



February 19, 2010

**ENGROSSED
HOUSE BILL No. 1116**

DIGEST OF HB 1116 (Updated February 17, 2010 11:27 am - DI 102)

Citations Affected: IC 22-3.

Synopsis: Worker's compensation. Provides that an employer or employer's insurance carrier may not delay the provision of emergency medical care for worker's compensation injuries or occupational disease disablements whenever emergency medical care is considered necessary in the professional judgment of the attending health care facility physician.

Effective: July 1, 2010.

Moseley, Bartlett, Tyler

(SENATE SPONSORS — KRUSE, TALLIAN, DEIG, ERRINGTON,
WALKER)

January 5, 2010, read first time and referred to Committee on Labor and Employment.
January 28, 2010, amended, reported — Do Pass.
February 1, 2010, read second time, amended, ordered engrossed.
February 2, 2010, engrossed. Read third time, passed. Yeas 93, nays 3.

SENATE ACTION

February 8, 2010, read first time and referred to Committee on Pensions and Labor.
February 18, 2010, amended, reported favorably — Do Pass.

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February 19, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

ENGROSSED HOUSE BILL No. 1116



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 22-3-3-4 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) After an injury and prior to
3 an adjudication of permanent impairment, the employer shall furnish
4 or cause to be furnished, free of charge to the employee, an attending
5 physician for the treatment of ~~his~~ **the employee's** injuries, and in
6 addition thereto such surgical, hospital and nursing services and
7 supplies as the attending physician or the worker's compensation board
8 may deem necessary. If the employee is requested or required by the
9 employer to submit to treatment outside the county of employment, the
10 employer shall also pay the reasonable expense of travel, food, and
11 lodging necessary during the travel, but not to exceed the amount paid
12 at the time of the travel by the state to its employees under the state
13 travel policies and procedures established by the department of
14 administration and approved by the state budget agency. If the
15 treatment or travel to or from the place of treatment causes a loss of
16 working time to the employee, the employer shall reimburse the
17 employee for the loss of wages using the basis of the employee's

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1 average daily wage.

2 (b) During the period of temporary total disability resulting from the
3 injury, the employer shall furnish the physician services, and supplies,
4 and the worker's compensation board may, on proper application of
5 either party, require that treatment by the physician and services and
6 supplies be furnished by or on behalf of the employer as the worker's
7 compensation board may deem reasonably necessary.

8 (c) After an employee's injury has been adjudicated by agreement
9 or award on the basis of permanent partial impairment and within the
10 statutory period for review in such case as provided in section 27 of
11 this chapter, the employer may continue to furnish a physician or
12 surgeon and other medical services and supplies, and the worker's
13 compensation board may within the statutory period for review as
14 provided in section 27 of this chapter, on a proper application of either
15 party, require that treatment by that physician and other medical
16 services and supplies be furnished by and on behalf of the employer as
17 the worker's compensation board may deem necessary to limit or
18 reduce the amount and extent of the employee's impairment. The
19 refusal of the employee to accept such services and supplies, when
20 provided by or on behalf of the employer, shall bar the employee from
21 all compensation otherwise payable during the period of the refusal,
22 and ~~his~~ **the employee's** right to prosecute any proceeding under
23 IC 22-3-2 through IC 22-3-6 shall be suspended and abated until the
24 employee's refusal ceases. The employee must be served with a notice
25 setting forth the consequences of the refusal under this section. The
26 notice must be in a form prescribed by the worker's compensation
27 board. No compensation for permanent total impairment, permanent
28 partial impairment, permanent disfigurement, or death shall be paid or
29 payable for that part or portion of the impairment, disfigurement, or
30 death which is the result of the failure of the employee to accept the
31 treatment, services, and supplies required under this section. However,
32 an employer may at any time permit an employee to have treatment for
33 ~~his~~ **the employee's** injuries by spiritual means or prayer in lieu of the
34 physician or surgeon and other medical services and supplies required
35 under this section.

36 (d) If, because of an emergency, or because of the employer's failure
37 to provide an attending physician or surgical, hospital, or nursing
38 services and supplies, or treatment by spiritual means or prayer, as
39 required by this section, or because of any other good reason, a
40 physician other than that provided by the employer treats the injured
41 employee during the period of the employee's temporary total
42 disability, or necessary and proper surgical, hospital, or nursing

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1 services and supplies are procured within the period, the reasonable
2 cost of those services and supplies shall, subject to the approval of the
3 worker's compensation board, be paid by the employer.

4 **(e) An employer or employer's insurance carrier may not delay**
5 **the provision of emergency medical care whenever emergency**
6 **medical care is considered necessary in the professional judgment**
7 **of the attending health care facility physician.**

8 ~~(e)~~ **(f)** Regardless of when it occurs, where a compensable injury
9 results in the amputation of a body part, the enucleation of an eye, or
10 the loss of natural teeth, the employer shall furnish an appropriate
11 artificial member, braces, and prosthodontics. The cost of repairs to or
12 replacements for the artificial members, braces, or prosthodontics that
13 result from a compensable injury pursuant to a prior award and are
14 required due to either medical necessity or normal wear and tear,
15 determined according to the employee's individual use, but not abuse,
16 of the artificial member, braces, or prosthodontics, shall be paid from
17 the second injury fund upon order or award of the worker's
18 compensation board. The employee is not required to meet any other
19 requirement for admission to the second injury fund.

20 ~~(f)~~ **(g)** If an accident arising out of and in the course of employment
21 after June 30, 1997, results in the loss of or damage to an artificial
22 member, a brace, an implant, eyeglasses, prosthodontics, or other
23 medically prescribed device, the employer shall repair the artificial
24 member, brace, implant, eyeglasses, prosthodontics, or other medically
25 prescribed device or furnish an identical or a reasonably equivalent
26 replacement.

27 ~~(g)~~ **(h)** This section may not be construed to prohibit an agreement
28 between an employer and the employer's employees that has the
29 approval of the board and that binds the parties to:

- 30 (1) medical care furnished by health care providers selected by
31 agreement before or after injury; or
- 32 (2) the findings of a health care provider who was chosen by
33 agreement.

34 SECTION 2. IC 22-3-3-13, AS AMENDED BY P.L.173-2007,
35 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2010]: Sec. 13. (a) As used in this section, "board" refers to
37 the worker's compensation board created under IC 22-3-1-1.

38 (b) If an employee who from any cause, had lost, or lost the use of,
39 one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and
40 in a subsequent industrial accident becomes permanently and totally
41 disabled by reason of the loss, or loss of use of, another such member
42 or eye, the employer shall be liable only for the compensation payable

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1 for such second injury. However, in addition to such compensation and
2 after the completion of the payment therefor, the employee shall be
3 paid the remainder of the compensation that would be due for such
4 total permanent disability out of a special fund known as the second
5 injury fund, and created in the manner described in subsection (c).

6 (c) Whenever the board determines under the procedures set forth
7 in subsection (d) that an assessment is necessary to ensure that fund
8 beneficiaries, including applicants under section ~~4(e)~~ **4(f)** of this
9 chapter, continue to receive compensation in a timely manner for a
10 reasonable prospective period, the board shall send notice not later than
11 November 1 in any year to:

12 (1) all insurance carriers and other entities insuring or providing
13 coverage to employers who are or may be liable under this article
14 to pay compensation for personal injuries to or the death of their
15 employees under this article; and

16 (2) each employer carrying the employer's own risk;
17 stating that an assessment is necessary. Not later than January 31 of the
18 following year, each entity identified in subdivisions (1) and (2) shall
19 send to the board a statement of total paid losses and premiums (as
20 defined in subsection (d)(4)) paid by employers during the previous
21 calendar year. The board may conduct an assessment under this
22 subsection not more than one (1) time annually. The total amount of the
23 assessment may not exceed two and one-half percent (2.5%) of the total
24 amount of all worker's compensation paid to injured employees or their
25 beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year
26 next preceding the due date of such payment. The board shall assess a
27 penalty in the amount of ten percent (10%) of the amount owed if
28 payment is not made under this section within thirty (30) days from the
29 date set by the board. If the amount to the credit of the second injury
30 fund on or before November 1 of any year exceeds one hundred
31 thirty-five percent (135%) of the previous year's disbursements, the
32 assessment allowed under this subsection shall not be assessed or
33 collected during the ensuing year. But when on or before November 1
34 of any year the amount to the credit of the fund is less than one hundred
35 thirty-five percent (135%) of the previous year's disbursements, the
36 payments of not more than two and one-half percent (2.5%) of the total
37 amount of all worker's compensation paid to injured employees or their
38 beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year
39 next preceding that date shall be resumed and paid into the fund. The
40 board may not use an assessment rate greater than twenty-five
41 hundredths of one percent (0.25%) above the amount recommended by
42 the study performed before the assessment.

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1 (d) The board shall assess all employers for the liabilities, including
 2 administrative expenses, of the second injury fund. The assessment
 3 also must provide for the repayment of all loans made to the second
 4 injury fund for the purpose of paying valid claims. The following
 5 applies to assessments under this subsection:

6 (1) The portion of the total amount that must be collected from
 7 self-insured employers equals:

8 (A) the total amount of the assessment as determined by the
 9 board; multiplied by

10 (B) the quotient of:

11 (i) the total paid losses on behalf of all self-insured
 12 employers during the preceding calendar year; divided by

13 (ii) the total paid losses on behalf of all self-insured
 14 employers and insured employers during the preceding
 15 calendar year.

16 (2) The portion of the total amount that must be collected from
 17 insured employers equals:

18 (A) the total amount of the assessment as determined by the
 19 board; multiplied by

20 (B) the quotient of:

21 (i) the total paid losses on behalf of all insured employers
 22 during the preceding calendar year; divided by

23 (ii) the total paid losses on behalf of all self-insured
 24 employers and insured employers during the preceding
 25 calendar year.

26 (3) The total amount of insured employer assessments under
 27 subdivision (2) must be collected by the insured employers'
 28 worker's compensation insurers. The amount of employer
 29 assessments each insurer shall collect equals:

30 (A) the total amount of assessments allocated to insured
 31 employers under subdivision (2); multiplied by

32 (B) the quotient of:

33 (i) the worker's compensation premiums paid by employers
 34 to the carrier during the preceding calendar year; divided by

35 (ii) the worker's compensation premiums paid by employers
 36 to all carriers during the preceding calendar year.

37 (4) For purposes of the computation made under subdivision (3),
 38 "premium" means the direct written premium.

39 (5) The amount of the assessment for each self-insured employer
 40 equals:

41 (A) the total amount of assessments allocated to self-insured
 42 employers under subdivision (1); multiplied by

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- 1 (B) the quotient of:
- 2 (i) the paid losses attributable to the self-insured employer
- 3 during the preceding calendar year; divided by
- 4 (ii) paid losses attributable to all self-insured employers
- 5 during the preceding calendar year.

6 An employer that has ceased to be a self-insurer continues to be liable
 7 for prorated assessments based on paid losses made by the employer in
 8 the preceding calendar year during the period that the employer was
 9 self-insured.

10 (e) The board may employ a qualified employee or enter into a
 11 contract with an actuary or another qualified firm that has experience
 12 in calculating worker's compensation liabilities. Not later than
 13 December 1 of each year, the actuary or other qualified firm shall
 14 calculate the recommended funding level of the fund and inform the
 15 board of the results of the calculation. If the amount to the credit of the
 16 fund is less than the amount required under subsection (c), the board
 17 may conduct an assessment under subsection (c). The board shall pay
 18 the costs of the contract under this subsection with money in the fund.

19 (f) An assessment collected under subsection (c) on an employer
 20 who is not self-insured must be assessed through a surcharge based on
 21 the employer's premium. An assessment collected under subsection (c)
 22 does not constitute an element of loss, but for the purpose of collection
 23 shall be treated as a separate cost imposed upon insured employers. A
 24 premium surcharge under this subsection must be collected at the same
 25 time and in the same manner in which the premium for coverage is
 26 collected, and must be shown as a separate amount on a premium
 27 statement. A premium surcharge under this subsection must be
 28 excluded from the definition of premium for all purposes, including the
 29 computation of insurance producer commissions or premium taxes.
 30 However, an insurer may cancel a worker's compensation policy for
 31 nonpayment of the premium surcharge. A cancellation under this
 32 subsection must be carried out under the statutes applicable to the
 33 nonpayment of premiums.

34 (g) The sums shall be paid by the board to the treasurer of state, to
 35 be deposited in a special account known as the second injury fund. The
 36 funds are not a part of the general fund of the state. Any balance
 37 remaining in the account at the end of any fiscal year shall not revert
 38 to the general fund. The funds shall be used only for the payment of
 39 awards of compensation ordered by the board and chargeable against
 40 the fund pursuant to this section, and shall be paid for that purpose by
 41 the treasurer of state upon award or order of the board.

42 (h) If an employee who is entitled to compensation under IC 22-3-2

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through IC 22-3-6 either:

- (1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or
- (2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (i).

(i) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

- (1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and
- (2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(j) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(k) All insurance carriers subject to an assessment under this section are required to provide to the board:

- (1) not later than January 31 each calendar year; and
- (2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.

SECTION 3. IC 22-3-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. (a) During the period of disablement, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of ~~his~~ **the employee's** occupational disease, and in

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1 addition thereto such surgical, hospital, and nursing services and
 2 supplies as the attending physician or the worker's compensation board
 3 may deem necessary. If the employee is requested or required by the
 4 employer to submit to treatment outside the county of employment, the
 5 employer shall also pay the reasonable expense of travel, food, and
 6 lodging necessary during the travel, but not to exceed the amount paid
 7 at the time of the travel by the state of Indiana to its employees. If the
 8 treatment or travel to or from the place of treatment causes a loss of
 9 working time to the employee, the employer shall reimburse the
 10 employee for the loss of wages using the basis of the employee's
 11 average daily wage.

12 (b) During the period of disablement resulting from the occupational
 13 disease, the employer shall furnish such physician, services, and
 14 supplies, and the worker's compensation board may, on proper
 15 application of either party, require that treatment by such physician and
 16 such services and supplies be furnished by or on behalf of the employer
 17 as the board may deem reasonably necessary. After an employee's
 18 occupational disease has been adjudicated by agreement or award on
 19 the basis of permanent partial impairment and within the statutory
 20 period for review in such case as provided in section 27(i) of this
 21 chapter, the employer may continue to furnish a physician or a surgeon
 22 and other medical services and supplies, and the board may, within
 23 such statutory period for review as provided in section 27(i) of this
 24 chapter, on a proper application of either party, require that treatment
 25 by such physician or surgeon and such services and supplies be
 26 furnished by and on behalf of the employer as the board may deem
 27 necessary to limit or reduce the amount and extent of such impairment.
 28 The refusal of the employee to accept such services and supplies when
 29 so provided by or on behalf of the employer, shall bar the employee
 30 from all compensation otherwise payable during the period of such
 31 refusal and ~~his~~ **the employee's** right to prosecute any proceeding under
 32 this chapter shall be suspended and abated until such refusal ceases.
 33 The employee must be served with a notice setting forth the
 34 consequences of the refusal under this section. The notice must be in
 35 a form prescribed by the worker's compensation board. No
 36 compensation for permanent total impairment, permanent partial
 37 impairment, permanent disfigurement, or death shall be paid or payable
 38 for that part or portion of such impairment, disfigurement, or death
 39 which is the result of the failure of such employee to accept such
 40 treatment, services, and supplies, provided that an employer may at any
 41 time permit an employee to have treatment for ~~his~~ **the employee's**
 42 disease or injury by spiritual means or prayer in lieu of such physician,

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services, and supplies.

(c) Regardless of when it occurs, where a compensable occupational disease results in the amputation of a body part, the enucleation of an eye, or the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable occupational disease pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

(d) If an emergency or because of the employer's failure to provide such attending physician or such surgical, hospital, or nurse's services and supplies or such treatment by spiritual means or prayer as specified in this section, or for other good reason, a physician other than that provided by the employer treats the diseased employee within the period of disability, or necessary and proper surgical, hospital, or nurse's services and supplies are procured within the period, the reasonable cost of such services and supplies shall, subject to approval of the worker's compensation board, be paid by the employer.

(e) An employer or employer's insurance carrier may not delay the provision of emergency medical care whenever emergency medical care is considered necessary in the professional judgment of the attending health care facility physician.

~~(f)~~ **(f)** This section may not be construed to prohibit an agreement between an employer and employees that has the approval of the board and that:

- (1) binds the parties to medical care furnished by providers selected by agreement before or after disablement; or
- (2) makes the findings of a provider chosen in this manner binding upon the parties.

~~(f)~~ **(g)** The employee and the employee's estate do not have liability to a health care provider for payment for services obtained under this section. The right to order payment for all services provided under this chapter is solely with the board. All claims by a health care provider for payment for services are against the employer and the employer's insurance carrier, if any, and must be made with the board under this chapter.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1116, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 22-3-2-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 22. (a) Each employer subject to IC 22-3-2 through IC 22-3-6 shall post a notice in the employer's place of business to inform the employees that their employment is covered by worker's compensation. The notice must also contain the name, address, and telephone number of the employer's insurance carrier or the person responsible for administering the employer's worker's compensation claims if the employer is self insured.

(b) The notice required under this section must be in a form approved by the board and shall be posted at a conspicuous location at the employer's place of business to provide reasonable notice to all employees. If the employer is required by federal law or regulation to post a notice for the employer's employees, the notice required under this section must be posted in the same location or locations where the notice required by federal law or regulation is posted.

(c) An employer who fails to comply with this section is subject to a civil penalty of fifty dollars (\$50); to be assessed and collected by the board. Civil penalties collected under this section shall be deposited in the state general fund. **under IC 22-3-4-15.**

Page 2, line 8, delete "After June 30, 2010, this subsection applies whenever an" and insert "**No employer or employer's insurance carrier shall delay the provision of medical care whenever the delay may negatively impact the employee's medical outcome.**".

Page 2, delete lines 9 through 19.

Page 3, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 3. IC 22-3-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) Compensation shall be allowed on account of injuries producing only temporary total disability to work or temporary partial disability to work beginning with the eighth (~~8th~~) day of such disability except for medical benefits provided in section 4 of the chapter. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(b) The first weekly installment of compensation for temporary

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disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed injury. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

- (1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;
- (2) the status of the investigation on the date the petition is filed;
- (3) the facts or circumstances that are necessary to make a determination; and
- (4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars (\$50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund. **under IC 22-3-4-15.**

(c) Once begun, temporary total disability benefits may not be terminated by the employer unless:

- (1) the employee has returned to any employment;
- (2) the employee has died;
- (3) the employee has refused to undergo a medical examination under section 6 of this chapter or has refused to accept suitable employment under section 11 of this chapter;
- (4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowed under section 22 of this chapter; or
- (5) the employee is unable or unavailable to work for reasons

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unrelated to the compensable injury.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means, and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under IC 22-3-4-5.

(d) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(e) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under section 10 of this chapter and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee."

Page 8, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 5. IC 22-3-4-13, AS AMENDED BY P.L.1-2007, SECTION 159, IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2010]: Sec. 13. (a) Every employer shall keep a record of all injuries, fatal or otherwise, received by or claimed to have been received by the employer's employees in the course of their employment. Within seven (7) days after the occurrence and knowledge thereof, as provided in IC 22-3-3-1, of any injury to an employee causing death or absence from work for more than one (1) day, a report thereof shall be made in writing and mailed to the employer's insurance carrier or, if the employer is self insured, delivered to the worker's compensation board in the manner provided in subsections (b) and (c). The insurance carrier shall deliver the report to the worker's compensation board in the manner provided in subsections (b) and (c) not later than seven (7) days after receipt of the report or fourteen (14) days after the employer's knowledge of the injury, whichever is later. An employer or insurance carrier that fails to comply with this subsection is subject to a civil penalty of fifty dollars (\$50); to be assessed and collected by the board. Civil penalties collected under this section shall be deposited in the state general fund: **under section 15 of this chapter.**

(b) All insurance carriers, companies who carry risk without insurance, and third party administrators reporting accident information to the board in compliance with subsection (a) shall

- (1) report the information using electronic data interchange standards prescribed by the board. ~~no later than June 30, 1999; or~~
- (2) ~~in the alternative, the reporting entity shall have an implementation plan approved by the board no later than June 30, 2000; that provides for the ability to report the information using electronic data interchange standards prescribed by the board no later than December 31, 2000.~~

~~Prior to the June 30, 2000; and December 31, 2000; deadlines; the reporting entity may continue to report accidents to the board by mail in compliance with subsection (a):~~

(c) The report shall contain the name, nature, and location of the business of the employer, the name, age, sex, wages, occupation of the injured employee, the date and hour of the accident causing the alleged injury, the nature and cause of the injury, and such other information as may be required by the board.

(d) A person who violates any provision of this article, except IC 22-3-5-1, IC 22-3-7-34(b), or IC 22-3-7-34(c), commits a Class C infraction. A person who violates IC 22-3-5-1, IC 22-3-7-34(b), or IC 22-3-7-34(c) commits a Class A infraction. The worker's compensation board in the name of the state may seek relief from any court of competent jurisdiction to enjoin any violation of this article.

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(e) The venue of all criminal actions under this section lies in the county in which the employee was injured. The prosecuting attorney of the county shall prosecute all such violations upon written request of the worker's compensation board. Such violations shall be prosecuted in the name of the state.

(f) In an action before the board against an employer who at the time of the injury to or occupational disease of an employee had failed to comply with IC 22-3-5-1, IC 22-3-7-34(b), or IC 22-3-7-34(c), the board may award to the employee or the dependents of a deceased employee:

- (1) compensation not to exceed double the compensation provided by this article;
- (2) medical expenses; and
- (3) reasonable attorney fees in addition to the compensation and medical expenses.

(g) In an action under subsection ~~(e)~~ (d) the court may:

- (1) order the employer to cease doing business in Indiana until the employer furnishes proof of insurance as required by IC 22-3-5-1 and IC 22-3-7-34(b) or IC 22-3-7-34(c);
- (2) require satisfactory proof of the employer's financial ability to pay any compensation or medical expenses in the amount and manner and when due as provided for in IC 22-3, for any injuries which occurred during any period of noncompliance; and
- (3) require the employer to deposit with the worker's compensation board an acceptable security, indemnity, or bond to secure the payment of such compensation and medical expense liabilities.

(h) The penalty provisions of subsection ~~(e)~~ (d) shall apply only to the employer and shall not apply for a failure to exact a certificate of insurance under IC 22-3-2-14 or IC 22-3-7-34(i) or IC 22-3-7-34(j).

SECTION 6. IC 22-3-4-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 15. (a) In addition to any other remedy available to the worker's compensation board under this article or at law, the board may, after notice and a hearing, assess a civil penalty under this section for any of the following:**

- (1) Failure to post a notice required by IC 22-3-2-22.**
- (2) Failure to determine employer liability for a claim as required by IC 22-3-3-7 or IC 22-3-7-16.**
- (3) Failure to file an injury record with the board as required by section 13 of this chapter or to file a report of a disablement by occupational disease as required by**

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IC 22-3-7-37.

(b) For the first violation of an offense listed in subsection (a), the board may assess a civil penalty not to exceed fifty dollars (\$50).

(c) For the second unrelated violation of the same offense listed in subsection (a), the board may assess a civil penalty not to exceed one hundred fifty dollars (\$150).

(d) For the third or subsequent unrelated violation of the same offense listed in subsection (a), the board may assess a civil penalty not to exceed three hundred dollars (\$300).

(e) Civil penalties collected under this section shall be deposited in the worker's compensation supplemental administrative fund established by IC 22-3-5-6.

SECTION 7. IC 22-3-5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2.5. (a) The worker's compensation board is entitled to request that an employer provide the board with current proof of compliance with section 2 of this chapter.

(b) If an employer fails or refuses to provide current proof of compliance by the seventh day after the employer receives the board's request under subsection (a), the board may assess a civil penalty against the employer not to exceed one hundred fifty dollars (\$150).

(c) If an employer fails or refuses to provide a current proof of compliance by the fourteenth day after the date the employer receives the board's request under subsection (a), the board may assess a civil penalty not to exceed three hundred dollars (\$300).

(d) If an employer fails or refuses to provide a current proof of compliance by the twenty-fifth day after the date the employer receives the board's request under subsection (a), the board may:

- (1) assess a civil penalty not to exceed one thousand dollars (\$1,000); and**
- (2) after notice to the employer and a hearing, order that the noncompliant employer's name be listed on the board's Internet web site.**

(e) The civil penalties provided for in this section are cumulative.

(f) Civil penalties collected under this section shall be deposited in the worker's compensation supplemental administrative fund established by section 6 of this chapter.

SECTION 8. IC 22-3-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The worker's compensation

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supplemental administrative fund is established for the purpose of carrying out the administrative purposes and functions of the worker's compensation board.

(b) The fund consists of:

- (1) fees collected from employers under sections 1 through 2 of this chapter; ~~and from~~
- (2) fees collected under IC 22-3-2-14.5 and IC 22-3-7-34.5; **and**
- (3) **civil penalties assessed under IC 22-3-4-15, section 2.5 of this chapter, and IC 22-3-7-34.3.**

(c) The fund shall be administered by the worker's compensation board. Money in the fund is annually appropriated to the worker's compensation board and shall be used for all expenses incurred by the worker's compensation board.

~~(b)~~ (d) The money in the fund is not to be used to replace funds otherwise appropriated to the board. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

SECTION 9. IC 22-3-7-16, AS AMENDED BY P.L.134-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. (a) Compensation shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within

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the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

- (1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;
- (2) the status of the investigation on the date the petition is filed;
- (3) the facts or circumstances that are necessary to make a determination; and
- (4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars (\$50); ~~to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.~~ **under IC 22-3-4-15.**

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

- (1) the employee has returned to work;
- (2) the employee has died;
- (3) the employee has refused to undergo a medical examination under section 20 of this chapter;
- (4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; or
- (5) the employee is unable or unavailable to work for reasons unrelated to the compensable disease.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits, and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under

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IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under section 27 of this chapter.

(c) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(d) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under this section and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

(e) For disablements occurring on and after July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during the temporary total disability weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(f) For disablements occurring on and after July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial

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disability.

(g) For disabilities occurring on and after July 1, 1979, and before July 1, 1988, from occupational disease in the schedule set forth in subsection (j), the employee shall receive in addition to disability benefits, not exceeding fifty-two (52) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the disabilities.

(h) For disabilities occurring on and after July 1, 1988, and before July 1, 1989, from occupational disease in the schedule set forth in subsection (j), the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars (\$166) average weekly wages, for the period stated for the disabilities.

(i) For disabilities occurring on and after July 1, 1989, and before July 1, 1990, from occupational disease in the schedule set forth in subsection (j), the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the disabilities.

(j) For disabilities occurring on and after July 1, 1990, and before July 1, 1991, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the disabilities.

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg

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above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than two (2) phalanges of a finger shall be considered as the loss of one-half (1/2) the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) Loss of Use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange and the compensation shall be paid for the same period as for the loss thereof by separation.

(3) Partial Loss of Use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(4) For disablements for occupational disease resulting in total permanent disability, five hundred (500) weeks.

(5) For the loss of both hands, or both feet, or the total sight of both eyes, or any two (2) of such losses resulting from the same disablement by occupational disease, five hundred (500) weeks.

(6) For the permanent and complete loss of vision by enucleation of an eye or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred fifty (150) weeks, and for any other permanent reduction of the sight of an eye, compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(7) For the permanent and complete loss of hearing, two hundred (200) weeks.

(8) In all other cases of permanent partial impairment,

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compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(9) In all cases of permanent disfigurement, which may impair the future usefulness or opportunities of the employee, compensation in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this paragraph where compensation shall be payable under subdivisions (1) through (8). Where compensation for temporary total disability has been paid, this amount of compensation shall be deducted from any compensation due for permanent disfigurement.

(k) With respect to disablements in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the disablement, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the disablement occurred:

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; of separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations occurring on or after July 1, 1997: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, the dollar values per degree applying on the date of the injury as described in subsection (1) shall be multiplied by two (2). However, the doubling provision of this

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subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(6) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(7) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(8) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(9) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(10) For disablements resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of

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compensation, whichever is greater.

(11) For any permanent reduction of the sight of an eye less than a total loss as specified in subdivision (5), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (6), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(l) With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement determined under subsection (k) and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per degree.

(2) With respect to disablements occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars (\$500) per degree; for each degree of permanent impairment from

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twenty-one (21) to thirty-five (35), eight hundred dollars (\$800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(3) With respect to disablements occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars (\$500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars (\$700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(4) With respect to disablements occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(5) With respect to disablements occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to disablements occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars

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(\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

(7) With respect to disablements occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars (\$2,500) per degree.

(8) With respect to disablements occurring on and after July 1, 2001, and before July 1, 2007, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

(9) With respect to disablements occurring on and after July 1, 2007, and before July 1, 2008, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred forty dollars (\$1,340) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred forty-five dollars (\$1,545) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred seventy-five dollars (\$2,475) per degree; for each degree of permanent impairment above fifty (50), three thousand one hundred fifty dollars (\$3,150) per degree.

(10) With respect to disablements occurring on and after July 1, 2008, and before July 1, 2009, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred sixty-five dollars (\$1,365) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred seventy dollars (\$1,570) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand five hundred twenty-five dollars (\$2,525) per degree; for each degree of permanent impairment above fifty (50), three thousand two hundred dollars (\$3,200) per degree.

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(11) With respect to disablements occurring on and after July 1, 2009, and before July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred eighty dollars (\$1,380) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred eighty-five dollars (\$1,585) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand six hundred dollars (\$2,600) per degree; for each degree of permanent impairment above fifty (50), three thousand three hundred dollars (\$3,300) per degree.

(12) With respect to disablements occurring on and after July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred dollars (\$2,700) per degree; for each degree of permanent impairment above fifty (50), three thousand five hundred dollars (\$3,500) per degree.

(m) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (k) and (l) shall not exceed the following:

(1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).

(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).

(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).

(4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).

(5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).

(6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).

(7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).

(8) With respect to disablements occurring on or after July 1,

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2000, and before July 1, 2001, seven hundred sixty-two dollars (\$762).

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).

(10) With respect to injuries occurring on or after July 1, 2002, and before July 1, 2006, eight hundred eighty-two dollars (\$882).

(11) With respect to injuries occurring on or after July 1, 2006, and before July 1, 2007, nine hundred dollars (\$900).

(12) With respect to injuries occurring on or after July 1, 2007, and before July 1, 2008, nine hundred thirty dollars (\$930).

(13) With respect to injuries occurring on or after July 1, 2008, and before July 1, 2009, nine hundred fifty-four dollars (\$954).

(14) With respect to injuries occurring on or after July 1, 2009, nine hundred seventy-five dollars (\$975).

(n) If any employee, only partially disabled, refuses employment suitable to the employee's capacity procured for the employee, the employee shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(o) If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which the employee suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by

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an occupational disease shall be considered as a permanent impairment or physical condition.

(p) If an employee suffers a disablement from an occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, the employee shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection (k)(1), (k)(4), (k)(5), (k)(8), or (k)(9), but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

(q) If an employee receives a permanent disability from occupational disease such as specified in subsection (k)(1), (k)(4), (k)(5), (k)(8), or (k)(9) after having sustained another such permanent disability in the same employment the employee shall be entitled to compensation for both such disabilities, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation and, when such previous and subsequent permanent disabilities, in combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or impairment, but payments made for the previous disability or impairment shall be deducted from the total payment of compensation due.

(r) When an employee has been awarded or is entitled to an award of compensation for a definite period from an occupational disease wherein disablement occurs on and after April 1, 1963, and such employee dies from other causes than such occupational disease, payment of the unpaid balance of such compensation not exceeding three hundred fifty (350) weeks shall be paid to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter and compensation, not exceeding five hundred (500) weeks shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter.

(s) Any payment made by the employer to the employee during the period of the employee's disability, or to the employee's dependents, which, by the terms of this chapter, was not due and payable when made, may, subject to the approval of the worker's compensation board, be deducted from the amount to be paid as compensation, but such deduction shall be made from the distal end of the period during which compensation must be paid, except in cases of temporary disability.

(t) When so provided in the compensation agreement or in the

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award of the worker's compensation board, compensation may be paid semimonthly, or monthly, instead of weekly.

(u) When the aggregate payments of compensation awarded by agreement or upon hearing to an employee or dependent under eighteen (18) years of age do not exceed one hundred dollars (\$100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

(v) Whenever the aggregate payments of compensation, due to any person under eighteen (18) years of age, exceed one hundred dollars (\$100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or, upon the order of the worker's compensation board, to a parent or to such minor person. The payment of compensation, due to any person eighteen (18) years of age or over, may be made directly to such person.

(w) If an employee, or a dependent, is mentally incompetent, or a minor at the time when any right or privilege accrues to the employee under this chapter, the employee's guardian or trustee may, in the employee's behalf, claim and exercise such right and privilege.

(x) All compensation payments named and provided for in this section, shall mean and be defined to be for only such occupational diseases and disabilities therefrom as are proved by competent evidence, of which there are or have been objective conditions or symptoms proven, not within the physical or mental control of the employee."

Page 9, line 10, delete "After June 30, 2010, this subsection applies whenever an" and insert "**No employer or employer's insurance carrier shall delay the provision of medical care whenever the delay may negatively impact the employee's medical outcome.**"

Page 9, delete lines 11 through 21.

Page 10, after line 15, begin a new paragraph and insert:

"SECTION 11. IC 22-3-7-34.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 34.3. (a) The worker's compensation board is entitled to request that an employer provide the board with current proof of compliance with section 34 of this chapter.**

(b) If an employer fails or refuses to provide current proof of compliance by the seventh day after the employer receives the board's request under subsection (a), the board may assess a civil penalty against the employer not to exceed one hundred fifty dollars (\$150).

(c) If an employer fails or refuses to provide a current proof of

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compliance by the fourteenth day after the date the employer receives the board's request under subsection (a), the board may assess a civil penalty against the employer not to exceed three hundred dollars (\$300).

(d) If an employer fails or refuses to provide a current proof of compliance by the twenty-fifth day after the date the employer receives the board's request under subsection (a), the board may:

(1) assess a civil penalty against the employer not to exceed one thousand dollars (\$1,000); and

(2) after notice to the employer and a hearing, order that the noncompliant employer's name be listed on the board's Internet web site.

(e) The civil penalties provided for in this section are cumulative.

(f) Civil penalties collected under this section shall be deposited in the worker's compensation supplemental administrative fund established by IC 22-3-5-6.

SECTION 12. IC 22-3-7-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 37. (a) Every employer operating under the compensation provisions of this chapter shall keep a record of all disablements by occupational disease, fatal or otherwise, received by his the employer's employees in the course of their employment. Within seven (7) days after the occurrence and knowledge thereof, as provided in section 32 of this chapter, of disablement to an employee causing his the employee's death or his absence from work for more than one (1) day, a report thereof shall be made in writing and mailed to the employer's insurance carrier or, if the employer is self insured, to the worker's compensation board on blanks to be procured from the board for the purpose. The insurance carrier shall mail the report to the worker's compensation board not later than seven (7) days after receipt or fourteen (14) days after the employer's knowledge of the occurrence, whichever is later. An employer or insurance carrier that fails to comply with this subsection is subject to a civil penalty of fifty dollars (\$50); to be assessed and collected by the board: Civil penalties collected under this section shall be deposited in the state general fund: under IC 22-3-4-15.

(b) The report shall contain the name, nature and location of the business of the employer, the name, age, sex, wages, occupation of the employee, the approximate dates between which exposure occurred, the nature and cause of the occupational disease, and such other information as may be required by the board.

(c) A person who violates this section commits a Class C infraction.

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(d) The venue of all criminal actions for the violation of this section lies in the county in which the employee was last exposed to the occupational disease causing disablement. The prosecuting attorney of the county shall prosecute these violations upon written request of the worker's compensation board. These shall be prosecuted in the name of the state."

Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1116 as introduced.)

NIEZGODSKI, Chair

Committee Vote: yeas 9, nays 2.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1116 be amended to read as follows:

Page 2, delete lines 28 through 30.

Page 2, line 31, reset in roman "(c)".

Page 2, line 31, delete "(d)".

Page 3, line 17, reset in roman "(d)".

Page 3, line 17, delete "(e)".

Page 3, between lines 26 and 27, begin a new paragraph and insert:

"(e) An employer or employer's insurance carrier may not delay the provision of emergency medical care whenever emergency medical care is considered necessary in the professional judgment of the attending health care facility physician."

Page 28, delete lines 11 through 13.

Page 28, line 14, reset in roman "(c)".

Page 28, line 14, delete "(d)".

Page 28, line 27, reset in roman "(d)".

Page 28, line 27, delete "(e)".

Page 28, between lines 35 and 36, begin a new paragraph and insert:

"(e) An employer or employer's insurance carrier may not delay the provision of emergency medical care whenever emergency medical care is considered necessary in the professional judgment of the attending health care facility physician."

(Reference is to HB 1116 as printed January 29, 2010.)

MOSELEY

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1116, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 3.

Page 4, delete lines 12 through 42.

Delete page 5.

Page 6, delete lines 1 through 17.

Page 10, delete lines 22 through 42.

Delete pages 11 through 26.

Page 27, delete lines 1 through 5.

Page 29, delete lines 10 through 42.

Delete page 30.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1116 as reprinted February 2, 2010.)

BOOTS, Chairperson

Committee Vote: Yeas 9, Nays 0.

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