

# HOUSE BILL No. 1336

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-8.1-3-21.3; IC 22-1-1-24; IC 22-3-1-6; IC 22-4-19-16.

**Synopsis:** Reporting on worker 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 September 1 in 2022 through 2025 to the interim study committee on employment and labor for the immediately preceding three state fiscal years and in the aggregate for the three state fiscal year period: (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 the revenue not collected or the additional costs to the state that the department or board attributes to the improperly classified workers; and (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. Excludes residential contractors from the term "employer" for purposes of the reporting requirements.

**Effective:** July 1, 2022.

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January 11, 2022, read first time and referred to Committee on Employment, Labor and Pensions.

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Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

# HOUSE BILL No. 1336

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, 2022]: **Sec. 21.3. (a) For purposes of this**  
4 **section, "employer" does not include a contractor (as defined in**  
5 **IC 22-3-1-5) whose services are limited to construction,**  
6 **remodeling, repair, or improvement of one (1) family, two (2)**  
7 **family, or three (3) family residences not exceeding two (2)**  
8 **habitable stories above no more than one (1) uninhabitable story**  
9 **and accessory use structures in connection with those residences.**  
10 **(b) The department shall report the following before September**  
11 **1, 2022, and September 1 of each subsequent year in an electronic**  
12 **format under IC 5-14-6 to the executive director of the legislative**  
13 **services agency for distribution to the members of the interim**  
14 **study committee on employment and labor (established under**  
15 **IC 2-5-1.3-4) separately for each of the immediately preceding**  
16 **three (3) state fiscal years and in the aggregate for the three (3)**  
17 **state fiscal year period:**



1 (1) The number of employers that the department determined  
 2 during the immediately preceding state fiscal year improperly  
 3 classified at least one (1) worker as an independent  
 4 contractor.

5 (2) The total number of improperly classified workers  
 6 employed by the employers described in subdivision (1).

7 (3) A calculation of the revenue not collected by the state that  
 8 the department attributes to the improperly classified  
 9 workers.

10 (4) The amount of the penalties and interest assessed against  
 11 the employers described in subdivision (1) by the department,  
 12 and the amount of the penalties and interest assessed that has  
 13 been collected.

14 The interim study committee shall use the submitted information  
 15 for the purposes of evaluating the results of legislative action as  
 16 determined necessary.

17 (c) This section expires December 31, 2025.

18 SECTION 2. IC 22-1-1-24 IS ADDED TO THE INDIANA CODE  
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 20 1, 2022]: Sec. 24. (a) For purposes of this section, "employer" does  
 21 not include a contractor (as defined in IC 22-3-1-5) whose services  
 22 are limited to construction, remodeling, repair, or improvement of  
 23 one (1) family, two (2) family, or three (3) family residences not  
 24 exceeding two (2) habitable stories above no more than one (1)  
 25 uninhabitable story and accessory use structures in connection  
 26 with those residences.

27 (b) The department of labor shall report the following before  
 28 September 1, 2022, and September 1 of each subsequent year in an  
 29 electronic format under IC 5-14-6 to the executive director of the  
 30 legislative services agency for distribution to the members of the  
 31 interim study committee on employment and labor (established  
 32 under IC 2-5-1.3-4) separately for each of the immediately  
 33 preceding three (3) state fiscal years and in the aggregate for the  
 34 three (3) state fiscal year period:

35 (1) The number of employers that the department determined  
 36 during the immediately preceding state fiscal year improperly  
 37 classified at least one (1) worker as an independent  
 38 contractor.

39 (2) The total number of improperly classified workers  
 40 employed by the employers described in subdivision (1).

41 (3) A calculation of the revenue not collected by the state that  
 42 the department attributes to the improperly classified



1 workers.

2 (4) The amount of the penalties and interest assessed against  
3 the employers described in subdivision (1) by the department,  
4 and the amount of the penalties and interest assessed that has  
5 been collected.

6 The interim study committee shall use the submitted information  
7 for the purposes of evaluating the results of legislative action as  
8 determined necessary.

9 (c) This section expires December 31, 2025.

10 SECTION 3. IC 22-3-1-6 IS ADDED TO THE INDIANA CODE  
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
12 1, 2022]: Sec. 6. (a) For purposes of this section, "employer" does  
13 not include a contractor (as defined in IC 22-3-1-5) whose services  
14 are limited to construction, remodeling, repair, or improvement of  
15 one (1) family, two (2) family, or three (3) family residences not  
16 exceeding two (2) habitable stories above no more than one (1)  
17 uninhabitable story and accessory use structures in connection  
18 with those residences.

19 (b) The worker's compensation board of Indiana shall report  
20 the following before September 1, 2022, and September 1 of each  
21 subsequent year in an electronic format under IC 5-14-6 to the  
22 executive director of the legislative services agency for distribution  
23 to the members of the interim study committee on employment and  
24 labor (established under IC 2-5-1.3-4) separately for each of the  
25 immediately preceding three (3) state fiscal years and in the  
26 aggregate for the three (3) state fiscal year period:

27 (1) The number of employers that the worker's compensation  
28 board of Indiana determined during the immediately  
29 preceding state fiscal year improperly classified at least one  
30 (1) worker as an independent contractor.

31 (2) The total number of improperly classified workers  
32 employed by the employers described in subdivision (1).

33 (3) A calculation of the revenue not collected by the state that  
34 the worker's compensation board of Indiana attributes to the  
35 improperly classified workers.

36 (4) The amount of the penalties and interest assessed against  
37 the employers described in subdivision (1) by the worker's  
38 compensation board of Indiana, and the amount of the  
39 penalties and interest assessed that has been collected.

40 The interim study committee shall use the submitted information  
41 for the purposes of evaluating the results of legislative action as  
42 determined necessary.



1           **(c) This section expires December 31, 2025.**

2           SECTION 4. IC 22-4-19-16 IS ADDED TO THE INDIANA CODE  
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
4 1, 2022]: **Sec. 16. (a) For purposes of this section, "employer" does**  
5 **not include a contractor (as defined in IC 22-3-1-5) whose services**  
6 **are limited to construction, remodeling, repair, or improvement of**  
7 **one (1) family, two (2) family, or three (3) family residences not**  
8 **exceeding two (2) habitable stories above no more than one (1)**  
9 **uninhabitable story and accessory use structures in connection**  
10 **with those residences.**

11           **(b) The department shall report the following before September**  
12 **1, 2022, and September 1 of each subsequent year in an electronic**  
13 **format under IC 5-14-6 to the executive director of the legislative**  
14 **services agency for distribution to the members of the interim**  
15 **study committee on employment and labor (established under**  
16 **IC 2-5-1.3-4) separately for each of the immediately preceding**  
17 **three (3) state fiscal years and in the aggregate for the three (3)**  
18 **state fiscal year period:**

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

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

25           **(3) a calculation of the additional costs to the state that the**  
26 **department attributes to the improperly classified workers;**  
27 **and**

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

32           **The interim study committee shall use the submitted information**  
33 **for the purposes of evaluating the results of legislative action as**  
34 **determined necessary.**

35           **(c) This section expires December 31, 2025.**

