

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 2011 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1173

AN ACT to amend the Indiana Code concerning labor and safety.

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

SECTION 1. IC 22-8-1.1-24.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 24.1. ~~Employee Requests for Inspection.~~ **(a)** In the case of a written request for an inspection by an employee or ~~his~~ **a representative of an employee** who believes that a violation of a safety or health standard exists that threatens physical harm or that an imminent danger exists, a copy shall be provided the employer at the time of inspection, except that, upon request of the complainant ~~his~~, **or by a decision by the commissioner:**

(1) the name of the complainant and any identifying information; and

(2) the name and identifying information of individual employees referred to therein;

shall not appear in such copy or on any record published, released, or made available by the commissioner. The commissioner shall make the inspection, or shall reply in writing within twenty (20) days giving the reasons why ~~he~~ **the commissioner** is not making the requested inspection. In the event a requested inspection is made, and no safety order issued, the commissioner shall reply in writing within twenty (20) days giving the reason for ~~his~~ **the** decision.

(b) The employee or ~~his~~ **a representative of the employee**, after receipt of the commissioner's reply **under subsection (a)**, or upon the failure of the commissioner to reply, may request informal review of ~~its~~



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the request for an inspection **made under subsection (a)**, or after inspection, upon the refusal to issue a safety order, by filing a written request for such informal review with the commissioner. Within twenty (20) days of receipt of the request, informal review shall commence with a final decision to be rendered within ten (10) days thereafter.

SECTION 2. IC 22-8-1.1-24.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 24.3. Subject to regulations issued by the commissioner, a representative of the employer and a representative of the employees shall be given the opportunity to accompany the inspector during the physical inspection of the place of employment. Where there is no authorized employee representative, the inspector shall consult with a reasonable number of employees concerning matters of health and safety in the place of employment. **The name and any identifying information of those employees interviewed are confidential for purposes of IC 5-14-3-4(a)(1).**

SECTION 3. IC 22-8-1.1-48, AS AMENDED BY P.L.32-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 48. (a) The tax shall be paid directly to the director who shall deposit the revenues in a special fund to be used solely for safety and health consultation, education, and training services for employer groups and for onsite consultation service as provided in section 41 of this chapter. These revenues shall not be transferable to any other fund and shall not revert to the general fund at the end of any fiscal year.

(b) Tax revenues as provided for in section 47 of this chapter shall be made available to INSafe only by appropriation of the general assembly based upon the needs of INSafe as determined by the department and submitted in the form of a budget in the manner provided by law.

(c) The annual tax payment is due and payable on or before ~~April 10~~ **May 1** of each year in which the tax is imposed.

SECTION 4. IC 22-8-1.1-52 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 52. This section does not apply to a subpoena requesting only documents or other records. Neither the commissioner nor any employee or former employee of the department is subject to subpoena for purposes of inquiry into any occupational safety and health inspection, except in the following circumstances:**

- (1) An enforcement proceeding is brought under this chapter.
- (2) An action is filed in which the department is a party.



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(3) The commissioner consents in writing to waive the exemption provided by this section.

(4) A court finds that:

(A) the information sought is essential to the underlying case;

(B) there are no reasonable alternative means for acquiring the information; and

(C) a significant injustice would occur if the requested testimony was not available.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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HEA 1173 — Concur+

