



February 14, 2025

SENATE BILL No. 309

DIGEST OF SB 309 (Updated February 12, 2025 10:47 am - DI 140)

Citations Affected: IC 22-3.

Synopsis: Substitute system of worker's compensation. Provides that an employer who is a member in good standing with the Small Business Aid, Inc., and provides a substitute system of worker's compensation and worker's occupational diseases compensation as established by the Small Business Aid, Inc., is not required to seek the approval of the worker's compensation board in order to provide the substitute system of compensation in lieu of compensation and insurance provided under the worker's compensation and worker's occupational diseases compensation laws. Makes corresponding changes.

Effective: July 1, 2025.

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January 13, 2025, read first time and referred to Committee on Pensions and Labor.
February 13, 2025, reported favorably — Do Pass.

SB 309—LS 6706/DI 141



February 14, 2025

First Regular Session of the 124th General Assembly (2025)

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 2024 Regular Session of the General Assembly.

SENATE BILL No. 309

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 22-3-4-13, AS AMENDED BY P.L.204-2018,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2025]: Sec. 13. (a) Every employer shall keep a record of all
4 injuries, fatal or otherwise, received by or claimed to have been
5 received by the employer's employees in the course of their
6 employment and shall provide a copy of the record to the board upon
7 request. Within seven (7) days after the employer's knowledge of the
8 injury, either actual, alleged, or reported under IC 22-3-3-1, that causes
9 an employee's death or the need for medical care beyond first aid, a
10 report concerning the injury shall be made in writing and mailed, or
11 submitted electronically, to the employer's insurance carrier or, if the
12 employer is self insured, delivered to the worker's compensation board
13 in the manner provided in subsections (b) and (c). The reporting
14 requirements under this subsection are intended to be consistent with
15 the recording requirements set out in the United States Occupational
16 Safety and Health Administration (OSHA) regulations found at 29 CFR
17 1904.7. The insurance carrier shall deliver the report to the worker's

SB 309—LS 6706/DI 141



1 compensation board in the manner provided in subsections (b) and (c)
2 not later than seven (7) days after receipt of the report or fourteen (14)
3 days after the employer's knowledge of the injury, whichever is later.
4 An employer or insurance carrier that fails to comply with this
5 subsection is subject to a civil penalty under section 15 of this chapter.

6 (b) All insurance carriers, companies who carry risk without
7 insurance, and third party administrators reporting accident information
8 to the board in compliance with subsection (a) shall report the
9 information using electronic data interchange standards prescribed by
10 the board.

11 (c) The report shall contain the name, nature, and location of the
12 business of the employer, the name, age, sex, wages, occupation of the
13 injured employee, the date and hour of the accident causing the alleged
14 injury, the nature and cause of the injury, and such other information
15 as may be required by the board.

16 (d) A person who violates any provision of this article, except
17 IC 22-3-5-1, IC 22-3-7-34(b), or IC 22-3-7-34(c), commits a Class C
18 misdemeanor. A person who violates IC 22-3-5-1, IC 22-3-7-34(b), or
19 IC 22-3-7-34(c) commits a Class A misdemeanor. The worker's
20 compensation board in the name of the state may seek relief from any
21 court of competent jurisdiction to enjoin any violation of this article.

22 (e) The venue of all actions under this section lies in the county in
23 which the employee was injured. The prosecuting attorney of the
24 county shall prosecute all such violations upon written request of the
25 worker's compensation board. Such violations shall be prosecuted in
26 the name of the state.

27 (f) In an action before the board against an employer who at the time
28 of the injury to or occupational disease of an employee had failed to
29 comply with IC 22-3-5-1, IC 22-3-7-34(b), or IC 22-3-7-34(c), the
30 board may award to the employee or the dependents of a deceased
31 employee:

- 32 (1) compensation not to exceed double the compensation
33 provided by this article;
34 (2) medical expenses; and
35 (3) reasonable attorney fees in addition to the compensation and
36 medical expenses.

37 (g) In an action under subsection (d), the court may:

- 38 (1) require the employer to obtain coverage and furnish proof of
39 insurance as required by IC 22-3-5-1 and IC 22-3-7-34(b) or
40 IC 22-3-7-34(c) every six (6) months for a period not to exceed
41 three (3) years;
42 (2) require satisfactory proof of the employer's financial ability to



1 pay any compensation or medical expenses in the amount and
 2 manner, and when due, as provided for in IC 22-3, for all injuries
 3 which occurred during any period of noncompliance; and

4 (3) require the employer to deposit with the worker's
 5 compensation board an acceptable security, indemnity, or bond to
 6 secure the payment of such compensation and medical expense
 7 liabilities.

8 (h) The penalty provision of subsection (d) shall apply only to the
 9 employer and shall not apply for a failure to exact a certificate of
 10 insurance under IC 22-3-2-14, ~~or IC 22-3-7-34(i)~~ **IC 22-3-7-34(p)**, or
 11 ~~IC 22-3-7-34(j)~~ **IC 22-3-7-34(q)**.

12 (i) In an action under subsection (d), if a compensable worker's
 13 compensation or occupational disease claim has been filed and the
 14 employer fails or refuses to pay benefits when due, a court may order
 15 the employer to temporarily cease doing business in Indiana until the
 16 employer:

17 (1) furnishes proof of insurance as required by IC 22-3-5-1 and
 18 IC 22-3-7-34(b) or IC 22-3-7-34(c); and

19 (2) provides any other assurances required by the board to
 20 establish that the employer has the ability to meet all worker's
 21 compensation liabilities incurred during the employer's period of
 22 noncompliance.

23 (j) An appeal of the court's decision under subsection (i) to enjoin
 24 the employer from doing business in Indiana automatically stays the
 25 court's order.

26 SECTION 2. IC 22-3-5-4 IS AMENDED TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2025]: Sec. 4. (a) Subject to the approval of the
 28 worker's compensation board, any employer may enter into or continue
 29 any agreement with the employer's employees to provide a system of
 30 compensation, benefit, or insurance in lieu of the compensation and
 31 insurance provided by IC 22-3-2 through IC 22-3-6. No such substitute
 32 system shall be approved unless it confers benefits upon injured
 33 employees and their dependents at least equivalent to the benefits
 34 provided by IC 22-3-2 through IC 22-3-6, nor if it requires
 35 contributions from the employees unless it confers benefits in addition
 36 to those provided under IC 22-3-2 through IC 22-3-6 at least
 37 commensurate with such contributions.

38 (b) Such substitute system may be terminated by the worker's
 39 compensation board on reasonable notice and hearing to the interested
 40 parties if it appears that the same is not fairly administered, its
 41 operation discloses latent defects threatening its solvency, or if for any
 42 substantial reason it fails to accomplish the purpose of IC 22-3-2



1 through IC 22-3-6. In this case the board shall determine upon the
 2 proper distribution of all remaining assets, if any, subject to the right
 3 of any party in interest to take an appeal to the court of appeals.

4 **(c) An employer who:**

5 **(1) is a member in good standing with the Small Business Aid,**
 6 **Inc.; and**

7 **(2) provides a substitute system of compensation as**
 8 **established by the Small Business Aid, Inc., that confers**
 9 **benefits equivalent to the benefits provided by IC 22-3-2**
 10 **through IC 22-3-6;**

11 **is not required to seek the approval of the worker's compensation**
 12 **board under subsection (a). An employer who meets the**
 13 **requirements under this subsection may provide a substitute**
 14 **system of compensation as established by the Small Business Aid,**
 15 **Inc., in lieu of the compensation and insurance provided by**
 16 **IC 22-3-2 through IC 22-3-6.**

17 SECTION 3. IC 22-3-7-5 IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2025]: Sec. 5. On and after April 1, 1963, the
 19 provisions of this chapter shall apply to the state, to all political
 20 divisions thereof, to all municipal corporations within the state, to
 21 persons, partnerships, limited liability companies, and corporations
 22 engaged in mining coal, and to employees thereof, without any right of
 23 exemption from the compensation provisions of this chapter, except as
 24 provided in section ~~34(i)~~ **34(p)** of this chapter.

25 SECTION 4. IC 22-3-7-34, AS AMENDED BY P.L.117-2021,
 26 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2025]: Sec. 34. (a) As used in this section, "person" does not
 28 include:

29 (1) an owner who contracts for performance of work on the
 30 owner's owner occupied residential property; or

31 (2) a nonprofit corporation that is recognized as tax exempt under
 32 Section 501(c)(3) of the Internal Revenue Code (as defined in
 33 IC 6-3-1-11(a)) to the extent the corporation enters into an
 34 independent contractor agreement with a person for the
 35 performance of youth coaching services on a part-time basis.

36 (b) Every employer bound by the compensation provisions of this
 37 chapter, except the state, counties, townships, cities, towns, school
 38 cities, school towns, other municipal corporations, state institutions,
 39 state boards, and state commissions, shall insure the payment of
 40 compensation to the employer's employees and their dependents in the
 41 manner provided in this chapter, or procure from the worker's
 42 compensation board a certificate authorizing the employer to carry such



1 risk without insurance. While that insurance or certificate remains in
 2 force, the employer, or those conducting the employer's business, and
 3 the employer's occupational disease insurance carrier shall be liable to
 4 any employee and the employee's dependents for disablement or death
 5 from occupational disease arising out of and in the course of
 6 employment only to the extent and in the manner specified in this
 7 chapter.

8 (c) Every employer who, by election, is bound by the compensation
 9 provisions of this chapter, except those exempted from the provisions
 10 by subsection (b), shall:

11 (1) insure and keep insured the employer's liability under this
 12 chapter in some corporation, association, or organization
 13 authorized to transact the business of worker's compensation
 14 insurance in this state; or

15 (2) furnish to the worker's compensation board satisfactory proof
 16 of the employer's financial ability to pay the compensation in the
 17 amount and manner and when due as provided for in this chapter.

18 In the latter case the board may require the deposit of an acceptable
 19 security, indemnity, or bond to secure the payment of compensation
 20 liabilities as they are incurred.

21 (d) Every employer required to carry insurance under this section
 22 shall file with the worker's compensation board in the form prescribed
 23 by it, within ten (10) days after the termination of the employer's
 24 insurance by expiration or cancellation, evidence of the employer's
 25 compliance with subsection (c) and other provisions relating to the
 26 insurance under this chapter. The venue of all criminal actions under
 27 this section lies in the county in which the employee was last exposed
 28 to the occupational disease causing disablement. The prosecuting
 29 attorney of the county shall prosecute all violations upon written
 30 request of the board. The violations shall be prosecuted in the name of
 31 the state.

32 (e) Whenever an employer has complied with subsection (c) relating
 33 to self-insurance, the worker's compensation board shall issue to the
 34 employer a certificate which shall remain in force for a period fixed by
 35 the board, but the board may, upon at least thirty (30) days notice, and
 36 a hearing to the employer, revoke the certificate, upon presentation of
 37 satisfactory evidence for the revocation. After the revocation, the board
 38 may grant a new certificate to the employer upon the employer's
 39 petition, and satisfactory proof of the employer's financial ability.

40 ~~(f)(1)~~ (f) Subject to the approval of the worker's compensation
 41 board, any employer may enter into or continue any agreement with the
 42 employer's employees to provide a system of compensation, benefit, or



1 insurance in lieu of the compensation and insurance provided by this
 2 chapter. A substitute system may not be approved unless it confers
 3 benefits upon employees and their dependents at least equivalent to the
 4 benefits provided by this chapter. It may not be approved if it requires
 5 contributions from the employees unless it confers benefits in addition
 6 to those provided under this chapter, which are at least commensurate
 7 with such contributions.

8 ~~(f)(2)~~ (g) The substitute system may be terminated by the worker's
 9 compensation board on reasonable notice and hearing to the interested
 10 parties, if it appears that the same is not fairly administered or if its
 11 operation shall disclose latent defects threatening its solvency, or if for
 12 any substantial reason it fails to accomplish the purpose of this chapter.
 13 On termination, the board shall determine the proper distribution of all
 14 remaining assets, if any, subject to the right of any party in interest to
 15 take an appeal to the court of appeals.

16 **(h) An employer who:**

17 **(1) is a member in good standing with the Small Business Aid,**
 18 **Inc.; and**

19 **(2) provides a substitute system of compensation as**
 20 **established by the Small Business Aid, Inc., that confers**
 21 **benefits equivalent to the benefits provided by this chapter;**
 22 **is not required to seek the approval of the worker's compensation**
 23 **board under subsection (f). An employer who meets the**
 24 **requirements under this subsection may provide a substitute**
 25 **system of compensation as established by the Small Business Aid,**
 26 **Inc., in lieu of the compensation and insurance provided by this**
 27 **chapter.**

28 ~~(g)(1)~~ (i) No insurer shall enter into or issue any policy of insurance
 29 under this chapter until its policy form has been submitted to and
 30 approved by the worker's compensation board. The board shall not
 31 approve the policy form of any insurance company until the company
 32 shall file with it the certificate of the insurance commissioner showing
 33 that the company is authorized to transact the business of worker's
 34 compensation insurance in Indiana. The filing of a policy form by any
 35 insurance company or reciprocal insurance association with the board
 36 for approval constitutes on the part of the company or association a
 37 conclusive and unqualified acceptance of each of the compensation
 38 provisions of this chapter, and an agreement by it to be bound by the
 39 compensation provisions of this chapter.

40 ~~(g)(2)~~ (j) All policies of insurance companies and of reciprocal
 41 insurance associations, insuring the payment of compensation under
 42 this chapter, shall be conclusively presumed to cover all the employees



1 and the entire compensation liability of the insured under this chapter
 2 in all cases in which the last day of the exposure rendering the
 3 employer liable is within the effective period of such policy.

4 ~~(g)(3)~~ **(k)** Any provision in any such policy attempting to limit or
 5 modify the liability of the company or association insuring the same
 6 shall be wholly void.

7 ~~(g)(4)~~ **(l)** Every policy of any company or association shall be
 8 deemed to include the following provisions:

9 "(A) The insurer assumes in full all the obligations to pay
 10 physician's fees, nurse's charges, hospital supplies, burial
 11 expenses, compensation or death benefits imposed upon or
 12 accepted by the insured under this chapter.

13 (B) This policy is subject to the provisions of this chapter relative
 14 to the liability of the insured to pay physician's fees, nurse's
 15 charges, hospital services, hospital supplies, burial expenses,
 16 compensation or death benefits to and for such employees, the
 17 acceptance of such liability by the insured, the adjustment, trial
 18 and adjudication of claims for such physician's fees, nurse's
 19 charges, hospital services, hospital supplies, burial expenses,
 20 compensation, or death benefits.

21 (C) Between this insurer and the employee, notice to or
 22 knowledge of the occurrence of the disablement on the part of the
 23 insured (the employer) shall be notice or knowledge thereof, on
 24 the part of the insurer. The jurisdiction of the insured (the
 25 employer) for the purpose of this chapter is the jurisdiction of this
 26 insurer, and this insurer shall in all things be bound by and shall
 27 be subject to the awards, judgments and decrees rendered against
 28 the insured (the employer) under this chapter.

29 (D) This insurer will promptly pay to the person entitled to the
 30 same all benefits conferred by this chapter, including all
 31 physician's fees, nurse's charges, hospital services, hospital
 32 supplies, burial expenses, and all installments of compensation or
 33 death benefits that may be awarded or agreed upon under this
 34 chapter. The obligation of this insurer shall not be affected by any
 35 default of the insured (the employer) after disablement or by any
 36 default in giving of any notice required by this policy, or
 37 otherwise. This policy is a direct promise by this insurer to the
 38 person entitled to physician's fees, nurse's charges, fees for
 39 hospital services, charges for hospital services, charges for
 40 hospital supplies, charges for burial, compensation, or death
 41 benefits, and shall be enforceable in the name of the person.

42 (E) Any termination of this policy by cancellation shall not be



1 effective as to employees of the insured covered hereby unless at
 2 least thirty (30) days prior to the taking effect of such
 3 cancellation, a written notice giving the date upon which such
 4 termination is to become effective has been received by the
 5 worker's compensation board of Indiana at its office in
 6 Indianapolis, Indiana.

7 (F) This policy shall automatically expire one (1) year from the
 8 effective date of the policy, unless the policy covers a period of
 9 three (3) years, in which event, it shall automatically expire three
 10 (3) years from the effective date of the policy. The termination
 11 either of a one (1) year or a three (3) year policy, is effective as to
 12 the employees of the insured covered by the policy."

13 ~~(g)(5)~~ (m) All claims for compensation, nurse's charges, hospital
 14 services, hospital supplies, physician's fees, or burial expenses may be
 15 made directly against either the employer or the insurer or both, and the
 16 award of the worker's compensation board may be made against either
 17 the employer or the insurer or both.

18 ~~(g)(6)~~ (n) If any insurer shall fail to pay any final award or judgment
 19 (except during the pendency of an appeal) rendered against it, or its
 20 insured, or, if it shall fail to comply with this chapter, the worker's
 21 compensation board shall revoke the approval of its policy forms, and
 22 shall not accept any further proofs of insurance from it until it shall
 23 have paid the award or judgment or complied with this chapter, and
 24 shall have resubmitted its policy form and received the approval of the
 25 policy by the worker's compensation board.

26 ~~(h)~~ (o) No policy of insurance covering the liability of an employer
 27 for worker's compensation shall be construed to cover the liability of
 28 the employer under this chapter for any occupational disease unless the
 29 liability is expressly accepted by the insurance carrier issuing the
 30 policy and is endorsed in that policy. The insurance or security in force
 31 to cover compensation liability under this chapter shall be separate
 32 from the insurance or security under IC 22-3-2 through IC 22-3-6. Any
 33 insurance contract covering liability under either part of this article
 34 need not cover any liability under the other.

35 ~~(i)~~ (p) For the purpose of complying with subsection (c), groups of
 36 employers are authorized to form mutual insurance associations or
 37 reciprocal or interinsurance exchanges subject to any reasonable
 38 conditions and restrictions fixed by the department of insurance.

39 ~~(j)~~ (q) Membership in a mutual insurance association or a reciprocal
 40 or interinsurance exchange so proved, together with evidence of the
 41 payment of premiums due, is evidence of compliance with subsection
 42 (c).



1 ~~(k)~~ **(r)** Any person bound under the compensation provisions of this
 2 chapter, contracting for the performance of any work exceeding one
 3 thousand dollars (\$1,000) in value, in which the hazard of an
 4 occupational disease exists, by a contractor subject to the compensation
 5 provisions of this chapter without exacting from the contractor a
 6 certificate from the worker's compensation board showing that the
 7 contractor has complied with subsections (b), (c), and (d), shall be
 8 liable to the same extent as the contractor for compensation, physician's
 9 fees, hospital fees, nurse's charges, and burial expenses on account of
 10 the injury or death of any employee of such contractor, due to
 11 occupational disease arising out of and in the course of the
 12 performance of the work covered by such contract.

13 ~~(h)~~ **(s)** Any contractor who sublets any contract for the performance
 14 of any work to a subcontractor subject to the compensation provisions
 15 of this chapter, without obtaining a certificate from the worker's
 16 compensation board showing that the subcontractor has complied with
 17 subsections (b), (c), and (d), is liable to the same extent as the
 18 subcontractor for the payment of compensation, physician's fees,
 19 hospital fees, nurse's charges, and burial expense on account of the
 20 injury or death of any employee of the subcontractor due to
 21 occupational disease arising out of and in the course of the
 22 performance of the work covered by the subcontract.

23 ~~(m)~~ **(t)** A person paying compensation, physician's fees, hospital
 24 fees, nurse's charges, or burial expenses, under subsection ~~(k)~~ **(r)** or ~~(h)~~
 25 **(s)**, may recover the amount paid or to be paid from any person who
 26 would otherwise have been liable for the payment thereof and may, in
 27 addition, recover the litigation expenses and attorney's fees incurred in
 28 the action before the worker's compensation board as well as the
 29 litigation expenses and attorney's fees incurred in an action to collect
 30 the compensation, medical expenses, and burial expenses.

31 ~~(n)~~ **(u)** Every claim filed with the worker's compensation board
 32 under this section shall be instituted against all parties liable for
 33 payment. The worker's compensation board, in an award under
 34 subsection ~~(k)~~ **(r)**, shall fix the order in which such parties shall be
 35 exhausted, beginning with the immediate employer and, in an award
 36 under subsection ~~(h)~~ **(s)**, shall determine whether the subcontractor has
 37 the financial ability to pay the compensation and medical expenses
 38 when due and, if not, shall order the contractor to pay the compensation
 39 and medical expenses.



COMMITTEE REPORT

Mr. President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 309, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 309 as introduced.)

ROGERS, Chairperson

Committee Vote: Yeas 11, Nays 0

