

SENATE BILL No. 464

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-2.1-19.1; IC 22-2-2-3; IC 22-3; IC 22-4.

Synopsis: Transportation network companies. Requires that the primary motor vehicle liability insurance coverage for a transportation network company (TNC) driver who is logged on to the TNC's digital network, but is not engaged in a prearranged ride, includes at least \$50,000 per incident medical payments. Describes the relationship between a TNC and a TNC driver for minimum wage and overtime, worker's compensation and occupational diseases compensation, unemployment compensation, and other benefits to an individual based on an employer-employee relationship. Requires a TNC to: (1) maintain records of all amounts paid to its TNC drivers; (2) withhold from amounts paid to a TNC driver all federal and state income taxes due as if the TNC driver were an employee of the TNC; and (3) comply with the federal and state income tax laws that apply to the employment relationship as if the TNC were the employer of a TNC driver. Allows an individual TNC driver or a group of TNC drivers to organize into a labor organization or as an association to bargain with a TNC regarding fees, rates, insurance coverage, and other terms and conditions of the TNC-TNC driver relationship. Allows a TNC, or a group of TNC's, to create a pool of TNC drivers in order to provide or administer benefits, such as insurance and health care, without creating a presumption that an employer-employee relationship exists.

Effective: July 1, 2017.

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January 12, 2017, read first time and referred to Committee on Pensions and Labor.



First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 464

A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

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

- 1 SECTION 1. IC 8-2.1-19.1-8, AS AMENDED BY THE
2 TECHNICAL CORRECTIONS BILL OF THE 2017 GENERAL
3 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2017]: Sec. 8. (a) Not later than July 15, 2015, a TNC driver,
5 or a TNC on the TNC driver's behalf, shall maintain primary motor
6 vehicle insurance that meets the following requirements:
7 (1) The motor vehicle insurance is issued:
8 (A) by an insurance company that holds a certificate of
9 authority to do insurance business in Indiana under
10 IC 27-1-3-20; or
11 (B) through a surplus lines producer licensed under
12 IC 27-1-15.8.
13 (2) The language of the motor vehicle insurance policy:
14 (A) recognizes that the driver is a TNC driver or otherwise
15 uses the personal vehicle to transport passengers for
16 compensation; and
17 (B) covers the driver while the driver is:



- 1 (i) logged on to the TNC's digital network; or
 2 (ii) engaged in a prearranged ride.
- 3 (3) The motor vehicle insurance must meet the following
 4 coverage requirements while a TNC driver is logged on to the
 5 TNC's digital network, but is not engaged in a prearranged ride:
 6 (A) Primary motor vehicle liability insurance in an amount
 7 equal to at least:
 8 (i) fifty thousand dollars (\$50,000) per person for death and
 9 bodily injury;
 10 (ii) one hundred thousand dollars (\$100,000) per incident
 11 for death and bodily injury; ~~and~~
 12 (iii) twenty-five thousand dollars (\$25,000) per incident for
 13 property damage; **and**
 14 **(iv) fifty thousand dollars (\$50,000) per incident medical**
 15 **payments.**
- 16 (B) The insurance required by clause (A) may be provided by
 17 any of the following:
 18 (i) Motor vehicle insurance maintained by the TNC driver.
 19 (ii) Motor vehicle insurance maintained by the TNC.
 20 (iii) Motor vehicle insurance maintained by any combination
 21 of **persons or entities under** items (i) and (ii).
- 22 (4) The motor vehicle insurance must meet the following
 23 coverage requirements while a TNC driver is engaged in a
 24 prearranged ride:
 25 (A) Primary motor vehicle liability insurance in an amount
 26 equal to at least one million dollars (\$1,000,000) per incident
 27 for death, bodily injury, and property damage.
 28 (B) The insurance required by clause (A) may be provided by
 29 any of the following:
 30 (i) Motor vehicle insurance maintained by the TNC driver.
 31 (ii) Motor vehicle insurance maintained by the TNC.
 32 (iii) Motor vehicle insurance maintained by any combination
 33 of **persons or entities under** items (i) and (ii).
- 34 (b) If motor vehicle insurance maintained by a TNC driver as
 35 described in subsection (a) lapses or does not provide the required
 36 coverage:
 37 (1) motor vehicle insurance maintained by the TNC must provide
 38 the required coverage beginning with the first dollar of a claim;
 39 and
 40 (2) the insurance company that issues the motor vehicle insurance
 41 described in subdivision (1) has a duty to defend the claim
 42 described in subdivision (1).



1 (c) Coverage under motor vehicle insurance maintained by a TNC
 2 may not be dependent on a personal motor vehicle insurance company's
 3 first denying a claim for coverage under a personal motor vehicle
 4 insurance policy, nor may a personal motor vehicle insurance company
 5 be required to first deny a claim.

6 (d) A motor vehicle insurance policy that meets the coverage
 7 requirements of subsection (a) satisfies the financial responsibility
 8 requirement of IC 9-25 while the driver of the personal vehicle is:

9 ~~(A)~~ (1) logged on to the TNC's digital network; or

10 ~~(B)~~ (2) engaged in a prearranged ride.

11 (e) A TNC driver shall do the following:

12 (1) At all times during which the TNC driver uses a personal
 13 vehicle in connection with a TNC's digital network, carry proof of
 14 the coverage required by subsection (a).

15 (2) In the event of an accident, upon request, provide to directly
 16 interested parties, motor vehicle insurance companies, and
 17 investigating law enforcement officers:

18 (A) the proof described in subdivision (1); and

19 (B) a disclosure of whether the TNC driver was:

20 (i) logged on to the TNC's digital network; or

21 (ii) engaged in a prearranged ride;

22 at the time of the accident.

23 Information provided under this subdivision may be provided in
 24 electronic form under IC 27-1-43-3, as applicable.

25 (f) If a TNC's motor vehicle insurance provides comprehensive
 26 coverage or collision coverage for a claim for repair to a personal
 27 vehicle, the TNC shall direct the insurance company to make the claim
 28 payment:

29 (1) directly to the person that repairs the personal vehicle as
 30 payment in full for the completed repairs; or

31 (2) jointly to:

32 (A) the owner of; and

33 (B) any primary lienholder on;

34 the personal vehicle.

35 SECTION 2. IC 8-2.1-19.1-13.2 IS ADDED TO THE INDIANA
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 2017]: **Sec. 13.2. (a) A TNC is exempt from**
 38 **complying with the minimum wage and overtime provisions under**
 39 **IC 22-2-2 for a TNC driver who:**

40 (1) sets the TNC driver's own hours:

41 (A) for being logged on to the TNC digital network; or

42 (B) for engaging in prearranged rides; and



1 **(2) is not required to:**
 2 **(A) log on to the TNC digital network; or**
 3 **(B) engage in prearranged rides;**
 4 **to maintain the TNC driver's position with the TNC.**

5 **(b) A TNC may require that the TNC driver log onto the TNC**
 6 **digital network or engage in prearranged rides a minimum**
 7 **number of hours in order to maintain the TNC driver's position**
 8 **with the TNC without affecting the exemption described in**
 9 **subsection (a). However, the number of hours may not exceed**
 10 **fifteen (15) hours per week.**

11 **(c) The following apply to the TNC/TNC driver relationship:**

12 **(1) IC 22-2-6 (wage deductions).**

13 **(2) IC 22-2-7 (assignment of wages).**

14 **(3) IC 22-2-8 (deduction from wage payments).**

15 **(4) IC 22-2-9 (wage claims).**

16 **(5) IC 22-5-1 (limitations on importing alien laborers).**

17 **(6) IC 22-9-1 (civil rights enforcement).**

18 **SECTION 3. IC 8-2.1-19.1-13.3 IS ADDED TO THE INDIANA**
 19 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 20 **[EFFECTIVE JULY 1, 2017]: Sec. 13.3. (a) A TNC is exempt from**
 21 **carrying worker's compensation under IC 22-3-5-1 and**
 22 **occupational diseases compensation under IC 22-3-7-34 for a TNC**
 23 **driver, if the TNC driver has coverage described in this section for**
 24 **injuries that occur while the TNC driver is logged on to the TNC**
 25 **digital network or engaged in a prearranged ride. The required**
 26 **coverage may be provided by the TNC or by the TNC driver. The**
 27 **coverage required under this section is in addition to the coverage**
 28 **required under section 8 of this chapter.**

29 **(b) A TNC that provides coverage for its TNC drivers:**

30 **(1) may require that a TNC driver log onto the TNC digital**
 31 **network or engage in prearranged rides a minimum number**
 32 **of hours, not to exceed fifteen (15) hours per week; and**

33 **(2) may limit the coverage to the period during which the**
 34 **TNC driver is logged on to the TNC digital network or**
 35 **engaged in prearranged rides.**

36 **(c) Coverage provided by a TNC must include the following:**

37 **(1) Medical payments of at least fifty thousand dollars**
 38 **(\$50,000).**

39 **(2) Temporary/short term disability payments for a period of**
 40 **at least twelve (12) months.**

41 **(d) The coverage described in subsection (c) may provide for**
 42 **subrogation.**



1 (e) If a TNC driver provides the coverage required under this
2 section, the following apply:

3 (1) The types and amounts of the coverage must be the same
4 as described in subsection (c).

5 (2) The TNC shall ensure that:

6 (A) the TNC driver has the required coverage; and

7 (B) the coverage is current and remains in force.

8 (3) The TNC driver may file valid claims against the TNC.

9 (4) A TNC rider may file valid claims against the TNC.

10 SECTION 4. IC 8-2.1-19.1-13.4 IS ADDED TO THE INDIANA
11 CODE AS A NEW SECTION TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2017]: **Sec. 13.4. (a) For purposes of the**
13 **unemployment compensation system (IC 22-4), an entity that is**
14 **issued a permit as a TNC under this chapter is not considered an**
15 **employer and is exempt from paying unemployment compensation**
16 **benefits.**

17 (b) An individual who is a TNC driver under this chapter is
18 disqualified from receiving unemployment compensation benefits
19 for services performed as a TNC driver. However, an individual is
20 not disqualified from participating in the unemployment
21 compensation system for other work that qualifies as employment
22 under IC 22-4-8.

23 SECTION 5. IC 8-2.1-19.1-13.5 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2017]: **Sec. 13.5. For purposes of any state**
26 **law that requires that an employer provide health care, leave, or**
27 **other benefits to an individual based on an employer-employee**
28 **relationship, a TNC is not considered an employer and a TNC**
29 **driver is not considered an employee.**

30 SECTION 6. IC 8-2.1-19.1-13.6 IS ADDED TO THE INDIANA
31 CODE AS A NEW SECTION TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2017]: **Sec. 13.6. (a) A TNC shall maintain**
33 **records of all amounts paid to its TNC drivers.**

34 (b) A TNC shall:

35 (1) withhold from amounts paid to a TNC driver all federal
36 and state income taxes due as if the TNC driver were an
37 employee of the TNC; and

38 (2) comply with the federal and state income tax laws that
39 apply to the employment relationship as if the TNC were the
40 employer of a TNC driver.

41 SECTION 7. IC 8-2.1-19.1-13.7 IS ADDED TO THE INDIANA
42 CODE AS A NEW SECTION TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2017]: **Sec. 13.7. (a) An individual who is a**
 2 **TNC driver or a group of TNC drivers may organize into a labor**
 3 **organization (as defined by IC 22-9-1-3(j)) or as an association to**
 4 **bargain with a TNC regarding fees, rates, insurance coverage, and**
 5 **other terms and conditions of the TNC-TNC driver relationship.**

6 **(b) Notwithstanding any other state law, a TNC or a group of**
 7 **TNC's may create a pool of TNC drivers in order to provide or**
 8 **administer benefits, such as insurance and health care. The**
 9 **creation of a pool for this purpose does not create a presumption**
 10 **that an employer-employee relationship exists.**

11 SECTION 8. IC 22-2-2-3 IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2017]: Sec. 3. As used in this chapter:

13 "Commissioner" means the commissioner of labor or the
 14 commissioner's authorized representative.

15 "Department" means the department of labor.

16 "Occupation" means an industry, trade, business, or class of work
 17 in which employees are gainfully employed.

18 "Employer" means any individual, partnership, association, limited
 19 liability company, corporation, business trust, the state, or other
 20 governmental agency or political subdivision during any work week in
 21 which they have two (2) or more employees. However, it shall not
 22 include any employer who is subject to the minimum wage provisions
 23 of the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C.
 24 201-209) **or a TNC (as defined in IC 8-2.1-17-18).**

25 "Employee" means any person employed or permitted to work or
 26 perform any service for remuneration or under any contract of hire,
 27 written or oral, express or implied by an employer in any occupation,
 28 but shall not include any of the following:

29 (a) Persons less than sixteen (16) years of age.

30 (b) Persons engaged in an independently established trade,
 31 occupation, profession, or business who, in performing the
 32 services in question, are free from control or direction both under
 33 a contract of service and in fact.

34 (c) Persons performing services not in the course of the
 35 employing unit's trade or business.

36 (d) Persons employed on a commission basis.

37 (e) Persons employed by their own parent, spouse, or child.

38 (f) Members of any religious order performing any service for that
 39 order, any ordained, commissioned, or licensed minister, priest,
 40 rabbi, sexton, or Christian Science reader, and volunteers
 41 performing services for any religious or charitable organization.

42 (g) Persons performing services as student nurses in the employ



- 1 of a hospital or nurses training school while enrolled and
 2 regularly attending classes in a nurses training school chartered
 3 or approved under law, or students performing services in the
 4 employ of persons licensed as both funeral directors and
 5 embalmers as a part of their requirements for apprenticeship to
 6 secure an embalmer's license or a funeral director's license from
 7 the state, or during their attendance at any schools required by law
 8 for securing an embalmer's or funeral director's license.
- 9 (h) Persons who have completed a four (4) year course in a
 10 medical school approved by law when employed as interns or
 11 resident physicians by any accredited hospital.
- 12 (i) Students performing services for any school, college, or
 13 university in which they are enrolled and are regularly attending
 14 classes.
- 15 (j) Persons with physical or mental disabilities performing
 16 services for nonprofit organizations organized primarily for the
 17 purpose of providing employment for persons with disabilities or
 18 for assisting in their therapy and rehabilitation.
- 19 (k) Persons employed as insurance producers, insurance
 20 solicitors, and outside salesmen, if all their services are performed
 21 for remuneration solely by commission.
- 22 (l) Persons performing services for any camping, recreational, or
 23 guidance facilities operated by a charitable, religious, or
 24 educational nonprofit organization.
- 25 (m) Persons engaged in agricultural labor. The term shall include
 26 only services performed:
- 27 (1) on a farm, in connection with cultivating the soil, or in
 28 connection with raising or harvesting any agricultural or
 29 horticultural commodity, including the raising, shearing,
 30 feeding, caring for, training, and management of livestock,
 31 bees, poultry, and furbearing animals and wildlife;
- 32 (2) in the employ of the owner or tenant or other operator of a
 33 farm, in connection with the operation, management,
 34 conservation, improvement, or maintenance of the farm and its
 35 tools and equipment if the major part of the service is
 36 performed on a farm;
- 37 (3) in connection with:
- 38 (A) the production or harvesting of maple sugar or maple
 39 syrup or any commodity defined as an agricultural
 40 commodity in the Agricultural Marketing Act, as amended
 41 (12 U.S.C. 1141j);
- 42 (B) the raising or harvesting of mushrooms;



- 1 (C) the hatching of poultry; or
 2 (D) the operation or maintenance of ditches, canals,
 3 reservoirs, or waterways used exclusively for supplying and
 4 storing water for farming purposes; and
 5 (4) in handling, planting, drying, packing, packaging,
 6 processing, freezing, grading, storing, or delivering to storage,
 7 to market, or to a carrier for transportation to market, any
 8 agricultural or horticultural commodity, but only if service is
 9 performed as an incident to ordinary farming operation or, in
 10 the case of fruits and vegetables, as an incident to the
 11 preparation of fruits and vegetables for market. However, this
 12 exception shall not apply to services performed in connection
 13 with any agricultural or horticultural commodity after its
 14 delivery to a terminal market or processor for preparation or
 15 distribution for consumption.

16 As used in this subdivision, "farm" includes stock, dairy, poultry,
 17 fruit, furbearing animals, and truck farms, nurseries, orchards, or
 18 greenhouses or other similar structures used primarily for the
 19 raising of agricultural or horticultural commodities.

20 (n) Those persons employed in executive, administrative, or
 21 professional occupations who have the authority to employ or
 22 discharge and who earn one hundred fifty dollars (\$150) or more
 23 a week, and outside salesmen.

24 (o) Any person not employed for more than four (4) weeks in any
 25 four (4) consecutive three (3) month periods.

26 (p) Any employee with respect to whom the Interstate Commerce
 27 Commission has power to establish qualifications and maximum
 28 hours of service under the federal Motor Carrier Act of 1935 (49
 29 U.S.C. 304(3)) or any employee of a carrier subject to IC 8-2.1.

30 **(q) An individual who is a TNC driver (as defined in**
 31 **IC 8-2.1-17-19).**

32 SECTION 9. IC 22-3-2-9, AS AMENDED BY P.L.201-2005,
 33 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2017]: Sec. 9. (a) IC 22-3-2 through IC 22-3-6 shall not apply
 35 to:

- 36 (1) casual laborers (as defined in IC 22-3-6-1);
 37 (2) farm or agricultural employees;
 38 (3) household employees; ~~or~~
 39 (4) a person who enters into an independent contractor agreement
 40 with a nonprofit corporation that is recognized as tax exempt
 41 under Section 501(c)(3) of the Internal Revenue Code (as defined
 42 in IC 6-3-1-11(a)) to perform youth coaching services on a



1 part-time basis; or

2 **(5) a TNC (as defined in IC 8-2.1-17-18) or a TNC driver (as**
 3 **defined in IC 8-2.1-17-19).**

4 IC 22-3-2 through IC 22-3-6 do not apply to the employers or
 5 contractors of the persons listed in this subsection.

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

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

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

27 SECTION 10. IC 22-3-7-9, AS AMENDED BY P.L.225-2015,
 28 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2017]: Sec. 9. (a) As used in this chapter, "employer" includes
 30 the state and any political subdivision, any municipal corporation
 31 within the state, any individual or the legal representative of a deceased
 32 individual, firm, association, limited liability company, or corporation
 33 or the receiver or trustee of the same, using the services of another for
 34 pay. A parent corporation and its subsidiaries shall each be considered
 35 joint employers of the corporation's, the parent's, or the subsidiaries'
 36 employees for purposes of sections 6 and 33 of this chapter. Both a
 37 lessor and a lessee of employees shall each be considered joint
 38 employers of the employees provided by the lessor to the lessee for
 39 purposes of sections 6 and 33 of this chapter. The term also includes an
 40 employer that provides on-the-job training under the federal School to
 41 Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth
 42 under section 2.5 of this chapter. If the employer is insured, the term



1 includes the employer's insurer so far as applicable. However, the
 2 inclusion of an employer's insurer within this definition does not allow
 3 an employer's insurer to avoid payment for services rendered to an
 4 employee with the approval of the employer. The term does not include
 5 a nonprofit corporation that is recognized as tax exempt under Section
 6 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a))
 7 to the extent the corporation enters into an independent contractor
 8 agreement with a person for the performance of youth coaching
 9 services on a part-time basis.

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

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

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

28 (A) is an independent contractor in the construction trades and
 29 does not make the election provided under this subdivision,
 30 the owner must obtain a certificate of exemption under section
 31 34.5 of this chapter; or

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

35 (3) A partner in a partnership may elect to include the partner as
 36 an employee under this chapter if the partner is actually engaged
 37 in the partnership business. If a partner makes this election, the
 38 partner must serve upon the partner's insurance carrier and upon
 39 the board written notice of the election. No partner may be
 40 considered an employee under this chapter until the notice has
 41 been received. If a partner in a partnership:

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



- 1 does not make the election provided under this subdivision,
2 the partner must obtain a certificate of exemption under
3 section 34.5 of this chapter; or
4 (B) is an independent contractor and does not make the
5 election provided under this subdivision, the partner may
6 obtain a certificate of exemption under section 34.5 of this
7 chapter.
- 8 (4) Real estate professionals are not employees under this chapter
9 if:
10 (A) they are licensed real estate agents;
11 (B) substantially all their remuneration is directly related to
12 sales volume and not the number of hours worked; and
13 (C) they have written agreements with real estate brokers
14 stating that they are not to be treated as employees for tax
15 purposes.
- 16 (5) A person is an independent contractor in the construction
17 trades and not an employee under this chapter if the person is an
18 independent contractor under the guidelines of the United States
19 Internal Revenue Service.
- 20 (6) An owner-operator that provides a motor vehicle and the
21 services of a driver under a written contract that is subject to
22 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376, to a motor
23 carrier is not an employee of the motor carrier for purposes of this
24 chapter. The owner-operator may elect to be covered and have the
25 owner-operator's drivers covered under a worker's compensation
26 insurance policy or authorized self-insurance that insures the
27 motor carrier if the owner-operator pays the premiums as
28 requested by the motor carrier. An election by an owner-operator
29 under this subdivision does not terminate the independent
30 contractor status of the owner-operator for any purpose other than
31 the purpose of this subdivision.
- 32 (7) An unpaid participant under the federal School to Work
33 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the
34 extent set forth under section 2.5 of this chapter.
- 35 (8) A person who enters into an independent contractor agreement
36 with a nonprofit corporation that is recognized as tax exempt
37 under Section 501(c)(3) of the Internal Revenue Code (as defined
38 in IC 6-3-1-11(a)) to perform youth coaching services on a
39 part-time basis is not an employee for purposes of this chapter.
- 40 (9) An officer of a corporation who is an employee of the
41 corporation under this chapter may elect not to be an employee of
42 the corporation under this chapter. An officer of a corporation



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

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

13 **(11) A TNC driver (as defined in IC 8-2.1-17-19) is not an**
14 **employee under this chapter.**

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

37 (d) This chapter does not apply to casual laborers as defined in
38 subsection (b), nor to farm or agricultural employees, nor to household
39 employees, nor to railroad employees engaged in train service as
40 engineers, firemen, conductors, brakemen, flagmen, baggagemen, or
41 foremen in charge of yard engines and helpers assigned thereto, nor to
42 their employers with respect to these employees. Also, this chapter



1 does not apply to employees or their employers with respect to
 2 employments in which the laws of the United States provide for
 3 compensation or liability for injury to the health, disability, or death by
 4 reason of diseases suffered by these employees. **This chapter does not**
 5 **apply to a TNC (as defined in IC 8-2.1-17-18) or a TNC driver (as**
 6 **defined in IC 8-2.1-17-19).**

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

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

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

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

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

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

41 (5) In all cases of occupational disease caused by the inhalation
 42 of asbestos dust in which the last date of the last exposure occurs



1 on or after July 1, 1988, no compensation shall be payable unless
 2 disablement (as defined in subsection (e)) occurs within
 3 thirty-five (35) years after the last day of the last exposure.

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (8) The geographic service area served by ZIP codes with the first



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

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

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

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

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

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

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

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

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

- 36 (i) The employer.
37 (ii) The employer's insurance carrier.
38 (iii) A billing review service on behalf of a person described
39 in item (i) or (ii).
40 (iv) A direct provider network that has contracted with a
41 person described in item (i) or (ii).

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



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

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

8 SECTION 11. IC 22-4-6-1.5 IS ADDED TO THE INDIANA CODE
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2017]: **Sec. 1.5. "Employing unit" does not include a TNC (as
11 defined in IC 8-2.1-17-18).**

12 SECTION 12. IC 22-4-8-3, AS AMENDED BY P.L.171-2016,
13 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2017]: Sec. 3. "Employment" shall not include the following:

15 (1) Except as provided in section 2(i) of this chapter, service
16 performed prior to January 1, 1978, in the employ of this state,
17 any other state, any town or city, or political subdivision, or any
18 instrumentality of any of them, other than service performed in
19 the employ of a municipally owned public utility as defined in this
20 article; or service performed in the employ of the United States of
21 America, or an instrumentality of the United States immune under
22 the Constitution of the United States from the contributions
23 imposed by this article, except that to the extent that the Congress
24 of the United States shall permit states to require any
25 instrumentalities of the United States to make payments into an
26 unemployment fund under a state unemployment compensation
27 statute, all of the provisions of this article shall be applicable to
28 such instrumentalities, in the same manner, to the same extent,
29 and on the same terms as to all other employers, employing units,
30 individuals, and services. However, if this state shall not be
31 certified for any year by the Secretary of Labor under Section
32 3304 of the Internal Revenue Code the payments required of such
33 instrumentalities with respect to such year shall be refunded by
34 the commissioner from the fund in the same manner and within
35 the same period as is provided in IC 22-4-32-19 with respect to
36 contribution erroneously paid or wrongfully assessed.

37 (2) Service with respect to which unemployment compensation is
38 payable under an unemployment compensation system
39 established by an Act of Congress; however, the department is
40 authorized to enter into agreements with the proper agencies
41 under such Act of Congress which agreements shall become
42 effective ten (10) days after publication thereof, in accordance



1 with rules adopted by the department under IC 4-22-2, to provide
 2 reciprocal treatment to individuals who have, after acquiring
 3 potential rights to benefits under this article, acquired rights to
 4 unemployment compensation under such Act of Congress, or who
 5 have, after having acquired potential rights to unemployment
 6 compensation under such Act of Congress, acquired rights to
 7 benefits under this article.

8 (3) "Agricultural labor" as provided in section 2(l)(1) of this
 9 chapter shall include only services performed:

10 (A) on a farm, in the employ of any person, in connection with
 11 cultivating the soil or in connection with raising or harvesting
 12 any agricultural or horticultural commodity, including the
 13 raising, shearing, feeding, caring for, training, and
 14 management of livestock, bees, poultry, and furbearing
 15 animals and wildlife;

16 (B) in the employ of the owner or tenant or other operator of
 17 a farm, in connection with the operation, management,
 18 conservation, improvement, or maintenance of such farm and
 19 its tools and equipment, or in salvaging timber or clearing land
 20 of brush and other debris left by a hurricane, if the major part
 21 of such service is performed on a farm;

22 (C) in connection with the production or harvesting of any
 23 commodity defined as an agricultural commodity in Section
 24 15(g) of the Agricultural Marketing Act (12 U.S.C. 1141j(g))
 25 as amended, or in connection with the operation or
 26 maintenance of ditches, canals, reservoirs, or waterways, not
 27 owned or operated for profit, used exclusively for supplying
 28 and storing water for farming purposes;

29 (D) in the employ of:

30 (i) the operator of a farm in handling, planting, drying,
 31 packing, packaging, processing, freezing, grading, storing,
 32 or delivering to storage or to market or to a carrier for
 33 transportation to market, in its unmanufactured state, any
 34 agricultural or horticultural commodity; but only if such
 35 operator produced more than one-half (1/2) of the
 36 commodity with respect to which such service is performed;
 37 or

38 (ii) a group of operators of farms (or a cooperative
 39 organization of which such operators are members) in the
 40 performance of service described in item (i), but only if such
 41 operators produce more than one-half (1/2) of the
 42 commodity with respect to which such service is performed;



- 1 except the provisions of items (i) and (ii) shall not be deemed
 2 to be applicable with respect to service performed in
 3 connection with commercial canning or commercial freezing
 4 or in connection with any agricultural or horticultural
 5 commodity after its delivery to a terminal market for
 6 distribution for consumption; or
 7 (E) on a farm operated for profit if such service is not in the
 8 course of the employer's trade or business or is domestic
 9 service in a private home of the employer.
- 10 (4) As used in subdivision (3), "farm" includes stock, dairy,
 11 poultry, fruit, furbearing animals, and truck farms, nurseries,
 12 orchards, greenhouses, or other similar structures used primarily
 13 for the raising of agricultural or horticultural commodities.
- 14 (5) Domestic service in a private home, local college club, or
 15 local chapter of a college fraternity or sorority, except as provided
 16 in section 2(m) of this chapter.
- 17 (6) Service performed on or in connection with a vessel or aircraft
 18 not an American vessel or American aircraft, if the employee is
 19 employed on and in connection with such vessel or aircraft when
 20 outside the United States.
- 21 (7) Service performed by an individual in the employ of child or
 22 spouse, and service performed by a child under the age of
 23 twenty-one (21) in the employ of a parent.
- 24 (8) Service not in the course of the employing unit's trade or
 25 business performed in any calendar quarter by an individual,
 26 unless the cash remuneration paid for such service is fifty dollars
 27 (\$50) or more and such service is performed by an individual who
 28 is regularly employed by such employing unit to perform such
 29 service. For the purposes of this subdivision, an individual shall
 30 be deemed to be regularly employed to perform service not in the
 31 course of an employing unit's trade or business during a calendar
 32 quarter only if:
 33 (A) on each of some of twenty-four (24) days during such
 34 quarter such individual performs such service for some portion
 35 of the day; or
 36 (B) such individual was regularly employed (as determined
 37 under clause (A)) by such employing unit in the performance
 38 of such service during the preceding calendar quarter.
- 39 (9) Service performed by an individual in any calendar quarter in
 40 the employ of any organization exempt from income tax under
 41 Section 501 of the Internal Revenue Code (except those services
 42 included in sections 2(i) and 2(j) of this chapter if the



- 1 remuneration for such service is less than fifty dollars (\$50)).
- 2 (10) Service performed in the employ of a hospital, if such service
- 3 is performed by a patient of such hospital.
- 4 (11) Service performed in the employ of a school or eligible
- 5 postsecondary educational institution if the service is performed:
- 6 (A) by a student who is enrolled and is regularly attending
- 7 classes at the school or eligible postsecondary educational
- 8 institution; or
- 9 (B) by the spouse of such a student, if such spouse is advised,
- 10 at the time such spouse commences to perform such service,
- 11 that:
- 12 (i) the employment of such spouse to perform such service
- 13 is provided under a program to provide financial assistance
- 14 to such student by the school or eligible postsecondary
- 15 educational institution; and
- 16 (ii) such employment will not be covered by any program of
- 17 unemployment insurance.
- 18 (12) Service performed by an individual who is enrolled at a
- 19 nonprofit or public educational institution which normally
- 20 maintains a regular faculty and curriculum and normally has a
- 21 regularly organized body of students in attendance at the place
- 22 where its educational activities are carried on as a student in a
- 23 full-time program, taken for credit at such institution, which
- 24 combines academic instruction with work experience, if such
- 25 service is an integral part of such program, and such institution
- 26 has so certified to the employer, except that this subdivision shall
- 27 not apply to service performed in a program established for or on
- 28 behalf of an employer or group of employers.
- 29 (13) Service performed in the employ of a government foreign to
- 30 the United States of America, including service as a consular or
- 31 other officer or employee or a nondiplomatic representative.
- 32 (14) Service performed in the employ of an instrumentality
- 33 wholly owned by a government foreign to that of the United
- 34 States of America, if the service is of a character similar to that
- 35 performed in foreign countries by employees of the United States
- 36 of America or of an instrumentality thereof, and if the department
- 37 finds that the Secretary of State of the United States has certified
- 38 to the Secretary of the Treasury of the United States that the
- 39 government, foreign to the United States, with respect to whose
- 40 instrumentality exemption is claimed, grants an equivalent
- 41 exemption with respect to similar service performed in such
- 42 country by employees of the United States and of



- 1 instrumentalities thereof.
- 2 (15) Service performed as a student nurse in the employ of a
3 hospital or nurses' training school by an individual who is
4 enrolled and is regularly attending classes in a nurses' training
5 school chartered or approved pursuant to state law; and service
6 performed as an intern in the employ of a hospital by an
7 individual who has completed a four (4) year course in a medical
8 school chartered or approved pursuant to state law.
- 9 (16) Service performed by an individual as an insurance producer
10 or as an insurance solicitor, if all such service performed by such
11 individual is performed for remuneration solely by way of
12 commission.
- 13 (17) Service performed by an individual:
- 14 (A) under the age of eighteen (18) in the delivery or
15 distribution of newspapers or shopping news, not including
16 delivery or distribution to any point for subsequent delivery or
17 distribution; or
- 18 (B) in, and at the time of, the sale of newspapers or magazines
19 to ultimate consumers, under an arrangement under which the
20 newspapers or magazines are to be sold by the individual at a
21 fixed price, the individual's compensation being based on the
22 retention of the excess of such price over the amount at which
23 the newspapers or magazines are charged to the individual,
24 whether or not the individual is guaranteed a minimum amount
25 of compensation for such service, or is entitled to be credited
26 with the unsold newspapers or magazines turned back.
- 27 (18) Service performed in the employ of an international
28 organization.
- 29 (19) Except as provided in IC 22-4-7-1, services covered by an
30 election duly approved by the agency charged with the
31 administration of any other state or federal unemployment
32 compensation law in accordance with an arrangement pursuant to
33 IC 22-4-22-1 through IC 22-4-22-5, during the effective period of
34 such election.
- 35 (20) If the service performed during one-half (1/2) or more of any
36 pay period by an individual for an employing unit constitutes
37 employment, all the services of such individual for such period
38 shall be deemed to be employment; but if the services performed
39 during more than one-half (1/2) of any pay period by such an
40 individual do not constitute employment, then none of the
41 services of such individual for such period shall be deemed to be
42 employment. As used in this subsection, "pay period" means a



1 period of not more than thirty-one (31) consecutive days for
2 which a payment of remuneration is ordinarily made to the
3 individual by the employing unit. This subsection shall not be
4 applicable with respect to services performed in a pay period by
5 any such individual where any such service is excepted by
6 subdivision (2).
7 (21) Service performed by an inmate of a custodial or penal
8 institution.
9 (22) Service performed as a precinct election officer (as defined
10 in IC 3-5-2-40.1).
11 **(23) Service performed by a TNC driver (as defined in**
12 **IC 8-2.1-17-19).**

