprietorship business. If the



owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If the owner of a sole proprietorship:

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

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

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

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

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

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

(A) they are licensed real estate agents;

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

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

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

(8) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376 to a motor carrier



is not an employee of the motor carrier for purposes of IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

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

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

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

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

(13) A driver providing drive away operations is an independent contractor and not an employee when:

(A) the vehicle being driven is the commodity being delivered; and

(B) the driver has entered into an agreement with the party arranging for the transportation that specifies the driver is an independent contractor and not an employee.

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

(1) Unless otherwise provided in this subsection, a minor



employee shall be considered as being of full age for all purposes of IC 22-3-2 through IC 22-3-6.

(2) If the employee is a minor who, at the time of the accident, is employed, required, suffered, or permitted to work in violation of ~~IC 20-33-3-35~~, **IC 22-2-18-40 (before its expiration on June 30, 2021) and IC 22-2-18.1-23**, the amount of compensation and death benefits, as provided in IC 22-3-2 through IC 22-3-6, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the injury or death of the minor, and the employer shall be liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age and who at the time of the accident is employed, suffered, or permitted to work at any occupation which is not prohibited by law, this subdivision does not apply.

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

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

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

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



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

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

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

- (A) the student employee's hourly wage rate; multiplied by
- (B) forty (40) hours.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



the same community for like services or products.

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

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

(i) The employer.

(ii) The employer's insurance carrier.

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

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

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

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

SECTION 18. IC 22-3-7-9, AS AMENDED BY P.L.204-2018, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 9. (a) As used in this chapter, "employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, limited liability partnership, or corporation or the receiver or trustee of the same, using the services of another for pay. A corporation, limited liability company, or limited liability partnership that controls the activities of another corporation, limited liability company, or limited liability partnership, or a corporation and a limited liability company or a corporation and a limited liability partnership that are commonly owned entities, or the controlled corporation, limited liability company, limited liability partnership, or commonly owned entities, and a parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the controlled corporation's, the limited liability company's, the limited liability partnership's, the commonly owned entities', the parent's, or the subsidiaries' employees for purposes of sections 6 and 33 of this chapter. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of sections 6 and 33 of this chapter. The term also includes an employer that provides



on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth under section 2.5 of this chapter. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

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

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

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

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

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

(3) A partner in a partnership may elect to include the partner as an employee under this chapter if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be





considered an employee under this chapter until the notice has been received. If a partner in a partnership:

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

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

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

(A) they are licensed real estate agents;

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

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

(5) A person is an independent contractor in the construction trades and not an employee under this chapter if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

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

(7) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth under section 2.5 of this chapter.

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



(9) An officer of a corporation who is an employee of the corporation under this chapter may elect not to be an employee of the corporation under this chapter. An officer of a corporation who is also an owner of any interest in the corporation may elect not to be an employee of the corporation under this chapter. If an officer makes this election, the officer must serve written notice of the election on the corporation's insurance carrier and the board. An officer of a corporation may not be considered to be excluded as an employee under this chapter until the notice is received by the insurance carrier and the board.

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

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

(d) This chapter does not apply to casual laborers as defined in subsection (b), nor to farm or agricultural employees, nor to household employees, nor to railroad employees engaged in train service as engineers, firemen, conductors, brakemen, flagmen, baggagemen, or foremen in charge of yard engines and helpers assigned thereto, nor to



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

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

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

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

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

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

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

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



disablement (as defined in subsection (e)) occurs within thirty-five (35) years after the last day of the last exposure.

(g) For the purposes of this chapter, no compensation shall be payable for or on account of death resulting from any occupational disease unless death occurs within two (2) years after the date of disablement. However, this subsection does not bar compensation for death:

- (1) where death occurs during the pendency of a claim filed by an employee within two (2) years after the date of disablement and which claim has not resulted in a decision or has resulted in a decision which is in process of review or appeal; or
- (2) where, by agreement filed or decision rendered, a compensable period of disability has been fixed and death occurs within two (2) years after the end of such fixed period, but in no event later than three hundred (300) weeks after the date of disablement.

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

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

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

- (1) The geographic service area served by ZIP codes with the first three (3) digits 463 and 464.
- (2) The geographic service area served by ZIP codes with the first three (3) digits 465 and 466.
- (3) The geographic service area served by ZIP codes with the first three (3) digits 467 and 468.
- (4) The geographic service area served by ZIP codes with the first three (3) digits 469 and 479.
- (5) The geographic service area served by ZIP codes with the first three (3) digits 460, 461 (except 46107), and 473.
- (6) The geographic service area served by the 46107 ZIP code and ZIP codes with the first three (3) digits 462.
- (7) The geographic service area served by ZIP codes with the first three (3) digits 470, 471, 472, 474, and 478.
- (8) The geographic service area served by ZIP codes with the first three (3) digits 475, 476, and 477.

**SEA 409 — Concur**



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

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

- (1) A hospital (as defined in IC 16-18-2-179).
- (2) A hospital based health facility (as defined in IC 16-18-2-180).
- (3) A medical center (as defined in IC 16-18-2-223.4).

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

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

- (1) This subdivision applies before July 1, 2014, to all medical service providers, and after June 30, 2014, to a medical service provider that is not a medical service facility. Payment of the charges in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.
- (2) Payment of the charges in a reasonable amount, which is established by payment of one (1) of the following:
  - (A) The amount negotiated at any time between the medical service facility and any of the following, if an amount has been negotiated:
    - (i) The employer.
    - (ii) The employer's insurance carrier.
    - (iii) A billing review service on behalf of a person described in item (i) or (ii).
    - (iv) A direct provider network that has contracted with a person described in item (i) or (ii).
  - (B) Two hundred percent (200%) of the amount that would be paid to the medical service facility on the same date for the



same service or product under the medical service facility's Medicare reimbursement rate, if an amount has not been negotiated as described in clause (A).

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

SECTION 19. IC 22-3-7-9.2, AS AMENDED BY P.L.1-2005, SECTION 183, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 9.2. As used in section 9(c) of this chapter, the term "violation of the ~~child labor~~ **employment of minors** laws of this state" means a violation of ~~IC 20-33-3-35~~ **IC 22-2-18-40 (before its expiration on June 30, 2021) and IC 22-2-18.1-23**. The term does not include a violation of any other provision of ~~IC 20-33-3-~~ **IC 22-2-18 (before its expiration on June 30, 2021) or IC 22-2-18.1**.

SECTION 20. **An emergency is declared for this act.**



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**SEA 409 — Concur**

