

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1313 be amended to read as follows:

- 1 Page 1, delete lines 1 through 14, begin a new paragraph and insert:
- 2 "SECTION 1. IC 22-3-2-2.5, AS ADDED BY P.L.235-1999,
- 3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2002]: Sec. 2.5. (a) As used in this section, "school to work
- 5 student" refers to a student participating in on-the-job training under
- 6 the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).
- 7 (b) Except as provided in IC 22-3-7-2.5, a school to work student is
- 8 entitled to the following compensation and benefits under this article:
- 9 (1) Medical benefits under IC 22-3-2 through IC 22-3-6.
- 10 (2) Permanent partial impairment compensation under
- 11 IC 22-3-3-10. Permanent partial impairment compensation for a
- 12 school to work student shall be paid in a lump sum upon
- 13 agreement or final award.
- 14 (3) In the case that death results from the injury:
- 15 (A) death benefits in a lump sum amount of one hundred
- 16 seventy-five thousand dollars (\$175,000), **subject to section**
- 17 **8(c) of this chapter**, payable upon agreement or final award
- 18 to any dependents of the student under IC 22-3-3-18 through
- 19 IC 22-3-3-20, or, if the student has no dependents, to the
- 20 student's parents; and
- 21 (B) burial compensation under IC 22-3-3-21.
- 22 (c) For the sole purpose of modifying an award under IC 22-3-3-27,
- 23 a school to work student's average weekly wage is presumed to be
- 24 equal to the federal minimum wage.

1 (d) A school to work student is not entitled to the following
2 compensation under this article:

- 3 (1) Temporary total disability compensation under IC 22-3-3-8.
4 (2) Temporary partial disability compensation under IC 22-3-3-9.

5 (e) Except for remedies available under IC 5-2-6.1, recovery under
6 subsection (b) is the exclusive right and remedy for:

- 7 (1) a school to work student; and
8 (2) the personal representatives, dependents, or next of kin, at
9 common law or otherwise, of a school to work student;

10 on account of personal injury or death by accident arising out of and in
11 the course of school to work employment.

12 SECTION 2. IC 22-3-2-8 IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) No compensation is allowed
14 for an injury or death due to the employee's:

- 15 (1) knowingly self-inflicted injury;
16 (2) ~~his~~ intoxication;
17 (3) ~~his~~ commission of an offense; ~~his knowing failure to use a~~
18 ~~safety appliance;~~
19 (4) ~~his~~ knowing failure to obey a reasonable written or printed
20 rule of the employer which has been posted in a conspicuous
21 position in the place of work; or
22 (5) ~~his~~ knowing failure to perform any statutory duty.

23 The burden of proof is on the defendant.

24 (b) **Each payment of monetary compensation allowed under**
25 **IC 22-3-3-8, IC 22-3-3-9, IC 22-3-3-10 or IC 22-3-3-22 shall be**
26 **reduced by fifteen percent (15%) for an injury or a death caused**
27 **in any degree by the employee's intentional:**

- 28 (1) **failure to use a safety appliance furnished by the**
29 **employer; or**
30 (2) **failure to obey an order or administrative regulation of:**
31 (A) **the worker's compensation board; or**
32 (B) **the employer;**

33 **for the safety of the employees or the public.**

34 (c) **Each payment of monetary compensation allowed under**
35 **IC 22-3-3-8, IC 22-3-3-9, IC 22-3-3-10, or IC 22-3-3-22 shall be**
36 **increased by thirty percent (30%) for an injury or death caused in**
37 **any degree by the employer's intentional failure to comply with a**
38 **statute or administrative regulation regarding safety methods or**
39 **installation or maintenance of safety appliances that has been**
40 **communicated to the employer."**

41 Page 4, between lines 8 and 9, begin a new paragraph and insert:

42 "SECTION 4. IC 22-3-3-8 IS AMENDED TO READ AS
43 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) With respect to
44 injuries occurring prior to April 1, 1951, causing temporary total
45 disability for work there shall be paid to the injured employee during
46 such total disability for work a weekly compensation equal to fifty-five

1 percent (55%) of his average weekly wages for a period not to exceed
 2 five hundred (500) weeks. With respect to injuries occurring on and
 3 after April 1, 1951, and prior to July 1, 1971, causing temporary total
 4 disability for work there shall be paid to the injured employee during
 5 such total disability a weekly compensation equal to sixty per cent
 6 (60%) of his average weekly wages for a period not to exceed five
 7 hundred (500) weeks. With respect to injuries occurring on and after
 8 July 1, 1971, and prior to July 1, 1974, causing temporary total
 9 disability for work there shall be paid to the injured employee during
 10 such total disability a weekly compensation equal to sixty per cent
 11 (60%) of his average weekly wages, as defined in IC 22-3-3-22 a
 12 period not to exceed five hundred (500) weeks. With respect to injuries
 13 occurring on and after July 1, 1974, and before July 1, 1976, causing
 14 temporary total disability or total permanent disability for work there
 15 shall be paid to the injured employee during such total disability a
 16 weekly compensation equal to sixty-six and two-thirds percent (66
 17 $\frac{2}{3}$ %) of his average weekly wages up to one hundred and thirty-five
 18 dollars (\$135.00) average weekly wages, as defined in section 22 of
 19 this chapter, for a period not to exceed five hundred (500) weeks. With
 20 respect to injuries occurring on and after July 1, 1976, causing
 21 temporary total disability or total permanent disability for work, there
 22 shall be paid to the injured employee during the total disability a
 23 weekly compensation equal to sixty-six and two-thirds percent (66
 24 $\frac{2}{3}$ %) of his average weekly wages, as defined in IC 22-3-3-22, for a
 25 period not to exceed five hundred (500) weeks. Compensation shall be
 26 allowed for the first seven (7) calendar days only if the disability
 27 continues for longer than twenty-one (21) days.

28 **(b) As provided in IC 22-3-2-8(b), each payment of monetary**
 29 **compensation allowed under subsection (a) shall be reduced by**
 30 **fifteen percent (15%) for an injury caused in any degree by the**
 31 **employee's intentional:**

32 **(1) failure to use a safety appliance furnished by the**
 33 **employer; or**

34 **(2) failure to obey an order or administrative regulation of:**

35 **(A) the worker's compensation board; or**

36 **(B) the employer;**

37 **for the safety of the employees or the public.**

38 **(c) Each payment of monetary compensation allowed under**
 39 **subsection (a) shall be increased by thirty percent (30%) for an**
 40 **injury caused in any degree by the employer's intentional failure**
 41 **to comply with a statute or administrative regulation regarding**
 42 **safety methods or installation or maintenance of safety appliances**
 43 **that has been communicated to the employer, as provided in**
 44 **IC 22-3-2-8(c).**

45 SECTION 5. IC 22-3-3-9 IS AMENDED TO READ AS FOLLOWS
 46 [EFFECTIVE JULY 1, 2002]: Sec. 9. (a) With respect to injuries
 47 occurring prior to April 1, 1951 causing temporary partial disability for

1 work, compensation shall be paid to the injured employee during such
 2 disability, as prescribed in section 7 of this chapter, a weekly
 3 compensation equal to fifty-five per cent (55%) of the difference
 4 between his average weekly wages and the weekly wages at which he
 5 is actually employed after the injury, for a period not to exceed three
 6 hundred (300) weeks. With respect to injuries occurring on and after
 7 April 1, 1951 and prior to July 1, 1974 causing temporary partial
 8 disability for work, compensation shall be paid to the injured employee
 9 during such disability, as prescribed in section 7 of this chapter, a
 10 weekly compensation equal to sixty per cent (60%) of the difference
 11 between his average weekly wages and the weekly wages at which he
 12 is actually employed after the injury, for a period not to exceed three
 13 hundred (300) weeks. With respect to injuries occurring on and after
 14 July 1, 1974 causing temporary partial disability for work,
 15 compensation shall be paid to the injured employee during such
 16 disability as prescribed in section 7 of this chapter, a weekly
 17 compensation equal to sixty-six and two-thirds per cent (66 2/3%) of
 18 the difference between his average weekly wages and the weekly wages
 19 at which he is actually employed after the injury, for a period not to
 20 exceed three hundred (300) weeks. In case the partial disability begins
 21 after the period of temporary total disability, the latter period shall be
 22 included as a part of the maximum period allowed for partial disability.

23 **(b) As provided in IC 22-3-2-8(b), each payment of monetary**
 24 **compensation allowed under subsection (a) shall be reduced by**
 25 **fifteen percent (15%) for an injury caused in any degree by the**
 26 **employee's intentional:**

27 **(1) failure to use a safety appliance furnished by the**
 28 **employer; or**

29 **(2) failure to obey an order or administrative regulation of:**

30 **(A) the worker's compensation board; or**

31 **(B) the employer;**

32 **for the safety of the employees or the public.**

33 **(c) Each payment of monetary compensation allowed under**
 34 **subsection (a) shall be increased by thirty percent (30%) for an**
 35 **injury caused in any degree by the employer's intentional failure**
 36 **to comply with a statute or administrative regulation regarding**
 37 **safety methods or installation or maintenance of safety appliances**
 38 **that has been communicated to the employer, as provided in**
 39 **IC 22-3-2-8(c)."**

40 Page 13, between lines 13 and 14, begin a new line block indented
 41 and insert:

42 **"(12) With respect to injuries occurring on or after July 1,**
 43 **2002, as provided in IC 22-3-2-8(b), each payment of**
 44 **monetary compensation allowed under this subsection shall be**
 45 **reduced by fifteen percent (15%) for an injury or a death**
 46 **caused in any degree by the employee's intentional:**

47 **(A) failure to use a safety appliance furnished by the**

- 1 **employer; or**
 2 **(B) failure to obey an order or administrative regulation**
 3 **of:**
 4 **(i) the worker's compensation board; or**
 5 **(ii) the employer;**
 6 **for the safety of the employees or the public.**
 7 **(13) With respect to injuries occurring on or after July 1,**
 8 **2002, each payment of monetary compensation allowed under**
 9 **this subsection shall be increased by thirty percent (30%) for**
 10 **an injury or a death caused in any degree by the employer's**
 11 **intentional failure to comply with a statute or administrative**
 12 **regulation regarding safety methods or installation or**
 13 **maintenance of safety appliances that has been communicated**
 14 **to the employer, as provided in IC 22-3-2-8(c)."**
 15 Page 20, line 38, after "benefits," insert "**subject to IC 22-3-2-8,**".
 16 Page 22, between lines 27 and 28, begin a new paragraph and insert:
 17 "SECTION 10. IC 22-3-7-2.5, AS ADDED BY P.L.235-1999,
 18 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2002]: Sec. 2.5. (a) As used in this section, "school to work
 20 student" refers to a student participating in on-the-job training under
 21 the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).
 22 (b) A school to work student is entitled to the following
 23 compensation and benefits under this chapter:
 24 (1) Medical benefits.
 25 (2) Permanent partial impairment compensation under section 16
 26 of this chapter. Permanent partial impairment compensation for
 27 a school to work student shall be paid in a lump sum upon
 28 agreement or final award.
 29 (3) In the case that death results from the injury:
 30 (A) death benefits in a lump sum amount of one hundred
 31 seventy-five thousand dollars (\$175,000), **subject to section**
 32 **19(u) of this chapter**, payable upon agreement or final award
 33 to any dependents of the student under sections 11 through 14
 34 of this chapter, or, if the student has no dependents, to the
 35 student's parents; and
 36 (B) burial compensation under section 15 of this chapter.
 37 (c) For the sole purpose of modifying an award under section 27 of
 38 this chapter, a school to work student's average weekly wage is
 39 presumed to be equal to the federal minimum wage.
 40 (d) A school to work student is not entitled to the following
 41 compensation under this chapter:
 42 (1) Temporary total disability compensation under section 16 of
 43 this chapter.
 44 (2) Temporary partial disability compensation under section 19 of
 45 this chapter.
 46 (e) Except for remedies available under IC 5-2-6.1, recovery under

1 subsection (b) is the exclusive right and remedy for:

2 (1) a school to work student; and

3 (2) the personal representatives, dependents, or next of kin, at
4 common law or otherwise, of a school to work student;

5 on account of disablement or death by occupational disease arising out
6 of and in the course of school to work employment."

7 Page 37, between lines 16 and 17, begin a new paragraph and insert:

8 **"(t) Each payment of monetary compensation due under this**
9 **section shall be reduced by fifteen percent (15%) for an**
10 **occupational disease or death resulting from an occupational**
11 **disease caused in any degree by the employee's intentional:**

12 (1) failure to use a safety appliance furnished by the
13 employer; or

14 (2) failure to obey a lawful order or administrative regulation
15 of:

16 (A) the worker's compensation board; or

17 (B) the employer;

18 for the safety of the employees or the public.

19 (u) Each payment of monetary compensation allowed under this
20 section shall be increased by thirty percent (30%) for an
21 occupational disease or a death resulting from an occupational
22 disease caused in any degree by the employer's intentional failure
23 to comply with a statute or administrative regulation regarding
24 safety methods or installation or maintenance of safety appliances
25 that has been communicated to the employer."

26 Page 45, line 37, after "chapter" insert ", subject to section 21 of
27 this chapter,".

28 Page 47, between lines 30 and 31, begin a new paragraph and insert:

29 **"(x) Each payment of monetary compensation due under this**
30 **section shall be reduced by fifteen percent (15%) for an**
31 **occupational disease or a death resulting from an occupational**
32 **disease caused in any degree by the employee's intentional:**

33 (1) failure to use a safety appliance furnished by the
34 employer; or

35 (2) failure to obey a lawful order or administrative regulation
36 of:

37 (A) the worker's compensation board; or

38 (B) the employer;

39 for the safety of the employees or the public.

40 (y) Each payment of monetary compensation allowed under this
41 section shall be increased by thirty percent (30%) for an
42 occupational disease or a death resulting from an occupational
43 disease caused in any degree by the employer's intentional failure
44 to comply with a statute or administrative regulation regarding
45 safety methods or installation or maintenance of safety appliances
46 that has been communicated to the employer."

47 Page 47, delete lines 31 through 42, begin a new paragraph and

1 insert:

2 "SECTION 15. IC 22-3-7-21 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 21. (a) No
4 compensation is allowed for any condition of physical or mental
5 ill-being, disability, disablement, or death for which compensation is
6 recoverable on account of accidental injury under chapters 2 through
7 6 of this article.

8 (b) No compensation is allowed for any disease or death knowingly
9 self-inflicted by the employee, or due to:

10 (1) ~~his~~ intoxication;

11 (2) ~~his~~ commission of an offense; ~~his knowing failure to use a~~
12 ~~safety appliance;~~

13 (3) ~~his~~ knowing failure to obey a reasonable written or printed
14 rule of the employer which has been posted in a conspicuous
15 position in the place of work; or

16 (4) ~~his~~ knowing failure to perform any statutory duty.

17 The burden of proof is on the defendant.

18 (c) **Each payment of monetary compensation allowed under**
19 **sections 16 and 19 of this chapter shall be reduced by fifteen**
20 **percent (15%) for an occupational disease or a death resulting**
21 **from an occupational disease caused in any degree by the**
22 **employee's intentional:**

23 (1) **failure to use a safety appliance furnished by the**
24 **employer; or**

25 (2) **failure to obey a lawful order or administrative regulation**
26 **of:**

27 (A) **the worker's compensation board; or**

28 (B) **the employer;**

29 **for the safety of the employees or the public.**

30 (d) **Each payment of monetary compensation allowed under**
31 **sections 16 and 19 of this chapter shall be increased by thirty**
32 **percent (30%) for a disease or death caused in any degree by the**
33 **employer's intentional failure to comply with a statute or**

1 **administrative regulation that has been communicated to the**
2 **employer regarding safety methods or installation or maintenance**
3 **of safety appliances."**

4 Renumber all SECTIONS consecutively.
 (Reference is to HB 1313 as printed January 30, 2002.)

Representative Liggett