

## SENATE BILL No. 595

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-8.1-3-21.2; IC 22-1-1-22; IC 22-3; IC 22-4-19-15.

**Synopsis:** Improper worker classification. Authorizes the department of state revenue, the department of labor, the worker's compensation board, and the department of workforce development to issue subpoenas for the attendance of witnesses and the production of records and to question witnesses under oath when conducting an investigation of any suspected improper worker classification by a construction contractor. Allows the worker's compensation board to issue a stop work order as an additional remedy against an employer that does not have the required insurance and has not furnished satisfactory proof of self-insurance. Provides that service of a stop work order on a worksite is effective as to the employer's operations on that worksite, and that service of a stop work order on an employer is effective as to all of the employer's worksites where the employer has not complied with the insurance or self-insurance requirements. Provides a civil penalty of \$1,000 for each day an employer violates a stop work order.

**Effective:** July 1, 2019.

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**Mrvan**

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January 15, 2019, read first time and referred to Committee on Pensions and Labor.

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Introduced

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

## SENATE BILL No. 595

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

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

1 SECTION 1. IC 6-8.1-3-21.2, AS ADDED BY P.L.164-2009,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 21.2. (a) This section applies after December 31,  
4 2009.

5 (b) As used in this section, "contractor" means:

- 6 (1) a sole proprietor;
- 7 (2) a partnership;
- 8 (3) a firm;
- 9 (4) a corporation;
- 10 (5) a limited liability company;
- 11 (6) an association; or
- 12 (7) another legal entity;

13 that engages in construction and is authorized by law to do business in  
14 Indiana. The term includes a general contractor, a subcontractor, and  
15 a lower tiered contractor. The term does not include the state, the  
16 federal government, or a political subdivision.

17 (c) The department shall cooperate with the:



6 by sharing information concerning any suspected improper  
7 classification by a contractor of an individual as an independent  
8 contractor (as defined in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).

## 22 (2) Question witnesses under oath

23       **The department may enforce its authority under this section as**  
24       **provided in section 12 of this chapter.**

25 SECTION 2. IC 22-1-1-22, AS ADDED BY P.L.164-2009,  
26 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2019]: Sec. 22. (a) This section applies after December 31,  
28 2009.

29 (b) As used in this section, "contractor" means:

30 (1) a sole proprietor;

31 (2) a partnership;

32 (3) a firm;

33 (4) a corporation;

34 (5) a limited liability company;

35 (6) an association; or

36 (7) another legal entity

37 that engages in construction a

38 Indiana. The term includes a general contractor, a subcontractor, and  
39 a lower tiered contractor. The term does not include the state, the  
40 federal government, or a political subdivision.

41 (c) The department of labor shall cooperate with the:

42 (1) department of workforce development established by



1                   IC 22-4.1-2-1;  
2                   (2) department of state revenue established by IC 6-8.1-2-1; and  
3                   (3) worker's compensation board of Indiana created by  
4                   IC 22-3-1-1(a);

5                   by sharing information concerning any suspected improper  
6                   classification by a contractor of an individual as an independent  
7                   contractor (as defined in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).

8                   (d) For purposes of IC 5-14-3-4, information shared under this  
9                   section is confidential, may not be published, and is not open to public  
10                  inspection.

11                  (e) An officer or employee of the department of labor who  
12                  knowingly or intentionally discloses information that is confidential  
13                  under this section commits a Class A misdemeanor.

14                  (f) **For purposes of conducting an investigation of any suspected  
15                  improper classification by a contractor based on information  
16                  shared under this section, the department of labor has the  
17                  authority to do the following as necessary:**

18                  (1) Issue and serve subpoenas that compel the attendance of  
19                  witnesses and the production of books, papers,  
20                  correspondence, memoranda, and other records.

21                  (2) Question witnesses under oath.

22                  **The department of labor may enforce its authority under this  
23                  section as provided in section 17 of this chapter.**

24                  SECTION 3. IC 22-3-1-5, AS ADDED BY P.L.164-2009,  
25                  SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
26                  JULY 1, 2019]: Sec. 5. (a) This section applies after December 31,  
27                  2009.

28                  (b) As used in this section, "contractor" means:

29                  (1) a sole proprietor;  
30                  (2) a partnership;  
31                  (3) a firm;  
32                  (4) a corporation;  
33                  (5) a limited liability company;  
34                  (6) an association; or  
35                  (7) another legal entity;

36                  that engages in construction and is authorized by law to do business in  
37                  Indiana. The term includes a general contractor, a subcontractor, and  
38                  a lower tiered contractor. The term does not include the state, the  
39                  federal government, or a political subdivision.

40                  (c) The worker's compensation board of Indiana shall cooperate with  
41                  the:

42                  (1) department of state revenue established by IC 6-8.1-2-1;



20 (2) Question witnesses under oath.

21 The worker's compensation board of Indiana may enforce its  
22 authority under this section as provided in IC 22-3-4-2 and  
23 IC 22-3-7-24.

24 SECTION 4. IC 22-3-5-2.8 IS ADDED TO THE INDIANA CODE  
25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
26 1, 2019]: **Sec. 2.8. (a) In addition to any other penalties provided by**  
27 **this article, an employer that fails to comply with IC 22-3-2-5 and**  
28 **section 1 of this chapter may be subject to a stop work order issued**  
29 **under this section.**

30       (b) If the worker's compensation board determines after an  
31 investigation that an employer has failed to comply with  
32 IC 22-3-2-5 and section 1 of this chapter, the worker's  
33 compensation board may issue a stop work order against the  
34 employer requiring the cessation of business operations. Service of  
35 the stop work order must comply with subsection (c).



1       **operations of the employer must cease immediately upon service of**  
2       **the stop work order. The stop work order remains in effect until**  
3       **the worker's compensation board issues:**

4       (1) **an order releasing the stop work order upon a finding that**  
5       **the employer has complied with IC 22-3-2-5 and section 1 of**  
6       **this chapter and has paid any premiums, penalties, and**  
7       **interest assessed under this article against the employer; or**  
8       (2) **an order of conditional release under subsection (g).**

9       (d) **An employer that violates a stop work order issued under**  
10      **this section is subject to a civil penalty not to exceed one thousand**  
11      **dollars (\$1,000) for each day the employer does not comply with**  
12      **the stop work order. Civil penalties collected under this section**  
13      **shall be deposited in the worker's compensation supplemental**  
14      **administrative fund established by section 6 of this chapter.**

15      (e) **An employer may request that the worker's compensation**  
16      **board reconsider a stop work order issued under this section**  
17      **against the employer. The employer's request must be in writing**  
18      **and filed with the worker's compensation board not later than ten**  
19      **(10) days after the date the employer receives the stop work order.**  
20      **The worker's compensation board shall complete the**  
21      **reconsideration not later than ten (10) days after the date the**  
22      **worker's compensation board receives the request from the**  
23      **employer.**

24      (f) **A stop work order remains in effect during the period of**  
25      **reconsideration or appeal, unless the employer furnishes to the**  
26      **worker's compensation board a cash deposit or bond in the amount**  
27      **that is the greater of:**

28       (1) **five thousand dollars (\$5,000); or**  
29       (2) **one thousand dollars (\$1,000) per worker covered by this**  
30       **article.**

31      If there is a final order affirming the stop work order, the  
32      employer's bond or cash deposit is applied to the premium,  
33      penalties, and interest assessed under this article against the  
34      employer.

35      (g) **The worker's compensation board may issue an order of**  
36      **conditional release from the stop work order if the employer**  
37      **complies with IC 22-3-2-5 and section 1 of this chapter and agrees**  
38      **to pay the premiums, penalties, and interest assessed under this**  
39      **article against the employer using a payment schedule. If the terms**  
40      **of the payment schedule are not met, the stop work order may be**  
41      **reinstated, and the employer's unpaid premium, penalty, and**  
42      **interest balance become due.**



**(h) A stop work order and penalties assessed under this section remain in effect against a successor corporation or business entity:**

**(1) that has one (1) or more of the same principals or officers as the employer against which a stop work order was issued; and**

**(2) that is engaged in the same or equivalent trade or activity.**

**(i) The worker's compensation board may adopt rules under IC 4-22-2 to administer this section.**

SECTION 5. IC 22-3-5-6, AS AMENDED BY P.L.168-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) The worker's compensation supplemental administrative fund is established for the purpose of carrying out the administrative purposes and functions of the worker's compensation board.

(b) The fund consists of:

(1) fees collected from employers under sections 1 through 2 of this chapter;

(2) fees collected under IC 22-3-2-14.5, IC 22-3-3-5(d), IC 22-3-7-17(g), and IC 22-3-7-34.5; and

(3) civil penalties assessed under IC 22-3-4-15, **sections 2.5 and 2.8** of this chapter, and IC 22-3-7-34.3.

(c) The fund shall be administered by the worker's compensation board. Money in the fund is annually appropriated to the worker's compensation board and shall be used for all expenses incurred by the worker's compensation board.

(d) The money in the fund is not to be used to replace funds otherwise appropriated to the board. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

SECTION 6. IC 22-4-19-15, AS ADDED BY P.L.69-2015, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 15. (a) As used in this section, "contractor" means:

(1) a sole proprietor;

(2) a partnership;

(3) a firm;

(4) a corporation;

(5) a limited liability company;

(6) an association; or

(7) another legal entity;

that engages in construction and is authorized by law to do business in Indiana. The term includes a general contractor, a subcontractor, and a lower tiered contractor. The term does not include the state, the



1       federal government, or a political subdivision.  
2       (b) The department shall cooperate with the:  
3           (1) department of labor created by IC 22-1-1-1;  
4           (2) department of state revenue established by IC 6-8.1-2-1; and  
5           (3) worker's compensation board of Indiana created by  
6           IC 22-3-1-1(a);  
7       by sharing information concerning any suspected improper  
8       classification by a contractor of an individual as an independent  
9       contractor (as defined in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).  
10      (c) For purposes of IC 5-14-3-4, information shared under this  
11     section is confidential, may not be published, and is not open to public  
12     inspection.  
13      (d) An officer or employee of the department who knowingly or  
14     intentionally discloses information that is confidential under this  
15     section commits a Class A misdemeanor.  
16      (e) **For purposes of conducting an investigation of any suspected**  
17     **improper classification by a contractor based on information**  
18     **shared under this section, the department has the authority to do**  
19     **the following as necessary:**  
20       (1) **Issue and serve subpoenas that compel the attendance of**  
21       **witnesses and the production of books, papers,**  
22       **correspondence, memoranda, and other records.**  
23       (2) **Question witnesses under oath.**  
24     **The department may enforce its authority under this section as**  
25     **provided in sections 7 and 8 of this chapter and IC 22-4-34-5.**

