

HOUSE BILL No. 1207

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4.

Synopsis: Unemployment compensation and drug testing. Provides that an individual who is otherwise qualified for unemployment compensation benefits is disqualified for benefits upon a report to the department of workforce development (department) by a prospective employer that the individual was found to have had a positive postoffer or preemployment drug test. Requires the department to adopt rules concerning positive preemployment drug tests reported to the department. Repeals an outdated reference.

Effective: July 1, 2011.

Ubelhor, Bacon, Messmer

January 10, 2011, read first time and referred to Committee on Employment, Labor and Pensions.

C
o
p
y



First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

C
o
p
y

HOUSE BILL No. 1207



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 22-4-2-40 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]: **Sec. 40. As used in this article, "drug test" means a test**
4 **that contains at least a nine (9) drug panel (non-DOT) that tests for**
5 **the following:**

- 6 (1) **Amphetamines.**
- 7 (2) **Cocaine.**
- 8 (3) **Opiates (2,000 ng/ml).**
- 9 (4) **Barbiturates.**
- 10 (5) **Cannabinoids (THC).**
- 11 (6) **Benzodiazepines.**
- 12 (7) **Phencyclidine.**
- 13 (8) **Methadone.**
- 14 (9) **Propoxyphene.**

15 SECTION 2. IC 22-4-15-9 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2011]: **Sec. 9. (a) Notwithstanding any other provisions of this**



1 article, an individual who is otherwise eligible for benefits is
2 disqualified for benefits if the individual:

3 (1) is found to have tested positive for drugs in the system of
4 the individual after a drug test is given by a prospective
5 employer; or

6 (2) refuses to submit to a drug test;

7 after an offer of employment has been made or as a prerequisite to
8 an offer of employment by an employer.

9 (b) A prospective employer that:

10 (1) receives a report of a positive drug test that has been given
11 by or on behalf of the prospective employer; or

12 (2) is aware that a prospective employee has refused to submit
13 to a drug test that would be given by or on behalf of the
14 employer;

15 shall immediately report the information in subdivision (1) or (2)
16 to the department.

17 (c) An individual who is disqualified for benefits under
18 subsection (a) may resume eligibility for benefits upon submission
19 of a negative drug test to the department.

20 (d) The department shall adopt rules under IC 4-22-2 to
21 effectuate this section to the extent authorized by federal law. The
22 rules may include, but are not limited to:

23 (1) the period of ineligibility for benefits between the time that
24 the drug test is given and a positive result is reported to the
25 department;

26 (2) the manner in which a subsequent negative drug test may
27 be submitted to the department after a positive drug test has
28 been reported;

29 (3) any penalty against an employer that does not report the
30 information in subsection (b), if other than that provided for
31 in IC 22-4-34-4;

32 (4) the manner by which a report of a false positive drug test
33 may be appealed to the department; and

34 (5) the manner by which improper payments to an individual
35 who has been disqualified under subsection (a) must be repaid
36 to the department, as required by IC 22-4-13-1(b).

37 SECTION 3. IC 22-4-17-2.5, AS AMENDED BY P.L.3-2008,
38 SECTION 159, IS AMENDED TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2011]: Sec. 2.5. (a) When an individual files an
40 initial claim, the individual shall be advised of the following:

41 (1) Unemployment compensation is subject to federal, state, and
42 local income taxes.

C
o
p
y



- 1 (2) Requirements exist concerning estimated tax payments.
- 2 (3) ~~After December 31, 1996,~~ The individual may elect to have
- 3 income taxes withheld from the individual's payment of
- 4 unemployment compensation. If an election is made, the
- 5 department shall withhold federal income tax at the applicable
- 6 rate provided in the Internal Revenue Code.
- 7 (4) An individual is allowed to change an election made under
- 8 this section.
- 9 (b) Money withheld from unemployment compensation under this
- 10 section shall remain in the unemployment fund until transferred to the
- 11 federal taxing authority for payment of income taxes.
- 12 (c) The commissioner shall follow all procedures of the United
- 13 States Department of Labor and the Internal Revenue Service
- 14 concerning the withholding of income taxes.
- 15 (d) Money shall be deducted and withheld in accordance with the
- 16 priorities established in regulations developed by the commissioner.
- 17 **(e) In addition to the information contained in subsection (a), an**
- 18 **individual filing an initial claim shall be advised that the individual**
- 19 **is disqualified for benefits if the individual:**
- 20 **(1) is found to have a positive drug test after a drug test is**
- 21 **given by a prospective employer; or**
- 22 **(2) refuses to submit to a drug test;**
- 23 **after an offer of employment has been made or as a prerequisite to**
- 24 **an offer of employment by the employer, as provided in**
- 25 **IC 22-4-15-9.**

C
o
p
y

