

# HOUSE BILL No. 1334

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-4-15-1; IC 22-5-4.6; IC 22-5-9.

**Synopsis:** Employer immunization requirements. Provides that an employer may require an immunization only if the employer respects the employee's right to refuse an immunization. Provides that an employee shall be free from coercion or an adverse action based on the employee's refusal of an immunization. Requires an employer that offers an immunization at no cost to an employee to provide certain notice to the employee. Provides that a violation may be reported to the department of labor (department). Requires the department to impose a civil penalty of \$5,000 per incident. Allows an employee to bring a civil action against an employer to enforce the provisions. Repeals provisions concerning exemptions from COVID-19 immunization requirements. Makes a corresponding change.

**Effective:** Upon passage.

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## Borders

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January 10, 2024, read first time and referred to Committee on Employment, Labor and Pensions.

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Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

## HOUSE BILL No. 1334

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 22-4-15-1, AS AMENDED BY P.L.117-2023,  
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 1. (a) Regarding an individual's most recent  
4 separation from employment before filing an initial or additional claim  
5 for benefits, an individual who voluntarily left the employment without  
6 good cause in connection with the work or was discharged from the  
7 employment for just cause is ineligible for waiting period or benefit  
8 rights for the week in which the disqualifying separation occurred and  
9 until:  
10 (1) the individual has earned remuneration in employment in at  
11 least eight (8) weeks; and  
12 (2) the remuneration earned equals or exceeds the product of the  
13 weekly benefit amount multiplied by eight (8).  
14 If the qualification amount has not been earned at the expiration of an  
15 individual's benefit period, the unearned amount shall be carried  
16 forward to an extended benefit period or to the benefit period of a  
17 subsequent claim.



1 (b) When it has been determined that an individual has been  
2 separated from employment under disqualifying conditions as outlined  
3 in this section, the maximum benefit amount of the individual's current  
4 claim, as initially determined, shall be reduced by an amount  
5 determined as follows:

6 (1) For the first separation from employment under disqualifying  
7 conditions, the maximum benefit amount of the individual's  
8 current claim is equal to the result of:

9 (A) the maximum benefit amount of the individual's current  
10 claim, as initially determined; multiplied by

11 (B) seventy-five percent (75%);

12 rounded (if not already a multiple of one dollar (\$1)) to the next  
13 higher dollar.

14 (2) For the second separation from employment under  
15 disqualifying conditions, the maximum benefit amount of the  
16 individual's current claim is equal to the result of:

17 (A) the maximum benefit amount of the individual's current  
18 claim determined under subdivision (1); multiplied by

19 (B) eighty-five percent (85%);

20 rounded (if not already a multiple of one dollar (\$1)) to the next  
21 higher dollar.

22 (3) For the third and any subsequent separation from employment  
23 under disqualifying conditions, the maximum benefit amount of  
24 the individual's current claim is equal to the result of:

25 (A) the maximum benefit amount of the individual's current  
26 claim determined under subdivision (2); multiplied by

27 (B) ninety percent (90%);

28 rounded (if not already a multiple of one dollar (\$1)) to the next  
29 higher dollar.

30 (c) The disqualifications provided in this section shall be subject to  
31 the following modifications:

32 (1) An individual shall not be subject to disqualification because  
33 of separation from the individual's employment if:

34 (A) the individual left to accept with another employer  
35 previously secured permanent full-time work which offered  
36 reasonable expectation of continued covered employment and  
37 betterment of wages or working conditions and thereafter was  
38 employed on said job;

39 (B) having been simultaneously employed by two (2)  
40 employers, the individual leaves one (1) such employer  
41 voluntarily without good cause in connection with the work  
42 but remains in employment with the second employer with a



- 1           reasonable expectation of continued employment; or  
2           (C) the individual left to accept recall made by a base period  
3           employer.
- 4           (2) An individual whose unemployment is the result of medically  
5           substantiated physical disability and who is involuntarily  
6           unemployed after having made reasonable efforts to maintain the  
7           employment relationship shall not be subject to disqualification  
8           under this section for such separation.
- 9           (3) An individual who left work to enter the armed forces of the  
10          United States shall not be subject to disqualification under this  
11          section for such leaving of work.
- 12          (4) An individual whose employment is terminated under the  
13          compulsory retirement provision of a collective bargaining  
14          agreement to which the employer is a party, or under any other  
15          plan, system, or program, public or private, providing for  
16          compulsory retirement and who is otherwise eligible shall not be  
17          deemed to have left the individual's work voluntarily without  
18          good cause in connection with the work. However, if such  
19          individual subsequently becomes reemployed and thereafter  
20          voluntarily leaves work without good cause in connection with the  
21          work, the individual shall be deemed ineligible as outlined in this  
22          section.
- 23          (5) An otherwise eligible individual shall not be denied benefits  
24          for any week because the individual is in training approved under  
25          Section 236(a)(1) of the Trade Act of 1974, nor shall the  
26          individual be denied benefits by reason of leaving work to enter  
27          such training, provided the work left is not suitable employment,  
28          or because of the application to any week in training of provisions  
29          in this law (or any applicable federal unemployment  
30          compensation law), relating to availability for work, active search  
31          for work, or refusal to accept work. For purposes of this  
32          subdivision, the term "suitable employment" means with respect  
33          to an individual, work of a substantially equal or higher skill level  
34          than the individual's past adversely affected employment (as  
35          defined for purposes of the Trade Act of 1974), and wages for  
36          such work at not less than eighty percent (80%) of the individual's  
37          average weekly wage as determined for the purposes of the Trade  
38          Act of 1974.
- 39          (6) An individual is not subject to disqualification because of  
40          separation from the individual's employment if:  
41                  (A) the employment was outside the individual's labor market;  
42                  (B) the individual left to accept previously secured full-time



- 1 work with an employer in the individual's labor market; and  
 2 (C) the individual actually became employed with the  
 3 employer in the individual's labor market.
- 4 (7) An individual who, but for the voluntary separation to move  
 5 to another labor market to join a spouse who had moved to that  
 6 labor market, shall not be disqualified for that voluntary  
 7 separation, if the individual is otherwise eligible for benefits.  
 8 Benefits paid to the spouse whose eligibility is established under  
 9 this subdivision shall not be charged against the employer from  
 10 whom the spouse voluntarily separated.
- 11 (8) An individual shall not be subject to disqualification if the  
 12 individual voluntarily left employment or was discharged due to  
 13 circumstances directly caused by domestic or family violence (as  
 14 defined in IC 31-9-2-42). An individual who may be entitled to  
 15 benefits based on this modification may apply to the office of the  
 16 attorney general under IC 5-26.5 to have an address designated by  
 17 the office of the attorney general to serve as the individual's  
 18 address for purposes of this article.
- 19 (9) An individual shall not be subject to disqualification if the  
 20 individual
- 21 ~~(A) has requested an exemption from an employer's~~  
 22 ~~COVID-19 immunization requirement;~~  
 23 ~~(B) has complied with the requirements set forth in~~  
 24 ~~IC 22-5-4.6; and~~  
 25 ~~(C) was discharged from employment for failing or refusing to~~  
 26 ~~receive an immunization against COVID-19.~~
- 27 As used in this subsection, "labor market" means the area surrounding  
 28 an individual's permanent residence, outside which the individual  
 29 cannot reasonably commute on a daily basis. In determining whether  
 30 an individual can reasonably commute under this subdivision, the  
 31 department shall consider the nature of the individual's job.
- 32 (d) "Discharge for just cause" as used in this section is defined to  
 33 include but not be limited to:
- 34 (1) separation initiated by an employer for falsification of an  
 35 employment application to obtain employment through  
 36 subterfuge;
- 37 (2) knowing violation of a reasonable and uniformly enforced rule  
 38 of an employer, including a rule regarding attendance;
- 39 (3) if an employer does not have a rule regarding attendance, an  
 40 individual's unsatisfactory attendance, if good cause for absences  
 41 or tardiness is not established;
- 42 (4) damaging the employer's property through willful negligence;



- 1 (5) refusing to obey instructions;
- 2 (6) reporting to work under the influence of alcohol or drugs or
- 3 consuming alcohol or drugs on employer's premises during
- 4 working hours;
- 5 (7) conduct endangering safety of self or coworkers;
- 6 (8) incarceration in jail following conviction of a misdemeanor or
- 7 felony by a court of competent jurisdiction; or
- 8 (9) any breach of duty in connection with work which is
- 9 reasonably owed an employer by an employee.

10 (e) To verify that domestic or family violence has occurred, an  
 11 individual who applies for benefits under subsection (c)(8) shall  
 12 provide one (1) of the following:

- 13 (1) A report of a law enforcement agency (as defined in
- 14 IC 10-13-3-10).
- 15 (2) A protection order issued under IC 34-26-5.
- 16 (3) A foreign protection order (as defined in IC 34-6-2-48.5).
- 17 (4) An affidavit from a domestic violence service provider
- 18 verifying services provided to the individual by the domestic
- 19 violence service provider.

20 SECTION 2. IC 22-5-4.6 IS REPEALED [EFFECTIVE UPON  
 21 PASSAGE]. (Exemptions from COVID-19 Immunization  
 22 Requirements).

23 SECTION 3. IC 22-5-9 IS ADDED TO THE INDIANA CODE AS  
 24 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
 25 PASSAGE]:

26 **Chapter 9. Immunization Requirements**

27 **Sec. 1. As used in this chapter, "coercion" means the use of**  
 28 **intimidation, threat, or force intended to convince an individual to**  
 29 **take an immunization against the individual's will.**

30 **Sec. 2. As used in this chapter, "employee" means an individual**  
 31 **who works for an employer on a full-time or part-time basis, either**  
 32 **paid or unpaid. The term includes:**

- 33 (1) an independent contractor;
- 34 (2) a subcontractor; and
- 35 (3) a student who works as a trainee or an intern.

36 **Sec. 3. As used in this chapter, "employer" means:**

- 37 (1) the state;
- 38 (2) any board, commission, department, division, bureau,
- 39 committee, agency, governmental subdivision, military body,
- 40 authority, or other instrumentality of the state;
- 41 (3) a state educational institution (as defined in
- 42 IC 21-7-13-32);



- 1 (4) a political subdivision (as defined in IC 36-1-2-13); or  
 2 (5) a sole proprietor, corporation, partnership, limited  
 3 liability company, or other entity that has one (1) or more  
 4 employees.

5 The term does not include the United States and its agencies and  
 6 instrumentalities.

7 Sec. 4. As used in this chapter, "immunization" means the  
 8 treatment of an individual with a vaccine intended to produce  
 9 immunity.

10 Sec. 5. (a) An employer may require an immunization only if the  
 11 employer respects the employee's right to refuse an immunization.

12 (b) An employee shall be free from:

- 13 (1) coercion; or  
 14 (2) an adverse action, including discrimination with respect  
 15 to:  
 16 (A) the employee's tenure, compensation, and benefits;  
 17 (B) terms, conditions, and privileges of employment;  
 18 (C) uniform or attire;  
 19 (D) use of areas open to immunized employees; or  
 20 (E) testing in the absence of symptoms when immunized  
 21 employees are not equally required to submit to testing;

22 based on the employee's refusal of an immunization.

23 Sec. 6. A:

- 24 (1) contract;  
 25 (2) bid specification; or  
 26 (3) agreement;

27 that is entered into, issued, amended, or renewed after March 31,  
 28 2024, may not contain a provision requiring an employee to receive  
 29 an immunization that limits in any way the rights and protections  
 30 provided to an employee under this chapter.

31 Sec. 7. (a) Nothing in this chapter shall be construed to:

- 32 (1) require an employer to impose a requirement that  
 33 employees receive an immunization; or  
 34 (2) preclude an employer from offering an immunization at no  
 35 cost to an employee.

36 (b) If an employer offers an immunization at no cost to an  
 37 employee, the employer must notify the employee at the time of the  
 38 offer in writing that the employee has the right to refuse the  
 39 immunization free from coercion or an adverse action with the  
 40 following statement: "IC 22-5-9-7 requires that an employer notify  
 41 an employee that an employee's acceptance of an immunization is  
 42 voluntary. An employee has the right to refuse the immunization



1 free from coercion or an adverse action, including discrimination  
2 with respect to:

- 3 (1) the employee's tenure, compensation, and benefits;  
4 (2) terms, conditions, and privileges of employment;  
5 (3) uniform or attire;  
6 (4) use of areas open to immunized employees; or  
7 (5) testing in the absence of symptoms when immunized  
8 employees are not equally required to submit to testing.

9 If an employee believes that the employee is being coerced into  
10 receiving an immunization or if the employee refuses the  
11 immunization and suffers an adverse action, the employee has the  
12 right to report the violation to the department of labor, the  
13 employer may be subject to a civil penalty, and the employee may  
14 bring a civil action against the employer."

15 Sec. 8. (a) A violation of this chapter may be reported to the  
16 department of labor.

17 (b) The department of labor shall impose a civil penalty of five  
18 thousand dollars (\$5,000) per incident for a violation of this  
19 chapter.

20 (c) A civil penalty collected under this section shall be deposited  
21 in the state general fund.

22 Sec. 9. (a) An employee may bring a civil action against an  
23 employer to enforce this chapter.

24 (b) If an employer is found to have violated this chapter, the  
25 court may do the following:

- 26 (1) Award:  
27 (A) actual damages; and  
28 (B) court costs and reasonable attorney's fees;  
29 to the prevailing employee.  
30 (2) Enjoin further violation of this chapter.

31 Sec. 10. This chapter does not limit an employee's rights or  
32 remedies under any other state or federal law.

33 SECTION 4. An emergency is declared for this act.

