

HOUSE BILL No. 1662

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-3-2-14; IC 22-3-2-14.5.

Synopsis: Affidavits from worker's compensation coverage. Excludes work done on owner-occupied residential property from requiring a certificate authorizing the carrying of risk without insurance. Changes the filing fee for a certificate of exemption from worker's compensation provisions for independent contractors from \$5 to \$20. Provides that an affidavit of exemption from worker's compensation for independent contractors becomes effective as of midnight seven business days after the date of receipt. Provides that a contractor who knowingly and intentionally causes or assists employees, including temporary employees, to file an affidavit of exemption commits a Class C felony.

Effective: July 1, 1999.

Smith M

January 21, 1999, read first time and referred to Committee on Labor and Employment.

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Introduced

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

HOUSE BILL No. 1662

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 22-3-2-14 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. **(a) This section**
3 **does not apply to work on owner-occupied residential property.**
4 ~~(a)~~ **(b)** The state, any political division thereof, any municipal
5 corporation, any corporation, limited liability company, partnership, or
6 person, contracting for the performance of any work exceeding one
7 thousand dollars (\$1,000) in value by a contractor subject to the
8 compensation provisions of IC 22-3-2 through IC 22-3-6, without
9 exacting from such contractor a certificate from the worker's
10 compensation board showing that such contractor has complied with
11 section 5 of this chapter, IC 22-3-5-1, and IC 22-3-5-2, shall be liable
12 to the same extent as the contractor for compensation, physician's fees,
13 hospital fees, nurse's charges, and burial expenses on account of the
14 injury or death of any employee of such contractor, due to an accident
15 arising out of and in the course of the performance of the work covered
16 by such contract.
17 ~~(b)~~ **(c)** Any contractor who shall sublet any contract for the

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1 performance of any work, to a subcontractor subject to the
 2 compensation provisions of IC 22-3-2 through IC 22-3-6, without
 3 obtaining a certificate from the worker's compensation board showing
 4 that such subcontractor has complied with section 5 of this chapter,
 5 IC 22-3-5-1, and IC 22-3-5-2, shall be liable to the same extent as such
 6 subcontractor for the payment of compensation, physician's fees,
 7 hospital fees, nurse's charges, and burial expenses on account of the
 8 injury or death of any employee of such subcontractor due to an
 9 accident arising out of and in the course of the performance of the work
 10 covered by such subcontract.

11 ~~(c)~~ (d) The state, any political division thereof, any municipal
 12 corporation, any corporation, limited liability company, partnership,
 13 person, or contractor paying compensation, physician's fees, hospital
 14 fees, nurse's charges, or burial expenses under this section may recover
 15 the amount paid or to be paid from any person who, independently of
 16 such provisions, would have been liable for the payment thereof and
 17 may, in addition, recover the litigation expenses and attorney's fees
 18 incurred in the action before the worker's compensation board as well
 19 as the litigation expenses and attorney's fees incurred in an action to
 20 collect the compensation, medical expenses, and burial expenses.

21 ~~(d)~~ (e) Every claim filed with the worker's compensation board
 22 under this section shall be instituted against all parties liable for
 23 payment. The worker's compensation board, in an award under
 24 subsection (a), shall fix the order in which said parties shall be
 25 exhausted, beginning with the immediate employer, and, in an award
 26 under subsection (b), shall determine whether the subcontractor has the
 27 financial ability to pay the compensation and medical expenses when
 28 due and, if not, shall order the contractor to pay the compensation and
 29 medical expenses.

30 SECTION 2. IC 22-3-2-14.5 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14.5. (a) As used in this
 32 section, "independent contractor" refers to a person described in
 33 IC 22-3-6-1(b)(7).

34 (b) As used in this section, "person" means an individual, a
 35 proprietorship, a partnership, a joint venture, a firm, an association, a
 36 corporation, or other legal entity.

37 (c) An independent contractor who does not make an election under
 38 IC 22-3-6-1(b)(4) or IC 22-3-6-1(b)(5) is not subject to the
 39 compensation provisions of IC 22-3-2 through IC 22-3-6 and must file
 40 a statement and obtain a validated affidavit of exemption under this
 41 section.

42 (d) An independent contractor shall file with the worker's



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1 compensation board, in the form prescribed by the worker's
2 compensation board, a statement providing the following information:

3 (1) The independent contractor's name, trade name, address, and
4 telephone number.

5 (2) The independent contractor's federal identification number or
6 Social Security number.

7 (e) An independent contractor shall pay a filing fee in the amount
8 of ~~five dollars (\$5)~~ **twenty dollars (\$20)** with the statement required
9 in subsection (d). The fees collected under this subsection shall be
10 deposited as follows:

11 (1) Fifty percent (50%) in the worker's compensation
12 supplemental administrative fund.

13 (2) Fifty percent (50%) into a special account in the state general
14 fund known as the independent contractor information account.
15 Money in the independent contractor information account is
16 annually appropriated to the department of state revenue for its
17 use in carrying out the purposes of IC 6-3-7-5.

18 (f) The worker's compensation board shall keep each statement
19 received under this section on file and on request may verify that a
20 validated affidavit is on file.

21 (g) The affidavit of exemption required by this section must be on
22 a form prescribed and provided by the worker's compensation board.
23 An affidavit issued under this section is valid for one (1) year.

24 (h) An affidavit of exemption must certify the following
25 information:

26 (1) That the independent contractor has worker's compensation
27 coverage for the independent contractor's employees in
28 accordance with IC 22-3-2 through IC 22-3-6.

29 (2) That the independent contractor desires to be exempt from
30 being able to recover under the worker's compensation policy or
31 self-insurance of a person for whom the independent contractor
32 will perform work only as an independent contractor.

33 (i) An affidavit of exemption must be filed with the worker's
34 compensation board. The board shall validate the affidavit by stamping
35 the affidavit with the date of receipt and returning a validated copy to
36 the person executing the affidavit. A validated affidavit becomes
37 effective as of midnight ~~on the date received:~~ **seven (7) business days**
38 **after the date of receipt by the worker's compensation board.** The
39 board shall maintain the original affidavits filed and validated by the
40 board.

41 (j) Not more than thirty (30) days after the worker's compensation
42 board receives an independent contractor's statement, validated

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1 affidavit, and filing fee required by this section, the worker's
2 compensation board shall provide the department of state revenue with
3 a copy of the statement and validated affidavit.

4 (k) A person who contracts for services of another person not
5 covered by IC 22-3-2 through IC 22-3-6 to perform work must secure
6 a copy of a validated affidavit issued under this section from the person
7 hired. A person may not require a person who has provided a validated
8 affidavit to have worker's compensation coverage. The worker's
9 compensation insurance carrier of a person who contracts with an
10 independent contractor shall accept a validated affidavit in the same
11 manner as a certificate of insurance.

12 (l) An affidavit validated under this section is binding on and holds
13 harmless from all claims:

14 (1) a person who contracts with an independent contractor after
15 receiving a copy of the validated affidavit; and

16 (2) the worker's compensation insurance carrier of the person who
17 contracts with the independent contractor.

18 The independent contractor may not collect compensation under
19 IC 22-3-2 through IC 22-3-6 for an injury from a person or the person's
20 worker's compensation carrier to whom the independent contractor has
21 furnished a validated affidavit.

22 **(m) A contractor who knowingly and intentionally causes or**
23 **assists employees, including temporary employees, to file an**
24 **affidavit of exemption commits a Class C felony.**

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