

HOUSE BILL No. 1105

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-6-6.

Synopsis: Employee's right to work. Makes it a Class A misdemeanor for an employer to require an individual to: (1) become or remain a member of a labor organization; (2) pay dues, fees, or other charges to a labor organization; or (3) pay to a charity or another third party an amount that represents dues, fees, or other charges required of members of a labor organization; as a condition of employment or continuation of employment. Establishes a separate private right of action for violations or threatened violations. Exempts individuals employed in the construction industry, employed by the United States, or subject to the federal Railway Labor Act.

Effective: July 1, 2012.

McClain

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

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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. 1105



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 22-6-6 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2012]:
- 4 **Chapter 6. Right to Work**
- 5 **Sec. 1. This chapter does not apply to the following:**
- 6 (1) **An individual employed by the United States or a wholly**
- 7 **owned corporation of the United States.**
- 8 (2) **An individual subject to the federal Railway Labor Act (45**
- 9 **U.S.C. 151 et seq.).**
- 10 (3) **An individual employed in the construction industry.**
- 11 **Sec. 2. This chapter does not apply to the extent that it conflicts**
- 12 **with:**
- 13 (1) **the federal National Labor Relations Act (29 U.S.C. 151 et**
- 14 **seq.); or**
- 15 (2) **another federal law or regulation concerning labor**
- 16 **relations or labor organizations.**
- 17 **Sec. 3. As used in this chapter, "construction industry" refers to**



1 the business establishments classified in the construction sector
 2 (NAICS Code 23) by the North American Industry Classification
 3 System (NAICS), as adopted in 1997, and updated from time to
 4 time, under the direction and guidance of the federal Office of
 5 Management and Budget (OMB).

6 Sec. 4. As used in this chapter, "employer" means:

- 7 (1) a person employing at least two (2) individuals in Indiana;
- 8 (2) a public body; or
- 9 (3) an agent of an employer described in subdivision (1) or (2).

10 Sec. 5. As used in this chapter, "labor organization" means an
 11 organization, agency, or representation committee that exists, in
 12 whole or in part, to assist employees in:

- 13 (1) bargaining collectively; or
- 14 (2) negotiating with employers;

15 concerning grievances, labor disputes, wages, rates of pay, or terms
 16 or conditions of employment. The term includes a school employee
 17 organization (as defined in IC 20-29-2-14).

18 Sec. 6. As used in this chapter, "person" means:

- 19 (1) an individual;
- 20 (2) a proprietorship;
- 21 (3) a partnership;
- 22 (4) a firm;
- 23 (5) an association;
- 24 (6) a corporation; or
- 25 (7) another legal entity.

26 Sec. 7. As used in this chapter, "public body" means the
 27 following:

- 28 (1) The state.
- 29 (2) A municipal corporation (as defined in IC 36-1-2-10).
- 30 (3) A public transportation agency (as defined in
 31 IC 36-9-1-5.5).
- 32 (4) A public utility employer (as defined in IC 22-6-2-2(a)).
- 33 (5) A school employer (as defined in IC 20-29-2-15).

34 Sec. 8. As used in this chapter, "state" means:

- 35 (1) a board;
- 36 (2) a branch;
- 37 (3) a commission;
- 38 (4) a department;
- 39 (5) a division;
- 40 (6) a bureau;
- 41 (7) a committee;
- 42 (8) an agency;

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- 1 (9) an institution;
- 2 (10) an authority; or
- 3 (11) another instrumentality;
- 4 of the state.

5 **Sec. 9. An employer may not require an individual to:**

- 6 (1) become or remain a member of a labor organization;
- 7 (2) pay dues, fees, assessments, or other charges of any kind
- 8 or amount to a labor organization; or
- 9 (3) pay an amount to a charity or third party that is
- 10 equivalent to or a pro rata part of dues, fees, assessments, or
- 11 other charges regularly required of members of a labor
- 12 organization;

13 as a condition of employment or continuation of employment.

14 **Sec. 10. A written or an oral contract or agreement, express or**
15 **implied, between a labor organization and an employer that**
16 **violates section 9 of this chapter is void.**

17 **Sec. 11. An employer that knowingly or intentionally violates**
18 **section 9 of this chapter commits a Class A misdemeanor.**

19 **Sec. 12. An individual who is employed by an employer may file**
20 **a complaint that alleges a violation or threatened violation of this**
21 **chapter with the attorney general or the prosecuting attorney of**
22 **the county in which the individual is employed. Upon receiving a**
23 **complaint under this section, the attorney general or prosecuting**
24 **attorney shall:**

- 25 (1) investigate the complaint; and
- 26 (2) enforce compliance if a violation of this chapter is found.

27 **Sec. 13. (a) If an individual suffers an injury:**

- 28 (1) as the result of any act or practice that violates this
- 29 chapter; or
- 30 (2) from a threatened violation of this chapter;

31 the individual may bring a civil action.

32 (b) A court may order an award of any or all of the following to

33 an individual who prevails in an action under subsection (a):

- 34 (1) Actual and consequential damages resulting from the
- 35 violation or threatened violation.
- 36 (2) A civil penalty against the violator of not more than one
- 37 thousand dollars (\$1,000).
- 38 (3) Reasonable attorney's fees, litigation expenses, and costs.
- 39 (4) Declaratory or equitable relief, including injunctive relief.
- 40 (5) Other relief the court considers proper.

41 (c) The remedies and penalties in subsection (b) are:

- 42 (1) cumulative; and

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1 **(2) in addition to other remedies and penalties imposed for a**
2 **violation of this chapter.**
3 **Sec. 14. (a) Sections 9 through 13 of this chapter:**
4 **(1) apply to a written or an oral contract or agreement**
5 **entered into, modified, renewed, or extended after June 30,**
6 **2012; and**
7 **(2) do not apply to or abrogate a written or an oral contract**
8 **or agreement in effect on June 30, 2012.**
9 **(b) This section expires July 1, 2015.**

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