

---

---

# HOUSE BILL No. 1421

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-3.

**Synopsis:** Worker's compensation statute of limitations. Provides that the statute of limitations for the filing of a worker's compensation claim for an injury or occupational disease, or for modification of an award, is tolled upon certain occurrences.

**Effective:** July 1, 2004.

---

---

### Kruse

---

---

January 20, 2004, read first time and referred to Committee on Labor and Employment.

---

---

C  
O  
P  
Y



Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

C  
o  
p  
y

# HOUSE BILL No. 1421



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 22-3-3-3 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a) Except as provided in**  
3 **subsections (b) and (c)**, the right to compensation under IC 22-3-2  
4 through IC 22-3-6 shall be forever barred unless within two (2) years  
5 after the occurrence of the accident, or if death results therefrom,  
6 within two (2) years after such death, a claim for compensation  
7 thereunder shall be filed with the worker's compensation board.

8 **(b) In a case of:**  
9 **(1) fraud committed against the employee by the employer or**  
10 **agent regarding filing a claim for compensation;**  
11 **(2) mutual mistake between the employee and employer or**  
12 **agent regarding filing a claim for compensation;**  
13 **(3) detrimental reliance by the employee upon the employer**  
14 **or agent regarding the filing of a claim for compensation; or**  
15 **(4) discovery of the discernability of injury by the employee;**  
16 **the claim for compensation shall be filed with the board within two**  
17 **(2) years after the date on which the employee had knowledge of**



1 **the injury or should reasonably have known of the injury and the**  
2 **injury's relationship to the employment.**

3 (c) However, in all cases wherein an accident or death results from  
4 the exposure to radiation, a claim for compensation shall be filed with  
5 the board within two (2) years from the date on which the employee  
6 had knowledge of ~~his~~ **the** injury or by exercise of reasonable diligence  
7 should have known of the existence of such injury and its causal  
8 relationship to ~~his~~ **the** employment.

9 SECTION 2. IC 22-3-3-27 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 27. (a) The power and  
11 jurisdiction of the worker's compensation board over each case shall be  
12 continuing and from time to time it may, upon its own motion or upon  
13 the application of either party, on account of a change in conditions,  
14 make such modification or change in the award ending, lessening,  
15 continuing, or extending the payments previously awarded, either by  
16 agreement or upon hearing, as it may deem just, subject to the  
17 maximum and minimum provided for in IC 22-3-2 through IC 22-3-6.

18 (b) Upon making any such change, the board shall immediately send  
19 to each of the parties a copy of the modified award. No such  
20 modification shall affect the previous award as to any money paid  
21 thereunder.

22 (c) **Except as provided in subsection (d)**, the board shall not make  
23 any such modification upon its own motion nor shall any application  
24 therefor be filed by either party after the expiration of two (2) years  
25 from the last day for which compensation was paid under the original  
26 award made either by agreement or upon hearing, except that  
27 applications for increased permanent partial impairment are barred  
28 unless filed within one (1) year from the last day for which  
29 compensation was paid. The board may at any time correct any clerical  
30 error in any finding or award.

31 **(d) The statute of limitations set forth in subsection (c) is tolled**  
32 **on the date that a fraud is committed against the employee by the**  
33 **employer or agent regarding filing a modification or change in the**  
34 **award of compensation.**

35 SECTION 3. IC 22-3-7-9, AS AMENDED BY P.L.202-2001,  
36 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
37 JULY 1, 2004]: Sec. 9. (a) As used in this chapter, "employer" includes  
38 the state and any political subdivision, any municipal corporation  
39 within the state, any individual or the legal representative of a deceased  
40 individual, firm, association, limited liability company, or corporation  
41 or the receiver or trustee of the same, using the services of another for  
42 pay. A parent corporation and its subsidiaries shall each be considered

C  
o  
p  
y



1 joint employers of the corporation's, the parent's, or the subsidiaries'  
 2 employees for purposes of sections 6 and 33 of this chapter. Both a  
 3 lessor and a lessee of employees shall each be considered joint  
 4 employers of the employees provided by the lessor to the lessee for  
 5 purposes of sections 6 and 33 of this chapter. The term also includes an  
 6 employer that provides on-the-job training under the federal School to  
 7 Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth  
 8 under section 2.5 of this chapter. If the employer is insured, the term  
 9 includes ~~his~~ **the employer's** insurer so far as applicable. However, the  
 10 inclusion of an employer's insurer within this definition does not allow  
 11 an employer's insurer to avoid payment for services rendered to an  
 12 employee with the approval of the employer.

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

19 (1) Any reference to an employee who has suffered disablement,  
 20 when the employee is dead, also includes ~~his~~ **the employee's**  
 21 legal representative, dependents, and other persons to whom  
 22 compensation may be payable.

23 (2) An owner of a sole proprietorship may elect to ~~include himself~~  
 24 **be included** as an employee under this chapter if ~~he~~ **the owner** is  
 25 actually engaged in the proprietorship business. If the owner  
 26 makes this election, ~~he~~ **the owner** must serve upon ~~his~~ **the**  
 27 **owner's** insurance carrier and upon the board written notice of  
 28 the election. No owner of a sole proprietorship may be considered  
 29 an employee under this chapter unless the notice has been  
 30 received. If the owner of a sole proprietorship is an independent  
 31 contractor in the construction trades and does not make the  
 32 election provided under this subdivision, the owner must obtain  
 33 an affidavit of exemption under section 34.5 of this chapter.

34 (3) A partner in a partnership may elect to ~~include himself~~ **be**  
 35 **included** as an employee under this chapter if ~~he~~ **the partner** is  
 36 actually engaged in the partnership business. If a partner makes  
 37 this election, ~~he~~ **the partner** must serve upon ~~his~~ **the partner's**  
 38 insurance carrier and upon the board written notice of the  
 39 election. No partner may be considered an employee under this  
 40 chapter until the notice has been received. If a partner in a  
 41 partnership is an independent contractor in the construction trades  
 42 and does not make the election provided under this subdivision,

C  
o  
p  
y



1 the partner must obtain an affidavit of exemption under section  
2 34.5 of this chapter.

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

5 (A) they are licensed real estate agents;

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

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

11 (5) A person is an independent contractor in the construction  
12 trades and not an employee under this chapter if the person is an  
13 independent contractor under the guidelines of the United States  
14 Internal Revenue Service.

15 (6) An owner-operator that provides a motor vehicle and the  
16 services of a driver under a written contract that is subject to  
17 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor  
18 carrier is not an employee of the motor carrier for purposes of this  
19 chapter. The owner-operator may elect to be covered and have the  
20 owner-operator's drivers covered under a worker's compensation  
21 insurance policy or authorized self-insurance that insures the  
22 motor carrier if the owner-operator pays the premiums as  
23 requested by the motor carrier. An election by an owner-operator  
24 under this subdivision does not terminate the independent  
25 contractor status of the owner-operator for any purpose other than  
26 the purpose of this subdivision.

27 (7) An unpaid participant under the federal School to Work  
28 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the  
29 extent set forth under section 2.5 of this chapter.

30 (c) As used in this chapter, "minor" means an individual who has  
31 not reached seventeen (17) years of age. A minor employee shall be  
32 considered as being of full age for all purposes of this chapter.  
33 However, if the employee is a minor who, at the time of the last  
34 exposure, is employed, required, suffered, or permitted to work in  
35 violation of the child labor laws of this state, the amount of  
36 compensation and death benefits, as provided in this chapter, shall be  
37 double the amount which would otherwise be recoverable. The  
38 insurance carrier shall be liable on its policy for one-half (1/2) of the  
39 compensation or benefits that may be payable on account of the  
40 disability or death of the minor, and the employer shall be wholly liable  
41 for the other one-half (1/2) of the compensation or benefits. If the  
42 employee is a minor who is not less than sixteen (16) years of age and

**C**  
**O**  
**P**  
**Y**



1 who has not reached seventeen (17) years of age, and who at the time  
 2 of the last exposure is employed, suffered, or permitted to work at any  
 3 occupation which is not prohibited by law, the provisions of this  
 4 subsection prescribing double the amount otherwise recoverable do not  
 5 apply. The rights and remedies granted to a minor under this chapter on  
 6 account of disease shall exclude all rights and remedies of the minor,  
 7 ~~his~~ **the minor's** parents, ~~his~~ **the minor's** personal representatives,  
 8 dependents, or next of kin at common law, statutory or otherwise, on  
 9 account of any disease.

10 (d) This chapter does not apply to casual laborers as defined in  
 11 subsection (b), nor to farm or agricultural employees, nor to household  
 12 employees, nor to railroad employees engaged in train service as  
 13 engineers, firemen, conductors, brakemen, flagmen, baggagemen, or  
 14 foremen in charge of yard engines and helpers assigned thereto, nor to  
 15 their employers with respect to these employees. Also, this chapter  
 16 does not apply to employees or their employers with respect to  
 17 employments in which the laws of the United States provide for  
 18 compensation or liability for injury to the health, disability, or death by  
 19 reason of diseases suffered by these employees.

20 (e) As used in this chapter, "disablement" means the event of  
 21 becoming disabled from earning full wages at the work in which the  
 22 employee was engaged when last exposed to the hazards of the  
 23 occupational disease by the employer from whom ~~he~~ **the employee**  
 24 claims compensation or equal wages in other suitable employment, and  
 25 "disability" means the state of being so incapacitated.

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

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

36 (2) In all cases of occupational disease caused by the exposure to  
 37 radiation, no compensation shall be payable unless disablement,  
 38 as defined in subsection (e), occurs within two (2) years from the  
 39 date on which the employee had knowledge of the nature of ~~his~~  
 40 **the** occupational disease or, by exercise of reasonable diligence,  
 41 should have known of the existence of such disease and its causal  
 42 relationship to ~~his~~ **the** employment.

C  
o  
p  
y



- 1 (3) In all cases of occupational diseases caused by the inhalation  
 2 of asbestos dust, no compensation shall be payable unless  
 3 disablement, as defined in subsection (e), occurs within three (3)  
 4 years after the last day of the last exposure to the hazards of the  
 5 disease if the last day of the last exposure was before July 1, 1985.  
 6 (4) In all cases of occupational disease caused by the inhalation  
 7 of asbestos dust in which the last date of the last exposure occurs  
 8 on or after July 1, 1985, and before July 1, 1988, no compensation  
 9 shall be payable unless disablement, as defined in subsection (e),  
 10 occurs within twenty (20) years after the last day of the last  
 11 exposure.  
 12 (5) In all cases of occupational disease caused by the inhalation  
 13 of asbestos dust in which the last date of the last exposure occurs  
 14 on or after July 1, 1988, no compensation shall be payable unless  
 15 disablement (as defined in subsection (e)) occurs within  
 16 thirty-five (35) years after the last day of the last exposure.  
 17 **(6) In all cases of occupational disease when:**  
 18 **(A) a fraud has been committed against the employee by**  
 19 **the employer or agent regarding filing a claim for**  
 20 **compensation;**  
 21 **(B) a mutual mistake has occurred between the employee**  
 22 **and employer or agent regarding filing a claim for**  
 23 **compensation;**  
 24 **(C) detrimental reliance by the employee upon the**  
 25 **employer or agent regarding the filing of a claim for**  
 26 **compensation has resulted in the employee not filing a**  
 27 **claim for compensation; or**  
 28 **(D) there has been a discovery of the discernability of**  
 29 **occupational disease by the employee;**  
 30 **the claim for compensation shall be filed with the board**  
 31 **within two (2) years after the date on which the employee had**  
 32 **knowledge of the occupational disease or should reasonably**  
 33 **have known of the occupational disease and the relationship**  
 34 **of the occupational disease to the employment.**  
 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

C  
O  
P  
Y



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 medical services, treatment, or  
 35 supplies to an employee under this chapter.

36 (l) As used in this chapter, "pecuniary liability" means the  
 37 responsibility of an employer or the employer's insurance carrier for the  
 38 payment of the charges for each specific service or product for human  
 39 medical treatment provided under this chapter in a defined community,  
 40 equal to or less than the charges made by medical service providers at  
 41 the eightieth percentile in the same community for like services or  
 42 products.

**C**  
**O**  
**P**  
**Y**



1 SECTION 4. IC 22-3-7-27, AS AMENDED BY P.L.235-1999,  
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2004]: Sec. 27. (a) If the employer and the employee or the  
4 employee's dependents disagree in regard to the compensation payable  
5 under this chapter, or, if they have reached such an agreement, which  
6 has been signed by them, filed with and approved by the worker's  
7 compensation board, and afterward disagree as to the continuance of  
8 payments under such agreement, or as to the period for which payments  
9 shall be made, or as to the amount to be paid, because of a change in  
10 conditions since the making of such agreement, either party may then  
11 make an application to the board for the determination of the matters  
12 in dispute. When compensation which is payable in accordance with an  
13 award or by agreement approved by the board is ordered paid in a lump  
14 sum by the board, no review shall be had as in this subsection  
15 mentioned.

16 (b) The application making claim for compensation filed with the  
17 worker's compensation board shall state the following:

18 (1) The approximate date of the last day of the last exposure and  
19 the approximate date of the disablement.

20 (2) The general nature and character of the illness or disease  
21 claimed.

22 (3) The name and address of the employer by whom employed on  
23 the last day of the last exposure, and if employed by any other  
24 employer after such last exposure and before disablement, the  
25 name and address of such other employer or employers.

26 (4) In case of death, the date and place of death.

27 (5) Amendments to applications making claim for compensation  
28 which relate to the same disablement or disablement resulting in  
29 death originally claimed upon may be allowed by the board in its  
30 discretion, and, in the exercise of such discretion, it may, in  
31 proper cases, order a trial de novo. Such amendment shall relate  
32 back to the date of the filing of the original application so  
33 amended.

34 (c) Upon the filing of such application, the board shall set the date  
35 of hearing, which shall be as early as practicable, and shall notify the  
36 parties, in the manner prescribed by the board, of the time and place of  
37 hearing. The hearing of all claims for compensation on account of  
38 occupational disease shall be held in the county in which the last  
39 exposure occurred or in any adjoining county, except when the parties  
40 consent to a hearing elsewhere. Claims assigned to an individual board  
41 member that are considered to be of an emergency nature by that board  
42 member, may be heard in any county within the board member's

**C**  
**O**  
**P**  
**Y**



1 jurisdiction.

2 (d) The board by any or all of its members shall hear the parties at  
3 issue, their representatives, and witnesses, and shall determine the  
4 dispute in a summary manner. The award shall be filed with the record  
5 of proceedings, and a copy thereof shall immediately be sent by  
6 registered mail to each of the parties in dispute.

7 (e) If an application for review is made to the board within thirty  
8 (30) days from the date of the award made by less than all the  
9 members, the full board, if the first hearing was not held before the full  
10 board, shall review the evidence, or, if deemed advisable, hear the  
11 parties at issue, their representatives, and witnesses as soon as  
12 practicable, and shall make an award and file the same with the finding  
13 of the facts on which it is based and send a copy thereof to each of the  
14 parties in dispute, in like manner as specified in subsection (d).

15 (f) An award of the board by less than all of the members as  
16 provided in this section, if not reviewed as provided in this section,  
17 shall be final and conclusive. An award by the full board shall be  
18 conclusive and binding unless either party to the dispute, within thirty  
19 (30) days after receiving a copy of such award, appeals to the court of  
20 appeals under the same terms and conditions as govern appeals in  
21 ordinary civil actions. The court of appeals shall have jurisdiction to  
22 review all questions of law and of fact. The board, of its own motion,  
23 may certify questions of law to the court of appeals for its decision and  
24 determination. An assignment of errors that the award of the full board  
25 is contrary to law shall be sufficient to present both the sufficiency of  
26 the facts found to sustain the award and the sufficiency of the evidence  
27 to sustain the finding of facts. All such appeals and certified questions  
28 of law shall be submitted upon the date filed in the court of appeals,  
29 shall be advanced upon the docket of the court, and shall be determined  
30 at the earliest practicable date, without any extensions of time for filing  
31 briefs. An award of the full board affirmed on appeal, by the employer,  
32 shall be increased thereby five percent (5%), and by order of the court  
33 may be increased ten percent (10%).

34 (g) Upon order of the worker's compensation board made after five  
35 (5) days notice is given to the opposite party, any party in interest may  
36 file in the circuit or superior court of the county in which the  
37 disablement occurred a certified copy of the memorandum of  
38 agreement, approved by the board, or of an order or decision of the  
39 board, or of an award of the full board unappealed from, or of an award  
40 of the full board affirmed upon an appeal, whereupon the court shall  
41 render judgment in accordance therewith and notify the parties. Such  
42 judgment shall have the same effect and all proceedings in relation

**C  
o  
p  
y**



1 thereto shall thereafter be the same as though such judgment has been  
 2 rendered in a suit duly heard and determined by the court. Any such  
 3 judgment of such circuit or superior court, unappealed from or affirmed  
 4 on appeal or modified in obedience to the mandate of the court of  
 5 appeals, shall be modified to conform to any decision of the industrial  
 6 board ending, diminishing, or increasing any weekly payment under the  
 7 provisions of subsection (i) upon the presentation to it of a certified  
 8 copy of such decision.

9 (h) In all proceedings before the worker's compensation board or in  
 10 a court under the compensation provisions of this chapter, the costs  
 11 shall be awarded and taxed as provided by law in ordinary civil actions  
 12 in the circuit court.

13 (i) The power and jurisdiction of the worker's compensation board  
 14 over each case shall be continuing, and, from time to time, it may, upon  
 15 its own motion or upon the application of either party on account of a  
 16 change in conditions, make such modification or change in the award  
 17 ending, lessening, continuing, or extending the payments previously  
 18 awarded, either by agreement or upon hearing, as it may deem just,  
 19 subject to the maximum and minimum provided for in this chapter.  
 20 When compensation which is payable in accordance with an award or  
 21 settlement contract approved by the board is ordered paid in a lump  
 22 sum by the board, no review shall be had as in this subsection  
 23 mentioned. Upon making any such change, the board shall immediately  
 24 send to each of the parties a copy of the modified award. No such  
 25 modification shall affect the previous award as to any money paid  
 26 thereunder. The board shall not make any such modification upon its  
 27 own motion, nor shall any application therefor be filed by either party  
 28 after the expiration of two (2) years from the last day for which  
 29 compensation was paid under the original award made either by  
 30 agreement or upon hearing, except that:

31 **(1) this statute of limitations is tolled on the date that a fraud**  
 32 **is committed against the employee by the employer or agent**  
 33 **regarding filing a modification or change in the award of**  
 34 **compensation; and**

35 **(2) applications for increased permanent partial impairment are**  
 36 **barred unless filed within one (1) year from the last day for which**  
 37 **compensation was paid.**

38 The board may at any time correct any clerical error in any finding or  
 39 award.

40 (j) The board or any member thereof may, upon the application of  
 41 either party or upon its own motion, appoint a disinterested and duly  
 42 qualified physician or surgeon to make any necessary medical

C  
o  
p  
y



1 examination of the employee and to testify in respect thereto. Such  
2 physician or surgeon shall be allowed traveling expenses and a  
3 reasonable fee, to be fixed by the board. The fees and expenses of such  
4 physician or surgeon shall be paid by the state only on special order of  
5 the board or a member thereof.

6 (k) The board or any member thereof may, upon the application of  
7 either party or upon its own motion, appoint a disinterested and duly  
8 qualified industrial hygienist, industrial engineer, industrial physician,  
9 or chemist to make any necessary investigation of the occupation in  
10 which the employee alleges that ~~he~~ **the employee** was last exposed to  
11 the hazards of the occupational disease claimed upon, and testify with  
12 respect to the occupational disease health hazards found by such person  
13 or persons to exist in such occupation. Such person or persons shall be  
14 allowed traveling expenses and a reasonable fee, to be fixed by the  
15 board. The fees and expenses of such persons shall be paid by the state,  
16 only on special order of the board or a member thereof.

17 (l) Whenever any claimant misconceives the claimant's remedy and  
18 files an application for adjustment of a claim under IC 22-3-2 through  
19 IC 22-3-6 and it is subsequently discovered, at any time before the final  
20 disposition of such cause, that the claim for injury or death which was  
21 the basis for such application should properly have been made under  
22 the provisions of this chapter, then the application so filed under  
23 IC 22-3-2 through IC 22-3-6 may be amended in form or substance or  
24 both to assert a claim for such disability or death under the provisions  
25 of this chapter, and it shall be deemed to have been so filed as amended  
26 on the date of the original filing thereof, and such compensation may  
27 be awarded as is warranted by the whole evidence pursuant to the  
28 provisions of this chapter. When such amendment is submitted, further  
29 or additional evidence may be heard by the worker's compensation  
30 board when deemed necessary. Nothing in this section contained shall  
31 be construed to be or permit a waiver of any of the provisions of this  
32 chapter with reference to notice or time for filing a claim, but notice of  
33 filing of a claim, if given or done, shall be deemed to be a notice or  
34 filing of a claim under the provisions of this chapter if given or done  
35 within the time required in this chapter.

**C**  
**O**  
**P**  
**Y**

