

HOUSE BILL No. 1368

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-8.

Synopsis: Repeal of IOSHA. Repeals, on January 1, 2017, the Indiana Occupational Safety and Health Act (IOSHA), except for provisions concerning the INSafe program. Provides that the powers and duties of the department of labor under IOSHA (except for those concerning the INSafe program) are assumed by the United States Department of Labor.

Effective: July 1, 2016; January 1, 2017.

Niezgodski

January 12, 2016, read first time and referred to Committee on Government and Regulatory Reform.



Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1368

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 22-8-1.1-0.5 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2016]: **Sec. 0.5. (a) This section applies only**
- 4 **to the following occupational safety and health provisions of this**
- 5 **chapter that are being repealed effective January 1, 2017, by this**
- 6 **act (HEA ___-2016):**
- 7 (1) IC 22-8-1.1-2.
- 8 (2) IC 22-8-1.1-3.1.
- 9 (3) IC 22-8-1.1-4.
- 10 (4) IC 22-8-1.1-5.
- 11 (5) IC 22-8-1.1-6.5.
- 12 (6) IC 22-8-1.1-7.
- 13 (7) IC 22-8-1.1-8.
- 14 (8) IC 22-8-1.1-9.
- 15 (9) IC 22-8-1.1-10.
- 16 (10) IC 22-8-1.1-11.
- 17 (11) IC 22-8-1.1-12.



- 1 (12) IC 22-8-1.1-13.
- 2 (13) IC 22-8-1.1-15.
- 3 (14) IC 22-8-1.1-15.1.
- 4 (15) IC 22-8-1.1-16.1.
- 5 (16) IC 22-8-1.1-16.2.
- 6 (17) IC 22-8-1.1-17.1.
- 7 (18) IC 22-8-1.1-17.5.
- 8 (19) IC 22-8-1.1-17.7.
- 9 (20) IC 22-8-1.1-19.
- 10 (21) IC 22-8-1.1-19.1.
- 11 (22) IC 22-8-1.1-20.1.
- 12 (23) IC 22-8-1.1-21.1.
- 13 (24) IC 22-8-1.1-22.1.
- 14 (25) IC 22-8-1.1-23.1.
- 15 (26) IC 22-8-1.1-24.1.
- 16 (27) IC 22-8-1.1-24.2.
- 17 (28) IC 22-8-1.1-24.3.
- 18 (29) IC 22-8-1.1-24.5.
- 19 (30) IC 22-8-1.1-24.7.
- 20 (31) IC 22-8-1.1-25.1.
- 21 (32) IC 22-8-1.1-25.2.
- 22 (33) IC 22-8-1.1-26.1.
- 23 (34) IC 22-8-1.1-27.1.
- 24 (35) IC 22-8-1.1-27.2.
- 25 (36) IC 22-8-1.1-28.1.
- 26 (37) IC 22-8-1.1-28.2.
- 27 (38) IC 22-8-1.1-28.3.
- 28 (39) IC 22-8-1.1-28.4.
- 29 (40) IC 22-8-1.1-28.5.
- 30 (41) IC 22-8-1.1-30.1.
- 31 (42) IC 22-8-1.1-31.
- 32 (43) IC 22-8-1.1-32.1.
- 33 (44) IC 22-8-1.1-34.
- 34 (45) IC 22-8-1.1-35.
- 35 (46) IC 22-8-1.1-35.1.
- 36 (47) IC 22-8-1.1-35.2.
- 37 (48) IC 22-8-1.1-35.3.
- 38 (49) IC 22-8-1.1-35.4.
- 39 (50) IC 22-8-1.1-35.5.
- 40 (51) IC 22-8-1.1-35.6.
- 41 (52) IC 22-8-1.1-35.7.
- 42 (53) IC 22-8-1.1-37.1.



- 1 (54) IC 22-8-1.1-38.1.
 2 (55) IC 22-8-1.1-39.1.
 3 (56) IC 22-8-1.1-43.1.
 4 (57) IC 22-8-1.1-48.2.
 5 (58) IC 22-8-1.1-48.3.
 6 (59) IC 22-8-1.1-49.
 7 (60) IC 22-8-1.1-50.
 8 (61) IC 22-8-1.1-51.
 9 (62) IC 22-8-1.1-52.
- 10 (b) This section does not apply to the following sections that
 11 govern the INSafe program:
 12 (1) IC 22-8-1.1-40.
 13 (2) IC 22-8-1.1-41.
 14 (3) IC 22-8-1.1-42.
 15 (4) IC 22-8-1.1-43.
 16 (5) IC 22-8-1.1-45.
 17 (6) IC 22-8-1.1-46.
 18 (7) IC 22-8-1.1-47.
 19 (8) IC 22-8-1.1-48.
 20 (9) IC 22-8-1.1-48.1 (as amended by this act, HEA ___-2016).
 21 (10) IC 22-8-1.1-48.4 (as amended by this act, HEA ___-2016).
- 22 (c) The commissioner of the department of labor or the
 23 commissioner's designated representative shall consult with and
 24 provide assistance to the secretary of the United States Department
 25 of Labor in connection with the transfer to or the assumption by
 26 the United States Department of Labor of the duties and
 27 responsibilities performed by the state under the provisions listed
 28 in subsection (a) before the repeal on January 1, 2017, of those
 29 provisions.
- 30 (d) All powers, duties, liabilities, rights, and agreements of the
 31 department of labor under the provisions listed in subsection (a)
 32 are assumed by the United States Department of Labor on January
 33 1, 2017.
- 34 (e) The department of labor shall provide indemnification to the
 35 United States Department of Labor as necessary or appropriate in
 36 regard to any liabilities of the department of labor assumed under
 37 subsection (d) by the United States Department of Labor.
- 38 (f) All inspections, safety order proceedings, notices of failure to
 39 correct violation proceedings, penalty assessment proceedings,
 40 occupational safety standards commission proceedings, and board
 41 of safety review proceedings, including any appeals and judicial
 42 reviews, under the provisions listed in subsection (a) that are



1 pending on January 1, 2017, are transferred to the United States
2 Department of Labor and must be treated as if the United States
3 Department of Labor were the original party.

4 (g) All employee complaints filed under the provisions listed in
5 subsection (a) that are pending on January 1, 2017, are transferred
6 to the United States Department of Labor and must be treated as
7 if the United States Department of Labor were the original party.

8 (h) All records necessary or appropriate for the United States
9 Department of Labor to perform the powers and duties under
10 subsection (d) or conduct the proceedings under subsection (f) are
11 transferred to the United States Department of Labor on January
12 1, 2017.

13 (i) After December 31, 2016, any amounts owed to the
14 department of labor under the provisions listed in subsection (a)
15 are considered to be owed to the United States Department of
16 Labor.

17 (j) After December 31, 2016, a reference to the Indiana
18 Occupational Safety and Health Act (IC 22-8-1.1, excluding those
19 statutes concerning the INSafe program, as set forth in subsection
20 (b)) in a statute, rule, or other document is considered a reference
21 to the federal Occupational Safety and Health Act of 1970 (29
22 U.S.C. 651 et seq.).

23 (k) After December 31, 2016, a reference to the Indiana
24 Occupational Safety and Health Administration (IOSHA) in a
25 statute, rule, or other document is considered a reference to the
26 federal Occupational Safety and Health Administration (OSHA).

27 (l) Rules that were adopted before January 1, 2017, by the
28 department of labor under the provisions listed in subsection (a)
29 and that are set forth at Title 610, Articles 7 and 9, and Title 615
30 of the Indiana Administrative Code are void on January 1, 2017.
31 The publisher of the Indiana Administrative Code shall remove
32 Title 610, Articles 7 and 9, and Title 615 from the Indiana
33 Administrative Code after January 1, 2017.

34 SECTION 2. IC 22-8-1.1-1, AS AMENDED BY P.L.32-2008,
35 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JANUARY 1, 2017]: Sec. 1. As used in this chapter, unless otherwise
37 provided:

38 "Board" means the board of safety review created by this chapter.

39 "Commission" means the occupational safety standards commission
40 created by this chapter.

41 "Commissioner" means the commissioner of labor or the
42 commissioner's duly designated representative.



- 1 "Department" means the department of labor.
- 2 "Employee" means a person permitted to work by an employer in
3 employment.
- 4 "Employer" means any individual or type of organization, including
5 the state and all its political subdivisions, that has in its employ one (1)
6 or more individuals.
- 7 "INSafe" means the division of the department created by section 40
8 of this chapter.
- 9 "Safety order" refers to a notice issued to employers by the
10 commissioner of labor for alleged violations of this chapter, including
11 any health and safety standards.
- 12 "Standard" refers to both health and safety standards.
- 13 "Voluntary protection program" means a program offered by the
14 United States Occupational Safety and Health Administration to
15 employers subject to this chapter that exempts the employers from
16 general scheduled inspections.
- 17 SECTION 3. IC 22-8-1.1-2 IS REPEALED [EFFECTIVE
18 JANUARY 1, 2017]. Sec: 2: Each employer shall establish and
19 maintain conditions of work which are reasonably safe and healthful
20 for employees; and free from recognized hazards that are causing or are
21 likely to cause death or serious physical harm to employees.
- 22 SECTION 4. IC 22-8-1.1-3.1 IS REPEALED [EFFECTIVE
23 JANUARY 1, 2017]. Sec: 3-1: Every employer shall comply with the
24 occupational health and safety standards promulgated under this
25 chapter, and pursuant to any directions in such standards, keep his
26 employees informed of their protections and obligations under the
27 chapter, the hazards of the work place and suitable precautions,
28 relevant symptoms and emergency treatment for such hazards.
- 29 SECTION 5. IC 22-8-1.1-4 IS REPEALED [EFFECTIVE
30 JANUARY 1, 2017]. Sec: 4: No employee may remove, damage, carry
31 off, or render inoperative any safety device or safeguard furnished or
32 provided for use in any employment, or place of employment, or
33 interfere with the use thereof by any other person. Each employee shall
34 comply with the occupational health and safety standards promulgated
35 under this chapter.
- 36 SECTION 6. IC 22-8-1.1-5 IS REPEALED [EFFECTIVE
37 JANUARY 1, 2017]. Sec: 5: No person may interfere with the use of
38 any method or process adopted for the protection of any employee in
39 his employment or place of employment, or of any other person
40 lawfully within the place of employment, or fail to follow orders
41 necessary to protect the life, health, and safety of employees and any
42 other person lawfully within the place of employment.



1 SECTION 7. IC 22-8-1.1-6.5 IS REPEALED [EFFECTIVE
 2 JANUARY 1, 2017]. Sec. 6.5: Nothing in this chapter or the standards
 3 adopted under this chapter shall be deemed to authorize or require
 4 medical examination, immunization, or treatment for those who object
 5 on religious grounds, except where such is necessary for the protection
 6 of the health and safety of others.

7 SECTION 8. IC 22-8-1.1-7 IS REPEALED [EFFECTIVE
 8 JANUARY 1, 2017]. Sec. 7: An occupational safety standards
 9 commission is created within the department to promulgate, modify, or
 10 revoke safety and health standards in Indiana and to hear and determine
 11 applications for temporary and permanent variances from those
 12 standards.

13 SECTION 9. IC 22-8-1.1-8 IS REPEALED [EFFECTIVE
 14 JANUARY 1, 2017]. Sec. 8: Commission: Membership: The
 15 commission shall be composed of nine (9) members, all of whom shall
 16 be selected by the governor as follows: three (3) shall represent the
 17 management of principal industries in the state; one (1) of which shall
 18 represent agricultural industry; three (3) shall represent labor and three
 19 (3) shall represent the public all of whom shall be recognized as
 20 experienced in the field of occupational health and safety. The
 21 commissioner shall serve as secretary of the commission. No member
 22 of the commission having an economic interest in any application for
 23 a temporary or permanent variance, shall be allowed to participate in
 24 the decision.

25 SECTION 10. IC 22-8-1.1-9 IS REPEALED [EFFECTIVE
 26 JANUARY 1, 2017]. Sec. 9: Commission: Terms: Members of the
 27 commission shall serve terms of three (3) years and until their
 28 successors are appointed except that of the members first appointed;
 29 three (3) members representing management, labor and the public shall
 30 be appointed for three (3) years and three (3) members representing
 31 management, labor and the public for two (2) years and three (3)
 32 members representing management, labor and the public for one (1)
 33 year. Vacancies shall be filled by appointment for an unexpired term
 34 by the governor in the same manner as the original appointments.

35 SECTION 11. IC 22-8-1.1-10 IS REPEALED [EFFECTIVE
 36 JANUARY 1, 2017]. Sec. 10: The commission shall meet annually at
 37 the call of the commissioner and elect a chairman and such other
 38 officers as they deem appropriate.

39 SECTION 12. IC 22-8-1.1-11 IS REPEALED [EFFECTIVE
 40 JANUARY 1, 2017]. Sec. 11: (Commission: Quorum) A majority of
 41 the commission constitutes a quorum for the transaction of business.

42 SECTION 13. IC 22-8-1.1-12 IS REPEALED [EFFECTIVE



1 JANUARY 1, 2017]. Sec. 12: (a) Each member of the commission who
2 is not a state employee is entitled to the minimum salary per diem
3 provided by IC 4-10-11-2.1(b). Such a member is also entitled to
4 reimbursement for traveling expenses and other expenses actually
5 incurred in connection with the member's duties; as provided in the
6 state travel policies and procedures established by the department of
7 administration and approved by the budget agency.

8 (b) Each member of the commission who is a state employee is
9 entitled to reimbursement for traveling expenses and other expenses
10 actually incurred in connection with the member's duties; as provided
11 in the state travel policies and procedures established by the
12 department of administration and approved by the budget agency.

13 SECTION 14. IC 22-8-1.1-13 IS REPEALED [EFFECTIVE
14 JANUARY 1, 2017]. Sec. 13: The commission shall meet at the call of
15 the commissioner or the chairman or upon the written request of any
16 four (4) members. However, the commission shall meet at least one (1)
17 time per year at the call of the commissioner to conduct the business
18 that comes before the commission.

19 SECTION 15. IC 22-8-1.1-15 IS REPEALED [EFFECTIVE
20 JANUARY 1, 2017]. Sec. 15: (Standards: Incorporation by reference)
21 The commission may adopt by reference any standards, code, manuals
22 or portions thereof, published by any nationally recognized
23 organizations or associations organized or conducted in whole or in
24 part for the purpose of developing standards for the protection of the
25 life, health or safety of employees.

26 SECTION 16. IC 22-8-1.1-15.1 IS REPEALED [EFFECTIVE
27 JANUARY 1, 2017]. Sec. 15.1: Any interested person, including
28 representatives of employers and representatives of employees may
29 propose a standard to the commission; or the commission may do so on
30 its own motion. Such proposals shall be in writing. In the development
31 or adoption of each standard proposed in this manner, the commission
32 shall appoint and consult with an advisory committee. The advisory
33 committee shall include equal number of persons qualified to present
34 the viewpoint of employers involved and of persons similarly qualified
35 to present the viewpoint of the workers involved. All members of the
36 advisory committee shall be experienced in the field to which the
37 proposed standard will apply. The number of members of any advisory
38 committee shall be at the discretion of the commission. Any standard
39 developed shall not unduly burden interstate commerce. Any such
40 standard must be adopted by the commission in accordance with
41 IC 4-22-2. The said standard shall be published in a newspaper of
42 general circulation published in Marion County, Indiana; at least ten



1 (10) days prior to the filing of said standard with the publisher of the
2 Indiana Register:

3 SECTION 17. IC 22-8-1.1-16.1 IS REPEALED [EFFECTIVE
4 JANUARY 1, 2017]. Sec. 16.1: (a) The commission may adopt
5 emergency temporary standards under IC 4-22-2-37.1. The emergency
6 temporary standard shall be published in a newspaper of general
7 circulation published in Marion County, Indiana, at least ten (10) days
8 before the filing with the publisher of the Indiana Register. In the
9 exercise of this power, the commission shall first expressly determine:

10 (1) that employees are exposed to grave danger from exposure to
11 substances or agents determined to be toxic or physically harmful
12 or from new hazards; and

13 (2) that such emergency standard is necessary to protect
14 employees from such danger.

15 (b) Temporary emergency standards shall be effective only until a
16 permanent standard is adopted under IC 4-22-2, or for six (6) months
17 from the date of publication, whichever period is shorter. The
18 publication of an emergency temporary standard shall begin a
19 proceeding in accordance with section 15 of this chapter.

20 SECTION 18. IC 22-8-1.1-16.2 IS REPEALED [EFFECTIVE
21 JANUARY 1, 2017]. Sec. 16.2: (a) A United States Occupational
22 Safety and Health Administration (OSHA) standard lawfully adopted
23 by OSHA under federal law may be enforced by the department
24 without any further action by the commission:

25 (b) The commissioner or the commissioner's designee shall enforce
26 the federal standards described in subsection (a) not earlier than sixty
27 (60) days after the final standard by federal OSHA becomes effective.

28 (c) The commission may adopt an alternate standard which it finds
29 is at least as effective in providing safe and healthful employment as
30 the federal standard under the procedures set forth in IC 22-8-1.1-15,
31 IC 22-8-1.1-15.1, and IC 22-8-1.1-16.1.

32 (d) Notwithstanding IC 4-22-7-7(a), the commission shall publish
33 a statement describing a standard enforceable under this section. The
34 statement must make reference to the federal regulation. The statement
35 must be published under IC 4-22-7-7(b).

36 SECTION 19. IC 22-8-1.1-17.1 IS REPEALED [EFFECTIVE
37 JANUARY 1, 2017]. Sec. 17.1: (a) Any standard promulgated under
38 this chapter shall prescribe the use of labels or other appropriate forms
39 of warning as are necessary to insure that employees are apprised of all
40 hazards to which they are exposed; relevant symptoms and appropriate
41 emergency treatment; and proper conditions and precautions of safe use
42 or exposure. Where appropriate, such a standard shall also prescribe



1 suitable protective equipment and control or technological procedures
2 to be used in connection with the hazards and shall provide for
3 monitoring or measuring employee exposure at such locations and
4 intervals and in such manner as may be necessary for the protection of
5 employees. In addition where appropriate; any standard shall prescribe
6 the type or frequency of medical examinations or other tests which
7 shall be made available by the employer; at employer's cost; to
8 employees exposed to hazards in order to most effectively determine
9 whether the health of the employees is adversely affected by the
10 exposure. Upon request; the results of examinations or tests shall be
11 furnished to the department and shall remain confidential within the
12 department. At the request of the employee; results shall be furnished
13 to his physician.

14 (b) The commission; in promulgating standards dealing with toxic
15 materials or harmful physical agents; shall set the standard which most
16 adequately assures; to the extent feasible; on the basis of the best
17 available evidence; that no employee will suffer material impairment
18 of health or functional capacity even if the employee has regular
19 exposure to the hazard dealt with by the standard for the period of his
20 working life. Development of standards shall be based upon research;
21 demonstrations; experiments; and such other information as may be
22 appropriate. In addition to the attainment of the highest degree of
23 health and safety protection for the employee; other considerations
24 shall be the latest available scientific data in the field; the feasibility of
25 the standards; and experience gained under this and other health and
26 safety laws. Whenever practicable; the standard promulgated shall be
27 expressed in terms of objective criteria and of the performance desired.

28 (c) The commission; in promulgating standards; shall adopt rules
29 requiring employers to maintain accurate records of employee
30 exposures to potentially toxic material or harmful physical agents
31 which are required to be monitored or measured under the standards.
32 These rules shall provide employees or their representatives with an
33 opportunity to observe monitoring or measuring and to have access to
34 the records thereof. These rules shall also make appropriate provisions
35 for each employee to have access to such records as will indicate his
36 own exposure to toxic materials or harmful physical agents. Under
37 these rules; each employer shall notify any employee who is being
38 consistently exposed to toxic materials or harmful physical agents in
39 concentrations or at levels which exceed those prescribed by an
40 occupational safety and health standard and shall inform any employee
41 who is being thus exposed of the corrective action being taken.

42 SECTION 20. IC 22-8-1.1-17.5 IS REPEALED [EFFECTIVE



1 JANUARY 1, 2017]. Sec. 17.5: The commissioner may not adopt or
2 enforce any provision used to carry out the enforcement of this chapter
3 that is more stringent than the corresponding federal provision enforced
4 by the United States Department of Labor under the Occupational
5 Safety and Health Act of 1970.

6 SECTION 21. IC 22-8-1.1-17.7 IS REPEALED [EFFECTIVE
7 JANUARY 1, 2017]. Sec. 17.7: The department shall implement a
8 voluntary protection program not later than sixty (60) days after the
9 program has been made available by the United States Occupational
10 Safety and Health Administration.

11 SECTION 22. IC 22-8-1.1-19 IS REPEALED [EFFECTIVE
12 JANUARY 1, 2017]. Sec. 19: Standards: Declaratory Judgment: After
13 promulgation of a safety standard by the commission, any question as
14 to its applicability or legal validity may be adjudicated by an action for
15 a declaratory judgment filed by an affected person or firm under
16 IC 34-14-1 (or IC 34-4-10 before its repeal).

17 SECTION 23. IC 22-8-1.1-19.1 IS REPEALED [EFFECTIVE
18 JANUARY 1, 2017]. Sec. 19.1: Temporary Variances: Any employer
19 may apply to the commission for a temporary order granting a variance
20 from a standard or any provision thereof promulgated under this
21 chapter. Such temporary order shall be granted only if the employer
22 establishes that he is unable to comply with a standard by its effective
23 date because of unavailability of professional or technical personnel or
24 of materials and equipment needed to come into compliance with the
25 standard or because necessary construction or alteration of facilities
26 cannot be completed by the effective date; that he is taking all available
27 steps to safeguard his employees against the hazards covered by the
28 standard; and that he has an effective program for coming into
29 compliance with a standard as quickly as practicable. Any temporary
30 order issued under this section shall prescribe the practices, means,
31 methods, operations and processes which the employer must adopt and
32 use while the order is in effect and state in detail his program for
33 coming into compliance with the standard. Such a temporary order may
34 be granted only after notice to employees and an opportunity for a
35 hearing. Said notice shall be given to the authorized representative of
36 the employees and be posted at or near the location for which the
37 variance is sought. No order for a temporary variance may be in effect
38 for longer than the period needed by the employer to achieve
39 compliance with the standard or one (1) year, whichever is shorter;
40 except that such an order may be renewed not more than twice, so long
41 as the requirements of this paragraph are met and if an application for
42 renewal is filed at least ninety (90) days prior to the expiration date of



1 the order.

2 SECTION 24. IC 22-8-1.1-20.1 IS REPEALED [EFFECTIVE

3 JANUARY 1, 2017]. Sec. 20.1: Any affected employer may apply to

4 the commission for a permanent variance from a standard promulgated

5 under this chapter. Affected employees shall be given notice of each

6 such application by posting it at or near the location for which the

7 variance is sought, and an opportunity to participate in a hearing. The

8 commission shall issue such rule or order if it determines, after a

9 hearing, including an inspection, if appropriate, that the proponent of

10 the variance has demonstrated by a preponderance of the evidence that

11 the conditions, practices, means, methods, operations, or processes

12 used or proposed to be used by the employer will provide employment

13 and places of employment to his employees which are as safe and

14 healthful as those which would prevail if he complied with the

15 standard. The rule or order so issued shall prescribe the conditions the

16 employer must maintain, and the practices, means, methods,

17 operations, and processes which he must adopt and utilize to the extent

18 they differ from the standard in question. Such a rule or order may be

19 modified or revoked upon application by an employer, employees, the

20 commissioner of labor, or the commission on its own motion, in the

21 manner prescribed for its issuance under this section at any time after

22 six (6) months from its issuance, provided that the moving party gives

23 thirty (30) days notice to the other parties, and a hearing is held at the

24 request of any of the parties.

25 SECTION 25. IC 22-8-1.1-21.1 IS REPEALED [EFFECTIVE

26 JANUARY 1, 2017]. Sec. 21.1: The commissioner and the department

27 shall provide such administrative services, including docketing,

28 stenographic, and recordkeeping services, as the commission may

29 require in discharging its function under this chapter.

30 SECTION 26. IC 22-8-1.1-22.1 IS REPEALED [EFFECTIVE

31 JANUARY 1, 2017]. Sec. 22.1: Commissioner to Administer - Other

32 Agencies. The commissioner and such representatives as he may

33 designate shall administer and enforce the provisions of this chapter

34 and the safety standards adopted by the commission. The commissioner

35 may utilize other agencies of the state government and its political

36 subdivisions in carrying out his functions under this chapter.

37 SECTION 27. IC 22-8-1.1-23.1 IS REPEALED [EFFECTIVE

38 JANUARY 1, 2017]. Sec. 23.1: (a) Except as provided under section

39 51 of this chapter, the commissioner and his designated

40 representatives, on their own motion, or on receipt of a written and

41 signed request for an inspection from an employee or his representative

42 setting forth with reasonable particularity the grounds for inspection;



1 may enter without delay and inspect at all reasonable times places of
 2 employment in order to enforce any provisions of this chapter;
 3 including occupational safety and health standards. Persons making
 4 inspections shall present appropriate credentials to the owner, operator,
 5 or agent in charge of the place of inspection.

6 (b) Notwithstanding the provisions of subsection (a), the
 7 commissioner and the commissioner's representatives do not have a
 8 right of entry for an inspection of the premises of an employer who:

9 (1) is engaged in a farming operation that employs ten (10) or
 10 fewer employees and does not maintain a labor camp; or

11 (2) qualifies for the small business exemption by:

12 (A) employing ten (10) or fewer employees; and

13 (B) being included within a category having an occupational
 14 injury lost work day case rate, at the most precise Standard
 15 Industrial Classification Code for which the data are
 16 published; less than the national average rate as the rates are
 17 most recently published by the Secretary of Labor, acting
 18 through the Bureau of Labor Statistics, in accordance with 29
 19 U.S.C. 673.

20 (c) Notwithstanding the provisions of subsection (b), the premises
 21 of an employer qualified for exemption from inspection, other than an
 22 employer engaged in a farming operation described in subsection
 23 (b)(1), may be inspected to:

24 (1) provide technical assistance, educational and training services;
 25 and conduct surveys and studies;

26 (2) conduct an inspection or investigation in response to an
 27 employee complaint under section 24.1 of this chapter; issue a
 28 citation for violations found during the inspection; and assess a
 29 penalty for violations that are not corrected within a reasonable
 30 abatement period and for any willful violations found;

31 (3) take any action authorized by this chapter with regard to
 32 imminent dangers;

33 (4) take any action authorized by this chapter with respect to
 34 health hazards;

35 (5) take any action authorized by this chapter with respect to a
 36 report of an employment accident that:

37 (A) is fatal to one (1) or more employees; or

38 (B) results in hospitalization of one (1) or more employees;
 39 and to take any action pursuant to any investigation authorized by
 40 this chapter; or

41 (6) take any action authorized by this chapter with respect to
 42 complaints of discrimination against employees for exercising any



1 legal right under this chapter:

2 SECTION 28. IC 22-8-1.1-24.1 IS REPEALED [EFFECTIVE
3 JANUARY 1, 2017]. Sec. 24.1: (a) In the case of a written request for
4 an inspection by an employee or a representative of an employee who
5 believes that a violation of a safety or health standard exists that
6 threatens physical harm or that an imminent danger exists, a copy shall
7 be provided the employer at the time of inspection; except that, upon
8 request of the complainant or by a decision by the commissioner:

9 (1) the name of the complainant and any identifying information;
10 and

11 (2) the name and identifying information of individual employees
12 referred to therein;

13 shall not appear in such copy or on any record published, released, or
14 made available by the commissioner. The commissioner shall make the
15 inspection; or shall reply in writing within twenty (20) days giving the
16 reasons why the commissioner is not making the requested inspection.
17 In the event a requested inspection is made, and no safety order issued,
18 the commissioner shall reply in writing within twenty (20) days giving
19 the reason for the decision:

20 (b) The employee or a representative of the employee, after receipt
21 of the commissioner's reply under subsection (a); or upon the failure of
22 the commissioner to reply, may request informal review of the request
23 for an inspection made under subsection (a); or after inspection, upon
24 the refusal to issue a safety order, by filing a written request for such
25 informal review with the commissioner. Within twenty (20) days of
26 receipt of the request, informal review shall commence with a final
27 decision to be rendered within ten (10) days thereafter.

28 SECTION 29. IC 22-8-1.1-24.2 IS REPEALED [EFFECTIVE
29 JANUARY 1, 2017]. Sec. 24.2: Without the approval of the
30 commissioner or his duly authorized representative, no person may
31 give advance notice of any inspection. A person who recklessly gives
32 advance notice without such authority commits a Class B
33 misdemeanor:

34 SECTION 30. IC 22-8-1.1-24.3 IS REPEALED [EFFECTIVE
35 JANUARY 1, 2017]. Sec. 24.3: Subject to regulations issued by the
36 commissioner, a representative of the employer and a representative of
37 the employees shall be given the opportunity to accompany the
38 inspector during the physical inspection of the place of employment.
39 Where there is no authorized employee representative, the inspector
40 shall consult with a reasonable number of employees concerning
41 matters of health and safety in the place of employment. The name and
42 any identifying information of those employees interviewed are



1 confidential for purposes of IC 5-14-3-4(a)(1).

2 SECTION 31. IC 22-8-1.1-24.5 IS REPEALED [EFFECTIVE
3 JANUARY 1, 2017]. Sec. 24.5: (a) At the closing conference after the
4 completion of an inspection, the inspector shall provide the employer
5 or a representative of the employer with a written statement that clearly
6 and concisely provides the following information:

7 (1) The results of the inspection, including each hazard noted, if
8 any.

9 (2) The right of the employer to petition for review of a safety
10 order; a penalty assessment; an amended safety order; and an
11 amended penalty assessment.

12 (3) An explanation of the procedure to follow in order to petition
13 for review of a safety order; a penalty assessment; an amended
14 safety order; and an amended penalty assessment, including when
15 and where to file the petition and the required contents of the
16 petition.

17 (4) The commissioner's responsibility to affirm, amend, or dismiss
18 the safety order and penalty assessment, if any, and to grant or
19 deny the petition for review.

20 (5) The informal review process.

21 (6) The procedures before the board of safety review.

22 (7) The right of the employer to seek judicial review.

23 (b) The written statement required under this section must be
24 presented to the employer or the employer's representative at the
25 closing conference after the completion of the inspection:

26 SECTION 32. IC 22-8-1.1-24.7 IS REPEALED [EFFECTIVE
27 JANUARY 1, 2017]. Sec. 24.7: (a) For purposes of this section, "safety
28 audit" means a written consultation report related to health and safety
29 standards that is:

30 (1) prepared for an employer by:

31 (A) a third party; or

32 (B) an employee whose principal responsibilities include an
33 employer's compliance with occupational safety and health
34 standards; and

35 (2) not otherwise required by state or federal law.

36 (b) For purposes of this section, "third party" does not include:

37 (1) an employer's employee; other than an employee whose
38 principal responsibilities include an employer's compliance with
39 occupational safety and health standards;

40 (2) a representative of an employer's employees; or

41 (3) any government agency.

42 (c) The contents of a safety audit are not admissible for purposes of



1 this chapter if an employer has made a good faith and substantial effort
 2 to correct every hazard noted in the safety audit that is subject to
 3 enforcement under the federal Occupational Safety and Health Act of
 4 1970, 29 U.S.C. 651 et seq.

5 (d) This section does not apply to a criminal violation of this
 6 chapter.

7 SECTION 33. IC 22-8-1.1-25.1 IS REPEALED [EFFECTIVE
 8 JANUARY 1, 2017]. Sec. 25.1: (a) If, as a result of the inspection, the
 9 commissioner or his designated representative determines there is a
 10 violation of this chapter, or any standard promulgated under it, the
 11 commissioner shall issue a safety order. Such safety order shall:

12 (1) be in writing;

13 (2) describe with particularity the nature of the violation with
 14 reference to the provision of this chapter, or the standard alleged
 15 to have been violated; and

16 (3) fix a reasonable time for the abatement of the violation.

17 (b) Except as provided under section 51 of this chapter, either at the
 18 time the safety order is issued, or within five (5) working days
 19 thereafter, the commissioner shall notify the employer of the penalty,
 20 if any, being assessed.

21 (c) Notwithstanding IC 4-21.5-3-1, all safety orders and penalty
 22 assessments shall be served personally on or sent by registered or
 23 certified mail to the employer at the place where an alleged violation
 24 of this chapter or an alleged violation of a standard set by a rule
 25 adopted under this chapter exists, unless another address is provided to
 26 the commissioner or the commissioner's representative by the employer
 27 during an inspection. The commissioner or the commissioner's
 28 representative shall give notice of safety orders and penalty
 29 assessments under IC 4-21.5-3-6. No safety order may be issued after
 30 the expiration of six (6) months following the occurrence of any
 31 violation.

32 (d) The commissioner may prescribe procedures for the issuance of
 33 a notice of de minimis violations, in lieu of a safety order, which have
 34 no direct or immediate relationship to safety or health.

35 SECTION 34. IC 22-8-1.1-25.2 IS REPEALED [EFFECTIVE
 36 JANUARY 1, 2017]. Sec. 25.2: As prescribed by rules issued by the
 37 commissioner, the safety order shall be posted by the employer at or
 38 near the place of the alleged violation in such a manner that affected
 39 employees may become aware of it.

40 SECTION 35. IC 22-8-1.1-26.1 IS REPEALED [EFFECTIVE
 41 JANUARY 1, 2017]. Sec. 26.1: Failure to Abate. If the commissioner
 42 determines after reinspection the employer has failed to correct a



1 violation for which a safety order has been issued within the period
 2 permitted for its correction; the commissioner shall issue a notice of
 3 failure to correct violation and accompanying penalty for such failure.

4 SECTION 36. IC 22-8-1.1-27.1 IS REPEALED [EFFECTIVE
 5 JANUARY 1, 2017]. Sec. 27.1: (a) The commissioner may assess the
 6 following civil penalties:

7 (1) Any employer who has received a safety order for violation of
 8 any standard; rule; or order not of a serious nature may be
 9 assessed a civil penalty of up to seven thousand dollars (\$7,000)
 10 for each such violation.

11 (2) Any employer who has received a safety order for a serious
 12 violation of any standard; rule; or order or this chapter may be
 13 assessed a civil penalty of up to seven thousand dollars (\$7,000)
 14 for each such violation.

15 (3) Any employer who fails to correct a violation for which a
 16 safety order has been issued within the period permitted may be
 17 assessed a civil penalty of up to seven thousand dollars (\$7,000)
 18 for each day during which the failure or violation continues.

19 (4) Any employer who fails to comply with the posting
 20 requirements in this chapter may be assessed a civil penalty of up
 21 to seven thousand dollars (\$7,000) for each violation.

22 (5) Any employer who repeatedly violates any standard; rule; or
 23 order or this chapter may be assessed a civil penalty of up to
 24 seventy thousand dollars (\$70,000) for each violation.

25 (6) Any employer who knowingly violates any standard; rule;
 26 order; or this chapter shall be assessed a civil penalty of not less
 27 than five thousand dollars (\$5,000) for each violation and may be
 28 assessed a civil penalty of up to seventy thousand dollars
 29 (\$70,000) for each violation.

30 (b) For purposes of this section, a serious violation exists in a place
 31 of employment if there is a substantial probability that death or serious
 32 physical harm could result from a condition which exists or from one
 33 (1) or more practices; means; methods; operations; or processes which
 34 have been adopted or are in use in the place of employment; unless the
 35 employer did not know and could not, with the exercise of reasonable
 36 diligence, have known of the presence of the violation.

37 SECTION 37. IC 22-8-1.1-27.2 IS REPEALED [EFFECTIVE
 38 JANUARY 1, 2017]. Sec. 27.2: (a) An employer may establish an
 39 affirmative defense for a violation of any standard; rule; or order that
 40 is the result of employee misconduct.

41 (b) The employer has the burden of proving the affirmative defense
 42 in compliance with federal and state law.



1 (c) If an employer successfully establishes an affirmative defense
2 under this section, the commissioner may not assess any penalty or fine
3 against the employer for the violation:

4 SECTION 38. IC 22-8-1.1-28.1 IS REPEALED [EFFECTIVE
5 JANUARY 1, 2017]. Sec. 28.1: (a) Any employer receiving a safety
6 order may, within fifteen (15) working days of such receipt, file a
7 written petition for review under IC 4-21.5-3-7 of the order or any part
8 thereof with the commissioner:

9 (b) If the employer wishes to petition for review of a penalty
10 assessment, he must file a written petition for review under
11 IC 4-21.5-3-7 with the commissioner within fifteen (15) working days
12 of the receipt of the notice of penalty:

13 (c) An employer receiving a notice of failure to correct violation
14 may, within fifteen (15) working days of such receipt, file a written
15 petition for review of the notice with the commissioner:

16 (d) The petition for review shall contain a statement of the basis for
17 the contest. Such petition for review shall be posted by the employer at
18 or near the place of the alleged violation in such a manner that affected
19 employees may become aware of it:

20 SECTION 39. IC 22-8-1.1-28.2 IS REPEALED [EFFECTIVE
21 JANUARY 1, 2017]. Sec. 28.2: Any employee or representative of the
22 employee may, within fifteen (15) working days of employer receipt of
23 the safety order, file a written petition for review under IC 4-21.5-3-7
24 on the ground that the time fixed for abatement of the violation is
25 unreasonable:

26 SECTION 40. IC 22-8-1.1-28.3 IS REPEALED [EFFECTIVE
27 JANUARY 1, 2017]. Sec. 28.3: (a) When a petition for review is filed,
28 the commissioner shall have five (5) working days in which to affirm,
29 amend, or dismiss the safety order and penalty, if any, or the notice of
30 failure to correct violation. Notice of his action shall be served on the
31 employer and upon any employee, or representative of employees, who
32 has filed a petition for review. The notice shall be posted at or near the
33 place of the alleged violation in such a manner that affected employees
34 may become aware of it:

35 (b) If the commissioner affirms the safety order and penalty, if any,
36 or the notice of failure to correct violation, the commissioner shall also
37 grant or deny the petition for review under the provisions of
38 IC 4-21.5-3-7. If the commissioner amends the safety order and
39 penalty, if any, or the notice of failure to correct violation, the petition
40 for review shall be considered moot. The commissioner shall give
41 notice of the amended order and penalty under IC 4-21.5-3-6.

42 (c) The employer and any employee or representatives of employees



1 may file a written petition for review under IC 4-21.5-3-7 to such
 2 amended safety order and penalty; if any; or the notice of failure to
 3 correct violation. The written petition for review must be filed with the
 4 commissioner within fifteen (15) working days from the date of receipt
 5 of such amended safety order and penalty; if any; or the notice of
 6 failure to correct violation. The commissioner shall then grant or deny
 7 the petition for review under IC 4-21.5-3-7.

8 SECTION 41. IC 22-8-1.1-28.4 IS REPEALED [EFFECTIVE
 9 JANUARY 1, 2017]. Sec. 28.4. The commissioner shall, by rule
 10 adopted under IC 4-22-2; establish procedures for informal review of
 11 any safety order; assessment of penalty; or notice of failure to correct
 12 violation.

13 SECTION 42. IC 22-8-1.1-28.5 IS REPEALED [EFFECTIVE
 14 JANUARY 1, 2017]. Sec. 28.5. If a petition for review is granted; the
 15 commissioner shall immediately certify the dispute to the board of
 16 safety review.

17 SECTION 43. IC 22-8-1.1-30.1 IS REPEALED [EFFECTIVE
 18 JANUARY 1, 2017]. Sec. 30.1. (a) A board of safety review is created
 19 within the department.

20 (b) The board shall conduct hearings on contests involving safety
 21 orders; penalties; and notices of failure to correct a violation issued
 22 under this chapter and may affirm; modify; or dismiss the action of the
 23 commissioner in respect to the violation; the penalty; and the abatement
 24 period. All enforcement action on a properly contested safety order
 25 shall be suspended until a final decision has been rendered by the board
 26 of safety review. If a petition for judicial review is filed under
 27 IC 4-21.5-5; the person seeking review may seek a stay under
 28 IC 4-21.5-5-9. If compliance with the safety order is a final decision;
 29 the full abatement period shall commence from the date of the issuance
 30 of the final decision of the board of safety review or of a court if a stay
 31 has been granted.

32 SECTION 44. IC 22-8-1.1-31 IS REPEALED [EFFECTIVE
 33 JANUARY 1, 2017]. Sec. 31. Board: membership. The board shall
 34 consist of five (5) members; all of whom shall be residents of Indiana
 35 and shall be appointed by the governor as follows: two (2) of the
 36 members shall be drawn from backgrounds with labor organizations
 37 but not more than one (1) of them shall be from the same international
 38 union; and two (2) of the members shall be drawn from backgrounds
 39 with employers. The chairman of the board shall be the fifth member
 40 and shall be selected from the highest membership classification of the
 41 American Society of Safety Engineers.

42 SECTION 45. IC 22-8-1.1-32.1 IS REPEALED [EFFECTIVE



1 JANUARY 1, 2017]. Sec. 32.1: Board: Terms: Members of the board
 2 shall be appointed for terms of four (4) years; and until their successors
 3 are appointed and qualified: Of the members first appointed; the
 4 members appointed who are drawn from those who have backgrounds
 5 with management shall be appointed to terms so that in every other
 6 year the term of one (1) or the other of them ends; and the members
 7 who are drawn from those who have backgrounds with labor
 8 organizations shall be appointed so that every other year the term of
 9 one (1) or the other of them ends: The first chairman of the board shall
 10 have a four (4) year term: Vacancies shall be filled in the same manner
 11 as the original appointments; except that a vacancy occurring during
 12 the term of office shall be filled by appointment of the governor for the
 13 unexpired term:

14 SECTION 46. IC 22-8-1.1-34 IS REPEALED [EFFECTIVE
 15 JANUARY 1, 2017]. Sec. 34: (Board: Quorum) A majority of the board
 16 constitutes a quorum for the transaction of business:

17 SECTION 47. IC 22-8-1.1-35 IS REPEALED [EFFECTIVE
 18 JANUARY 1, 2017]. Sec. 35: (a) Each member of the board who is not
 19 a state employee is entitled to the minimum salary per diem provided
 20 by IC 4-10-11-2.1(b): Such a member is also entitled to reimbursement
 21 for traveling expenses and other expenses actually incurred in
 22 connection with the member's duties; as provided in the state travel
 23 policies and procedures established by the department of
 24 administration and approved by the budget agency:

25 (b) The board shall meet on the call of the chairman:

26 SECTION 48. IC 22-8-1.1-35.1 IS REPEALED [EFFECTIVE
 27 JANUARY 1, 2017]. Sec. 35.1: (a) The board in the discharge of its
 28 functions may inspect the premises involved in the dispute:

29 (b) The board shall select an administrative law judge under
 30 IC 4-21.5-3-9: However, if the board selects any individual who is not
 31 a member of the board; that individual must be an attorney: Any
 32 attorney so appointed shall receive reasonable compensation as
 33 determined by the commissioner:

34 SECTION 49. IC 22-8-1.1-35.2 IS REPEALED [EFFECTIVE
 35 JANUARY 1, 2017]. Sec. 35.2: The commissioner and the department
 36 shall provide such administrative services; including docketing;
 37 stenographic; and recordkeeping services; as the board may require in
 38 discharging its function under this chapter:

39 SECTION 50. IC 22-8-1.1-35.3 IS REPEALED [EFFECTIVE
 40 JANUARY 1, 2017]. Sec. 35.3: (a) When a dispute has been certified
 41 to the board by the commissioner pursuant to section 28.5 of this
 42 chapter; the board shall promptly schedule a hearing according to rules



1 of procedure issued by the board, giving reasonable notice thereof to
 2 the employer and to the affected employee, or representative of
 3 employees:

4 (b) An employee or his authorized representative, even though he
 5 has not previously filed a petition for review, shall be permitted to
 6 intervene under IC 4-21.5-3-21 and participate as a party in said
 7 hearing, provided such intervention is timely and will not unduly delay
 8 the proceeding:

9 (c) Notwithstanding IC 4-21.5-5-2, an employee or authorized
 10 representative is entitled to file a petition for judicial review under
 11 IC 4-21.5-5 only concerning the time fixed for abatement of a violation:

12 (d) An employer may intervene under IC 4-21.5-3-21 in a
 13 proceeding initiated by a petition for review of an employee or
 14 representative of an employee:

15 SECTION 51. IC 22-8-1.1-35.4 IS REPEALED [EFFECTIVE
 16 JANUARY 1, 2017]. Sec. 35.4: Proceedings in any hearing shall be
 17 conducted in accordance with IC 4-21.5-3:

18 SECTION 52. IC 22-8-1.1-35.5 IS REPEALED [EFFECTIVE
 19 JANUARY 1, 2017]. Sec. 35.5: Judicial review of any final order of the
 20 board shall be under IC 4-21.5-5:

21 SECTION 53. IC 22-8-1.1-35.6 IS REPEALED [EFFECTIVE
 22 JANUARY 1, 2017]. Sec. 35.6: (a) A safety order, penalty assessment,
 23 or notice of failure to correct violation which has become final, either
 24 through lack of any contest under section 28.1 of this chapter, or after
 25 final action by the board, or after judicial review, shall be enforced by
 26 the commissioner under this section or section 35.7 of this chapter. The
 27 remedies provided in this chapter are cumulative and are in addition to
 28 any other remedy available to the commissioner. The commissioner's
 29 decision to pursue one (1) of the remedies does not preclude the
 30 subsequent or corresponding use of one (1) or more of the other
 31 remedies available to the commissioner:

32 (b) If an employer fails to comply, the commissioner may refer the
 33 matter to the attorney general, who shall promptly institute proceedings
 34 under IC 4-21.5-6 to enforce the safety order, penalty assessment, or
 35 notice of failure to correct violation:

36 SECTION 54. IC 22-8-1.1-35.7 IS REPEALED [EFFECTIVE
 37 JANUARY 1, 2017]. Sec. 35.7: (a) If an employer fails to pay a penalty
 38 assessed under this chapter within ten (10) calendar days of the date
 39 that the assessment is final under section 35.6 of this chapter, the
 40 commissioner or the commissioner's representative may file with the
 41 circuit court clerk of any county in which the employer owns any
 42 interest in property, real or personal, tangible or intangible, a warrant



1 for the amount of the assessment and interest, if applicable. The
 2 commissioner or the commissioner's representative may also send the
 3 warrant to the sheriff of any county in which the employer owns real or
 4 personal property and direct the sheriff to file the warrant with the
 5 circuit court clerk.

6 (b) When the circuit court clerk receives the warrant from the
 7 commissioner, the commissioner's representative, or the sheriff, the
 8 clerk shall record the warrant by making an entry in the judgment
 9 debtor's column of the judgment record listing the following:

- 10 (1) The name of the employer stated in the warrant.
- 11 (2) The amount of the warrant.
- 12 (3) The date the warrant was filed with the clerk.

13 (c) When the entry is made, the total amount of the warrant becomes
 14 a judgment against the employer. The judgment creates a lien in favor
 15 of the state that attaches to all the employer's interest in any real or
 16 personal property in the county.

17 (d) At least thirty (30) calendar days before the date on which the
 18 commissioner intends to file a warrant as provided by subsection (a) in
 19 order to impose a lien on real or personal property, the commissioner
 20 or the commissioner's representative must send a written notice:

- 21 (1) to the owner of the real or personal property that would be
 22 subject to the lien; or
- 23 (2) if the owner of record cannot be identified, to the tenant or
 24 other person having control of the real or personal property;

25 of the date on which the commissioner or the commissioner's
 26 representative intends to file the warrant in order to impose a lien on
 27 the real or personal property. The commissioner or the commissioner's
 28 representative shall provide the circuit court clerk of the county in
 29 which the real or personal property that would be subject to the lien is
 30 located with a copy of the written notice described in this subsection:

31 (e) A judgment obtained under subsection (c) is valid for ten (10)
 32 years from the date the judgment is filed:

33 (f) A judgment obtained under subsection (c) shall be released by
 34 the commissioner:

- 35 (1) after the judgment, including all accrued interest to the date of
 36 payment, has been fully satisfied; or
- 37 (2) if the commissioner determines that the assessment or the
 38 issuance of the warrant was in error.

39 (g) If the commissioner determines that the filing of a warrant was
 40 in error, the commissioner or the commissioner's representative shall
 41 mail a release of the judgment to the employer and the circuit court
 42 clerk of each county where the warrant was filed. The commissioner or



1 the commissioner's representative shall mail the release as soon as
2 possible but not later than seven (7) calendar days after:

3 (1) the determination by the commissioner that the filing of the
4 warrant was in error; and

5 (2) the receipt of information by the commissioner or the
6 commissioner's representative that the judgment has been
7 recorded under subsection (b):

8 (h) A release issued under subsection (g) must state that the filing
9 of the warrant was in error:

10 (i) After a warrant becomes a judgment under subsection (c); the
11 commissioner may levy upon the property of the employer that is held
12 by a financial institution (as defined in IC 5-13-4-10) by sending a
13 claim to the financial institution. Upon receipt of a claim under this
14 subsection; the financial institution shall surrender to the commissioner
15 or the commissioner's representative the employer's property. If the
16 amount or value of the employer's property exceeds the amount owed
17 to the state by the employer; the financial institution shall surrender the
18 employer's property in an amount equal to the amount owed. After
19 receiving the commissioner's notice of levy; the financial institution is
20 required to place a sixty (60) day hold or restriction on the withdrawal
21 of funds the employer has on deposit or subsequently deposits; in an
22 amount not to exceed the amount owed:

23 SECTION 55. IC 22-8-1.1-37.1 IS REPEALED [EFFECTIVE
24 JANUARY 1, 2017]. Sec. 37.1: No person may make a false statement;
25 representation; or certification in any application; record; report; plan;
26 or other document required pursuant to this chapter:

27 SECTION 56. IC 22-8-1.1-38.1 IS REPEALED [EFFECTIVE
28 JANUARY 1, 2017]. Sec. 38.1: (a) No person shall discharge or in any
29 way discriminate against any employee because such employee has
30 filed a complaint or instituted or caused to be instituted any proceeding
31 under or related to this chapter or has testified or is about to testify in
32 any such proceeding or because of the exercise by such employee on
33 behalf of himself or others of any right afforded by this chapter:

34 (b) Any employee who believes that he has been discharged or
35 otherwise discriminated against by any person in violation of this
36 section may; within thirty (30) calendar days after such violation
37 occurs; file a complaint with the commissioner alleging such
38 discrimination:

39 Upon receipt of such complaint; the commissioner shall cause such
40 investigation to be made as he deems appropriate. If after such
41 investigation; the commissioner determines that the provisions of this
42 section have been violated; he; through the attorney general; shall;



1 within one hundred twenty (120) days after receipt of said complaint;
 2 bring an action in the circuit courts of Indiana. The circuit courts of
 3 Indiana shall have jurisdiction to restrain violations of this section and
 4 order all appropriate relief, including rehiring, or reinstatement of the
 5 employee to his former position with back pay, after taking into
 6 account any interim earnings of the employee.

7 (c) Within ninety (90) days of the receipt of a complaint filed under
 8 this section, the commissioner shall notify the complainant in writing
 9 of his determination under this section.

10 SECTION 57. IC 22-8-1.1-39.1 IS REPEALED [EFFECTIVE
 11 JANUARY 1, 2017]. Sec. 39.1: (a) Whenever the commissioner is of
 12 the opinion that imminent danger exists in any workplace in this state,
 13 which condition can reasonably be expected to cause death or serious
 14 physical harm, the commissioner, through the attorney general, may
 15 petition the circuit court of the county in which such workplace is
 16 located for appropriate relief. Any order issued under this section may
 17 require such steps to be taken as may be necessary to avoid, correct, or
 18 remove such imminent danger and prohibit the employment or
 19 presence of any individual in locations or under conditions where such
 20 imminent danger exists, except individuals whose presence is
 21 necessary to avoid, correct, or remove such imminent danger or to
 22 maintain the capacity of a continuous process operation to resume
 23 normal operations without a complete cessation of operations, or where
 24 a cessation of operations is necessary, to permit such to be
 25 accomplished in a safe and orderly manner.

26 (b) Whenever and as soon as an inspector concludes that conditions
 27 or practices described in subsection (a) exist in any place of
 28 employment, he shall inform the affected employers and employees of
 29 the danger and that he is recommending to the commissioner that relief
 30 be sought.

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

38 SECTION 58. IC 22-8-1.1-43.1 IS REPEALED [EFFECTIVE
 39 JANUARY 1, 2017]. Sec. 43.1: (a) The commissioner may adopt rules
 40 requiring all employers having eleven (11) or more employees
 41 employed to make and retain records of, and to make reports on, all
 42 work related deaths, injuries, and illnesses.



1 (b) Deaths and disasters shall be reported directly to the
 2 commissioner within eight (8) hours. "Disaster" is any incident which
 3 results in the hospitalization of three (3) or more persons:

4 SECTION 59. IC 22-8-1.1-48.1, AS AMENDED BY P.L.32-2008,
 5 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JANUARY 1, 2017]: Sec. 48.1. The commissioner of labor ~~the~~
 7 occupational safety standards commission, the board of safety review,
 8 and INSafe shall have the power to make rules governing functions
 9 under this chapter. ~~provided such~~ **The** rules shall not be inconsistent
 10 with this chapter or other applicable statutes.

11 SECTION 60. IC 22-8-1.1-48.2 IS REPEALED [EFFECTIVE
 12 JANUARY 1, 2017]. ~~Sec. 48.2: All penalties and fines which may be~~
 13 ~~collected shall be paid into the state general fund.~~

14 SECTION 61. IC 22-8-1.1-48.3 IS REPEALED [EFFECTIVE
 15 JANUARY 1, 2017]. ~~Sec. 48.3: Nothing in this chapter shall be~~
 16 ~~construed to supersede or in any manner affect any worker's~~
 17 ~~compensation or occupational diseases law, or any other statutory~~
 18 ~~rights, duties, or liabilities, or create any private right of action.~~

19 SECTION 62. IC 22-8-1.1-48.4, AS AMENDED BY P.L.32-2008,
 20 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JANUARY 1, 2017]: Sec. 48.4. (a) All information reported to or
 22 otherwise obtained by the commissioner, the designated representatives
 23 of the commissioner, the department of labor, ~~the occupational safety~~
 24 ~~standards commission, the board of safety review, INSafe, and the~~
 25 agents and employees of any of them that contains or might reveal a
 26 trade secret, shall be considered confidential and shall be disclosed
 27 only to such other officers or employees concerned with the functions
 28 set forth in this chapter as may be necessary for them to discharge their
 29 duties under this chapter. In any proceeding, the commissioner ~~the~~
 30 ~~commission, the board,~~ or a court shall issue such orders as may be
 31 appropriate, including the impoundment of files, or portions of files, to
 32 protect the confidentiality of trade secrets.

33 (b) No person may violate the confidentiality of trade secrets.

34 SECTION 63. IC 22-8-1.1-49 IS REPEALED [EFFECTIVE
 35 JANUARY 1, 2017]. ~~Sec. 49: A person who knowingly violates this~~
 36 ~~chapter commits a Class B misdemeanor, except as otherwise provided.~~

37 SECTION 64. IC 22-8-1.1-50 IS REPEALED [EFFECTIVE
 38 JANUARY 1, 2017]. ~~Sec. 50: This chapter shall be known as The~~
 39 ~~Indiana Occupational Safety and Health Act (IOSHA).~~

40 SECTION 65. IC 22-8-1.1-51 IS REPEALED [EFFECTIVE
 41 JANUARY 1, 2017]. ~~Sec. 51: (a) This section does not affect the~~
 42 ~~ability or duty of the commissioner or the commissioner's designee to~~



1 conduct investigations in the following circumstances:

2 (1) An employee requests an inspection under section 24.1 of this
3 chapter:

4 (2) The commissioner receives a report of a death under section
5 43.1 of this chapter:

6 (3) The commissioner receives a report of a disaster under section
7 43.1 of this chapter:

8 (b) If:

9 (1) INSafe conducts an onsite consultation for an employer; and

10 (2) the employer complied in good faith with an act of the
11 abatement of the particular alleged violation recommended by
12 INSafe;

13 the commissioner may not assess a penalty against the employer under
14 section 25.1 of this chapter for an alleged violation of a condition or
15 practice that INSafe specifically examined:

16 (c) Subsection (b) applies only on a first inspection by the
17 commissioner following an onsite consultation with INSafe. This
18 section does not relieve an employer of any obligation to stay in
19 compliance with any safety or health standard or law which changes
20 following an onsite consultation with INSafe:

21 SECTION 66. IC 22-8-1.1-52 IS REPEALED [EFFECTIVE
22 JANUARY 1, 2017]. Sec. 52: This section does not apply to a
23 subpoena requesting only documents or other records. Neither the
24 commissioner nor any employee or former employee of the department
25 is subject to subpoena for purposes of inquiry into any occupational
26 safety and health inspection, except in the following circumstances:

27 (1) An enforcement proceeding is brought under this chapter:

28 (2) An action is filed in which the department is a party:

29 (3) The commissioner consents in writing to waive the exemption
30 provided by this section:

31 (4) A court finds that:

32 (A) the information sought is essential to the underlying case;

33 (B) there are no reasonable alternative means for acquiring the
34 information; and

35 (C) a significant injustice would occur if the requested
36 testimony was not available.

37 SECTION 67. IC 22-8-4 IS REPEALED [EFFECTIVE JANUARY
38 1, 2017]. (Private Sector Construction Safety).

39 SECTION 68. [EFFECTIVE JANUARY 1, 2017] (a) **610**
40 **IAC 8-1-4, 610 IAC 8-3-10, and 610 IAC 8-3-11 are void. The**
41 **publisher of the Indiana Administrative Code and Indiana Register**
42 **shall remove these rules from the Indiana Administrative Code.**



- 1 **(b) This SECTION expires July 1, 2017.**
2 SECTION 69. [EFFECTIVE JULY 1, 2016] **(a) Before July 1,**
3 **2017, the department of labor shall amend 610 IAC 8-3-6(2)(A) to**
4 **remove a reference to Indiana occupational safety and health**
5 **standards.**
6 **(b) This SECTION expires July 1, 2017.**
7 SECTION 70. [EFFECTIVE JULY 1, 2016] **(a) Before July 1,**
8 **2017, the department of labor shall amend 610 IAC 8-3-7 and 610**
9 **IAC 8-3-8 to remove references to a referral to the department of**
10 **labor for appropriate IOSHA enforcement action.**
11 **(b) This SECTION expires July 1, 2017.**
12 SECTION 71. [EFFECTIVE JULY 1, 2016] **(a) Before July 1,**
13 **2017, the department of labor shall amend 610 IAC 8-3-12 and 610**
14 **IAC 8-3-13 to remove references to IOSHA.**
15 **(b) This SECTION expires July 1, 2017.**
16 SECTION 72. [EFFECTIVE JULY 1, 2016] **(a) The legislative**
17 **services agency shall prepare legislation for introduction in the**
18 **2017 regular session of the general assembly to make appropriate**
19 **changes in statutes that are required by this act.**
20 **(b) This SECTION expires December 31, 2017.**

