

---

---

# SENATE BILL No. 424

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-8-1.1.

**Synopsis:** IOSHA penalties. Provides that the commissioner of labor may assess a civil penalty of up to \$25,000 against an employer that knowingly violates the occupational health and safety law or certain safety standards, rules, or orders if the violation results in serious bodily injury or death. Makes technical corrections.

**Effective:** July 1, 2007.

---

---

### Simpson

---

---

January 11, 2007, read first time and referred to Committee on Pensions and Labor.

---

---

C  
o  
p  
y



First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

C  
O  
P  
Y

## SENATE BILL No. 424



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 22-8-1.1-1 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this
- 3 chapter, unless otherwise provided:
- 4 "Board" means the board of safety review created by this chapter.
- 5 "Bureau" means the safety education and training bureau created by
- 6 this chapter.
- 7 "Commission" means the occupational safety standards commission
- 8 created by this chapter.
- 9 "Commissioner" means the commissioner of labor or ~~his~~ **the**
- 10 **commissioner's** duly designated representative.
- 11 "Department" means the department of labor.
- 12 "Employee" means a person permitted to work by an employer in
- 13 employment.
- 14 "Employer" means any individual or type of organization, including
- 15 the state and all its political subdivisions, that has in its employ one (1)
- 16 or more individuals.
- 17 "Safety order" refers to a notice issued to employers by the



1 commissioner of labor for alleged violations of this chapter, including  
2 any health and safety standards.

3 **"Serious bodily injury" has the meaning set forth in**  
4 **IC 35-41-1-25.**

5 "Standard" refers to both health and safety standards.

6 "Voluntary protection program" means a program offered by the  
7 United States Occupational Safety and Health Administration to  
8 employers subject to this chapter that exempts the employers from  
9 general scheduled inspections.

10 SECTION 2. IC 22-8-1.1-2 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. Each employer shall  
12 establish and maintain conditions of work which are:

- 13 (1) reasonably safe and healthful for employees; and
- 14 (2) free from recognized hazards that are causing or are likely to  
15 cause death or serious ~~physical harm~~ **bodily injury** to employees.

16 SECTION 3. IC 22-8-1.1-27.1 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27.1. (a) The  
18 commissioner may assess the following civil penalties:

- 19 (1) Any employer ~~who~~ **that** has received a safety order for  
20 violation of any standard, rule, or order not of a serious nature  
21 may be assessed a civil penalty of up to seven thousand dollars  
22 (\$7,000) for each such violation.
- 23 (2) Any employer ~~who~~ **that** has received a safety order for a  
24 serious violation of any standard, rule, or order or this chapter  
25 may be assessed a civil penalty of up to seven thousand dollars  
26 (\$7,000) for each such violation.
- 27 (3) Any employer ~~who~~ **that** fails to correct a violation for which  
28 a safety order has been issued within the period permitted may be  
29 assessed a civil penalty of up to seven thousand dollars (\$7,000)  
30 for each day during which the failure or violation continues.
- 31 (4) Any employer ~~who~~ **that** fails to comply with the posting  
32 requirements in this chapter may be assessed a civil penalty of up  
33 to seven thousand dollars (\$7,000) for each violation.
- 34 (5) Any employer ~~who~~ **that** repeatedly violates any standard, rule,  
35 or order or this chapter may be assessed a civil penalty of up to  
36 seventy thousand dollars (\$70,000) for each violation.
- 37 (6) Any employer ~~who~~ **that** knowingly violates any standard, rule,  
38 order, or this chapter shall be assessed a civil penalty of not less  
39 than five thousand dollars (\$5,000) for each violation and may be  
40 assessed a civil penalty of up to seventy thousand dollars  
41 (\$70,000) for each violation.
- 42 (7) **Any employer that knowingly violates any standard, rule,**

C  
o  
p  
y



1 **order, or this chapter may be assessed a civil penalty of up to**  
2 **twenty-five thousand dollars (\$25,000) for each violation that**  
3 **results in serious bodily injury or death.**

4 (b) For purposes of this section, a serious violation exists in a place  
5 of employment if there is a substantial probability that death or serious  
6 ~~physical harm~~ **bodily injury** could result from a condition which exists  
7 or from one (1) or more practices, means, methods, operations, or  
8 processes which have been adopted or are in use in the place of  
9 employment, unless the employer did not know and could not, with the  
10 exercise of reasonable diligence, have known of the presence of the  
11 violation.

12 SECTION 4. IC 22-8-1.1-39.1 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 39.1. (a) Whenever the  
14 commissioner is of the opinion that imminent danger exists in any  
15 workplace in this state, which condition can reasonably be expected to  
16 cause death or serious ~~physical harm~~; **bodily injury**, the commissioner,  
17 through the attorney general, may petition the circuit court of the  
18 county in which such workplace is located for appropriate relief. Any  
19 order issued under this section may require such steps to be taken as  
20 may be necessary to avoid, correct, or remove such imminent danger  
21 and prohibit the employment or presence of any individual in locations  
22 or under conditions where such imminent danger exists, except  
23 individuals whose presence is necessary:

- 24 (1) to avoid, correct, or remove such imminent danger; or
- 25 (2) to maintain the capacity of a continuous process operation to
- 26 resume normal operations without a complete cessation of
- 27 operations; or
- 28 (3) ~~where a cessation of operations is necessary~~; to permit ~~such~~
- 29 **the cessation of operations** to be accomplished in a safe and
- 30 orderly manner **when a cessation of operations is necessary**.

31 (b) Whenever and as soon as an inspector concludes that conditions  
32 or practices described in subsection (a) exist in any place of  
33 employment, ~~he the inspector~~ shall inform the affected employers and  
34 employees of the danger and that ~~he the inspector~~ is recommending to  
35 the commissioner that relief be sought.

36 (c) If the commissioner arbitrarily or capriciously fails to seek relief  
37 under this section, any employee who may be injured by reason of such  
38 failure, or the representative of such ~~employees~~; **employee**, may bring  
39 an action against the commissioner, in the circuit court of the county  
40 in which the imminent danger is alleged to exist or the employer has its  
41 principal office, for a writ of mandamus to compel the commissioner  
42 to seek such an order and for such further relief as may be appropriate.

C  
o  
p  
y

