



Reprinted
March 1, 2006

ENGROSSED

SENATE BILL No. 117

DIGEST OF SB 117 (Updated February 28, 2006 11:45 pm - DI 14)

Citations Affected: IC 22-2; IC 22-5; IC 24-3; noncode.

Synopsis: Various employment matters. Allows an employer to implement financial incentives related to employer provided health benefits to reduce employee tobacco use. Permits a wage assignment for payment for: (1) certain uniforms; and (2) tools and portable equipment. Increases from \$800 to \$3,000 the amount of the maximum wage claim for which the commissioner of the department of labor may take an assignment. Repeals and relocates language making it a Class C infraction for an employer to sell merchandise or supplies to an employee for a price higher than to the public. Repeals a chapter concerning the regulation of wage payments, which includes: (1) a provision requiring an employer to pay employees in commercial paper; (2) a duplicate provision concerning frequency of wage payments; (3) a provision containing outdated language concerning liens of laborers; and (4) language in conflict with other law concerning the later payment of wages. Provides that an applicant for a license as an importer or manufacturer of cigarettes must provide certain information to the alcohol and tobacco commission and must submit a fee of \$1,500 with the application that is deposited in the enforcement and administration fund.

Effective: July 1, 2006.

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(HOUSE SPONSOR — BROWN T)

January 9, 2006, read first time and referred to Committee on Tax and Fiscal Policy.
January 19, 2006, amended, reported favorably — Do Pass.
January 24, 2006, read second time, amended, ordered engrossed.
January 25, 2006, engrossed.
January 26, 2006, read third time, passed. Yeas 47, nays 1.

HOUSE ACTION

February 2, 2006, read first time and referred to Committee on Employment and Labor.
February 13, 2006, amended, reported — Do Pass.
February 28, 2006, read second time, amended, ordered engrossed.

ES 117—LS 6479/DI 97+



Reprinted
March 1, 2006

Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 117

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

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

1 SECTION 1. IC 22-2-6-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Any assignment of the wages
3 of an employee is valid only if all of the following conditions are
4 satisfied:

5 (1) The assignment is:

6 (A) in writing;

7 (B) signed by the employee personally;

8 (C) by its terms revocable at any time by the employee upon
9 written notice to the employer; and

10 (D) agreed to in writing by the employer.

11 (2) An executed copy of the assignment is delivered to the
12 employer within ten (10) days after its execution.

13 (3) The assignment is made for a purpose described in subsection
14 (b).

15 (b) A wage assignment under this section may be made for the
16 purpose of paying any of the following:

17 (1) Premium on a policy of insurance obtained for the employee

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- 1 by the employer.
- 2 (2) Pledge or contribution of the employee to a charitable or
- 3 nonprofit organization.
- 4 (3) Purchase price of bonds or securities, issued or guaranteed by
- 5 the United States.
- 6 (4) Purchase price of shares of stock, or fractional interests
- 7 therein, of the employing company, or of a company owning the
- 8 majority of the issued and outstanding stock of the employing
- 9 company, whether purchased from such company, in the open
- 10 market or otherwise. However, if such shares are to be purchased
- 11 on installments pursuant to a written purchase agreement, the
- 12 employee has the right under the purchase agreement at any time
- 13 before completing purchase of such shares to cancel said
- 14 agreement and to have repaid promptly the amount of all
- 15 installment payments which theretofore have been made.
- 16 (5) Dues to become owing by the employee to a labor
- 17 organization of which the employee is a member.
- 18 (6) Purchase price of merchandise sold by the employer to the
- 19 employee, at the written request of the employee.
- 20 (7) Amount of a loan made to the employee by the employer and
- 21 evidenced by a written instrument executed by the employee
- 22 subject to the amount limits set forth in section 4(c) of this
- 23 chapter.
- 24 (8) Contributions, assessments, or dues of the employee to a
- 25 hospital service or a surgical or medical expense plan or to an
- 26 employees' association, trust, or plan existing for the purpose of
- 27 paying pensions or other benefits to said employee or to others
- 28 designated by the employee.
- 29 (9) Payment to any credit union, nonprofit organizations, or
- 30 associations of employees of such employer organized under any
- 31 law of this state or of the United States.
- 32 (10) Payment to any person or organization regulated under the
- 33 Uniform Consumer Credit Code (IC 24-4.5) for deposit or credit
- 34 to the employee's account by electronic transfer or as otherwise
- 35 designated by the employee.
- 36 (11) Premiums on policies of insurance and annuities purchased
- 37 by the employee on the employee's life.
- 38 (12) The purchase price of shares or fractional interest in shares
- 39 in one (1) or more mutual funds.
- 40 (13) A judgment owed by the employee if the payment:
- 41 (A) is made in accordance with an agreement between the
- 42 employee and the creditor; and

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- 1 (B) is not a garnishment under IC 34-25-3.
- 2 **(14) Payment for the purchase or maintenance of uniforms**
- 3 **worn by the employee while performing duties for the**
- 4 **employer.**
- 5 **(15) Payment for the purchase of tools and portable**
- 6 **equipment used by the employee while performing duties for**
- 7 **the employer.**

8 SECTION 2. IC 22-2-9-5 IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2006]: Sec. 5. **(a)** The commissioner of labor
 10 is hereby authorized to take assignments of wage claims of less than
 11 ~~eight hundred dollars (\$800.00);~~ **three thousand dollars (\$3,000),**
 12 rights of action for penalties, mechanics and other liens of workers,
 13 without being bound by any of the technical rules with reference to the
 14 validity of such assignments; and shall have power and authority to
 15 prosecute actions for the collection of such claims of persons who, in
 16 the judgment of the commissioner:

- 17 **(1)** are entitled to the services of the commissioner; and ~~who, in~~
 18 ~~his judgment;~~
- 19 **(2)** have claims which are valid and enforceable in the court.
- 20 **(b)** The commissioner shall have power to join various claimants in
 21 one (1) preferred claim or lien, and, in case of suit, to join them in one
 22 (1) cause of action.

23 SECTION 3. IC 22-5-4-1 IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2006]: Sec. 1. **(a) Except as provided in**
 25 **subsection (b),** an employer may not:

- 26 (1) require, as a condition of employment, an employee or
 27 prospective employee to refrain from using; or
- 28 (2) discriminate against an employee with respect to:
 29 (A) the employee's compensation and benefits; or
 30 (B) terms and conditions of employment;
 31 based on the employee's use of;
 32 tobacco products outside the course of the employee's or prospective
 33 employee's employment.

- 34 **(b) An employer may implement financial incentives:**
- 35 **(1) intended to reduce tobacco use; and**
- 36 **(2) related to employee health benefits provided by the**
 37 **employer.**

38 SECTION 4. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS
 39 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 40 1, 2006]:

- 41 **Chapter 6. Employer Sales to Employees**
- 42 **Sec. 1. An employer may not sell to an employee of the**

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employer:
(1) merchandise; or
(2) supplies;
at a price higher than the price at which the employer sells the merchandise or supplies for cash to another person who is not an employee of the employer.

Sec. 2. A person who violates section 1 of this chapter commits a Class C infraction.

SECTION 5. IC 24-3-6-9, AS ADDED BY P.L.160-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) The commission may issue or renew a license to the following applicants:

- (1) An importer.
- (2) A manufacturer.

The commission shall prescribe the form of an application.

(b) An importer or manufacturer that conducts business in Indiana must apply under this section for a license for the importer's or manufacturer's principal place of business. An importer or manufacturer that is issued a license shall display the license at the importer's or manufacturer's principal place of business.

(c) The commission shall prescribe the form and duration of a license issued under this section. However, a license may not be valid for more than three (3) years from the date of issuance.

(d) An applicant must provide the following to the commission:

- (1) The applicant's name and mailing address and the address of the premises for which the license is being issued.**
- (2) A fee of one thousand five hundred dollars (\$1,500).**

(e) Fees collected under this section must be deposited in the enforcement and administration fund under IC 7.1-4-10.

~~(f)~~ (f) A license issued under this section is nontransferable.

~~(g)~~ (g) The commission shall not issue or renew a license under this section if:

- (1) the applicant owes at least five hundred dollars (\$500) in taxes imposed under IC 6-7-1-12;
- (2) the commission revoked the applicant's license within two (2) years before the application;
- (3) the applicant commits an offense under IC 6-7-1-21;
- (4) the applicant does not comply with IC 24-3-3-12; or
- (5) the applicant violates IC 24-3-4.

~~(h)~~ (h) The commission may revoke or suspend a license issued under this section if the applicant:

- (1) is not eligible to receive or renew a license under subsection

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1 (e); or
2 (2) violates this chapter.
3 SECTION 6. IC 22-2-4 IS REPEALED [EFFECTIVE JULY 1,
4 2006].
5 SECTION 7. [EFFECTIVE JULY 1, 2006] **IC 22-2-9-5, as**
6 **amended by this act, applies to wage claims filed with the**
7 **commissioner of labor after June 30, 2006.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 117, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 2, after "Sec." insert "1."

Page 1, line 6, delete "except as" and insert "**other than health benefits provided by the employer;**".

Page 1, delete line 7.

Page 1, line 8, delete "and Accountability Act of 1996 (P.L. 104-191);".

Page 1, run in lines 6 through 8.

and when so amended that said bill do pass.

(Reference is to SB 117 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 8, Nays 2.

SENATE MOTION

Madam President: I move that Senate Bill 117 be amended to read as follows:

Page 1, line 2, delete "An" and insert "**(a) Except as provided in subsection (b), an**".

Page 1, line 6, delete ", other than" and insert ";

Page 1, line 7, delete "health benefits provided by the employer;"

Page 1, after line 11, begin a new paragraph and insert:

"(b) An employer may implement financial incentives:

(1) intended to reduce tobacco use; and

(2) related to employee health benefits provided by the employer."

(Reference is to SB 117 as printed January 20, 2006.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred Senate Bill 117, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 22-2-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Any assignment of the wages of an employee is valid only if all of the following conditions are satisfied:

- (1) The assignment is:
 - (A) in writing;
 - (B) signed by the employee personally;
 - (C) by its terms revocable at any time by the employee upon written notice to the employer; and
 - (D) agreed to in writing by the employer.

- (2) An executed copy of the assignment is delivered to the employer within ten (10) days after its execution.

- (3) The assignment is made for a purpose described in subsection (b).

(b) A wage assignment under this section may be made for the purpose of paying any of the following:

- (1) Premium on a policy of insurance obtained for the employee by the employer.
- (2) Pledge or contribution of the employee to a charitable or nonprofit organization.
- (3) Purchase price of bonds or securities, issued or guaranteed by the United States.
- (4) Purchase price of shares of stock, or fractional interests therein, of the employing company, or of a company owning the majority of the issued and outstanding stock of the employing company, whether purchased from such company, in the open market or otherwise. However, if such shares are to be purchased on installments pursuant to a written purchase agreement, the employee has the right under the purchase agreement at any time before completing purchase of such shares to cancel said agreement and to have repaid promptly the amount of all installment payments which theretofore have been made.
- (5) Dues to become owing by the employee to a labor organization of which the employee is a member.
- (6) Purchase price of merchandise sold by the employer to the

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employee, at the written request of the employee.

(7) Amount of a loan made to the employee by the employer and evidenced by a written instrument executed by the employee subject to the amount limits set forth in section 4(c) of this chapter.

(8) Contributions, assessments, or dues of the employee to a hospital service or a surgical or medical expense plan or to an employees' association, trust, or plan existing for the purpose of paying pensions or other benefits to said employee or to others designated by the employee.

(9) Payment to any credit union, nonprofit organizations, or associations of employees of such employer organized under any law of this state or of the United States.

(10) Payment to any person or organization regulated under the Uniform Consumer Credit Code (IC 24-4.5) for deposit or credit to the employee's account by electronic transfer or as otherwise designated by the employee.

(11) Premiums on policies of insurance and annuities purchased by the employee on the employee's life.

(12) The purchase price of shares or fractional interest in shares in one (1) or more mutual funds.

(13) A judgment owed by the employee if the payment:

(A) is made in accordance with an agreement between the employee and the creditor; and

(B) is not a garnishment under IC 34-25-3.

(14) Payment for the purchase or maintenance of uniforms worn by the employee while performing duties for the employer.

(15) Payment for the purchase of tools and portable equipment used by the employee while performing duties for the employer.

SECTION 2. IC 22-2-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) The commissioner of labor is hereby authorized to take assignments of wage claims of less than ~~eight hundred dollars (\$800.00)~~; **three thousand dollars (\$3,000)**, rights of action for penalties, mechanics and other liens of workers, without being bound by any of the technical rules with reference to the validity of such assignments; and shall have power and authority to prosecute actions for the collection of such claims of persons who, in the judgment of the commissioner:

(1) are entitled to the services of the commissioner; and ~~who, in his judgment,~~

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(2) have claims which are valid and enforceable in the court.

(b) The commissioner shall have power to join various claimants in one (1) preferred claim or lien, and, in case of suit, to join them in one (1) cause of action."

Page 1, after line 15, begin a new paragraph and insert:

"SECTION 4. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 6. Employer Sales to Employees

Sec. 1. An employer may not sell to an employee of the employer:

- (1) merchandise; or
- (2) supplies;

at a price higher than the price at which the employer sells the merchandise or supplies for cash to another person who is not an employee of the employer.

Sec. 2. A person who violates section 1 of this chapter commits a Class C infraction.

SECTION 5. IC 22-2-4 IS REPEALED [EFFECTIVE JULY 1, 2006].

SECTION 6. [EFFECTIVE JULY 1, 2006] IC 22-2-9-5, as amended by this act, applies to wage claims filed with the commissioner of labor after June 30, 2006."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 117 as reprinted January 25, 2006.)

TORR, Chair

Committee Vote: yeas 7, nays 4.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 117 be amended to read as follows:

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

"SECTION 5. IC 24-3-6-9, AS ADDED BY P.L.160-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) The commission may issue or renew a license to the following applicants:

- (1) An importer.

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(2) A manufacturer.

The commission shall prescribe the form of an application.

(b) An importer or manufacturer that conducts business in Indiana must apply under this section for a license for the importer's or manufacturer's principal place of business. An importer or manufacturer that is issued a license shall display the license at the importer's or manufacturer's principal place of business.

(c) The commission shall prescribe the form and duration of a license issued under this section. However, a license may not be valid for more than three (3) years from the date of issuance.

(d) An applicant must provide the following to the commission:

(1) The applicant's name and mailing address and the address of the premises for which the license is being issued.

(2) A fee of one thousand five hundred dollars (\$1,500).

(e) Fees collected under this section must be deposited in the enforcement and administration fund under IC 7.1-4-10.

~~(d)~~ **(f)** A license issued under this section is nontransferable.

~~(e)~~ **(g)** The commission shall not issue or renew a license under this section if:

- (1) the applicant owes at least five hundred dollars (\$500) in taxes imposed under IC 6-7-1-12;
- (2) the commission revoked the applicant's license within two (2) years before the application;
- (3) the applicant commits an offense under IC 6-7-1-21;
- (4) the applicant does not comply with IC 24-3-3-12; or
- (5) the applicant violates IC 24-3-4.

~~(f)~~ **(h)** The commission may revoke or suspend a license issued under this section if the applicant:

- (1) is not eligible to receive or renew a license under subsection (e); or
- (2) violates this chapter."

Renumber all SECTIONS consecutively.

(Reference is to ESB 117 as printed February 14, 2006.)

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