

SENATE BILL No. 277

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-3.

Synopsis: Religious exemption from worker's compensation. Provides for an exemption from worker's compensation and occupational diseases coverage for a member of certain religious sects or a division of a religious sect who meets certain requirements and obtains a certificate of exemption (certificate) from the worker's compensation board (board). Provides that, if an employee for whom a certificate is issued no longer meets the requirements for a certificate, the employee and the employee's employer are required to notify the board in writing. Requires the employer to provide worker's compensation and occupational diseases coverage for that employee beginning on the date of the notice.

Effective: July 1, 2018.

Bassler, Messmer, Kruse

January 4, 2018, read first time and referred to Committee on Pensions and Labor.



Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE BILL No. 277

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 22-3-2-9, AS AMENDED BY P.L.201-2005,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: Sec. 9. (a) IC 22-3-2 through IC 22-3-6 shall not apply
4 to:

- 5 (1) casual laborers (as defined in IC 22-3-6-1);
- 6 (2) farm or agricultural employees;
- 7 (3) household employees; ~~or~~
- 8 (4) a person who enters into an independent contractor agreement
- 9 with a nonprofit corporation that is recognized as tax exempt
- 10 under Section 501(c)(3) of the Internal Revenue Code (as defined
- 11 in IC 6-3-1-11(a)) to perform youth coaching services on a
- 12 part-time basis; **or**
- 13 **(5) a person who is exempt under IC 22-3-5-1.5 from**
- 14 **compliance with the provisions of IC 22-3-2 through**
- 15 **IC 22-3-6.**

16 IC 22-3-2 through IC 22-3-6 do not apply to the employers or
17 contractors of the persons listed in this subsection.



1 (b) An employer who is exempt under this section from the
 2 operation of the compensation provisions of this chapter may at any
 3 time waive such exemption and thereby accept the provisions of this
 4 chapter by giving notice as provided in subsection (c).

5 (c) The notice of acceptance referred to in subsection (b) shall be
 6 given thirty (30) days prior to any accident resulting in injury or death,
 7 provided that if any such injury occurred less than thirty (30) days after
 8 the date of employment, notice of acceptance given at the time of
 9 employment shall be sufficient notice thereof. The notice shall be in
 10 writing or print in a substantial form prescribed by the worker's
 11 compensation board and shall be given by the employer by posting the
 12 same in a conspicuous place in the plant, shop, office, room, or place
 13 where the employee is employed, or by serving it personally upon the
 14 employee; and shall be given by the employee by sending the same in
 15 a registered letter addressed to the employer at the employer's last
 16 known residence or place of business, or by giving it personally to the
 17 employer, or any of the employer's agents upon whom a summons in
 18 civil actions may be served under the laws of the state.

19 (d) A copy of the notice in prescribed form shall also be filed with
 20 the worker's compensation board, within five (5) days after its service
 21 in such manner upon the employee or employer.

22 SECTION 2. IC 22-3-5-1.5 IS ADDED TO THE INDIANA CODE
 23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 24 1, 2018]: **Sec. 1.5. (a) An employee may file an application
 25 described in subsection (b), including the form described in
 26 subsection (c), with the board to obtain a certificate of exemption
 27 from compliance with the provisions of IC 22-3-2 through
 28 IC 22-3-6.**

29 (b) **The application for an exemption under this section, on a
 30 form or forms provided by the board, must include at least the
 31 following information:**

- 32 (1) **The employee's name, address, date of birth, and Social
 33 Security number.**
 34 (2) **The name of the religious sect or the division of a religious
 35 sect to which the employee belongs.**
 36 (3) **A verified affidavit signed by the employee stating that:**
 37 (A) **the employee is a member of the sect or division listed
 38 in subdivision (2);**
 39 (B) **the employee adheres to the sect's or division's
 40 established tenets or teachings that conscientiously oppose
 41 the acceptance of public or private insurance benefits as
 42 the result of injury, disability, or death, or for medical care**



1 **for injuries or illnesses, including the benefits from any**
 2 **insurance system established by the federal Social Security**
 3 **Act, 42 U.S.C. 301, et seq.;**

4 **(C) members of the sect or division have a method for**
 5 **sharing the costs of work related medical expenses and loss**
 6 **of income;**

7 **(D) the employee participates in a system approved under**
 8 **section 4 of this chapter in lieu of the provisions of**
 9 **IC 22-3-2 through IC 22-3-6; and**

10 **(E) the employee knowingly and voluntarily waives the**
 11 **employee's rights to all benefits available to the employee**
 12 **under the provisions of IC 22-3-2 through IC 22-3-6.**

13 **(4) A statement by a leader of the religious sect or division of**
 14 **the religious sect listed in subdivision (2) that the employee is**
 15 **a member of the sect or division.**

16 **(c) A copy of an approved Internal Revenue Service Form 4029,**
 17 **Application for Exemption from Social Security and Medicare**
 18 **Taxes and Waiver of Benefits, or a successor form, for the**
 19 **employee must be filed with the application described in subsection**
 20 **(b).**

21 **(d) The board shall issue the certificate of exemption not later**
 22 **than ten (10) days after the board receives a completed application**
 23 **and the form described in subsection (c). The exemption is effective**
 24 **on the date the certificate is issued and remains in effect until**
 25 **rescinded as provided in subsection (f).**

26 **(e) The board shall maintain a data base consisting of the**
 27 **certificates issued under this section and on request verify that a**
 28 **certificate is on file.**

29 **(f) If an employee for whom a certificate is issued no longer**
 30 **meets the requirements of this section, the employee and the**
 31 **employee's employer are required to notify the board in writing**
 32 **not later than thirty (30) days after the date the employee no longer**
 33 **meets the requirements of this section. The employer shall comply**
 34 **with the provisions of IC 22-3-2 through IC 22-3-6 for that**
 35 **employee beginning on the date of the notice under this subsection.**

36 **SECTION 3. IC 22-3-6-1, AS AMENDED BY P.L.225-2015,**
 37 **SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
 38 **JULY 1, 2018]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the**
 39 **context otherwise requires:**

40 **(a) "Employer" includes the state and any political subdivision, any**
 41 **municipal corporation within the state, any individual or the legal**
 42 **representative of a deceased individual, firm, association, limited**



1 liability company, or corporation or the receiver or trustee of the same,
2 using the services of another for pay. A parent corporation and its
3 subsidiaries shall each be considered joint employers of the
4 corporation's, the parent's, or the subsidiaries' employees for purposes
5 of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of
6 employees shall each be considered joint employers of the employees
7 provided by the lessor to the lessee for purposes of IC 22-3-2-6 and
8 IC 22-3-3-31. If the employer is insured, the term includes the
9 employer's insurer so far as applicable. However, the inclusion of an
10 employer's insurer within this definition does not allow an employer's
11 insurer to avoid payment for services rendered to an employee with the
12 approval of the employer. The term also includes an employer that
13 provides on-the-job training under the federal School to Work
14 Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in
15 IC 22-3-2-2.5. The term does not include a nonprofit corporation that
16 is recognized as tax exempt under Section 501(c)(3) of the Internal
17 Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the
18 corporation enters into an independent contractor agreement with a
19 person for the performance of youth coaching services on a part-time
20 basis.

21 (b) "Employee" means every person, including a minor, in the
22 service of another, under any contract of hire or apprenticeship, written
23 or implied, except one whose employment is both casual and not in the
24 usual course of the trade, business, occupation, or profession of the
25 employer.

26 (1) An executive officer elected or appointed and empowered in
27 accordance with the charter and bylaws of a corporation, other
28 than a municipal corporation or governmental subdivision or a
29 charitable, religious, educational, or other nonprofit corporation,
30 is an employee of the corporation under IC 22-3-2 through
31 IC 22-3-6. An officer of a corporation who is an employee of the
32 corporation under IC 22-3-2 through IC 22-3-6 may elect not to
33 be an employee of the corporation under IC 22-3-2 through
34 IC 22-3-6. An officer of a corporation who is also an owner of any
35 interest in the corporation may elect not to be an employee of the
36 corporation under IC 22-3-2 through IC 22-3-6. If an officer
37 makes this election, the officer must serve written notice of the
38 election on the corporation's insurance carrier and the board. An
39 officer of a corporation may not be considered to be excluded as
40 an employee under IC 22-3-2 through IC 22-3-6 until the notice
41 is received by the insurance carrier and the board.

42 (2) An executive officer of a municipal corporation or other



1 governmental subdivision or of a charitable, religious,
2 educational, or other nonprofit corporation may, notwithstanding
3 any other provision of IC 22-3-2 through IC 22-3-6, be brought
4 within the coverage of its insurance contract by the corporation by
5 specifically including the executive officer in the contract of
6 insurance. The election to bring the executive officer within the
7 coverage shall continue for the period the contract of insurance is
8 in effect, and during this period, the executive officers thus
9 brought within the coverage of the insurance contract are
10 employees of the corporation under IC 22-3-2 through IC 22-3-6.

11 (3) Any reference to an employee who has been injured, when the
12 employee is dead, also includes the employee's legal
13 representatives, dependents, and other persons to whom
14 compensation may be payable.

15 (4) An owner of a sole proprietorship may elect to include the
16 owner as an employee under IC 22-3-2 through IC 22-3-6 if the
17 owner is actually engaged in the proprietorship business. If the
18 owner makes this election, the owner must serve upon the owner's
19 insurance carrier and upon the board written notice of the
20 election. No owner of a sole proprietorship may be considered an
21 employee under IC 22-3-2 through IC 22-3-6 until the notice has
22 been received. If the owner of a sole proprietorship:

23 (A) is an independent contractor in the construction trades and
24 does not make the election provided under this subdivision,
25 the owner must obtain a certificate of exemption under
26 IC 22-3-2-14.5; or

27 (B) is an independent contractor and does not make the
28 election provided under this subdivision, the owner may obtain
29 a certificate of exemption under IC 22-3-2-14.5.

30 (5) A partner in a partnership may elect to include the partner as
31 an employee under IC 22-3-2 through IC 22-3-6 if the partner is
32 actually engaged in the partnership business. If a partner makes
33 this election, the partner must serve upon the partner's insurance
34 carrier and upon the board written notice of the election. No
35 partner may be considered an employee under IC 22-3-2 through
36 IC 22-3-6 until the notice has been received. If a partner in a
37 partnership:

38 (A) is an independent contractor in the construction trades and
39 does not make the election provided under this subdivision,
40 the partner must obtain a certificate of exemption under
41 IC 22-3-2-14.5; or

42 (B) is an independent contractor and does not make the



- 1 election provided under this subdivision, the partner may
2 obtain a certificate of exemption under IC 22-3-2-14.5.
- 3 (6) Real estate professionals are not employees under IC 22-3-2
4 through IC 22-3-6 if:
- 5 (A) they are licensed real estate agents;
 - 6 (B) substantially all their remuneration is directly related to
7 sales volume and not the number of hours worked; and
 - 8 (C) they have written agreements with real estate brokers
9 stating that they are not to be treated as employees for tax
10 purposes.
- 11 (7) A person is an independent contractor and not an employee
12 under IC 22-3-2 through IC 22-3-6 if the person is an independent
13 contractor under the guidelines of the United States Internal
14 Revenue Service.
- 15 (8) An owner-operator that provides a motor vehicle and the
16 services of a driver under a written contract that is subject to
17 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376 to a motor carrier
18 is not an employee of the motor carrier for purposes of IC 22-3-2
19 through IC 22-3-6. The owner-operator may elect to be covered
20 and have the owner-operator's drivers covered under a worker's
21 compensation insurance policy or authorized self-insurance that
22 insures the motor carrier if the owner-operator pays the premiums
23 as requested by the motor carrier. An election by an
24 owner-operator under this subdivision does not terminate the
25 independent contractor status of the owner-operator for any
26 purpose other than the purpose of this subdivision.
- 27 (9) A member or manager in a limited liability company may elect
28 to include the member or manager as an employee under
29 IC 22-3-2 through IC 22-3-6 if the member or manager is actually
30 engaged in the limited liability company business. If a member or
31 manager makes this election, the member or manager must serve
32 upon the member's or manager's insurance carrier and upon the
33 board written notice of the election. A member or manager may
34 not be considered an employee under IC 22-3-2 through IC 22-3-6
35 until the notice has been received.
- 36 (10) An unpaid participant under the federal School to Work
37 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the
38 extent set forth in IC 22-3-2-2.5.
- 39 (11) A person who enters into an independent contractor
40 agreement with a nonprofit corporation that is recognized as tax
41 exempt under Section 501(c)(3) of the Internal Revenue Code (as
42 defined in IC 6-3-1-11(a)) to perform youth coaching services on



1 a part-time basis is not an employee for purposes of IC 22-3-2
2 through IC 22-3-6.

3 (12) An individual who is not an employee of the state or a
4 political subdivision is considered to be a temporary employee of
5 the state for purposes of IC 22-3-2 through IC 22-3-6 while
6 serving as a member of a mobile support unit on duty for training,
7 an exercise, or a response, as set forth in IC 10-14-3-19(c)(2)(B).

8 **(13) An individual who is a member of a religious sect or a**
9 **division of a religious sect and obtains under IC 22-3-5-1.5 a**
10 **certificate of exemption from compliance with the provisions**
11 **of IC 22-3-2 through IC 22-3-6 is not considered an employee**
12 **for purposes of IC 22-3-2 through IC 22-3-6.**

13 (c) "Minor" means an individual who has not reached seventeen
14 (17) years of age.

15 (1) Unless otherwise provided in this subsection, a minor
16 employee shall be considered as being of full age for all purposes
17 of IC 22-3-2 through IC 22-3-6.

18 (2) If the employee is a minor who, at the time of the accident, is
19 employed, required, suffered, or permitted to work in violation of
20 IC 20-33-3-35, the amount of compensation and death benefits,
21 as provided in IC 22-3-2 through IC 22-3-6, shall be double the
22 amount which would otherwise be recoverable. The insurance
23 carrier shall be liable on its policy for one-half (1/2) of the
24 compensation or benefits that may be payable on account of the
25 injury or death of the minor, and the employer shall be liable for
26 the other one-half (1/2) of the compensation or benefits. If the
27 employee is a minor who is not less than sixteen (16) years of age
28 and who has not reached seventeen (17) years of age and who at
29 the time of the accident is employed, suffered, or permitted to
30 work at any occupation which is not prohibited by law, this
31 subdivision does not apply.

32 (3) A minor employee who, at the time of the accident, is a
33 student performing services for an employer as part of an
34 approved program under IC 20-37-2-7 shall be considered a
35 full-time employee for the purpose of computing compensation
36 for permanent impairment under IC 22-3-3-10. The average
37 weekly wages for such a student shall be calculated as provided
38 in subsection (d)(4).

39 (4) The rights and remedies granted in this subsection to a minor
40 under IC 22-3-2 through IC 22-3-6 on account of personal injury
41 or death by accident shall exclude all rights and remedies of the
42 minor, the minor's parents, or the minor's personal



1 representatives, dependents, or next of kin at common law,
 2 statutory or otherwise, on account of the injury or death. This
 3 subsection does not apply to minors who have reached seventeen
 4 (17) years of age.

5 (d) "Average weekly wages" means the earnings of the injured
 6 employee in the employment in which the employee was working at the
 7 time of the injury during the period of fifty-two (52) weeks
 8 immediately preceding the date of injury, divided by fifty-two (52),
 9 except as follows:

10 (1) If the injured employee lost seven (7) or more calendar days
 11 during this period, although not in the same week, then the
 12 earnings for the remainder of the fifty-two (52) weeks shall be
 13 divided by the number of weeks and parts thereof remaining after
 14 the time lost has been deducted.

15 (2) Where the employment prior to the injury extended over a
 16 period of less than fifty-two (52) weeks, the method of dividing
 17 the earnings during that period by the number of weeks and parts
 18 thereof during which the employee earned wages shall be
 19 followed, if results just and fair to both parties will be obtained.
 20 Where by reason of the shortness of the time during which the
 21 employee has been in the employment of the employee's employer
 22 or of the casual nature or terms of the employment it is
 23 impracticable to compute the average weekly wages, as defined
 24 in this subsection, regard shall be had to the average weekly
 25 amount which during the fifty-two (52) weeks previous to the
 26 injury was being earned by a person in the same grade employed
 27 at the same work by the same employer or, if there is no person so
 28 employed, by a person in the same grade employed in the same
 29 class of employment in the same district.

30 (3) Wherever allowances of any character made to an employee
 31 in lieu of wages are a specified part of the wage contract, they
 32 shall be deemed a part of the employee's earnings.

33 (4) In computing the average weekly wages to be used in
 34 calculating an award for permanent impairment under
 35 IC 22-3-3-10 for a student employee in an approved training
 36 program under IC 20-37-2-7, the following formula shall be used.
 37 Calculate the product of:

38 (A) the student employee's hourly wage rate; multiplied by

39 (B) forty (40) hours.

40 The result obtained is the amount of the average weekly wages for
 41 the student employee.

42 (e) "Injury" and "personal injury" mean only injury by accident



1 arising out of and in the course of the employment and do not include
2 a disease in any form except as it results from the injury.

3 (f) "Billing review service" refers to a person or an entity that
4 reviews a medical service provider's bills or statements for the purpose
5 of determining pecuniary liability. The term includes an employer's
6 worker's compensation insurance carrier if the insurance carrier
7 performs such a review.

8 (g) "Billing review standard" means the data used by a billing
9 review service to determine pecuniary liability.

10 (h) "Community" means a geographic service area based on ZIP
11 code districts defined by the United States Postal Service according to
12 the following groupings:

13 (1) The geographic service area served by ZIP codes with the first
14 three (3) digits 463 and 464.

15 (2) The geographic service area served by ZIP codes with the first
16 three (3) digits 465 and 466.

17 (3) The geographic service area served by ZIP codes with the first
18 three (3) digits 467 and 468.

19 (4) The geographic service area served by ZIP codes with the first
20 three (3) digits 469 and 479.

21 (5) The geographic service area served by ZIP codes with the first
22 three (3) digits 460, 461 (except 46107), and 473.

23 (6) The geographic service area served by the 46107 ZIP code and
24 ZIP codes with the first three (3) digits 462.

25 (7) The geographic service area served by ZIP codes with the first
26 three (3) digits 470, 471, 472, 474, and 478.

27 (8) The geographic service area served by ZIP codes with the first
28 three (3) digits 475, 476, and 477.

29 (i) "Medical service provider" refers to a person or an entity that
30 provides services or products to an employee under IC 22-3-2 through
31 IC 22-3-6. Except as otherwise provided in IC 22-3-2 through
32 IC 22-3-6, the term includes a medical service facility.

33 (j) "Medical service facility" means any of the following that
34 provides a service or product under IC 22-3-2 through IC 22-3-6 and
35 uses the CMS 1450 (UB-04) form for Medicare reimbursement:

36 (1) A hospital (as defined in IC 16-18-2-179).

37 (2) A hospital based health facility (as defined in
38 IC 16-18-2-180).

39 (3) A medical center (as defined in IC 16-18-2-223.4).

40 The term does not include a professional corporation (as defined in
41 IC 23-1.5-1-10) comprised of health care professionals (as defined in
42 IC 23-1.5-1-8) formed to render professional services as set forth in



1 IC 23-1.5-2-3(a)(4) or a health care professional (as defined in
 2 IC 23-1.5-1-8) who bills for a service or product provided under
 3 IC 22-3-2 through IC 22-3-6 as an individual or a member of a group
 4 practice or another medical service provider that uses the CMS 1500
 5 form for Medicare reimbursement.

6 (k) "Pecuniary liability" means the responsibility of an employer or
 7 the employer's insurance carrier for the payment of the charges for each
 8 specific service or product for human medical treatment provided
 9 under IC 22-3-2 through IC 22-3-6, as follows:

10 (1) This subdivision applies before July 1, 2014, to all medical
 11 service providers, and after June 30, 2014, to a medical service
 12 provider that is not a medical service facility. Payment of the
 13 charges in a defined community, equal to or less than the charges
 14 made by medical service providers at the eightieth percentile in
 15 the same community for like services or products.

16 (2) Payment of the charges in a reasonable amount, which is
 17 established by payment of one (1) of the following:

18 (A) The amount negotiated at any time between the medical
 19 service facility and any of the following, if an amount has been
 20 negotiated:

21 (i) The employer.

22 (ii) The employer's insurance carrier.

23 (iii) A billing review service on behalf of a person described
 24 in item (i) or (ii).

25 (iv) A direct provider network that has contracted with a
 26 person described in item (i) or (ii).

27 (B) Two hundred percent (200%) of the amount that would be
 28 paid to the medical service facility on the same date for the
 29 same service or product under the medical service facility's
 30 Medicare reimbursement rate, if an amount has not been
 31 negotiated as described in clause (A).

32 (l) "Service or product" or "services and products" refers to medical,
 33 hospital, surgical, or nursing service, treatment, and supplies provided
 34 under IC 22-3-2 through IC 22-3-6.

35 SECTION 4. IC 22-3-7-9, AS AMENDED BY P.L.225-2015,
 36 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2018]: Sec. 9. (a) As used in this chapter, "employer" includes
 38 the state and any political subdivision, any municipal corporation
 39 within the state, any individual or the legal representative of a deceased
 40 individual, firm, association, limited liability company, or corporation
 41 or the receiver or trustee of the same, using the services of another for
 42 pay. A parent corporation and its subsidiaries shall each be considered



1 joint employers of the corporation's, the parent's, or the subsidiaries'
2 employees for purposes of sections 6 and 33 of this chapter. Both a
3 lessor and a lessee of employees shall each be considered joint
4 employers of the employees provided by the lessor to the lessee for
5 purposes of sections 6 and 33 of this chapter. The term also includes an
6 employer that provides on-the-job training under the federal School to
7 Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth
8 under section 2.5 of this chapter. If the employer is insured, the term
9 includes the employer's insurer so far as applicable. However, the
10 inclusion of an employer's insurer within this definition does not allow
11 an employer's insurer to avoid payment for services rendered to an
12 employee with the approval of the employer. The term does not include
13 a nonprofit corporation that is recognized as tax exempt under Section
14 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a))
15 to the extent the corporation enters into an independent contractor
16 agreement with a person for the performance of youth coaching
17 services on a part-time basis.

18 (b) As used in this chapter, "employee" means every person,
19 including a minor, in the service of another, under any contract of hire
20 or apprenticeship written or implied, except one whose employment is
21 both casual and not in the usual course of the trade, business,
22 occupation, or profession of the employer. For purposes of this chapter
23 the following apply:

24 (1) Any reference to an employee who has suffered disablement,
25 when the employee is dead, also includes the employee's legal
26 representative, dependents, and other persons to whom
27 compensation may be payable.

28 (2) An owner of a sole proprietorship may elect to include the
29 owner as an employee under this chapter if the owner is actually
30 engaged in the proprietorship business. If the owner makes this
31 election, the owner must serve upon the owner's insurance carrier
32 and upon the board written notice of the election. No owner of a
33 sole proprietorship may be considered an employee under this
34 chapter unless the notice has been received. If the owner of a sole
35 proprietorship:

36 (A) is an independent contractor in the construction trades and
37 does not make the election provided under this subdivision,
38 the owner must obtain a certificate of exemption under section
39 34.5 of this chapter; or

40 (B) is an independent contractor and does not make the
41 election provided under this subdivision, the owner may obtain
42 a certificate of exemption under section 34.5 of this chapter.



1 (3) A partner in a partnership may elect to include the partner as
2 an employee under this chapter if the partner is actually engaged
3 in the partnership business. If a partner makes this election, the
4 partner must serve upon the partner's insurance carrier and upon
5 the board written notice of the election. No partner may be
6 considered an employee under this chapter until the notice has
7 been received. If a partner in a partnership:

8 (A) is an independent contractor in the construction trades and
9 does not make the election provided under this subdivision,
10 the partner must obtain a certificate of exemption under
11 section 34.5 of this chapter; or

12 (B) is an independent contractor and does not make the
13 election provided under this subdivision, the partner may
14 obtain a certificate of exemption under section 34.5 of this
15 chapter.

16 (4) Real estate professionals are not employees under this chapter
17 if:

18 (A) they are licensed real estate agents;

19 (B) substantially all their remuneration is directly related to
20 sales volume and not the number of hours worked; and

21 (C) they have written agreements with real estate brokers
22 stating that they are not to be treated as employees for tax
23 purposes.

24 (5) A person is an independent contractor in the construction
25 trades and not an employee under this chapter if the person is an
26 independent contractor under the guidelines of the United States
27 Internal Revenue Service.

28 (6) An owner-operator that provides a motor vehicle and the
29 services of a driver under a written contract that is subject to
30 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376, to a motor
31 carrier is not an employee of the motor carrier for purposes of this
32 chapter. The owner-operator may elect to be covered and have the
33 owner-operator's drivers covered under a worker's compensation
34 insurance policy or authorized self-insurance that insures the
35 motor carrier if the owner-operator pays the premiums as
36 requested by the motor carrier. An election by an owner-operator
37 under this subdivision does not terminate the independent
38 contractor status of the owner-operator for any purpose other than
39 the purpose of this subdivision.

40 (7) An unpaid participant under the federal School to Work
41 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the
42 extent set forth under section 2.5 of this chapter.



1 (8) A person who enters into an independent contractor agreement
 2 with a nonprofit corporation that is recognized as tax exempt
 3 under Section 501(c)(3) of the Internal Revenue Code (as defined
 4 in IC 6-3-1-11(a)) to perform youth coaching services on a
 5 part-time basis is not an employee for purposes of this chapter.

6 (9) An officer of a corporation who is an employee of the
 7 corporation under this chapter may elect not to be an employee of
 8 the corporation under this chapter. An officer of a corporation
 9 who is also an owner of any interest in the corporation may elect
 10 not to be an employee of the corporation under this chapter. If an
 11 officer makes this election, the officer must serve written notice
 12 of the election on the corporation's insurance carrier and the
 13 board. An officer of a corporation may not be considered to be
 14 excluded as an employee under this chapter until the notice is
 15 received by the insurance carrier and the board.

16 (10) An individual who is not an employee of the state or a
 17 political subdivision is considered to be a temporary employee of
 18 the state for purposes of this chapter while serving as a member
 19 of a mobile support unit on duty for training, an exercise, or a
 20 response, as set forth in IC 10-14-3-19(c)(2)(B).

21 **(11) An individual who is a member of a religious sect or a**
 22 **division of a religious sect and obtains under IC 22-3-7-34.2 a**
 23 **certificate of exemption from compliance with the provisions**
 24 **of this chapter is not considered an employee for purposes of**
 25 **this chapter.**

26 (c) As used in this chapter, "minor" means an individual who has
 27 not reached seventeen (17) years of age. A minor employee shall be
 28 considered as being of full age for all purposes of this chapter.
 29 However, if the employee is a minor who, at the time of the last
 30 exposure, is employed, required, suffered, or permitted to work in
 31 violation of the child labor laws of this state, the amount of
 32 compensation and death benefits, as provided in this chapter, shall be
 33 double the amount which would otherwise be recoverable. The
 34 insurance carrier shall be liable on its policy for one-half (1/2) of the
 35 compensation or benefits that may be payable on account of the
 36 disability or death of the minor, and the employer shall be wholly liable
 37 for the other one-half (1/2) of the compensation or benefits. If the
 38 employee is a minor who is not less than sixteen (16) years of age and
 39 who has not reached seventeen (17) years of age, and who at the time
 40 of the last exposure is employed, suffered, or permitted to work at any
 41 occupation which is not prohibited by law, the provisions of this
 42 subsection prescribing double the amount otherwise recoverable do not



1 apply. The rights and remedies granted to a minor under this chapter on
 2 account of disease shall exclude all rights and remedies of the minor,
 3 the minor's parents, the minor's personal representatives, dependents,
 4 or next of kin at common law, statutory or otherwise, on account of any
 5 disease.

6 (d) This chapter does not apply to:

7 (1) casual laborers as defined in subsection (b); ~~nor to~~

8 (2) farm or agricultural employees; ~~nor to~~

9 (3) household employees; ~~nor to~~

10 (4) railroad employees engaged in train service as engineers,
 11 firemen, conductors, brakemen, flagmen, baggagemen, or
 12 foremen in charge of yard engines and helpers assigned thereto;

13 (5) **a person who is exempt under IC 22-3-7-34.2 from**
 14 **compliance with this chapter; nor to their or**

15 (6) employers ~~with respect to these of~~ employees **listed in**
 16 **subdivisions (1) through (5).**

17 Also, this chapter does not apply to employees or their employers with
 18 respect to employments in which the laws of the United States provide
 19 for compensation or liability for injury to the health, disability, or death
 20 by reason of diseases suffered by these employees.

21 (e) As used in this chapter, "disablement" means the event of
 22 becoming disabled from earning full wages at the work in which the
 23 employee was engaged when last exposed to the hazards of the
 24 occupational disease by the employer from whom the employee claims
 25 compensation or equal wages in other suitable employment, and
 26 "disability" means the state of being so incapacitated.

27 (f) For the purposes of this chapter, no compensation shall be
 28 payable for or on account of any occupational diseases unless
 29 disablement, as defined in subsection (e), occurs within two (2) years
 30 after the last day of the last exposure to the hazards of the disease
 31 except for the following:

32 (1) In all cases of occupational diseases caused by the inhalation
 33 of silica dust or coal dust, no compensation shall be payable
 34 unless disablement, as defined in subsection (e), occurs within
 35 three (3) years after the last day of the last exposure to the hazards
 36 of the disease.

37 (2) In all cases of occupational disease caused by the exposure to
 38 radiation, no compensation shall be payable unless disablement,
 39 as defined in subsection (e), occurs within two (2) years from the
 40 date on which the employee had knowledge of the nature of the
 41 employee's occupational disease or, by exercise of reasonable
 42 diligence, should have known of the existence of such disease and



- 1 its causal relationship to the employee's employment.
- 2 (3) In all cases of occupational diseases caused by the inhalation
- 3 of asbestos dust, no compensation shall be payable unless
- 4 disablement, as defined in subsection (e), occurs within three (3)
- 5 years after the last day of the last exposure to the hazards of the
- 6 disease if the last day of the last exposure was before July 1, 1985.
- 7 (4) In all cases of occupational disease caused by the inhalation
- 8 of asbestos dust in which the last date of the last exposure occurs
- 9 on or after July 1, 1985, and before July 1, 1988, no compensation
- 10 shall be payable unless disablement, as defined in subsection (e),
- 11 occurs within twenty (20) years after the last day of the last
- 12 exposure.
- 13 (5) In all cases of occupational disease caused by the inhalation
- 14 of asbestos dust in which the last date of the last exposure occurs
- 15 on or after July 1, 1988, no compensation shall be payable unless
- 16 disablement (as defined in subsection (e)) occurs within
- 17 thirty-five (35) years after the last day of the last exposure.
- 18 (g) For the purposes of this chapter, no compensation shall be
- 19 payable for or on account of death resulting from any occupational
- 20 disease unless death occurs within two (2) years after the date of
- 21 disablement. However, this subsection does not bar compensation for
- 22 death:
- 23 (1) where death occurs during the pendency of a claim filed by an
- 24 employee within two (2) years after the date of disablement and
- 25 which claim has not resulted in a decision or has resulted in a
- 26 decision which is in process of review or appeal; or
- 27 (2) where, by agreement filed or decision rendered, a
- 28 compensable period of disability has been fixed and death occurs
- 29 within two (2) years after the end of such fixed period, but in no
- 30 event later than three hundred (300) weeks after the date of
- 31 disablement.
- 32 (h) As used in this chapter, "billing review service" refers to a
- 33 person or an entity that reviews a medical service provider's bills or
- 34 statements for the purpose of determining pecuniary liability. The term
- 35 includes an employer's worker's compensation insurance carrier if the
- 36 insurance carrier performs such a review.
- 37 (i) As used in this chapter, "billing review standard" means the data
- 38 used by a billing review service to determine pecuniary liability.
- 39 (j) As used in this chapter, "community" means a geographic service
- 40 area based on ZIP code districts defined by the United States Postal
- 41 Service according to the following groupings:
- 42 (1) The geographic service area served by ZIP codes with the first



- 1 three (3) digits 463 and 464.
 2 (2) The geographic service area served by ZIP codes with the first
 3 three (3) digits 465 and 466.
 4 (3) The geographic service area served by ZIP codes with the first
 5 three (3) digits 467 and 468.
 6 (4) The geographic service area served by ZIP codes with the first
 7 three (3) digits 469 and 479.
 8 (5) The geographic service area served by ZIP codes with the first
 9 three (3) digits 460, 461 (except 46107), and 473.
 10 (6) The geographic service area served by the 46107 ZIP code and
 11 ZIP codes with the first three (3) digits 462.
 12 (7) The geographic service area served by ZIP codes with the first
 13 three (3) digits 470, 471, 472, 474, and 478.
 14 (8) The geographic service area served by ZIP codes with the first
 15 three (3) digits 475, 476, and 477.
- 16 (k) As used in this chapter, "medical service provider" refers to a
 17 person or an entity that provides services or products to an employee
 18 under this chapter. Except as otherwise provided in this chapter, the
 19 term includes a medical service facility.
- 20 (l) As used in this chapter, "medical service facility" means any of
 21 the following that provides a service or product under this chapter and
 22 uses the CMS 1450 (UB-04) form for Medicare reimbursement:
 23 (1) A hospital (as defined in IC 16-18-2-179).
 24 (2) A hospital based health facility (as defined in
 25 IC 16-18-2-180).
 26 (3) A medical center (as defined in IC 16-18-2-223.4).
 27 The term does not include a professional corporation (as defined in
 28 IC 23-1.5-1-10) comprised of health care professionals (as defined in
 29 IC 23-1.5-1-8) formed to render professional services as set forth in
 30 IC 23-1.5-2-3(a)(4) or a health care professional (as defined in
 31 IC 23-1.5-1-8) who bills for a service or product provided under this
 32 chapter as an individual or a member of a group practice or another
 33 medical service provider that uses the CMS 1500 form for Medicare
 34 reimbursement.
- 35 (m) As used in this chapter, "pecuniary liability" means the
 36 responsibility of an employer or the employer's insurance carrier for the
 37 payment of the charges for each specific service or product for human
 38 medical treatment provided under this chapter as follows:
 39 (1) This subdivision applies before July 1, 2014, to all medical
 40 service providers, and after June 30, 2014, to a medical service
 41 provider that is not a medical service facility. Payment of the
 42 charges in a defined community, equal to or less than the charges



1 made by medical service providers at the eightieth percentile in
2 the same community for like services or products.

3 (2) Payment of the charges in a reasonable amount, which is
4 established by payment of one (1) of the following:

5 (A) The amount negotiated at any time between the medical
6 service facility and any of the following, if an amount has been
7 negotiated:

8 (i) The employer.

9 (ii) The employer's insurance carrier.

10 (iii) A billing review service on behalf of a person described
11 in item (i) or (ii).

12 (iv) A direct provider network that has contracted with a
13 person described in item (i) or (ii).

14 (B) Two hundred percent (200%) of the amount that would be
15 paid to the medical service facility on the same date for the
16 same service or product under the medical service facility's
17 Medicare reimbursement rate, if an amount has not been
18 negotiated as described in clause (A).

19 (n) "Service or product" or "services and products" refers to
20 medical, hospital, surgical, or nursing service, treatment, and supplies
21 provided under this chapter.

22 SECTION 5. IC 22-3-7-34.2 IS ADDED TO THE INDIANA CODE
23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
24 1, 2018]: **Sec. 34.2. (a) An employee may file an application
25 described in subsection (b), including the form described in
26 subsection (c), with the board to obtain a certificate of exemption
27 from compliance with the provisions of this chapter.**

28 **(b) The application for an exemption under this section, on a
29 form or forms provided by the board, must include at least the
30 following information:**

31 **(1) The employee's name, address, date of birth, and Social
32 Security number.**

33 **(2) The name of the religious sect or the division of a religious
34 sect to which the employee belongs.**

35 **(3) A verified affidavit signed by the employee stating that:**

36 **(A) the employee is a member of the sect or division listed
37 in subdivision (2);**

38 **(B) the employee adheres to the sect's or division's
39 established tenets or teachings that conscientiously oppose
40 the acceptance of public or private insurance benefits as
41 the result of injury, disability, or death, or for medical care
42 for injuries or illnesses, including the benefits from any**



- 1 insurance system established by the federal Social Security
2 Act, 42 U.S.C. 301;
- 3 (C) members of the sect or division have a method for
4 sharing the costs of work related medical expenses and loss
5 of income;
- 6 (D) the employee participates in a system approved under
7 section 34(f)(1) of this chapter in lieu of the provisions of
8 this chapter; and
- 9 (E) the employee knowingly and voluntarily waives the
10 employee's rights to all benefits available to the employee
11 under the provisions of this chapter.
- 12 (4) A statement by a leader of the religious sect or division of
13 the religious sect listed in subdivision (2) that the employee is
14 a member of the sect or division.
- 15 (c) A copy of an approved Internal Revenue Service Form 4029,
16 Application for Exemption from Social Security and Medicare
17 Taxes and Waiver of Benefits, or a successor form, for the
18 employee must be filed with the application described in subsection
19 (b).
- 20 (d) The board shall issue the certificate of exemption not later
21 than ten (10) days after the board receives a completed application
22 and the form described in subsection (c). The exemption is effective
23 on the date the certificate is issued and remains in effect until
24 rescinded as provided in subsection (f).
- 25 (e) The board shall maintain a data base consisting of the
26 certificates issued under this section and on request verify that a
27 certificate is on file.
- 28 (f) If an employee for whom a certificate is issued no longer
29 meets the requirements of this section, the employee and the
30 employer are required to notify the board in writing not later than
31 thirty (30) days after the date the employee no longer meets the
32 requirements of this section. The employer shall comply with the
33 provisions of this chapter for that employee beginning on the date
34 of the notice under this subsection.

