

# SENATE BILL No. 257

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-8.1-3-21.3; IC 22-1-1-22.5; IC 22-3-1-6; IC 22-4-19-16.

**Synopsis:** Employee misclassification. Requires the department of state revenue, the state department of labor, the worker's compensation board of Indiana, and the department of workforce development to report before November 1 of each year for three years, beginning November 1, 2021, to the interim study committee on employment and labor for the immediately preceding state fiscal year: (1) the number of employers that each department or the board determined during the immediately preceding state fiscal year improperly classified at least one worker as an independent contractor; (2) the total number of improperly classified workers employed by those employers; (3) the department's or board's calculation of actual revenue not collected or the additional costs to the state that the department or board attributes to the improperly classified workers; (4) the amount of the penalties and interest assessed against those employers by each department or the board, and the amount of the penalties and interest assessed that has been collected; and (5) the classification criteria used by the department to classify workers. Requires that the reports include only information in the form of aggregate statistics and not include information that can be used to identify specific employers or workers.

**Effective:** July 1, 2021.

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## Niezgodski

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January 11, 2021, read first time and referred to Committee on Tax and Fiscal Policy.

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First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

## SENATE BILL No. 257

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 6-8.1-3-21.3 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2021]: **Sec. 21.3. (a) The department shall**  
4 **report, in an electronic format under IC 5-14-6, before November**  
5 **1 of each year to the interim study committee on employment and**  
6 **labor (established by IC 2-5-1.3-4) for the immediately preceding**  
7 **state fiscal year:**

8 (1) **the number of employers that the department determined**  
9 **during the immediately preceding state fiscal year improperly**  
10 **classified at least one (1) worker as an independent**  
11 **contractor;**

12 (2) **the total number of improperly classified workers**  
13 **employed by the employers described in subdivision (1);**

14 (3) **based on the findings reported under subdivision (2), a**  
15 **calculation of actual revenue not collected by the state that the**  
16 **department attributes to the improperly classified workers;**

17 (4) **the amount of the penalties and interest assessed against**



1           the employers described in subdivision (1) by the department,  
2           and the amount of the penalties and interest assessed that has  
3           been collected; and

4           (5) the classification criteria used by the department to  
5           classify workers.

6           (b) The information required by subsection (a)(1) through (a)(4)  
7           must be in the form of aggregate statistics. The report must not  
8           include information that can be used to identify specific employers  
9           or workers.

10          (c) This section expires December 31, 2023.

11          SECTION 2. IC 22-1-1-22.5 IS ADDED TO THE INDIANA CODE  
12          AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
13          1, 2021]: Sec. 22.5. (a) The department of labor shall report, in an  
14          electronic format under IC 5-14-6, before November 1 of each year  
15          to the interim study committee on employment and labor  
16          (established by IC 2-5-1.3-4) for the immediately preceding state  
17          fiscal year:

18           (1) the number of employers that the department of labor  
19           determined during the immediately preceding state fiscal year  
20           improperly classified at least one (1) worker as an  
21           independent contractor;

22           (2) the total number of improperly classified workers  
23           employed by the employers described in subdivision (1);

24           (3) based on the findings reported under subdivision (2), a  
25           calculation of actual revenue not collected by the state that the  
26           department of labor attributes to the improperly classified  
27           workers;

28           (4) the amount of the penalties and interest assessed against  
29           the employers described in subdivision (1) by the department  
30           of labor, and the amount of the penalties and interest assessed  
31           that has been collected; and

32           (5) the classification criteria used by the department of labor  
33           to classify workers.

34          (b) The information required by subsection (a)(1) through (a)(4)  
35          must be in the form of aggregate statistics. The report must not  
36          include information that can be used to identify specific employers  
37          or workers.

38          (c) This section expires December 31, 2023.

39          SECTION 3. IC 22-3-1-6 IS ADDED TO THE INDIANA CODE  
40          AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
41          1, 2021]: Sec. 6. (a) The worker's compensation board shall report,  
42          in an electronic format under IC 5-14-6, before November 1 of



1 each year to the interim study committee on employment and labor  
 2 (established by IC 2-5-1.3-4) for the immediately preceding state  
 3 fiscal year:

4 (1) the number of employers that the worker's compensation  
 5 board determined during the immediately preceding state  
 6 fiscal year improperly classified at least one (1) worker as an  
 7 independent contractor;

8 (2) the total number of improperly classified workers  
 9 employed by the employers described in subdivision (1);

10 (3) based on the findings reported under subdivision (2), a  
 11 calculation of actual additional costs to the state that the  
 12 worker's compensation board attributes to the improperly  
 13 classified workers;

14 (4) the amount of the penalties and interest assessed against  
 15 the employers described in subdivision (1) by the worker's  
 16 compensation board, and the amount of the penalties and  
 17 interest assessed that has been collected; and

18 (5) the classification criteria used by the worker's  
 19 compensation board to classify workers.

20 (b) The information required by subsection (a)(1) through (a)(4)  
 21 must be in the form of aggregate statistics. The report must not  
 22 include information that can be used to identify specific employers  
 23 or workers.

24 (c) This section expires December 31, 2023.

25 SECTION 4. IC 22-4-19-16 IS ADDED TO THE INDIANA CODE  
 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 27 1, 2021]: Sec. 16. (a) The department shall report, in an electronic  
 28 format under IC 5-14-6, before November 1 of each year to the  
 29 interim study committee on employment and labor (established by  
 30 IC 2-5-1.3-4) for the immediately preceding state fiscal year:

31 (1) the number of employers that the department determined  
 32 during the immediately preceding state fiscal year improperly  
 33 classified at least one (1) worker as an independent  
 34 contractor;

35 (2) the total number of improperly classified workers  
 36 employed by the employers described in subdivision (1);

37 (3) based on the findings reported under subdivision (2), a  
 38 calculation of actual additional costs to the state that the  
 39 department attributes to the improperly classified workers;

40 (4) the amount of the penalties and interest assessed against  
 41 the employers described in subdivision (1) by the department,  
 42 and the amount of the penalties and interest assessed that has



- 1           **been collected; and**
- 2           **(5) the classification criteria used by the department to**
- 3           **classify workers.**
- 4           **(b) The information required by subsection (a)(1) through (a)(4)**
- 5           **must be in the form of aggregate statistics. The report must not**
- 6           **include information that can be used to identify specific employers**
- 7           **or workers.**
- 8           **(c) This section expires December 31, 2023.**

