

# HOUSE BILL No. 1044

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-5-4.

**Synopsis:** Tobacco use by job applicants. Permits an employer to consider tobacco use by job applicants in the hiring process.

**Effective:** July 1, 2012.

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## Kubacki, Culver

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January 9, 2012, read first time and referred to Committee on Employment, Labor and Pensions.

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Second Regular Session 117th General Assembly (2012)

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.

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# HOUSE BILL No. 1044



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 22-5-4-1, AS AMENDED BY P.L.136-2006,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2012]: Sec. 1. (a) Except as provided in subsection (b), an  
4 employer may not:  
5 (1) require, as a condition of employment, an employee ~~or~~  
6 ~~prospective employee~~ to refrain from using; or  
7 (2) discriminate against an employee with respect to:  
8 (A) the employee's compensation and benefits; or  
9 (B) terms and conditions of employment;  
10 based on the employee's use of;  
11 tobacco products outside the course of the employee's ~~or prospective~~  
12 ~~employee's~~ employment.  
13 (b) An employer may implement financial incentives:  
14 (1) intended to reduce tobacco use; and  
15 (2) related to employee health benefits provided by the employer.  
16 SECTION 2. IC 22-5-4-2 IS AMENDED TO READ AS FOLLOWS  
17 [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) An employee ~~or prospective~~



1 ~~employee~~ may bring a civil action against an employer to enforce  
2 section 1 of this chapter.  
3 (b) If an employer violates section 1 of this chapter, the court may  
4 do the following:  
5 (1) Award:  
6 (A) actual damages; and  
7 (B) court costs and reasonable attorney's fees;  
8 to the prevailing employee. ~~or prospective employee.~~  
9 (2) Enjoin further violation of this chapter.  
10 SECTION 3. IC 22-5-4-3 IS AMENDED TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 2012]: Sec. 3. This chapter does not limit an  
12 employee's ~~or prospective employee's~~ rights or remedies under any  
13 other state or federal law.

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