

# SENATE BILL No. 541

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## 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, 2019.

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January 14, 2019, read first time and referred to Committee on Pensions and Labor.

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First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## SENATE BILL No. 541

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, 2019]: 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, 2019]: **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.204-2018,**  
 37           **SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**  
 38           **JULY 1, 2019]: 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, limited liability partnership, or corporation or the  
2 receiver or trustee of the same, using the services of another for pay. A  
3 corporation, limited liability company, or limited liability partnership  
4 that controls the activities of another corporation, limited liability  
5 company, or limited liability partnership, or a corporation and a limited  
6 liability company or a corporation and a limited liability partnership  
7 that are commonly owned entities, or the controlled corporation,  
8 limited liability company, limited liability partnership, or commonly  
9 owned entities, and a parent corporation and its subsidiaries shall each  
10 be considered joint employers of the corporation's, the controlled  
11 corporation's, the limited liability company's, the limited liability  
12 partnership's, the commonly owned entities', the parent's, or the  
13 subsidiaries' employees for purposes of IC 22-3-2-6 and IC 22-3-3-31.  
14 Both a lessor and a lessee of employees shall each be considered joint  
15 employers of the employees provided by the lessor to the lessee for  
16 purposes of IC 22-3-2-6 and IC 22-3-3-31. If the employer is insured,  
17 the term includes the employer's insurer so far as applicable. However,  
18 the inclusion of an employer's insurer within this definition does not  
19 allow an employer's insurer to avoid payment for services rendered to  
20 an employee with the approval of the employer. The term also includes  
21 an employer that provides on-the-job training under the federal School  
22 to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set  
23 forth in IC 22-3-2-2.5. The term does not include a nonprofit  
24 corporation that is recognized as tax exempt under Section 501(c)(3)  
25 of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the  
26 extent the corporation enters into an independent contractor agreement  
27 with a person for the performance of youth coaching services on a  
28 part-time basis.

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

34 (1) An executive officer elected or appointed and empowered in  
35 accordance with the charter and bylaws of a corporation, other  
36 than a municipal corporation or governmental subdivision or a  
37 charitable, religious, educational, or other nonprofit corporation,  
38 is an employee of the corporation under IC 22-3-2 through  
39 IC 22-3-6. An officer of a corporation who is an employee of the  
40 corporation under IC 22-3-2 through IC 22-3-6 may elect not to  
41 be an employee of the corporation under IC 22-3-2 through  
42 IC 22-3-6. An officer of a corporation who is also an owner of any



1 interest in the corporation may elect not to be an employee of the  
 2 corporation under IC 22-3-2 through IC 22-3-6. If an officer  
 3 makes this election, the officer must serve written notice of the  
 4 election on the corporation's insurance carrier and the board. An  
 5 officer of a corporation may not be considered to be excluded as  
 6 an employee under IC 22-3-2 through IC 22-3-6 until the notice  
 7 is received by the insurance carrier and the board.

8 (2) An executive officer of a municipal corporation or other  
 9 governmental subdivision or of a charitable, religious,  
 10 educational, or other nonprofit corporation may, notwithstanding  
 11 any other provision of IC 22-3-2 through IC 22-3-6, be brought  
 12 within the coverage of its insurance contract by the corporation by  
 13 specifically including the executive officer in the contract of  
 14 insurance. The election to bring the executive officer within the  
 15 coverage shall continue for the period the contract of insurance is  
 16 in effect, and during this period, the executive officers thus  
 17 brought within the coverage of the insurance contract are  
 18 employees of the corporation under IC 22-3-2 through IC 22-3-6.

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

23 (4) An owner of a sole proprietorship may elect to include the  
 24 owner as an employee under IC 22-3-2 through IC 22-3-6 if the  
 25 owner is actually engaged in the proprietorship business. If the  
 26 owner makes this election, the owner must serve upon the owner's  
 27 insurance carrier and upon the board written notice of the  
 28 election. No owner of a sole proprietorship may be considered an  
 29 employee under IC 22-3-2 through IC 22-3-6 until the notice has  
 30 been received. If the owner of a sole proprietorship:

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

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

38 (5) A partner in a partnership may elect to include the partner as  
 39 an employee under IC 22-3-2 through IC 22-3-6 if the partner is  
 40 actually engaged in the partnership business. If a partner makes  
 41 this election, the partner must serve upon the partner's insurance  
 42 carrier and upon the board written notice of the election. No



1 partner may be considered an employee under IC 22-3-2 through  
2 IC 22-3-6 until the notice has been received. If a partner in a  
3 partnership:

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

8 (B) is an independent contractor and does not make the  
9 election provided under this subdivision, the partner may  
10 obtain a certificate of exemption under IC 22-3-2-14.5.

11 (6) Real estate professionals are not employees under IC 22-3-2  
12 through IC 22-3-6 if:

13 (A) they are licensed real estate agents;

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

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

19 (7) A person is an independent contractor and not an employee  
20 under IC 22-3-2 through IC 22-3-6 if the person is an independent  
21 contractor under the guidelines of the United States Internal  
22 Revenue Service.

23 (8) An owner-operator that provides a motor vehicle and the  
24 services of a driver under a written contract that is subject to  
25 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376 to a motor carrier  
26 is not an employee of the motor carrier for purposes of IC 22-3-2  
27 through IC 22-3-6. The owner-operator may elect to be covered  
28 and have the owner-operator's drivers covered under a worker's  
29 compensation insurance policy or authorized self-insurance that  
30 insures the motor carrier if the owner-operator pays the premiums  
31 as requested by the motor carrier. An election by an  
32 owner-operator under this subdivision does not terminate the  
33 independent contractor status of the owner-operator for any  
34 purpose other than the purpose of this subdivision.

35 (9) A member or manager in a limited liability company may elect  
36 to include the member or manager as an employee under  
37 IC 22-3-2 through IC 22-3-6 if the member or manager is actually  
38 engaged in the limited liability company business. If a member or  
39 manager makes this election, the member or manager must serve  
40 upon the member's or manager's insurance carrier and upon the  
41 board written notice of the election. A member or manager may  
42 not be considered an employee under IC 22-3-2 through IC 22-3-6



- 1 until the notice has been received.
- 2 (10) An unpaid participant under the federal School to Work  
3 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the  
4 extent set forth in IC 22-3-2-2.5.
- 5 (11) A person who enters into an independent contractor  
6 agreement with a nonprofit corporation that is recognized as tax  
7 exempt under Section 501(c)(3) of the Internal Revenue Code (as  
8 defined in IC 6-3-1-11(a)) to perform youth coaching services on  
9 a part-time basis is not an employee for purposes of IC 22-3-2  
10 through IC 22-3-6.
- 11 (12) An individual who is not an employee of the state or a  
12 political subdivision is considered to be a temporary employee of  
13 the state for purposes of IC 22-3-2 through IC 22-3-6 while  
14 serving as a member of a mobile support unit on duty for training,  
15 an exercise, or a response, as set forth in IC 10-14-3-19(c)(2)(B).
- 16 **(13) An individual who is a member of a religious sect or a**  
17 **division of a religious sect and obtains under IC 22-3-5-1.5 a**  
18 **certificate of exemption from compliance with the provisions**  
19 **of IC 22-3-2 through IC 22-3-6 is not considered an employee**  
20 **for purposes of IC 22-3-2 through IC 22-3-6.**
- 21 (c) "Minor" means an individual who has not reached seventeen  
22 (17) years of age.
- 23 (1) Unless otherwise provided in this subsection, a minor  
24 employee shall be considered as being of full age for all purposes  
25 of IC 22-3-2 through IC 22-3-6.
- 26 (2) If the employee is a minor who, at the time of the accident, is  
27 employed, required, suffered, or permitted to work in violation of  
28 IC 20-33-3-35, the amount of compensation and death benefits,  
29 as provided in IC 22-3-2 through IC 22-3-6, shall be double the  
30 amount which would otherwise be recoverable. The insurance  
31 carrier shall be liable on its policy for one-half (1/2) of the  
32 compensation or benefits that may be payable on account of the  
33 injury or death of the minor, and the employer shall be liable for  
34 the other one-half (1/2) of the compensation or benefits. If the  
35 employee is a minor who is not less than sixteen (16) years of age  
36 and who has not reached seventeen (17) years of age and who at  
37 the time of the accident is employed, suffered, or permitted to  
38 work at any occupation which is not prohibited by law, this  
39 subdivision does not apply.
- 40 (3) A minor employee who, at the time of the accident, is a  
41 student performing services for an employer as part of an  
42 approved program under IC 20-37-2-7 shall be considered a





1 full-time employee for the purpose of computing compensation  
2 for permanent impairment under IC 22-3-3-10. The average  
3 weekly wages for such a student shall be calculated as provided  
4 in subsection (d)(4).

5 (4) The rights and remedies granted in this subsection to a minor  
6 under IC 22-3-2 through IC 22-3-6 on account of personal injury  
7 or death by accident shall exclude all rights and remedies of the  
8 minor, the minor's parents, or the minor's personal  
9 representatives, dependents, or next of kin at common law,  
10 statutory or otherwise, on account of the injury or death. This  
11 subsection does not apply to minors who have reached seventeen  
12 (17) years of age.

13 (d) "Average weekly wages" means the earnings of the injured  
14 employee in the employment in which the employee was working at the  
15 time of the injury during the period of fifty-two (52) weeks  
16 immediately preceding the date of injury, divided by fifty-two (52),  
17 except as follows:

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

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

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

41 (4) In computing the average weekly wages to be used in  
42 calculating an award for permanent impairment under



1 IC 22-3-3-10 for a student employee in an approved training  
2 program under IC 20-37-2-7, the following formula shall be used.

3 Calculate the product of:

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

5 (B) forty (40) hours.

6 The result obtained is the amount of the average weekly wages for  
7 the student employee.

8 (e) "Injury" and "personal injury" mean only injury by accident  
9 arising out of and in the course of the employment and do not include  
10 a disease in any form except as it results from the injury.

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

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

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

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

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

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

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

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

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

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

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

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

41 (j) "Medical service facility" means any of the following that  
42 provides a service or product under IC 22-3-2 through IC 22-3-6 and



- 1 uses the CMS 1450 (UB-04) form for Medicare reimbursement:  
 2 (1) A hospital (as defined in IC 16-18-2-179).  
 3 (2) A hospital based health facility (as defined in  
 4 IC 16-18-2-180).  
 5 (3) A medical center (as defined in IC 16-18-2-223.4).  
 6 The term does not include a professional corporation (as defined in  
 7 IC 23-1.5-1-10) comprised of health care professionals (as defined in  
 8 IC 23-1.5-1-8) formed to render professional services as set forth in  
 9 IC 23-1.5-2-3(a)(4) or a health care professional (as defined in  
 10 IC 23-1.5-1-8) who bills for a service or product provided under  
 11 IC 22-3-2 through IC 22-3-6 as an individual or a member of a group  
 12 practice or another medical service provider that uses the CMS 1500  
 13 form for Medicare reimbursement.
- 14 (k) "Pecuniary liability" means the responsibility of an employer or  
 15 the employer's insurance carrier for the payment of the charges for each  
 16 specific service or product for human medical treatment provided  
 17 under IC 22-3-2 through IC 22-3-6, as follows:
- 18 (1) This subdivision applies before July 1, 2014, to all medical  
 19 service providers, and after June 30, 2014, to a medical service  
 20 provider that is not a medical service facility. Payment of the  
 21 charges in a defined community, equal to or less than the charges  
 22 made by medical service providers at the eightieth percentile in  
 23 the same community for like services or products.
- 24 (2) Payment of the charges in a reasonable amount, which is  
 25 established by payment of one (1) of the following:
- 26 (A) The amount negotiated at any time between the medical  
 27 service facility and any of the following, if an amount has been  
 28 negotiated:
- 29 (i) The employer.  
 30 (ii) The employer's insurance carrier.  
 31 (iii) A billing review service on behalf of a person described  
 32 in item (i) or (ii).  
 33 (iv) A direct provider network that has contracted with a  
 34 person described in item (i) or (ii).
- 35 (B) Two hundred percent (200%) of the amount that would be  
 36 paid to the medical service facility on the same date for the  
 37 same service or product under the medical service facility's  
 38 Medicare reimbursement rate, if an amount has not been  
 39 negotiated as described in clause (A).
- 40 (l) "Service or product" or "services and products" refers to medical,  
 41 hospital, surgical, or nursing service, treatment, and supplies provided  
 42 under IC 22-3-2 through IC 22-3-6.



1 SECTION 4. IC 22-3-7-9, AS AMENDED BY P.L.204-2018,  
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 9. (a) As used in this chapter, "employer" includes  
4 the state and any political subdivision, any municipal corporation  
5 within the state, any individual or the legal representative of a deceased  
6 individual, firm, association, limited liability company, limited liability  
7 partnership, or corporation or the receiver or trustee of the same, using  
8 the services of another for pay. A corporation, limited liability  
9 company, or limited liability partnership that controls the activities of  
10 another corporation, limited liability company, or limited liability  
11 partnership, or a corporation and a limited liability company or a  
12 corporation and a limited liability partnership that are commonly  
13 owned entities, or the controlled corporation, limited liability company,  
14 limited liability partnership, or commonly owned entities, and a parent  
15 corporation and its subsidiaries shall each be considered joint  
16 employers of the corporation's, the controlled corporation's, the limited  
17 liability company's, the limited liability partnership's, the commonly  
18 owned entities', the parent's, or the subsidiaries' employees for purposes  
19 of sections 6 and 33 of this chapter. Both a lessor and a lessee of  
20 employees shall each be considered joint employers of the employees  
21 provided by the lessor to the lessee for purposes of sections 6 and 33  
22 of this chapter. The term also includes an employer that provides  
23 on-the-job training under the federal School to Work Opportunities Act  
24 (20 U.S.C. 6101 et seq.) to the extent set forth under section 2.5 of this  
25 chapter. If the employer is insured, the term includes the employer's  
26 insurer so far as applicable. However, the inclusion of an employer's  
27 insurer within this definition does not allow an employer's insurer to  
28 avoid payment for services rendered to an employee with the approval  
29 of the employer. The term does not include a nonprofit corporation that  
30 is recognized as tax exempt under Section 501(c)(3) of the Internal  
31 Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the  
32 corporation enters into an independent contractor agreement with a  
33 person for the performance of youth coaching services on a part-time  
34 basis.

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

41 (1) Any reference to an employee who has suffered disablement,  
42 when the employee is dead, also includes the employee's legal



1 representative, dependents, and other persons to whom  
2 compensation may be payable.

3 (2) An owner of a sole proprietorship may elect to include the  
4 owner as an employee under this chapter if the owner is actually  
5 engaged in the proprietorship business. If the owner makes this  
6 election, the owner must serve upon the owner's insurance carrier  
7 and upon the board written notice of the election. No owner of a  
8 sole proprietorship may be considered an employee under this  
9 chapter unless the notice has been received. If the owner of a sole  
10 proprietorship:

11 (A) is an independent contractor in the construction trades and  
12 does not make the election provided under this subdivision,  
13 the owner must obtain a certificate of exemption under section  
14 34.5 of this chapter; or

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

18 (3) A partner in a partnership may elect to include the partner as  
19 an employee under this chapter if the partner is actually engaged  
20 in the partnership business. If a partner makes this election, the  
21 partner must serve upon the partner's insurance carrier and upon  
22 the board written notice of the election. No partner may be  
23 considered an employee under this chapter until the notice has  
24 been received. If a partner in a partnership:

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

29 (B) is an independent contractor and does not make the  
30 election provided under this subdivision, the partner may  
31 obtain a certificate of exemption under section 34.5 of this  
32 chapter.

33 (4) Real estate professionals are not employees under this chapter  
34 if:

35 (A) they are licensed real estate agents;

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

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

41 (5) A person is an independent contractor in the construction  
42 trades and not an employee under this chapter if the person is an



- 1 independent contractor under the guidelines of the United States  
 2 Internal Revenue Service.
- 3 (6) An owner-operator that provides a motor vehicle and the  
 4 services of a driver under a written contract that is subject to  
 5 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376, to a motor  
 6 carrier is not an employee of the motor carrier for purposes of this  
 7 chapter. The owner-operator may elect to be covered and have the  
 8 owner-operator's drivers covered under a worker's compensation  
 9 insurance policy or authorized self-insurance that insures the  
 10 motor carrier if the owner-operator pays the premiums as  
 11 requested by the motor carrier. An election by an owner-operator  
 12 under this subdivision does not terminate the independent  
 13 contractor status of the owner-operator for any purpose other than  
 14 the purpose of this subdivision.
- 15 (7) An unpaid participant under the federal School to Work  
 16 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the  
 17 extent set forth under section 2.5 of this chapter.
- 18 (8) A person who enters into an independent contractor agreement  
 19 with a nonprofit corporation that is recognized as tax exempt  
 20 under Section 501(c)(3) of the Internal Revenue Code (as defined  
 21 in IC 6-3-1-11(a)) to perform youth coaching services on a  
 22 part-time basis is not an employee for purposes of this chapter.
- 23 (9) An officer of a corporation who is an employee of the  
 24 corporation under this chapter may elect not to be an employee of  
 25 the corporation under this chapter. An officer of a corporation  
 26 who is also an owner of any interest in the corporation may elect  
 27 not to be an employee of the corporation under this chapter. If an  
 28 officer makes this election, the officer must serve written notice  
 29 of the election on the corporation's insurance carrier and the  
 30 board. An officer of a corporation may not be considered to be  
 31 excluded as an employee under this chapter until the notice is  
 32 received by the insurance carrier and the board.
- 33 (10) An individual who is not an employee of the state or a  
 34 political subdivision is considered to be a temporary employee of  
 35 the state for purposes of this chapter while serving as a member  
 36 of a mobile support unit on duty for training, an exercise, or a  
 37 response, as set forth in IC 10-14-3-19(c)(2)(B).
- 38 **(11) An individual who is a member of a religious sect or a**  
 39 **division of a religious sect and obtains under IC 22-3-7-34.2 a**  
 40 **certificate of exemption from compliance with the provisions**  
 41 **of this chapter is not considered an employee for purposes of**  
 42 **this chapter.**



1 (c) As used in this chapter, "minor" means an individual who has  
 2 not reached seventeen (17) years of age. A minor employee shall be  
 3 considered as being of full age for all purposes of this chapter.  
 4 However, if the employee is a minor who, at the time of the last  
 5 exposure, is employed, required, suffered, or permitted to work in  
 6 violation of the child labor laws of this state, the amount of  
 7 compensation and death benefits, as provided in this chapter, shall be  
 8 double the amount which would otherwise be recoverable. The  
 9 insurance carrier shall be liable on its policy for one-half (1/2) of the  
 10 compensation or benefits that may be payable on account of the  
 11 disability or death of the minor, and the employer shall be wholly liable  
 12 for the other one-half (1/2) of the compensation or benefits. If the  
 13 employee is a minor who is not less than sixteen (16) years of age and  
 14 who has not reached seventeen (17) years of age, and who at the time  
 15 of the last exposure is employed, suffered, or permitted to work at any  
 16 occupation which is not prohibited by law, the provisions of this  
 17 subsection prescribing double the amount otherwise recoverable do not  
 18 apply. The rights and remedies granted to a minor under this chapter on  
 19 account of disease shall exclude all rights and remedies of the minor,  
 20 the minor's parents, the minor's personal representatives, dependents,  
 21 or next of kin at common law, statutory or otherwise, on account of any  
 22 disease.

23 (d) This chapter does not apply to:

- 24 (1) casual laborers as defined in subsection (b); ~~nor to~~  
 25 (2) farm or agricultural employees; ~~nor to~~  
 26 (3) household employees; ~~nor to~~  
 27 (4) railroad employees engaged in train service as engineers,  
 28 firemen, conductors, brakemen, flagmen, baggagemen, or  
 29 foremen in charge of yard engines and helpers assigned thereto;  
 30 **(5) a person who is exempt under IC 22-3-7-34.2 from**  
 31 **compliance with this chapter; ~~nor to their or~~**  
 32 **(6) employers with respect to these of employees listed in**  
 33 **subdivisions (1) through (5).**

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

38 (e) As used in this chapter, "disablement" means the event of  
 39 becoming disabled from earning full wages at the work in which the  
 40 employee was engaged when last exposed to the hazards of the  
 41 occupational disease by the employer from whom the employee claims  
 42 compensation or equal wages in other suitable employment, and



1 "disability" means the state of being so incapacitated.

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

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

12 (2) In all cases of occupational disease caused by the exposure to  
13 radiation, no compensation shall be payable unless disablement,  
14 as defined in subsection (e), occurs within two (2) years from the  
15 date on which the employee had knowledge of the nature of the  
16 employee's occupational disease or, by exercise of reasonable  
17 diligence, should have known of the existence of such disease and  
18 its causal relationship to the employee's employment.

19 (3) In all cases of occupational diseases caused by the inhalation  
20 of asbestos dust, no compensation shall be payable unless  
21 disablement, as defined in subsection (e), occurs within three (3)  
22 years after the last day of the last exposure to the hazards of the  
23 disease if the last day of the last exposure was before July 1, 1985.

24 (4) In all cases of occupational disease caused by the inhalation  
25 of asbestos dust in which the last date of the last exposure occurs  
26 on or after July 1, 1985, and before July 1, 1988, no compensation  
27 shall be payable unless disablement, as defined in subsection (e),  
28 occurs within twenty (20) years after the last day of the last  
29 exposure.

30 (5) In all cases of occupational disease caused by the inhalation  
31 of asbestos dust in which the last date of the last exposure occurs  
32 on or after July 1, 1988, no compensation shall be payable unless  
33 disablement (as defined in subsection (e)) occurs within  
34 thirty-five (35) years after the last day of the last exposure.

35 (g) For the purposes of this chapter, no compensation shall be  
36 payable for or on account of death resulting from any occupational  
37 disease unless death occurs within two (2) years after the date of  
38 disablement. However, this subsection does not bar compensation for  
39 death:

40 (1) where death occurs during the pendency of a claim filed by an  
41 employee within two (2) years after the date of disablement and  
42 which claim has not resulted in a decision or has resulted in a





- 1 decision which is in process of review or appeal; or  
 2 (2) where, by agreement filed or decision rendered, a  
 3 compensable period of disability has been fixed and death occurs  
 4 within two (2) years after the end of such fixed period, but in no  
 5 event later than three hundred (300) weeks after the date of  
 6 disablement.
- 7 (h) As used in this chapter, "billing review service" refers to a  
 8 person or an entity that reviews a medical service provider's bills or  
 9 statements for the purpose of determining pecuniary liability. The term  
 10 includes an employer's worker's compensation insurance carrier if the  
 11 insurance carrier performs such a review.
- 12 (i) As used in this chapter, "billing review standard" means the data  
 13 used by a billing review service to determine pecuniary liability.
- 14 (j) As used in this chapter, "community" means a geographic service  
 15 area based on ZIP code districts defined by the United States Postal  
 16 Service according to the following groupings:
- 17 (1) The geographic service area served by ZIP codes with the first  
 18 three (3) digits 463 and 464.
  - 19 (2) The geographic service area served by ZIP codes with the first  
 20 three (3) digits 465 and 466.
  - 21 (3) The geographic service area served by ZIP codes with the first  
 22 three (3) digits 467 and 468.
  - 23 (4) The geographic service area served by ZIP codes with the first  
 24 three (3) digits 469 and 479.
  - 25 (5) The geographic service area served by ZIP codes with the first  
 26 three (3) digits 460, 461 (except 46107), and 473.
  - 27 (6) The geographic service area served by the 46107 ZIP code and  
 28 ZIP codes with the first three (3) digits 462.
  - 29 (7) The geographic service area served by ZIP codes with the first  
 30 three (3) digits 470, 471, 472, 474, and 478.
  - 31 (8) The geographic service area served by ZIP codes with the first  
 32 three (3) digits 475, 476, and 477.
- 33 (k) As used in this chapter, "medical service provider" refers to a  
 34 person or an entity that provides services or products to an employee  
 35 under this chapter. Except as otherwise provided in this chapter, the  
 36 term includes a medical service facility.
- 37 (l) As used in this chapter, "medical service facility" means any of  
 38 the following that provides a service or product under this chapter and  
 39 uses the CMS 1450 (UB-04) form for Medicare reimbursement:
- 40 (1) A hospital (as defined in IC 16-18-2-179).
  - 41 (2) A hospital based health facility (as defined in  
 42 IC 16-18-2-180).



1 (3) A medical center (as defined in IC 16-18-2-223.4).  
 2 The term does not include a professional corporation (as defined in  
 3 IC 23-1.5-1-10) comprised of health care professionals (as defined in  
 4 IC 23-1.5-1-8) formed to render professional services as set forth in  
 5 IC 23-1.5-2-3(a)(4) or a health care professional (as defined in  
 6 IC 23-1.5-1-8) who bills for a service or product provided under this  
 7 chapter as an individual or a member of a group practice or another  
 8 medical service provider that uses the CMS 1500 form for Medicare  
 9 reimbursement.

10 (m) As used in this chapter, "pecuniary liability" means the  
 11 responsibility of an employer or the employer's insurance carrier for the  
 12 payment of the charges for each specific service or product for human  
 13 medical treatment provided under this chapter as follows:

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

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

22 (A) The amount negotiated at any time between the medical  
 23 service facility and any of the following, if an amount has been  
 24 negotiated:

25 (i) The employer.

26 (ii) The employer's insurance carrier.

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

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

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

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

39 SECTION 5. IC 22-3-7-34.2 IS ADDED TO THE INDIANA CODE  
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 41 1, 2019]: **Sec. 34.2. (a) An employee may file an application**  
 42 **described in subsection (b), including the form described in**



1 subsection (c), with the board to obtain a certificate of exemption  
2 from compliance with the provisions of this chapter.

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

6 (1) The employee's name, address, date of birth, and Social  
7 Security number.

8 (2) The name of the religious sect or the division of a religious  
9 sect to which the employee belongs.

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

11 (A) the employee is a member of the sect or division listed  
12 in subdivision (2);

13 (B) the employee adheres to the sect's or division's  
14 established tenets or teachings that conscientiously oppose  
15 the acceptance of public or private insurance benefits as  
16 the result of injury, disability, or death, or for medical care  
17 for injuries or illnesses, including the benefits from any  
18 insurance system established by the federal Social Security  
19 Act, 42 U.S.C. 301;

20 (C) members of the sect or division have a method for  
21 sharing the costs of work related medical expenses and loss  
22 of income;

23 (D) the employee participates in a system approved under  
24 section 34(f)(1) of this chapter in lieu of the provisions of  
25 this chapter; and

26 (E) the employee knowingly and voluntarily waives the  
27 employee's rights to all benefits available to the employee  
28 under the provisions of this chapter.

29 (4) A statement by a leader of the religious sect or division of  
30 the religious sect listed in subdivision (2) that the employee is  
31 a member of the sect or division.

32 (c) A copy of an approved Internal Revenue Service Form 4029,  
33 Application for Exemption from Social Security and Medicare  
34 Taxes and Waiver of Benefits, or a successor form, for the  
35 employee must be filed with the application described in subsection  
36 (b).

37 (d) The board shall issue the certificate of exemption not later  
38 than ten (10) days after the board receives a completed application  
39 and the form described in subsection (c). The exemption is effective  
40 on the date the certificate is issued and remains in effect until  
41 rescinded as provided in subsection (f).

42 (e) The board shall maintain a data base consisting of the



1 certificates issued under this section and on request verify that a  
2 certificate is on file.

3 (f) If an employee for whom a certificate is issued no longer  
4 meets the requirements of this section, the employee and the  
5 employer are required to notify the board in writing not later than  
6 thirty (30) days after the date the employee no longer meets the  
7 requirements of this section. The employer shall comply with the  
8 provisions of this chapter for that employee beginning on the date  
9 of the notice under this subsection.

