
HOUSE BILL No. 1457

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4; IC 22-4.1-4-2.

Synopsis: Unemployment insurance. Provides that deductible income does not include the first \$50 of remuneration paid or payable to an individual in any week. (Currently, deductible income does not include an amount equal to the greater of \$3 or 20% of an individual's weekly unemployment benefit.) Provides that all pension benefits be treated as nondeductible income. Provides that an employer's experience account may not be relieved of charges for benefit overpayments if the overpayments resulted from the employer's failure to respond in a timely or adequate manner to the department of workforce development's (department) request for information related to the claim and the employer has a pattern of failure to respond to department requests for information. For employers in the construction industry, establishes a new employer contribution rate equal to the greater of 5% or the average of the contribution rates paid by all employers in the construction industry subject to the unemployment law during the 12 months preceding the computation date. Provides that 15% of the interest and civil penalties collected from a claimant who knowingly failed to disclose or falsified any fact that if accurately reported would disqualify the individual from receiving a benefit or that would reduce the benefit are deposited in the unemployment insurance trust fund. (Currently, all of the interest and civil penalties for fraudulent overpayments are deposited in the special employment and training services fund.) Requires an employer to report to the directory of new hires (directory) the same information reported for a new hire for an employee who resumes employment after at least a 60 day break in service. Establishes a civil penalty of \$25 for an employer that fails to report information about new hires to the directory.

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Effective: July 1, 2013.

Leonard

January 22, 2013, read first time and referred to Committee on Employment, Labor and Pensions.



First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1457



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 22-4-5-1, AS AMENDED BY P.L.2-2011,
- 2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2013]: Sec. 1. (a) "Deductible income" wherever used in this
- 4 article, means income deductible from the weekly benefit amount of an
- 5 individual in any week, and shall include, but shall not be limited to,
- 6 any of the following:
- 7 (1) Remuneration for services from employing units, whether or
- 8 not such remuneration is subject to contribution under this article,
- 9 except as provided in subsection (c).
- 10 (2) Dismissal pay.
- 11 (3) Vacation pay.
- 12 (4) Pay for idle time.
- 13 (5) Holiday pay.
- 14 (6) Sick pay.
- 15 (7) Traveling expenses granted to an individual by an employing
- 16 unit and not fully accounted for by such individual.
- 17 (8) Net earnings from self-employment.



1 (9) Payments in lieu of compensation for services.

2 (10) Awards by the national labor relations board of additional
3 pay, back pay, or for loss of employment, or any such payments
4 made under an agreement entered into by an employer, a union,
5 and the National Labor Relations Board.

6 (11) Payments made to an individual by an employing unit
7 pursuant to the terms of the Fair Labor Standards Act (Federal
8 Wage and Hour Law, 29 U.S.C. 201 et seq.).

9 (12) This subdivision applies to initial claims for unemployment
10 filed for a week that begins after March 14, 2008, and before
11 October 1, 2011. For a week in which a payment is actually
12 received by an individual, payments made by an employer to an
13 individual who accepts an offer from the employer in connection
14 with a layoff or a plant closure.

15 (13) This subdivision applies to initial claims for unemployment
16 filed for a week that begins after March 14, 2008, and before
17 October 1, 2011. Except as provided in subsection (c)(2), the part
18 of a payment made by an employer to an individual who accepts
19 an offer from the employer in connection with a layoff or a plant
20 closure if that part is attributable to a week and the week:

21 (A) occurs after an individual receives the payment; and

22 (B) was used under the terms of a written agreement to
23 compute the payment.

24 (b) Deductible income shall not include the first ~~three fifty~~ **thirty** dollars
25 ~~(\$3); or twenty percent (20%) of the claimant's weekly benefit amount~~
26 ~~rounded to the next lowest dollar, whichever is the larger; (\$50) of~~
27 ~~remuneration paid or payable to an individual with respect to in any~~
28 ~~week. by other than the individual's base period employer or employers.~~

29 (c) For the purpose of deductible income only, remuneration for
30 services from employing units does not include:

31 (1) bonuses, gifts, or prizes awarded to an employee by an
32 employing unit; or

33 (2) for initial claims for unemployment filed for a week that
34 begins after March 14, 2008, and before October 1, 2011,
35 compensation made under a valid negotiated contract or
36 agreement in connection with a layoff or plant closure, without
37 regard to how the compensation is characterized by the contract
38 or agreement.

39 (d) Deductible income does not include a supplemental
40 unemployment insurance benefit made under a valid negotiated
41 contract or agreement.

42 (e) Deductible income does not include any payments made to an

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1 individual by a court system under a summons for jury service.
 2 SECTION 2. IC 22-4-11-1, AS AMENDED BY P.L.175-2009,
 3 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2013]: Sec. 1. (a) For the purpose of charging employers'
 5 experience or reimbursable accounts with regular benefits paid
 6 subsequent to July 3, 1971, to any eligible individual but except as
 7 provided in IC 22-4-22 and subsection (f), such benefits paid shall be
 8 charged proportionately against the experience or reimbursable
 9 accounts of the individual's employers in the individual's base period
 10 (on the basis of total wage credits established in such base period)
 11 against whose accounts the maximum charges specified in this section
 12 shall not have been previously made. Such charges shall be made in the
 13 inverse chronological order in which the wage credits of such
 14 individuals were established. However, when an individual's claim has
 15 been computed for the purpose of determining the individual's regular
 16 benefit rights, maximum regular benefit amount, and the proportion of
 17 such maximum amount to be charged to the experience or reimbursable
 18 accounts of respective chargeable employers in the base period, the
 19 experience or reimbursable account of any employer charged with
 20 regular benefits paid shall not be credited or recredited with any
 21 portion of such maximum amount because of any portion of such
 22 individual's wage credits remaining uncharged at the expiration of the
 23 individual's benefit period. The maximum so charged against the
 24 account of any employer shall not exceed twenty-eight percent (28%)
 25 of the total wage credits of such individual with each such employer
 26 with which wage credits were established during such individual's base
 27 period. Benefits paid under provisions of IC 22-4-22-3 in excess of the
 28 amount that the claimant would have been monetarily eligible for under
 29 other provisions of this article shall be paid from the fund and not
 30 charged to the experience account of any employer. This exception
 31 shall not apply to those employers electing to make payments in lieu of
 32 contributions who shall be charged for the full amount of regular
 33 benefit payments and the part of benefits not reimbursed by the federal
 34 government under the Federal-State Extended Unemployment
 35 Compensation Act of 1970 that are attributable to service in their
 36 employ. Irrespective of the twenty-eight percent (28%) maximum
 37 limitation provided for in this section, the part of benefits not
 38 reimbursed by the federal government under the Federal-State
 39 Extended Unemployment Compensation Act of 1970 paid to an eligible
 40 individual based on service with a governmental entity of this state or
 41 its political subdivisions shall be charged to the experience or
 42 reimbursable accounts of the employers, and the part of benefits not

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1 reimbursed by the federal government under the Federal-State
 2 Extended Unemployment Compensation Act of 1970 paid to an eligible
 3 individual shall be charged to the experience or reimbursable accounts
 4 of the individual's employers in the individual's base period, other than
 5 governmental entities of this state or its political subdivisions, in the
 6 same proportion and sequence as are provided in this section for
 7 regular benefits paid. Additional benefits paid under IC 22-4-12-4(c)
 8 and benefits paid under IC 22-4-15-1(c)(8) shall:

9 (1) be paid from the fund; and

10 (2) not be charged to the experience account or the reimbursable
 11 account of any employer.

12 (b) If the aggregate of wages paid to an individual by two (2) or
 13 more employers during the same calendar quarter exceeds the
 14 maximum wage credits (as defined in IC 22-4-4-3) then the experience
 15 or reimbursable account of each such employer shall be charged in the
 16 ratio which the amount of wage credits from such employer bears to the
 17 total amount of wage credits during the base period.

18 (c) When wage records show that an individual has been employed
 19 by two (2) or more employers during the same calendar quarter of the
 20 base period but do not indicate both that such employment was
 21 consecutive and the order of sequence thereof, then and in such cases
 22 it shall be deemed that the employer with whom the individual
 23 established a plurality of wage credits in such calendar quarter is the
 24 most recent employer in such quarter and its experience or
 25 reimbursable account shall be first charged with benefits paid to such
 26 individual. The experience or reimbursable account of the employer
 27 with whom the next highest amount of wage credits were established
 28 shall be charged secondly and the experience or reimbursable accounts
 29 of other employers during such quarters, if any, shall likewise be
 30 charged in order according to plurality of wage credits established by
 31 such individual.

32 (d) Except as provided in subsection (f) **or (i)**, if an individual:

33 (1) voluntarily leaves an employer without good cause in
 34 connection with the work; or

35 (2) is discharged from an employer for just cause;

36 wage credits earned with the employer from whom the employee has
 37 separated under these conditions shall be used to compute the
 38 claimant's eligibility for benefits, but charges based on such wage
 39 credits shall be paid from the fund and not charged to the experience
 40 account of any employer. However, this exception shall not apply to
 41 those employers who elect to make payments in lieu of contributions,
 42 who shall be charged for all benefit payments which are attributable to

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1 service in their employ.

2 (e) Any nonprofit organization which elects to make payments in
3 lieu of contributions into the unemployment compensation fund as
4 provided in this article is not liable to make the payments with respect
5 to the benefits paid to any individual whose base period wages include
6 wages for previously uncovered services as defined in IC 22-4-4-4, nor
7 is the experience account of any other employer liable for charges for
8 benefits paid the individual to the extent that the unemployment
9 compensation fund is reimbursed for these benefits pursuant to Section
10 121 of P.L.94-566. Payments which otherwise would have been
11 chargeable to the reimbursable or contributing employers shall be
12 charged to the fund.

13 (f) If an individual:

14 (1) earns wages during the individual's base period through
15 employment with two (2) or more employers concurrently;

16 (2) is separated from work by one (1) of the employers for reasons
17 that would not result in disqualification under IC 22-4-15-1; and

18 (3) continues to work for one (1) or more of the other employers
19 after the end of the base period and continues to work during the
20 applicable benefit year on substantially the same basis as during
21 the base period;

22 wage credits earned with the base period employers shall be used to
23 compute the claimant's eligibility for benefits, but charges based on the
24 wage credits from the employer who continues to employ the individual
25 shall be charged to the experience or reimbursable account of the
26 separating employer.

27 (g) Subsection (f) does not affect the eligibility of a claimant who
28 otherwise qualifies for benefits nor the computation of benefits.

29 (h) Unemployment benefits paid shall not be charged to the
30 experience account of a base period employer when the claimant's
31 unemployment from the employer was a direct result of the
32 condemnation of property by a municipal corporation (as defined in
33 IC 36-1-2-10), the state, or the federal government, a fire, a flood, or an
34 act of nature, when at least fifty percent (50%) of the employer's
35 employees, including the claimant, became unemployed as a result.
36 This exception does not apply when the unemployment was an
37 intentional result of the employer or a person acting on behalf of the
38 employer.

39 **(i) The experience account of an employer may not be relieved**
40 **of charges for a benefit overpayment that is established under**
41 **IC 22-4-13 or otherwise, if the department determines both of the**
42 **following:**

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1 **(1) That the overpayment was the fault of the employer, or the**
 2 **employer's agent, in failing to respond in a timely or adequate**
 3 **manner to the department's written request for information**
 4 **related to the claim that resulted in the overpayment.**

5 **(2) That the employer, or the employer's agent, has**
 6 **established, through at least two (2) instances of such**
 7 **behavior, a pattern of failure to respond in a timely or**
 8 **adequate manner to the department's requests for**
 9 **information related to claims for unemployment benefits.**

10 SECTION 3. IC 22-4-11-2, AS AMENDED BY P.L.6-2012,
 11 SECTION 153, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) Except as provided in
 13 IC 22-4-10-6 and IC 22-4-11.5, the department shall for each year
 14 determine the contribution rate applicable to each employer.

15 (b) The balance shall include contributions with respect to the
 16 period ending on the computation date and actually paid on or before
 17 July 31 immediately following the computation date and benefits
 18 actually paid on or before the computation date and shall also include
 19 any voluntary payments made in accordance with IC 22-4-10-5 or
 20 IC 22-4-10-5.5 (repealed):

21 (1) for each calendar year, an employer's rate shall be determined
 22 in accordance with the rate schedules in section 3.3 or 3.5 of this
 23 chapter; and

24 (2) for each calendar year, an employer's rate shall be ~~two and~~
 25 ~~seven-tenths percent (2.7%) before January 1, 2011, and two and~~
 26 ~~five-tenths percent (2.5%), after December 31, 2010,~~ except as
 27 otherwise provided in **subsection (g) or IC 22-4-37-3**, unless:

28 (A) the employer has been subject to this article throughout
 29 the thirty-six (36) consecutive calendar months immediately
 30 preceding the computation date;

31 (B) there has been some annual payroll in each of the three (3)
 32 twelve (12) month periods immediately preceding the
 33 computation date; and

34 (C) the employer has properly filed all required contribution
 35 and wage reports, and all contributions, penalties, and interest
 36 due and owing by the employer or the employer's predecessors
 37 have been paid.

38 (c) ~~This subsection applies before January 1, 2011. In addition to the~~
 39 ~~conditions and requirements set forth and provided in subsection~~
 40 ~~(b)(2)(A) and (b)(2)(B), an employer's rate shall not be less than five~~
 41 ~~and six-tenths percent (5.6%) unless all required contribution and wage~~
 42 ~~reports have been filed within thirty-one (31) days following the~~

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1 computation date and all contributions, penalties, and interest due and
 2 owing by the employer or the employer's predecessors for periods prior
 3 to and including the computation date have been paid:

- 4 (1) within thirty-one (31) days following the computation date; or
 5 (2) within ten (10) days after the department has given the
 6 employer a written notice by registered mail to the employer's last
 7 known address of:

- 8 (A) the delinquency; or
 9 (B) failure to file the reports;

10 whichever is the later date.

11 The board or the board's designee may waive the imposition of rates
 12 under this subsection if the board finds the employer's failure to meet
 13 the deadlines was for excusable cause. The department shall give
 14 written notice to the employer before this additional condition or
 15 requirement shall apply.

16 (c) ~~(d)~~ This subsection applies after December 31, 2010. In addition
 17 to the conditions and requirements set forth and provided in subsection
 18 (b)(2)(A), (b)(2)(B), and (b)(2)(C), an employer's rate is equal to the
 19 sum of the employer's contribution rate determined or estimated by the
 20 department under this article plus two percent (2%) unless all required
 21 contributions and wage reports have been filed within thirty-one (31)
 22 days following the computation date and all contributions, penalties,
 23 and interest due and owing by the employer or the employer's
 24 predecessor for periods before and including the computation date have
 25 been paid:

- 26 (1) within thirty-one (31) days following the computation date; or
 27 (2) within ten (10) days after the department has given the
 28 employer a written notice by registered mail to the employer's last
 29 known address of:

- 30 (A) the delinquency; or
 31 (B) failure to file the reports;

32 whichever is the later date. The board or the board's designee may
 33 waive the imposition of rates under this subsection if the board finds
 34 the employer's failure to meet the deadlines was for excusable cause.
 35 The department shall give written notice to the employer before this
 36 additional condition or requirement shall apply. An employer's rate
 37 under this subsection may not exceed twelve percent (12%).

38 (e) (d) However, if the employer is the state or a political
 39 subdivision of the state or any instrumentality of a state or a political
 40 subdivision, or any instrumentality which is wholly owned by the state
 41 and one (1) or more other states or political subdivisions, the employer
 42 may contribute at a rate of

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1 ~~(1)~~ one percent (1%); before January 1, 2011; or
 2 ~~(2)~~ one and six-tenths percent (1.6%) after December 31, 2010;
 3 until it has been subject to this article throughout the thirty-six (36)
 4 consecutive calendar months immediately preceding the computation
 5 date.

6 ~~(f)~~ (e) On the computation date every employer who had taxable
 7 wages in the previous calendar year shall have the employer's
 8 experience account charged with the amount determined under the
 9 following formula:

10 STEP ONE: Divide:

11 (A) the employer's taxable wages for the preceding calendar
 12 year; by

13 (B) the total taxable wages for the preceding calendar year.

14 STEP TWO: Multiply the quotient determined under STEP ONE
 15 by the total amount of benefits charged to the fund under section
 16 1 of this chapter.

17 ~~(g)~~ (f) One (1) percentage point of the rate imposed under
 18 subsection (c), or ~~(d)~~; or the amount of the employer's payment that is
 19 attributable to the increase in the contribution rate, whichever is less,
 20 shall be imposed as a penalty that is due and shall be deposited upon
 21 collection into the special employment and training services fund
 22 established under IC 22-4-25-1. The remainder of the contributions
 23 paid by an employer pursuant to the maximum rate shall be:

- 24 (1) considered a contribution for the purposes of this article; and
 25 (2) deposited in the unemployment insurance benefit fund
 26 established under IC 22-4-26.

27 (g) **Except as otherwise provided in IC 22-4-37-3, this**
 28 **subsection, instead of subsection (b)(2), applies to an employer in**
 29 **the construction industry. As used in the subsection, "construction**
 30 **industry" means business establishments whose proper primary**
 31 **classification in the current edition of the North American Industry**
 32 **Classification System Manual - United States, published by the**
 33 **National Technical Information Service of the United States**
 34 **Department of Commerce is 23 (construction). For each calendar**
 35 **year beginning after December 31, 2013, an employer's rate shall**
 36 **be equal to the greater of five percent (5%) or the average of the**
 37 **contribution rates paid by all employers in the construction**
 38 **industry subject to this article during the twelve (12) months**
 39 **preceding the computation date, unless:**

- 40 (1) **the employer has been subject to this article throughout**
 41 **the thirty-six (36) consecutive calendar months immediately**
 42 **preceding the computation date;**

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1 **(2) there has been some annual payroll in each of the three (3)**
 2 **twelve (12) month periods immediately preceding the**
 3 **computation date; and**

4 **(3) the employer has properly filed all required contribution**
 5 **and wage reports, and all contributions, penalties, and**
 6 **interest due and owing by the employer or the employer's**
 7 **predecessors have been paid.**

8 SECTION 4. IC 22-4-13-1.1, AS AMENDED BY P.L.175-2009,
 9 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2013]: Sec. 1.1. (a) Notwithstanding any other provisions of
 11 this article, if an individual knowingly:

12 (1) fails to disclose amounts earned during any week in the
 13 individual's waiting period, benefit period, or extended benefit
 14 period; or

15 (2) fails to disclose or has falsified any fact;

16 that would disqualify the individual for benefits, reduce the individual's
 17 benefits, or render the individual ineligible for benefits or extended
 18 benefits, the individual forfeits any wage credits earned or any benefits
 19 or extended benefits that might otherwise be payable to the individual
 20 for the period in which the failure to disclose or falsification occurs.

21 (b) In addition to amounts forfeited under subsection (a), an
 22 individual is subject to the following civil penalties for each instance
 23 in which the individual knowingly fails to disclose or falsifies any fact
 24 that if accurately reported to the department would disqualify the
 25 individual for benefits, reduce the individual's benefits, or render the
 26 individual ineligible for benefits or extended benefits:

27 (1) For the first instance, an amount equal to twenty-five percent
 28 (25%) of the benefit overpayment.

29 (2) For the second instance, an amount equal to fifty percent
 30 (50%) of the benefit overpayment.

31 (3) For the third and each subsequent instance, an amount equal
 32 to one hundred percent (100%) of the benefit overpayment.

33 (c) The department's determination under this section constitutes an
 34 initial determination under ~~IC 22-4-17-2(f)~~ **IC 22-4-17-2(a)** and is
 35 subject to a hearing and review under IC 22-4-17-3 through
 36 IC 22-4-17-15.

37 (d) Interest and civil penalties collected under this chapter shall be
 38 deposited **as follows:**

39 **(1) Fifteen percent (15%) of the amount collected shall be**
 40 **deposited in the unemployment insurance benefit fund**
 41 **established under IC 22-4-26-1.**

42 **(2) The remainder of the amount collected shall be deposited**

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- 1 in the special employment and training services fund established
2 under IC 22-4-25-1.
- 3 SECTION 5. IC 22-4-15-4, AS AMENDED BY P.L.2-2011,
4 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2013]: Sec. 4. (a) An individual shall be ineligible for waiting
6 period or benefit rights for any week with respect to which the
7 individual receives, is receiving, or has received payments equal to or
8 exceeding the individual's weekly benefit amount in the form of:
- 9 (1) deductible income as defined and applied in IC 22-4-5-1 and
10 IC 22-4-5-2; or
- 11 (2) any pension, retirement or annuity payments, under any plan
12 of an employer whereby the employer contributes a portion or all
13 of the money. The following apply to a disqualification under this
14 subdivision:
- 15 (A) The disqualification shall apply only if some or all of the
16 benefits otherwise payable:
- 17 (i) are chargeable to the experience or reimbursable account
18 of such employer; or
- 19 (ii) would have been chargeable except for the application
20 of this chapter.
- 21 ~~(B) Notwithstanding clause (A), the disqualification does not~~
22 ~~apply to a distribution from a pension, retirement, or annuity~~
23 ~~plan of an employer when an individual uses the distribution~~
24 ~~to satisfy a severe financial hardship resulting from an~~
25 ~~unforeseeable emergency that is the result of events beyond~~
26 ~~the individual's control.~~
- 27 ~~(C)~~ (B) Federal old age, survivors, and disability insurance
28 benefits are not considered payments under a plan of an
29 employer whereby the employer maintains the plan or
30 contributes a portion or all of the money to the extent required
31 by federal law.
- 32 (b) If the payments described in subsection (a) are less than an
33 individual's weekly benefit amount, an otherwise eligible individual
34 shall not be ineligible and shall be entitled to receive for such week
35 benefits reduced by the amount of such payments.
- 36 (c) This section does not preclude an individual from delaying a
37 claim to pension, retirement, or annuity payments until the individual
38 has received the benefits to which the individual would otherwise be
39 eligible under this chapter. Weekly benefits received before the date
40 the individual elects to retire shall not be reduced by any pension,
41 retirement, or annuity payments received on or after the date the
42 individual elects to retire.

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1 SECTION 6. IC 22-4-17-2, AS AMENDED BY P.L.42-2011,
 2 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2013]: Sec. 2. (a) When an individual files an initial claim, the
 4 department shall promptly make a determination of the individual's
 5 status as an insured worker in a form prescribed by the department. A
 6 written notice of the determination of insured status shall be furnished
 7 to the individual promptly. Each such determination shall be based on
 8 and include a written statement showing the amount of wages paid to
 9 the individual for insured work by each employer during the
 10 individual's base period and shall include a finding as to whether such
 11 wages meet the requirements for the individual to be an insured
 12 worker, and, if so, the week ending date of the first week of the
 13 individual's benefit period, the individual's weekly benefit amount, and
 14 the maximum amount of benefits that may be paid to the individual for
 15 weeks of unemployment in the individual's benefit period. For the
 16 individual who is not insured, the notice shall include the reason for the
 17 determination. Unless the individual, within ten (10) days after such
 18 determination was mailed to the individual's last known address, or
 19 otherwise delivered to the individual, asks a hearing thereon before an
 20 administrative law judge, such determination shall be final and benefits
 21 shall be paid or denied in accordance therewith.

22 (b) The department shall promptly furnish each employer in the base
 23 period whose experience or reimbursable account is potentially
 24 chargeable with benefits to be paid to such individual with a notice in
 25 writing of the employer's benefit liability. The notice shall contain the
 26 date, the name and Social Security account number of the individual,
 27 the ending date of the individual's base period, and the week ending
 28 date of the first week of the individual's benefit period. The notice shall
 29 further contain information as to the proportion of benefits chargeable
 30 to the employer's experience or reimbursable account in ratio to the
 31 earnings of such individual from such employer. Unless the employer
 32 within ten (10) days after such notice of benefit liability was mailed to
 33 the employer's last known address, or otherwise delivered to the
 34 employer, asks a hearing thereon before an administrative law judge,
 35 such determination shall be final and benefits paid shall be charged in
 36 accordance therewith.

37 (c) An employing unit, including an employer, having knowledge
 38 of any facts which may affect an individual's eligibility or right to
 39 waiting period credits or benefits, shall notify the department of such
 40 facts within ten (10) days after the mailing of notice that a former
 41 employee has filed an initial or additional claim for benefits on a form
 42 prescribed by the department.

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1 (d) If, after the department determines that additional information
2 is necessary to make a determination under this chapter:

3 (1) the department makes a request in writing for additional
4 information from an employing unit, including an employer, on
5 a form prescribed by the department; and

6 (2) the employing unit fails to respond within ten (10) days after
7 the date the request is mailed to the employing unit;

8 the department shall make a decision with the information available.

9 (e) If:

10 (1) an employer appeals an original determination granting
11 benefits to a claimant and the determination is reversed on appeal;
12 and

13 (2) the decision to reverse the determination is at least in part
14 based on information that the department requested from the
15 employer under subsection (d); but which the employer failed to
16 provide within ten (10) days after the department's request was
17 mailed to the employer;

18 the employer's experience account shall be charged an amount equal to
19 fifty percent (50%) of the benefits paid to the employee to which the
20 employee was not entitled and for which the employer's experience
21 account may be charged.

22 (f) If:

23 (1) the employer's experience account is charged under subsection
24 (e); and

25 (2) the employee repays all or a part of the benefits on which the
26 charge under subsection (e) is based;

27 the employer shall receive a credit to the employer's experience
28 account that is equal to the amount of the employee's repayment up to
29 fifty percent (50%) of the amount charged to the employer's experience
30 account under subsection (e).

31 (g) (d) In addition to the foregoing determination of insured status
32 by the department, the deputy shall, throughout the benefit period,
33 determine the claimant's eligibility with respect to each week for which
34 the claimant claims waiting period credit or benefit rights, the validity
35 of the claimant's claim therefor, and the cause for which the claimant
36 left the claimant's work, or may refer such claim to an administrative
37 law judge who shall make the initial determination with respect thereto
38 in accordance with the procedure in section 3 of this chapter.

39 (h) (e) In cases where the claimant's benefit eligibility or
40 disqualification is disputed, the department shall promptly notify the
41 claimant and the employer or employers directly involved or connected
42 with the issue raised as to the validity of such claim, the eligibility of

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1 the claimant for waiting period credit or benefits, or the imposition of
2 a disqualification period or penalty, or the denial thereof, and of the
3 cause for which the claimant left the claimant's work, of such
4 determination and the reasons thereof.

5 (†) (f) Except as otherwise hereinafter provided in this section
6 regarding parties located in Alaska, Hawaii, and Puerto Rico, unless
7 the claimant or such employer, within ten (10) days after the
8 notification required by subsection (†); (e), was mailed to the claimant's
9 or the employer's last known address or otherwise delivered to the
10 claimant or the employer, asks for a hearing before an administrative
11 law judge thereon, such decision shall be final and benefits shall be
12 paid or denied in accordance therewith.

13 (†) (g) For a notice of disputed administrative determination or
14 decision mailed or otherwise delivered to the claimant or employer
15 either of whom is located in Alaska, Hawaii, or Puerto Rico, unless the
16 claimant or employer, within fifteen (15) days after the notification
17 required by subsection (†); (e), was mailed to the claimant's or
18 employer's last known address or otherwise delivered to the claimant
19 or employer, asks for a hearing before an administrative law judge
20 thereon, such decision shall be final and benefits shall be paid or
21 denied in accordance therewith.

22 (†) (h) If a claimant or an employer requests a hearing under
23 subsection (†) (f) or (†); (g), the request therefor shall be filed with the
24 department in writing within the prescribed periods as above set forth
25 in this section and shall be in such form as the department may
26 prescribe. In the event a hearing is requested by an employer or the
27 department after it has been administratively determined that benefits
28 should be allowed to a claimant, entitled benefits shall continue to be
29 paid to said claimant unless said administrative determination has been
30 reversed by a due process hearing. Benefits with respect to any week
31 not in dispute shall be paid promptly regardless of any appeal.

32 (†) (i) A person may not participate on behalf of the department in
33 any case in which the person is an interested party.

34 (†) (j) Solely on the ground of obvious administrative error
35 appearing on the face of an original determination, and within the
36 benefit year of the affected claims, the commissioner, or a
37 representative authorized by the commissioner to act in the
38 commissioner's behalf, may reconsider and direct the deputy to revise
39 the original determination so as to correct the obvious error appearing
40 therein. Time for filing an appeal and requesting a hearing before an
41 administrative law judge regarding the determinations handed down
42 pursuant to this subsection shall begin on the date following the date

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1 of revision of the original determination and shall be filed with the
2 commissioner in writing within the prescribed periods as above set
3 forth in subsection (c).

4 ~~(n)~~ **(k)** Notice to the employer and the claimant that the
5 determination of the department is final if a hearing is not requested
6 shall be prominently displayed on the notice of the determination
7 which is sent to the employer and the claimant.

8 ~~(o)~~ **(l)** If an allegation of the applicability of IC 22-4-15-1(c)(8) is
9 made by the individual at the time of the claim for benefits, the
10 department shall not notify the employer of the claimant's current
11 address or physical location.

12 SECTION 7. IC 22-4.1-4-2, AS AMENDED BY P.L.131-2009,
13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2013]: Sec. 2. (a) This section applies only to an employer
15 who employs individuals within the state.

16 (b) As used in this section, "date of hire" is:

17 **(1)** the first date that an employee provides labor or services to an
18 employer; **or**

19 **(2) the first date that an employee resumes providing labor or**
20 **services to an employer after a separation from service with**
21 **the employer of at least sixty (60) days.**

22 (c) As used in this section, "employee":

23 (1) has the meaning set forth in Chapter 24 of the Internal
24 Revenue Code of 1986; and

25 (2) includes any individual:

26 (A) required under Internal Revenue Service regulations to
27 complete a federal form W-4; and

28 (B) who has provided services to an employer.

29 The term does not include an employee of a federal or state agency who
30 performs intelligence or counter intelligence functions if the head of
31 the agency determines that the reporting information required under
32 this section could endanger the safety of the employee or compromise
33 an ongoing investigation or intelligence mission.

34 (d) As used in this section, "employer" has the meaning set forth in
35 Section 3401(d) of the Internal Revenue Code of 1986. The term
36 includes:

37 (1) governmental agencies; **and**

38 (2) labor organizations; **and or**

39 ~~(2)~~ **(3)** a person doing business in the state as identified by:

40 (A) the person's federal employer identification number; or

41 (B) if applicable, the common paymaster, as defined in Section
42 3121 of the Internal Revenue Code or the payroll reporting

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1 agent of the employer, as described in IRS Rev. Proc. 70-6,
2 1970-1, C.B. 420.

3 (e) As used in this section, "labor organization" has the meaning set
4 forth in 42 U.S.C. 653A(a)(2)(B)(ii).

5 **(f) As used in this section, "newly hired employee" means an**
6 **employee who:**

7 **(1) has not previously been employed by an employer; or**

8 **(2) resumes service with an employer after a separation from**
9 **service of at least sixty (60) days.**

10 ~~(f)~~ **(g)** The department shall maintain the Indiana directory of new
11 hires as required under 42 U.S.C. 653A.

12 ~~(g)~~ **(h)** The directory under subsection ~~(f)~~ **(g)** must contain **the**
13 **information for each newly hired employee** that an employer must
14 provide to the department for each newly hired employee as follows:
15 **under subsection (k).**

16 **(i) An employer must transmit the information required under**
17 **subsection (k):**

18 ~~(1) The information must be transmitted~~ within twenty (20)
19 business days of the employee's date of hire; **or**

20 ~~(2) if an employer transmits reports under this section the~~
21 **information is transmitted** magnetically or electronically, ~~the~~
22 **information must be transmitted** in two (2) monthly transactions
23 that are:

24 (A) not less than twelve (12) days apart; and

25 (B) not more than sixteen (16) days apart.

26 ~~(j) If mailed, the A report~~ **containing the information required**
27 **under subsection (k)** is considered timely:

28 **(1) if it is postmarked on or before the due date, whenever the**
29 **report is mailed; or**

30 ~~(2) If the report is transmitted by facsimile machine or by using~~
31 **electronic or magnetic media, the report is considered timely** if it
32 is received on or before the due date, **whenever the report is**
33 **transmitted by:**

34 **(A) facsimile machine; or**

35 **(B) electronic or magnetic media.**

36 ~~(h)~~ **(k)** The employer shall provide the information required under
37 this section on an employee's withholding allowance certificate
38 (Internal Revenue Service form W-4) or, at the employer's option, an
39 equivalent form. ~~The report may be transmitted to the department by~~
40 ~~first class mail, by facsimile machine, electronically, or magnetically.~~
41 The report must include at least the following:

42 (1) The name, address, and Social Security number of the

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- 1 employee.
- 2 (2) The name, address, and federal tax identification number of
- 3 the employer.
- 4 (3) The date of hire of the employee.
- 5 (†) (1) An employer that has employees in two (2) or more states and
- 6 that transmits reports under this section electronically or magnetically
- 7 may comply with this section by doing the following:
- 8 (1) Designating one (1) state to receive each report.
- 9 (2) Notifying the Secretary of the United States Department of
- 10 Health and Human Services which state will receive the reports.
- 11 (3) Transmitting the reports to the agency in the designated state
- 12 that is charged with receiving the reports.
- 13 (†) (m) The department may impose **the following** as a civil penalty:
- 14 of:
- 15 (1) **Twenty-five dollars (\$25) on an employer that fails to**
- 16 **comply with this section.**
- 17 (2) Five hundred dollars (\$500) on an employer that fails to
- 18 comply with this section if the failure is a result of a conspiracy
- 19 between the employer and the employee to:
- 20 (†) (A) not provide the required report; or
- 21 (‡) (B) provide a false or an incomplete report.
- 22 (†) (n) **The department shall do the following with** information
- 23 received from an employer regarding newly hired employees: ~~shall be:~~
- 24 (1) **entered Enter the information** into the state's new hire
- 25 directory within five (5) business days of receipt. ~~and~~
- 26 (2) ~~forwarded~~ **Forward the information** to the national directory
- 27 of new hires ~~within~~ **not later than** three (3) business days after
- 28 ~~entry~~ **the information is entered** into the state's new hire
- 29 directory.
- 30 The state shall use quality control standards established by the
- 31 Administrators of the National Directory of New Hires.
- 32 (†) (o) The information contained in the Indiana directory of new
- 33 hires is available only for use by the department for purposes required
- 34 by 42 U.S.C. 653A, unless otherwise provided by law.
- 35 (†) (p) The department of child services (**established under**
- 36 **IC 31-25-1-1**) shall:
- 37 (1) reimburse the department for any costs incurred in carrying
- 38 out this section;
- 39 (†) ~~The department of child services and the department shall and~~
- 40 (2) enter into a purchase of service agreement **with the**
- 41 **department** that establishes procedures necessary to administer
- 42 this section.

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