



Reprinted
January 25, 2011

SENATE BILL No. 86

DIGEST OF SB 86 (Updated January 24, 2011 2:28 pm - DI 75)

Citations Affected: IC 22-4.

Synopsis: Unemployment benefits qualifications. Provides that an individual who is otherwise qualified for unemployment compensation benefits may be 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 provide written notice to the individual that the department has received a report of the individual's positive postoffer or preemployment drug test and that the individual may appeal the report using the process that applies to the denial of initial claims for unemployment benefits. Requires the department to adopt rules concerning positive postoffer or preemployment drug tests reported to the department. Requires that an applicant for unemployment benefits must state, under penalty of perjury, that the applicant will refrain from the knowing or intentional possession and use of certain drugs without a valid prescription or an order from a practitioner during the period that the applicant receives benefits if benefits are awarded. Provides that the department may not deny benefits to an otherwise eligible individual based on the individual's failure or refusal to sign an affidavit that the individual will refrain from the knowing or intentional possession and use of certain drugs during the period that the individual receives unemployment benefits. Provides that an initial claim for benefits and the affidavit must contain a clear and conspicuous statement that an otherwise eligible individual may not be denied unemployment benefits based on the individual's failure or refusal to sign the affidavit. Repeals an outdated reference.

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Effective: July 1, 2011.

Leising, Schneider, Tallian

January 5, 2011, read first time and referred to Committee on Pensions and Labor.
January 12, 2011, reported favorably — Do Pass.
January 24, 2011, read second time, amended, ordered engrossed.

SB 86—LS 6334/DI 96+



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.

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SENATE BILL No. 86

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 five (5) drug panel that tests for the
5 following:**

- 6 (1) **Amphetamines.**
7 (2) **Cocaine.**
8 (3) **Opiates (2,000 ng/ml).**
9 (4) **PCP.**
10 (5) **THC.**

11 SECTION 2. IC 22-4-15-2, AS AMENDED BY P.L.175-2009,
12 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2011]: **Sec. 2. (a)** With respect to benefit periods established
14 on and after July 3, 1977, an individual is ineligible for waiting period
15 or benefit rights, or extended benefit rights, if the department finds that,
16 being totally, partially, or part-totally unemployed at the time when the
17 work offer is effective or when the individual is directed to apply for

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1 work, the individual fails without good cause:

2 (1) to apply for available, suitable work when directed by the

3 commissioner, the deputy, or an authorized representative of the

4 department of workforce development or the United States

5 training and employment service;

6 (2) to accept, at any time after the individual is notified of a

7 separation, suitable work when found for and offered to the

8 individual by the commissioner, the deputy, or an authorized

9 representative of the department of workforce development or the

10 United States training and employment service, or an employment

11 unit; or

12 (3) to return to the individual's customary self-employment when

13 directed by the commissioner or the deputy.

14 (b) With respect to benefit periods established on and after July 6,

15 1980, the ineligibility shall continue for the week in which the failure

16 occurs and until the individual earns remuneration in employment

17 equal to or exceeding the weekly benefit amount of the individual's

18 claim in each of eight (8) weeks. If the qualification amount has not

19 been earned at the expiration of an individual's benefit period, the

20 unearned amount shall be carried forward to an extended benefit period

21 or to the benefit period of a subsequent claim.

22 (c) With respect to extended benefit periods established on and after

23 July 5, 1981, the ineligibility shall continue for the week in which the

24 failure occurs and until the individual earns remuneration in

25 employment equal to or exceeding the weekly benefit amount of the

26 individual's claim in each of four (4) weeks.

27 (d) If an individual failed to apply for or accept suitable work as

28 outlined in this section, the maximum benefit amount of the

29 individual's current claim, as initially determined, shall be reduced by

30 an amount determined as follows:

31 (1) For the first failure to apply for or accept suitable work, the

32 maximum benefit amount of the individual's current claim is

33 equal to the result of:

34 (A) the maximum benefit amount of the individual's current

35 claim, as initially determined; multiplied by

36 (B) seventy-five percent (75%);

37 rounded (if not already a multiple of one dollar (\$1)) to the next

38 higher dollar.

39 (2) For the second failure to apply for or accept suitable work, the

40 maximum benefit amount of the individual's current claim is

41 equal to the result of:

42 (A) the maximum benefit amount of the individual's current

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1 claim determined under subdivision (1); multiplied by
 2 (B) eighty-five percent (85%);
 3 rounded (if not already a multiple of one dollar (\$1)) to the next
 4 higher dollar.
 5 (3) For the third and any subsequent failure to apply for or accept
 6 suitable work, the maximum benefit amount of the individual's
 7 current claim is equal to the result of:
 8 (A) the maximum benefit amount of the individual's current
 9 claim determined under subdivision (2); multiplied by
 10 (B) ninety percent (90%);
 11 rounded (if not already a multiple of one dollar (\$1)) to the next
 12 higher dollar.
 13 (e) In determining whether or not any such work is suitable for an
 14 individual, the department shall consider:
 15 (1) the degree of risk involved to such individual's health, safety,
 16 and morals;
 17 (2) the individual's physical fitness and prior training and
 18 experience;
 19 (3) the individual's length of unemployment and prospects for
 20 securing local work in the individual's customary occupation; and
 21 (4) the distance of the available work from the individual's
 22 residence.
 23 However, work under substantially the same terms and conditions
 24 under which the individual was employed by a base-period employer,
 25 which is within the individual's prior training and experience and
 26 physical capacity to perform, shall be considered to be suitable work
 27 unless the claimant has made a bona fide change in residence which
 28 makes such offered work unsuitable to the individual because of the
 29 distance involved. During the fifth through the eighth consecutive week
 30 of claiming benefits, work is not considered unsuitable solely because
 31 the work pays not less than ninety percent (90%) of the individual's
 32 prior weekly wage. After eight (8) consecutive weeks of claiming
 33 benefits, work is not considered unsuitable solely because the work
 34 pays not less than eighty percent (80%) of the individual's prior weekly
 35 wage. However, work is not considered suitable under this section if
 36 the work pays less than Indiana's minimum wage as determined under
 37 IC 22-2-2. For an individual who is subject to section 1(c)(8) of this
 38 chapter, the determination of suitable work for the individual must
 39 reasonably accommodate the individual's need to address the physical,
 40 psychological, legal, and other effects of domestic or family violence.
 41 (f) Notwithstanding any other provisions of this article, no work
 42 shall be considered suitable and benefits shall not be denied under this

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1 article to any otherwise eligible individual for refusing to accept new
2 work under any of the following conditions:

3 (1) If the position offered is vacant due directly to a strike,
4 lockout, or other labor dispute.

5 (2) If the remuneration, hours, or other conditions of the work
6 offered are substantially less favorable to the individual than
7 those prevailing for similar work in the locality.

8 (3) If as a condition of being employed the individual would be
9 required to join a company union or to resign from or refrain from
10 joining a bona fide labor organization.

11 (4) If as a condition of being employed the individual would be
12 required to discontinue training into which the individual had
13 entered with the approval of the department.

14 (g) Notwithstanding subsection (e), with respect to extended benefit
15 periods established on and after July 5, 1981, "suitable work" means
16 any work which is within an individual's capabilities. However, if the
17 individual furnishes evidence satisfactory to the department that the
18 individual's prospects for obtaining work in the individual's customary
19 occupation within a reasonably short period are good, the
20 determination of whether any work is suitable work shall be made as
21 provided in subsection (e).

22 (h) With respect to extended benefit periods established on and after
23 July 5, 1981, no work shall be considered suitable and extended
24 benefits shall not be denied under this article to any otherwise eligible
25 individual for refusing to accept new work under any of the following
26 conditions:

27 (1) If the gross average weekly remuneration payable to the
28 individual for the position would not exceed the sum of:

29 (A) the individual's average weekly benefit amount for the
30 individual's benefit year; plus

31 (B) the amount (if any) of supplemental unemployment
32 compensation benefits (as defined in Section 501(c)(17)(D) of
33 the Internal Revenue Code) payable to the individual for such
34 week.

35 (2) If the position was not offered to the individual in writing or
36 was not listed with the department of workforce development.

37 (3) If such failure would not result in a denial of compensation
38 under the provisions of this article to the extent that such
39 provisions are not inconsistent with the applicable federal law.

40 (4) If the position pays wages less than the higher of:

41 (A) the minimum wage provided by 29 U.S.C. 206(a)(1) (the
42 Fair Labor Standards Act of 1938), without regard to any

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exemption; or
(B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

(j) For benefit periods established on and after June 30, 2011, an individual is ineligible for waiting period or benefit rights, or extended benefit rights, if the department finds as provided in section 9 of this chapter that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or as a prerequisite to a work offer, the individual:

- (1) tested positive for drugs after a drug test given by a prospective employer; or**
- (2) refused to submit to a drug test.**

SECTION 3. IC 22-4-15-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 9. (a) Notwithstanding any other provision of this article, an individual who is otherwise eligible for benefits may be disqualified for benefits under section 2 of this chapter, if the individual:**

- (1) is found to have tested positive for drugs after a drug test is given by a prospective employer; or**
- (2) refuses to submit to a drug test;**

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

(b) A prospective employer that:

- (1) receives a report of a positive drug test that has been given by or on behalf of the prospective employer; or**
- (2) is aware that a prospective employee has refused to submit to a drug test that would be given by or on behalf of the employer;**

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

(c) Whenever the department receives a report under subsection (b) concerning an individual, the department shall provide written notice to the individual of the following:

- (1) That the department has received a report described in subsection (b) concerning the individual.**
- (2) That the individual may be disqualified for benefits under this section as the result of the report.**
- (3) That the individual may appeal the report by requesting a hearing as provided in IC 22-4-17-2.**

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1 (d) An individual who is disqualified for benefits under
2 subsection (a) may resume eligibility for benefits upon submission
3 of a negative drug test to the department.

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

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

10 (2) the manner in which a subsequent negative drug test may
11 be submitted to the department after a positive drug test has
12 been reported;

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

16 (4) the manner by which a report of a false positive drug test
17 may be appealed to the department.

18 SECTION 4. IC 22-4-17-1, AS AMENDED BY P.L.175-2009,
19 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2011]: Sec. 1. (a) Claims for benefits shall be made in
21 accordance with rules adopted by the department. The department shall
22 adopt reasonable procedures consistent with the provisions of this
23 article for the expediting of the taking of claims of individuals for
24 benefits in instances of mass layoffs by employers, the purpose of
25 which shall be to minimize the amount of time required for such
26 individuals to file claims upon becoming unemployed as the result of
27 such mass layoffs.

28 (b) Except when the result would be inconsistent with the other
29 provisions of this article, as provided in the rules of the department, the
30 provisions of this article which apply to claims for, or the payment of,
31 regular benefits shall apply to claims for, and the payment of, extended
32 benefits.

33 (c) Whenever an extended benefit period is to become effective in
34 this state as a result of a state "on" indicator, or an extended benefit
35 period is to be terminated in this state as a result of a state "off"
36 indicator, the commissioner shall make an appropriate public
37 announcement.

38 (d) Computations required by the provisions of IC 22-4-2-34(f) shall
39 be made by the department in accordance with regulations prescribed
40 by the United States Department of Labor.

41 (e) Each employer shall display and maintain in places readily
42 accessible to all employees posters concerning its regulations and shall

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1 make available to each such individual at the time the individual
2 becomes unemployed printed benefit rights information furnished by
3 the department.

4 **(f) In accordance with the authority to adopt rules under**
5 **subsection (a), the department shall adopt rules under IC 4-22-2 to**
6 **provide that an application for a claim for benefits must require an**
7 **applicant for benefits to state, under penalty of perjury, that the**
8 **applicant will refrain from the knowing or intentional possession**
9 **and use of the following without a valid prescription or an order**
10 **from a practitioner during the period that the applicant receives**
11 **benefits if benefits are awarded:**

- 12 (1) Amphetamines.
- 13 (2) Cocaine.
- 14 (3) Opiates (2,000 ng/ml).
- 15 (4) PCP.
- 16 (5) THC.

17 **(g) The department may not deny benefits to an otherwise**
18 **eligible individual based on the individual's failure or refusal to**
19 **sign the affidavit described in subsection (f). An initial claim for**
20 **benefits under this article and an affidavit described in subsection**
21 **(f) must contain a clear and conspicuous statement that an**
22 **otherwise eligible individual may not be denied benefits based on**
23 **the individual's failure or refusal to sign the affidavit described in**
24 **subsection (f).**

25 SECTION 5. IC 22-4-17-2.5, AS AMENDED BY P.L.3-2008,
26 SECTION 159, IS AMENDED TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2011]: Sec. 2.5. (a) When an individual files an
28 initial claim, the individual shall be advised of the following:

- 29 (1) Unemployment compensation is subject to federal, state, and
30 local income taxes.
- 31 (2) Requirements exist concerning estimated tax payments.
- 32 (3) ~~After December 31, 1996,~~ The individual may elect to have
33 income taxes withheld from the individual's payment of
34 unemployment compensation. If an election is made, the
35 department shall withhold federal income tax at the applicable
36 rate provided in the Internal Revenue Code.
- 37 (4) An individual is allowed to change an election made under
38 this section.

39 (b) Money withheld from unemployment compensation under this
40 section shall remain in the unemployment fund until transferred to the
41 federal taxing authority for payment of income taxes.

42 (c) The commissioner shall follow all procedures of the United

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1 States Department of Labor and the Internal Revenue Service
2 concerning the withholding of income taxes.
3 (d) Money shall be deducted and withheld in accordance with the
4 priorities established in regulations developed by the commissioner.
5 (e) **In addition to the information contained in subsection (a), an**
6 **individual filing an initial claim shall be advised that the individual**
7 **may be disqualified for benefits if the individual:**
8 (1) **is found to have a positive drug test after a drug test is**
9 **given by a prospective employer; or**
10 (2) **refuses to submit to a drug test;**
11 **after an offer of employment has been made or as a prerequisite to**
12 **an offer of employment by the employer, as provided in**
13 **IC 22-4-15-9.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 86, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 86 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 9, Nays 1.

SENATE MOTION

Madam President: I move that Senate Bill 86 be amended to read as follows:

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

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

- (1) **Amphetamines.**
- (2) **Cocaine.**
- (3) **Opiates (2,000 ng/ml).**
- (4) **PCP.**
- (5) **THC.**

SECTION 2. IC 22-4-15-2, AS AMENDED BY P.L.175-2009, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 2. (a)** With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for waiting period or benefit rights, or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

- (1) to apply for available, suitable work when directed by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;
- (2) to accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the



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individual by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service, or an employment unit; or

(3) to return to the individual's customary self-employment when directed by the commissioner or the deputy.

(b) With respect to benefit periods established on and after July 6, 1980, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(c) With respect to extended benefit periods established on and after July 5, 1981, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by an amount determined as follows:

(1) For the first failure to apply for or accept suitable work, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim, as initially determined; multiplied by

(B) seventy-five percent (75%);

rounded (if not already a multiple of one dollar (\$1)) to the next higher dollar.

(2) For the second failure to apply for or accept suitable work, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (1); multiplied by

(B) eighty-five percent (85%);

rounded (if not already a multiple of one dollar (\$1)) to the next higher dollar.

(3) For the third and any subsequent failure to apply for or accept suitable work, the maximum benefit amount of the individual's current claim is equal to the result of:

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(A) the maximum benefit amount of the individual's current claim determined under subdivision (2); multiplied by

(B) ninety percent (90%);

rounded (if not already a multiple of one dollar (\$1)) to the next higher dollar.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

(1) the degree of risk involved to such individual's health, safety, and morals;

(2) the individual's physical fitness and prior training and experience;

(3) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and

(4) the distance of the available work from the individual's residence.

However, work under substantially the same terms and conditions under which the individual was employed by a base-period employer, which is within the individual's prior training and experience and physical capacity to perform, shall be considered to be suitable work unless the claimant has made a bona fide change in residence which makes such offered work unsuitable to the individual because of the distance involved. During the fifth through the eighth consecutive week of claiming benefits, work is not considered unsuitable solely because the work pays not less than ninety percent (90%) of the individual's prior weekly wage. After eight (8) consecutive weeks of claiming benefits, work is not considered unsuitable solely because the work pays not less than eighty percent (80%) of the individual's prior weekly wage. However, work is not considered suitable under this section if the work pays less than Indiana's minimum wage as determined under IC 22-2-2. For an individual who is subject to section 1(c)(8) of this chapter, the determination of suitable work for the individual must reasonably accommodate the individual's need to address the physical, psychological, legal, and other effects of domestic or family violence.

(f) Notwithstanding any other provisions of this article, no work shall be considered suitable and benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.

(2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

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(3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.

(4) If as a condition of being employed the individual would be required to discontinue training into which the individual had entered with the approval of the department.

(g) Notwithstanding subsection (e), with respect to extended benefit periods established on and after July 5, 1981, "suitable work" means any work which is within an individual's capabilities. However, if the individual furnishes evidence satisfactory to the department that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good, the determination of whether any work is suitable work shall be made as provided in subsection (e).

(h) With respect to extended benefit periods established on and after July 5, 1981, no work shall be considered suitable and extended benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the gross average weekly remuneration payable to the individual for the position would not exceed the sum of:

(A) the individual's average weekly benefit amount for the individual's benefit year; plus

(B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.

(2) If the position was not offered to the individual in writing or was not listed with the department of workforce development.

(3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.

(4) If the position pays wages less than the higher of:

(A) the minimum wage provided by 29 U.S.C. 206(a)(1) (the Fair Labor Standards Act of 1938), without regard to any exemption; or

(B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

(j) For benefit periods established on and after June 30, 2011, an individual is ineligible for waiting period or benefit rights, or

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extended benefit rights, if the department finds as provided in section 9 of this chapter that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or as a prerequisite to a work offer, the individual:

- (1) tested positive for drugs after a drug test given by a prospective employer; or
- (2) refused to submit to a drug test.

SECTION 3. IC 22-4-15-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 9. (a) Notwithstanding any other provision of this article, an individual who is otherwise eligible for benefits may be disqualified for benefits under section 2 of this chapter, if the individual:**

- (1) is found to have tested positive for drugs after a drug test is given by a prospective employer; or
- (2) refuses to submit to a drug test;

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

(b) A prospective employer that:

- (1) receives a report of a positive drug test that has been given by or on behalf of the prospective employer; or
- (2) is aware that a prospective employee has refused to submit to a drug test that would be given by or on behalf of the employer;

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

(c) Whenever the department receives a report under subsection (b) concerning an individual, the department shall provide written notice to the individual of the following:

- (1) That the department has received a report described in subsection (b) concerning the individual.
- (2) That the individual may be disqualified for benefits under this section as the result of the report.
- (3) That the individual may appeal the report by requesting a hearing as provided in IC 22-4-17-2.

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

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

- (1) the period of ineligibility for benefits between the time that

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the drug test is given and a positive result is reported to the department;

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

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

(4) the manner by which a report of a false positive drug test may be appealed to the department."

Page 2, line 17, delete ":" and insert "**the following**".

Page 2, delete lines 18 through 22.

Page 2, run in lines 17 through 23.

Page 2, line 25, delete "." and insert ":

(1) Amphetamines.

(2) Cocaine.

(3) Opiates (2,000 ng/ml).

(4) PCP.

(5) THC.

(g) The department may not deny benefits to an otherwise eligible individual based on the individual's failure or refusal to sign the affidavit described in subsection (f). An initial claim for benefits under this article and an affidavit described in subsection (f) must contain a clear and conspicuous statement that an otherwise eligible individual may not be denied benefits based on the individual's failure or refusal to sign the affidavit described in subsection (f).

SECTION 5. IC 22-4-17-2.5, AS AMENDED BY P.L.3-2008, SECTION 159, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2.5. (a) When an individual files an initial claim, the individual shall be advised of the following:

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

(2) Requirements exist concerning estimated tax payments.

(3) ~~After December 31, 1996,~~ The individual may elect to have income taxes withheld from the individual's payment of unemployment compensation. If an election is made, the department shall withhold federal income tax at the applicable rate provided in the Internal Revenue Code.

(4) An individual is allowed to change an election made under this section.

(b) Money withheld from unemployment compensation under this

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section shall remain in the unemployment fund until transferred to the federal taxing authority for payment of income taxes.

(c) The commissioner shall follow all procedures of the United States Department of Labor and the Internal Revenue Service concerning the withholding of income taxes.

(d) Money shall be deducted and withheld in accordance with the priorities established in regulations developed by the commissioner.

(e) In addition to the information contained in subsection (a), an individual filing an initial claim shall be advised that the individual may be disqualified for benefits if the individual:

(1) is found to have a positive drug test after a drug test is given by a prospective employer; or

(2) refuses to submit to a drug test;

after an offer of employment has been made or as a prerequisite to an offer of employment by the employer, as provided in IC 22-4-15-9."

Renumber all SECTIONS consecutively.

(Reference is to SB 86 as printed January 13, 2011.)

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