

Indiana Labor Insider

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Advancing the safety, health and prosperity of Hoosiers in the workplace

Mitchell E. Daniels Jr., Governor

Lori A. Torres, Commissioner of Labor

Working Together in Sync

Last month, I was able to report a reduction in the raw number of fatalities for 2008. This month, I am happy to report a similar reduction for injuries and illnesses for 2008. Indiana has, through hard work on your part, and concentrated effort on our part, kept more people safe and healthy than ever before. The just released injury and illness rate for all of public and private employers in Indiana is 4.9. That translates to 4.9 employees who suffer a recordable injury or illness out of every 100 full time employees each year, a 6% reduction. And while I understand the skeptics who believe that gains are made purely through false reporting by employers, our day to day experience defies that explanation. The OSHA 300 log reviews that compliance officers conduct and OSHA Data Initiative Survey and follow up do not suggest that the advancements that Indiana is making is due to fraud. Rather, from the perspective of this agency and its eyes and ears in the field, it is a product of the business community and labor looking out for labor, as well as this agency's efforts in both enforcement and outreach. We seem to be all working in sync to serve our fellow Hoosiers.



Lori A. Torres
Commissioner of Labor

Speaking of working in sync, this issue also has information designed to help you get your questions answered more promptly, by providing information on the appropriate state and federal agency with jurisdiction over your issue. Our goal is to reduce your frustration when you call on us, and we can't address your problem or question because another agency actually handles your inquiry. We want you, our customers, to be satisfied when you ask for our help. It is one way we try to fulfill the governor's mission of serving Hoosiers.

Happy Holidays,

Lori Torres
Lori A. Torres
Commissioner

Hoosier Occupational Injuries and Illnesses at Record Low in 2008

Indiana's non-fatal occupational injury and illness rate finally broke through that 5.0 floor, coming in at a historic low of **4.9 per 100 workers**. Based upon the survey of Occupational Injuries and Illnesses (SOII) administered by the Bureau of Labor Statistics (BLS), the Indiana rate for 2008 has surpassed the previous low record of 5.2 in 2007.

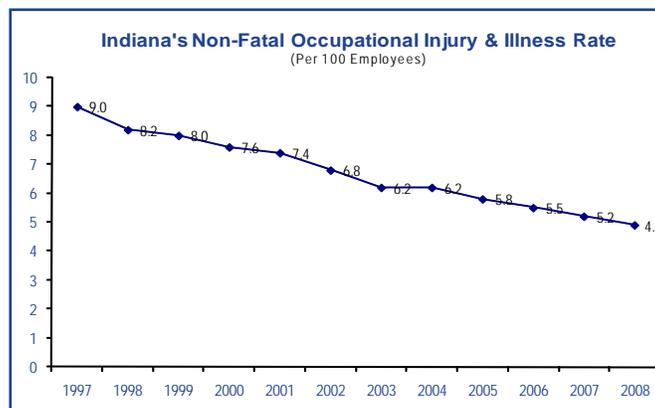
Occupational injury and illness rates in all private industries were lower from the previous years' rates. In fact, all major industries, with the exception of **agriculture**, experienced their lowest rate on record. Indiana's **construction** industry (4.6) experienced the largest occupational injury and illness rate drop on record in 2008, which is 19% lower than 2007.

Indiana's **state and local government** rate remained unchanged from the 2007 rate of 5.7 per 100 workers. State

and local government is among the top three industries with the greatest numbers of injured or ill workers.

The industries in Indiana with the greatest numbers of injured and ill workers include **manufacturing** (30,800), **healthcare and social assistance** (16,000) and **state and local government** (15,500). The Hoosier industry with the highest injury and illness rate is **agriculture, forestry and fishing** with a rate of 7.6 per 100 workers; however, the 2008 rate is less than the 2007 rate of 8.4. Other industries above the national and state average include **healthcare and social assistance** (6.4) as well as the **arts, entertainment and recreation industry** (5.8).

A thorough analysis of the BLS data will be published in the IDOL's annual publication, *IN Review*. For additional information, please email stats@dol.in.gov.



SAFETY ALERT:

Working with Lifts and Booms

When a job or task takes you physically beyond your reach, a call for back-up beyond the traditional ladder or extension ladder may be necessary. Motorized lifts and booms are specific types of equipment used in many industries like construction, manufacturing and agriculture, just to name a few. The equipment is used to perform tasks which may include the construction of a new building, as well as routine repair and general maintenance. There are many different types of lift and boom equipment such as scissor lifts, aerial lifts, telescoping (articulating) boom forklifts and bucket lifts that may be the appropriate solution to perform work beyond your reach. However, the use of such equipment is not without risks for both the operator as well as employees working below.

Common types of incidents involving lifts and booms include lift or boom overturns, jackknifes, falls and electrocution. From 2003-2008, 40 occupational-related deaths were caused by the use of some type of lift or boom (bucket, scissor, forklift, etc.). In Indiana, in 2007 alone, there were 640 injuries involving lift vehicles that required the affected employee to take time off of work.

Transportation-related incidents associated with the use of a lift or boom vehicle were the cause of 14 Hoosier worker deaths from 2003-2008. These incidents included overturned lift vehicles, striking of workers on foot and collisions.

Overturned or jackknifed lifts and booms were the cause of 7 work-related fatalities from

2003-2008. Overturning or jackknifing a lift vehicle may be caused by misapplication of the machine when navigating obstacles (i.e. other equipment, machinery or changes in surface incline or slope), not properly using outriggers, unfamiliarity with the operator's manual and procedures or lack of appropriate training.

In addition to the lift operators themselves, employees working below the lift's operation are also at risk for sustaining occupational injury and death. From 2003-2008, 6 workers in Indiana were killed when an object either **fell from or rolled off of the lift and struck them**. In addition to the hazards presented when materials or objects fall from lifts, ground workers are also at risk for being struck by the lift or boom vehicle itself. During this same time frame, 4 workers on foot were struck and killed by a vehicle of this type.

Falls hazards are present in the use of lifts and are all too common for the construction industry, among others. From 2003-2008, 8 Hoosier workers were killed from falling while operating some type of lift. OSHA standards vary greatly depending on the lift or boom application and the industry in which it is used. Employers must select the appropriate fall protection measures that are compatible with the type of work being performed. Adequate fall protection varies from industry to industry, depending on the industry. Generally, fall protection can be provided through the use of guardrail systems, safety net systems, personal fall arrest systems, positioning device systems and warning line systems, among others.

Another cause for concern when operating a lift is **electrocution**. Lift and boom operators, especially when using the equipment outdoors, face an increased risk of contact with electrical current from high and low voltage and wires. In a six-year span, from 2003-2008, 4 Hoosier workers were electrocuted while using some type of lift or boom.

Regardless of the type, lifts and booms must only be used according to the manufacturer's recommendations and ratings. Lifts and booms should not be used on grades that exceed the manufacturer's recommendations. In addition to abiding by the safe operational incline, operators should also be aware of the appropriate weight

(Continued on page 3)



An employee working in an aerial lift is not wearing the appropriate personal protective equipment (fall arrest system). Photo taken on an OSHA enforcement inspection.

(Safety Alert: Working with Lifts and Booms, continued from page 2)

at which the lift is rated. Regardless of direction, horizontal or vertical, moving objects too heavy or large can put the operator, as well as others working nearby, at risk of being struck by either the lift itself or the object being lifted. Altering the application may potentially impact the integrity of the equipment. Any alterations to the lift or boom must be approved by the manufacturer in writing. Such documentation must be maintained.

All employees working with or near lifts or other types of heavy equipment should be well educated in the associated hazards and safe operating procedures. Two cases, found below, discuss circumstances in which the use of lift or boom equipment has become fatal. More information and standards for lifts may be found online at www.osha.gov.



It Happened Here: Marion & Perry Counties

Background: As stated in the *Safety Alert* article, from 2003-2008, in Indiana, 40 workplace fatalities have been attributed to the use of some type of lift vehicle (e.g. lift truck, bucket lift, scissor lift, forklift). In 2007 alone, more than 600 Hoosier workers suffered serious and severe non-fatal occupational injuries, which required they miss work. Below are two instances involving a lift vehicle.

Fatal Event 1: On June 17, 2009, in Marion County, a 55 year-old iron worker was fatally injured while working from an aerial lift. The iron worker was attempting to move the lift's basket from the second level of the building to the ground level. All drive tires from the lift were engaged, and the iron worker moved eastward approximately 4 ½ feet. The lift's right tire fell into an improperly marked hole, measuring two feet in length and width and one foot deep. The tire's change in elevation, combined with the position of the lift's boom, the forward motion of the lift, counterweight and drive tire angle, caused the lift to roll from north to south and strike a beam. The rolling action of the lift, coupled with the striking of the beam, caused the iron worker to be ejected from the lift's basket. The iron worker fell from the lift approximately 40 feet to ground level. At the time of the ejection, the iron worker was wearing a full body harness with a double lanyard; however, the harness was not tied off or connected to the lift in any way.

The iron worker was pronounced dead at the scene from blunt force trauma injuries suffered as a result of the fall.

Fatal Event 2: On June 21, 2009, in Perry County, a 42 year-old scissor lift operator was fatally injured while working from a scissor lift. The operator had moved the lift into position to check the tracking of an overhead conveyor belt. The operator was found by co-workers, trapped between the scissor lift's guardrails and an overhead platform. When the lift's primary emergency shutdown failed to operate, co-workers managed to shutdown the lift using a secondary system. The scissor lift selector switch was in the "horizontal" mode. It is unknown why the lift rose vertically.



An employee working in an aerial lift is not wearing the appropriate personal protective equipment (fall arrest system). Photo taken on an IOSHA enforcement inspection.

The scissor lift operator died from asphyxiation caused by being pinned between the lift's guardrails and overhead platform.

Lessons Learned: To reduce the likelihood and prevent similar incidents from occurring in the future, employers and employees should:

- Foster a culture of workplace safety and health and accountability for all written safety and health policies, rules, procedures and regulations.
- Provide employees with the appropriate level of supervision.
- Mandate the use of fall protection 100% of the time for employees working at elevations.
- Develop a daily self-inspection checklist to ensure that all hazards are eliminated or appropriately controlled through the use of personal protective equipment (PPE).
- Ensure equipment and machinery is scheduled for, and receives, the appropriate preventative maintenance.
- Ensure a qualified person inspects equipment and machinery prior to operation.
- Ensure equipment, machinery and safety devices are used in accordance with the manufacturer's recommendations.
- Provide training, and retraining, on safe work practices as often as necessary, as well as educate employees on the hazards associated with their respective jobs.
- Ensure that training covers a practical demonstration in the safe operation procedures of all equipment, machinery and personal protective equipment (PPE).
- Ensure that all holes, excavations and depressions are properly identified, marked and barricaded to restrict entry.
- Ensure that the appropriate clearance of any overhead electrical source, equipment, machinery, etc. prior to operation.

IDOL Prepares to Launch Online Wage Claim Form in Early 2010

The IDOL's Wage and Hour division will launch an Online Wage Claim Form in early 2010. A wage claim may be filed when a working Hoosier does not receive payment for actual hours worked, is not receiving at least minimum wage (\$7.25 per hour) or overtime and are entitled to either by law, as well as other scenarios.

The wage claim process is a voluntary mediation process, and filing an application does not guarantee that the claim will result in compensation to the claimant. Claims must be completed in their entirety prior to submission. The IDOL's Wage and Hour division determines if the claim meets one of the five criteria for acceptance. In addition, claimants are not provided "protection" from termination when filing a claim against a current employer.

Currently, a wage claim is initiated by completing and mailing a paper application to the IDOL's Wage & Hour Division, along with any supporting documentation or evidence that wages are owed to the employee. Supporting documentation or evidence can include employee time sheets as proof of hours worked, past pays stubs, employer policies for vacation time claims as well as many others forms.

In addition to the form, answers to many frequently asked questions are available on the wage and hour website. Please check out the next edition of the *Indiana Labor Insider* for additional information regarding the Online Wage Claim Form. For more information about Indiana Wage and Hour laws, visit the division's website at www.in.gov/dol/wagehour.htm.



You Asked, We Answered - Injury, Illness & Fatality Information

Where does workplace injury, illness and fatality information come from?

The data comes from many sources. The Indiana Department of Labor (IDOL) uses data provided by the Bureau of Labor Statistics (BLS) Census of Fatal Occupational Injuries (CFOI) and Survey of Occupational Injuries and Illnesses (SOII). Because of confidentiality restrictions, individual case information cannot be reported. Information for cases often described in IDOL reports and publications is obtained solely from IDOL field investigations.

Why are worker injury, illness and fatality rates and information always at least one-year behind?

In order to best capture, and appropriately represent occupational injury, illness and fatality data for the entire year, it is collected the following year. Once collected, data is analyzed at both the federal and state level before publishing the report. Occupational fatality data is typically published in late August,



while non-fatal injury and illness data is available in mid to late October of the following year.

How many workers are injured on-the job nation-wide? How many of those workers are from Indiana?

While the number of workers injured while working each year declines, there are still more than 1,000,000 non-fatal work-related injuries and illnesses nationwide. The number of work-related injuries in Indiana also continues to decline. The number of injuries reported by Hoosier workers in 2008 is the lowest it has ever been at 112,100. The 2008 report is nearly 13,000 fewer than the previous low of 125,000 reported in 2007.

Which industries in Indiana experience the greatest number of deaths on-the-job?

In the 2008 CFOI most recent findings, the industries in Indiana that reported the highest number of workplace fatalities included agriculture (22), construction (19) and manufacturing (18).

16 and 17 Year-Olds May Work Extended Hours with Written Permission

Indiana law allows 16 and 17 year-olds to work extended hours provided the employer obtains **written parental permission** from a parent or legal guardian. Written permission must be granted **prior** to the 16 or 17 year-old working the extended hours. For example, with written parental permission, the normal maximum 30-hour work week may be extended to 40 hours during a school week and to 48 hours during a non-school week. With written parental permission, teens 16 years of age may work until midnight on days not followed by a school day. With written parental permission, 17 year-olds may work until 11:30 p.m. on nights followed by a school day. Parents may also grant permission for 17 year-olds to work until 1:00 a.m., but not on consecutive nights and not more than two school nights per week.

Indiana's Child Labor Laws define a **school day** as a day that contains more than four (4) hours of classroom instruction. A **school week** is a week that contains three (3) or more school days, and a **non-school week** as a week that contains two (2) or fewer school days. For more information on Indiana's Child Labor laws, please visit www.in.gov/dol/childlabor.htm or email childlabor@dol.in.gov.



An Employers' Quick Reference to Indiana Government Resources

Laws vary from state to state, and often times the state agencies which enforce particular laws vary from state to state as well. The number of agencies which comprise the State of Indiana makes it difficult for employers and employees to know who to call when they have a question, concern or need to file a complaint. The following are brief synopses of each of the duties of Indiana state agencies which regularly deal with labor related issues.

Indiana Department of Labor

www.in.gov/dol

Occupational Safety and Health. The Indiana Occupational Safety and Health Administration (IOSHA) enforces safety and health regulations which directly relate to employee safety and health. IOSHA also enforces whistleblower protection laws, to protect employees from adverse action by their employer for raising safety and health related concerns. To make an occupational safety or health complaint, please contact the complaint line by email at oshacomplaint@dol.in.gov or by phone at (317) 232-2693. To make a whistleblower protection complaint, contact (317) 234-3946.

OSHA Compliance Assistance. INSafe, the IDOL's worker safety initiative, provides on-site occupational safety and health consultation for employers that request the service. Service is delivered free of charge, using a well-trained and highly skilled staff of Safety and Health Consultants. INSafe may be contacted by email at insafe@dol.in.gov or by phone at (317) 232-2688. To request an on-site consultation, please visit www.in.gov/dol/insafeconsultation.

Wage & Hour and Common Construction Wage (CCW). The Wage & Hour Division enforces Indiana's Minimum Wage Law, as well the Common Construction Wage Act (CCW Act). Employers and employees may contact the Wage & Hour Division for questions regarding Indiana's Minimum Wage, or to file a complaint for non-payment of wages. Wage & Hour can be reached by email at wagehour@dol.in.gov or by phone at (317) 234-4681. Questions about the CCW Act or meeting schedules should be directed to (317) 232-8001 (Southern Indiana) or (317) 233-4895 (Northern Indiana).

Child Labor Laws. The Bureau of Child Labor enforces laws regarding the employment of persons under the age of 18. Questions may be directed to the Bureau by email at childlabor@dol.in.gov or by phone at (317) 234-6718.

Mine Safety and Health. The Bureau of Mines is located in Vincennes, Indiana and is responsible for inspecting Indiana mines in accordance with mine safety and health laws. For questions regarding Mine Safety Laws, please contact the Bureau of Mines by email at mines@dol.in.gov or by phone at (812) 888-4514.

Indiana Department of Environmental Management

www.in.gov/idem

Air, land and water quality and pollution prevention. The Indiana Department of Environmental Management (IDEM) enforces federal and state regulations to protect human health and the environment. Their regulations include air, land and water quality and pollution prevention. Unlike IOSHA, their safety and health regulations deal with adverse effects on both the environment and Indiana's general population, whereas IOSHA enforces regulations that deal strictly with employee safety and health. For questions regarding environmental regulations or to file a complaint, contact IDEM at (317) 232-8603 or toll free in Indiana at (800) 451-6027.

Environmental Compliance and Technical Assistance. IDEM's Compliance and Technical Assistance Program (CTAP), is an employer's one-stop shop for regulatory environmental compliance needs. The CTAP team has experience and knowledge in all environmental programs and provides confidential technical assistance on many environmental topics. To request assistance, please visit www.in.gov/idem/5673.htm or phone (317) 232-8172.

Indiana Department of Workforce Development

www.in.gov/dwd

Unemployment Benefits. The Indiana Department of Workforce Development (DWD) provides income assistance to workers who have lost their job by no fault of their own. For questions about Indiana's Unemployment Insurance laws, please contact the DWD or a local WorkOne Center. DWD offices may be contacted by phone, toll free at (800) 891-6499.

WorkOne Centers. The DWD has established WorkOne Centers across the State of Indiana. WorkOne assists Hoosiers in finding new employment opportunities, makes training available to better their skills and helps to match those skills with available employment and also assists employers with finding qualified employees. WorkOne can also answer unemployment insurance benefit questions. To find a local WorkOne Center, please visit www.in.gov/dwd/WorkOne/regions.html.

Worker's Compensation Board of Indiana

www.in.gov/wcb

Worker's Compensation. The Worker's Compensation Board of Indiana (WCB) enforces Indiana's Worker's Compensation laws. Assistance is provided to both injured employees and their employers. For questions regarding Indiana's Worker's Compensation System, please contact the WCB at (317) 232-3808.

Save the Date For the 2010 Occupational Safety & Health Conference!

The new year is right around the corner and so is the **2010 Indiana Occupational Safety and Health Conference and Exposition!** The **2010** conference is scheduled for March 1-3, 2010 at the Marriott East in Indianapolis, Indiana.

In addition to the more than 30 educational sessions to choose from, several vendors will be set up in the exhibit hall on March 2, 2010. Don't miss the opportunity to network with hundreds of industry professionals. Also, be sure to stop by the Indiana Department of Labor's exhibit to pick up the latest occupational safety and health information, as well as to

learn about compliance assistance tools and resources available to Indiana employers.

Also during the conference, on March 3, 2010, the recipients of the **2010 Governor's Workplace Safety Awards** will be announced. Applications for the 2010 awards are available online at www.in.gov/dol/files/GWSAApplication10.pdf. All award applications or nominations must be received no later than **5 p.m. on January 27, 2010**. Additional information is available on the conference website at www.insafetyconf.com/.

Discrimination in the Workplace: Where Do You Turn?

There are two main factors to consider when determining where you should turn if you were discriminated against by your employer. These factors are company size and the type of discrimination. The main types of discrimination as related to employment include: **age, disability, equal pay, national origin, pregnancy, race, religion, retaliation, sex, sexual harassment** and **sexual orientation**.

For individuals that believe they have been discriminated against by their employer for one of the aforementioned reasons, the company size and the type of discrimination will determine who they should contact to file a complaint.

The **Indiana Civil Rights Commission (ICRC)** enforces Indiana law designated to provide equal opportunity in employment regardless of “race, religion, color, sex, disability, national origin or ancestry.” If your employer or former employer employs less than twenty (20) employees, and you

have been discriminated against because of your race, religion, gender, disability or national origin, you should file a complaint with the ICRC. Information to contact the ICRC is available online at www.in.gov/icrc/2336.htm.

The **Indiana Department of Labor (IDOL)** has juris-

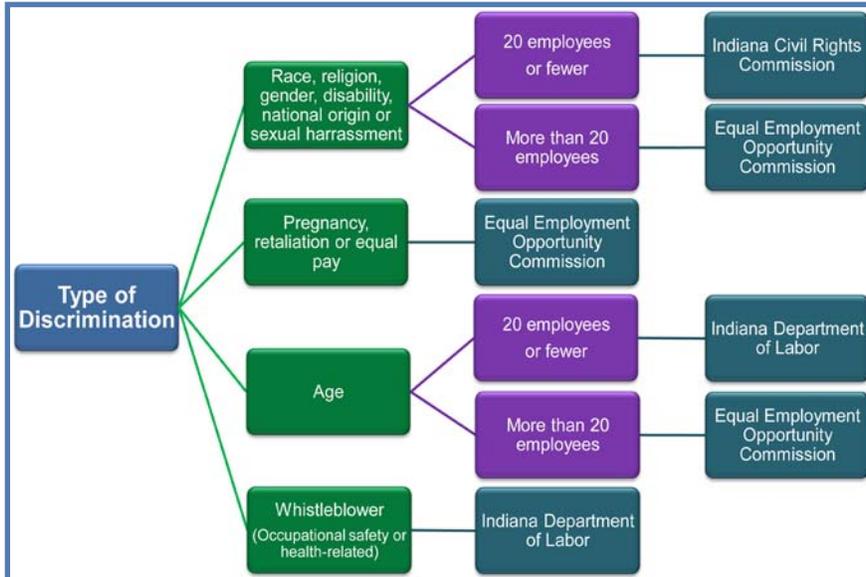
isdiction to enforce age discrimination laws for employers who employ less than 20 employees. In addition to age discrimination, the IDOL also accepts whistleblower protection complaints, which are initiated by an employee, in the event that he or she suffers an adverse employment action for filing an occupational safety or health complaint against his or her employer. To file an age discrimination or whistleblower complaint, please contact the IDOL at (317) 234-3946.

The **Equal Employment Opportunity Commission (EEOC)**

(EEOC) enforces federal law designated to provide equal opportunity in employment. In addition to those types of discrimination enforced by the ICRC, the EEOC also enforces discrimination laws regarding pregnancy, age, equal pay and retaliation for filing a discrimination complaint. If your employer or former employer employs more than twenty (20) employees, and you feel you’ve been discriminated against,

you should file a charge of discrimination with the EEOC. To learn more about the EEOC, visit www.eeoc.gov.

For further assistance, use the chart found above to determine the appropriate state or federal agency to address your concerns.



Recognizing Excellence

Recognizing Excellence spotlights Hoosier employers and their employees for their efforts in achieving status in either the Indiana Voluntary Protection Program (VPP) or Indiana Safety and Health Achievement Recognition Program (INSHARP). The Indiana Department of Labor congratulates the following employers and employees for their efforts to ensure Hoosier occupational safety and health. Additional information on INSHARP or VPP may be found online at www.in.gov/dol.

INSHARP

New: Univertical Corporation (Angola, IN)

Recertification: Blue River Services (Salem, Palmyra & Corydon, IN)
 BioConvergence LLC (Bloomington, IN)
 Gartland Foundry (Terre Haute, IN)
 Rauch, A Place to Create (New Albany, IN)
 Rauch Industries (New Albany, IN)

VPP

Recertification: Kimball Electronics Group (Jasper, IN)
 Rohm and Haas Powder Coatings (Warsaw, IN)

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