

# HOUSE BILL No. 1281

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-1-7.

**Synopsis:** Pay data reporting. Requires certain private employers to file a pay data report with the department of labor (department). Creates the employment enforcement and compliance fund, to be used by the department to identify and combat pay discrimination.

**Effective:** July 1, 2019.

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January 10, 2019, read first time and referred to Committee on Employment, Labor and Pensions.

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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.

# HOUSE BILL No. 1281

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 22-1-7 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2019]:

4 **Chapter 7. Pay Data Reporting**

5 **Sec. 1. As used in this chapter, "department" refers to the**  
6 **department of labor created by IC 22-1-1-1.**

7 **Sec. 2. As used in this chapter, "employee" refers to an**  
8 **individual on an employer's payroll, including an individual who**  
9 **works part-time, for whom the employer is required to withhold**  
10 **federal Social Security taxes from the individual's wages.**

11 **Sec. 3. As used in this chapter, "employer" refers to a private**  
12 **employer that:**

- 13 **(1) has at least one hundred (100) employees; and**
- 14 **(2) is required to file an annual employer information report**  
15 **with the federal Equal Employment Opportunity**  
16 **Commission.**

17 **Sec. 4. As used in this chapter, "establishment" refers to an**



1 economic unit producing goods or services.

2 **Sec. 5. (a) Before September 30, 2019, and before September 30**  
3 **of every year thereafter, an employer shall submit a pay data**  
4 **report to the department on a form and in a manner prescribed by**  
5 **the department. The pay data report must include the following**  
6 **information:**

7 **(1) The number of employees by race, ethnicity, and sex in**  
8 **each of the following job categories:**

9 **(A) Executive or senior level officials and managers.**

10 **(B) First or mid-level officials and managers.**

11 **(C) Professionals.**

12 **(D) Technicians.**

13 **(E) Sales workers.**

14 **(F) Administrative support workers.**

15 **(G) Craft workers.**

16 **(H) Operatives.**

17 **(I) Laborers and helpers.**

18 **(2) The number of employees by race, ethnicity, and sex,**  
19 **whose annual earnings fall within each of the pay bands used**  
20 **by the United States Bureau of Labor Statistics in the**  
21 **Occupational Employment Statistics survey.**

22 **(b) Except as provided in subsection (c), to establish the**  
23 **earnings described in subsection (a)(2), an employer shall use each**  
24 **employee's total earnings as shown on the Internal Revenue**  
25 **Service form W-2 for a twelve (12) month period, looking back**  
26 **from any pay period between July 1 and September 30 of each**  
27 **calendar year. An employer shall tabulate and report the number**  
28 **of employees whose earnings for the prior twelve (12) months fall**  
29 **within each pay band.**

30 **(c) To establish the earnings described in subsection (a)(2) for**  
31 **part-time and seasonal employees, the employer shall include the**  
32 **total number of hours worked by each employee counted in each**  
33 **pay band for the prior twelve (12) month period.**

34 **Sec. 6. An employer with multiple establishments shall submit**  
35 **a report described in section 5 of this chapter for each**  
36 **establishment, along with a consolidated report that includes all**  
37 **employees.**

38 **Sec. 7. The report described in section 5 of this chapter shall**  
39 **include a section for employers to provide clarifying remarks**  
40 **regarding the information provided. An employer is not required**  
41 **to provide clarifying remarks.**

42 **Sec. 8. An employer that files an employer information report**



1 with the federal Equal Employment Opportunity Commission with  
2 the same or substantially similar pay data information required  
3 under this chapter may satisfy compliance with this chapter by  
4 submitting the employer information report to the department.

5 **Sec. 9. (a) The employment enforcement and compliance fund**  
6 **is established.**

7 **(b) The fund shall be used by the department to administer this**  
8 **chapter in an effort to identify and combat pay discrimination.**

9 **(c) The fund consists of civil penalties collected from employers**  
10 **under section 10 of this chapter.**

11 **(d) The fund shall be administered by the department.**

12 **(e) The money in the fund is not to be used to replace funds**  
13 **otherwise appropriated to the department. Money in the fund at**  
14 **the end of the state fiscal year does not revert to the state general**  
15 **fund.**

16 **Sec. 10. (a) An employer that fails to comply with this chapter**  
17 **is subject to a civil penalty of:**

18 **(1) five hundred dollars (\$500) for the initial violation; and**

19 **(2) five thousand dollars (\$5,000) for every subsequent**  
20 **violation.**

21 **(b) If, upon inspection or investigation, the commissioner**  
22 **determines that an employer has violated this chapter, the**  
23 **commissioner may issue a citation.**

24 **(c) A civil penalty collected under this section shall be deposited**  
25 **into the employment enforcement and compliance fund established**  
26 **by section 9 of this chapter.**

27 **Sec. 11. (a) For purposes of this section, "individually**  
28 **identifiable information" includes data associated with a specific**  
29 **person or business.**

30 **(b) It is unlawful for an officer or employee of the department**  
31 **to disclose any individually identifiable information obtained**  
32 **pursuant to the officer's or employee's authority under this chapter**  
33 **to the public before the institution of investigation or enforcement**  
34 **proceeding by the department, and such information may be**  
35 **disclosed only to the extent necessary for purposes of the**  
36 **investigation or enforcement proceeding.**

37 **Sec. 12. Information disclosed to the department under this**  
38 **chapter is confidential for purposes of IC 5-14-3-4.**

39 **Sec. 13. Notwithstanding section 11 of this chapter, the**  
40 **department may develop and publicize aggregate reports based on**  
41 **the data obtained under its authority under this section, if the**  
42 **aggregate reports are reasonably designed to prevent the**



1       **association of the data with an individual business or person.**  
2       **Sec. 14. The department shall maintain pay data reports for at**  
3       **least ten (10) years.**

