



January 27, 2012

SENATE BILL No. 337

DIGEST OF SB 337 (Updated January 25, 2012 11:25 am - DI 102)

Citations Affected: IC 20-33; IC 20-37.

Synopsis: Child labor law. Provides that a legal entity whose ownership is limited to the parents of an employed child or persons standing in place of the parent of an employed child is not subject to certain provisions of child labor law. Allows a person other than a parent to accompany a child less than 16 years of age at performing arts rehearsals, appearances, and performances, if the person is at least 18 years of age and has received permission from the child's parent. Provides for civil penalties to be assessed by the department of labor (department) concerning employment certificate violations and hazardous occupation violations of child labor law, to be deposited in the employment of youth fund. Establishes civil penalties for violations of late night and early morning work hours restrictions and removes the designation of such violations as hazardous occupation violations. Provides that all blank forms necessary to carry out child labor law regulation be prepared by the department and supplied to issuing officers by means of electronic or printed publication, and repeals language providing that funds to pay expenses incurred by the department in printing and distributing these forms are appropriated annually out of any money in the state general fund that is not otherwise appropriated. Provides that the department may adopt rules to implement child labor law.

Effective: July 1, 2012.

Waltz

January 9, 2012, read first time and referred to Committee on Pensions and Labor.
January 26, 2012, amended, reported favorably — Do Pass.

SB 337—LS 6827/DI 96+



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January 27, 2012

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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SENATE BILL No. 337

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 20-33-3-1, AS ADDED BY P.L.1-2005, SECTION
2 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2012]: Sec. 1. This chapter does not apply to:
4 (1) a parent who employs the parent's own child; ~~or~~
5 (2) a person standing in place of a parent who employs a child in
6 the person's custody; ~~or~~
7 (3) **a legal entity whose ownership is limited to the parents of**
8 **the employed child or persons standing in place of the parent**
9 **of the employed child;**
10 except ~~for~~: **in the instances of** (1) underage employment (section 31(a)
11 of this chapter), (2) employment during school hours (section 31(b) of
12 this chapter), and (3) employment in hazardous occupations designated
13 by federal law (**as set forth in** section 35 of this chapter).
14 SECTION 2. IC 20-33-3-16, AS ADDED BY P.L. 1-2005,
15 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2012]. Sec. 16. (a) All blank forms necessary to carry out this
17 chapter shall be prepared by the department of labor and supplied to

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1 issuing officers **by means of electronic or printed publication.**

2 (b) Funds to pay expenses incurred by the department of labor in
3 printing and distributing these forms are appropriated annually out of
4 any money in the state general fund that is not otherwise appropriated.

5 SECTION 3. IC 20-33-3-32, AS ADDED BY P.L.1-2005,
6 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2012]: Sec. 32. This chapter may not prevent a child of any
8 age from singing, playing, or performing in a studio, circus, theatrical,
9 or musical exhibition, concert, or festival, in radio and television
10 broadcasts, or as a live or photographic model. Employment certificates
11 are not required for employment or appearances set forth in this
12 section, but a child less than eighteen (18) years of age may not be
13 employed except under the following conditions:

14 (1) The activities described in this section must not:

15 (A) be detrimental to the life, health, safety, or welfare of the
16 child; or

17 (B) interfere with the schooling of the child.

18 Provision shall be made for education equivalent to full-time
19 school attendance in the public schools for children less than
20 sixteen (16) years of age.

21 (2) A:

22 (A) parent; or

23 (B) person who:

24 (i) is at least eighteen (18) years of age; and

25 (ii) has received permission from the child's parent to
26 accompany the child;

27 shall accompany a child less than sixteen (16) years of age at all
28 rehearsals, appearances, and performances.

29 (3) The employment or appearance may not be in a cabaret, dance
30 hall, night club, tavern, or other similar place.

31 SECTION 4. IC 20-33-3-36, AS ADDED BY P.L.1-2005,
32 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2012]: Sec. 36. (a) This section does not provide an exception
34 to the limit on the number of hours a child is permitted to work under
35 sections 22 through 30 of this chapter.

36 (b) It is unlawful for a person, firm, limited liability company, or
37 corporation to permit a child who is:

38 (1) less than eighteen (18) years of age; and

39 (2) employed by the person, firm, limited liability company, or
40 corporation;

41 to work after 10 p.m. and before 6 a.m. in an establishment that is open
42 to the public unless another employee at least eighteen (18) years of

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1 age also works in the establishment during the same hours as the child.

2 (c) ~~For a violation of subsection (b), is a hazardous occupation~~
 3 ~~violation subject to section 41 of this chapter:~~ **an individual who is an**
 4 **employer, a firm, a limited liability company, or a corporation is**
 5 **subject to the following civil penalties to be assessed by the**
 6 **department of labor:**

7 **(1) Fifty dollars (\$50) for the first violation.**

8 **(2) Two hundred fifty dollars (\$250) for the second violation.**

9 **(3) One thousand dollars (\$1,000) for the third and**
 10 **subsequent violations.**

11 SECTION 5. IC 20-33-3-39, AS AMENDED BY P.L.182-2006,
 12 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2012]: Sec. 39. An individual who is an employer, a firm, a
 14 limited liability company, or a corporation that violates this chapter
 15 may be assessed the civil penalties described in this section by the
 16 department of labor. For an ~~employment certificate violation under~~
 17 ~~section 5 or 14 of this chapter,~~ a termination notice violation under
 18 section 12 of this chapter, an hour violation of not more than thirty (30)
 19 minutes under sections 22 through 28 of this chapter, a violation of
 20 section 23(3) or 24(3) of this chapter, or a posting violation under
 21 section 34 of this chapter, the civil penalties are as follows:

22 (1) A warning letter for any violations identified during an initial
 23 inspection.

24 (2) Fifty dollars (\$50) per instance for a second violation
 25 identified in a subsequent inspection.

26 (3) Seventy-five dollars (\$75) per instance for a third violation
 27 that is identified in a subsequent inspection.

28 (4) One hundred dollars (\$100) per instance for a fourth or
 29 subsequent violation that is identified in an inspection subsequent
 30 to the inspection under subdivision (3). ~~and occurs not more than~~
 31 ~~two (2) years after a prior violation.~~

32 SECTION 6. IC 20-33-3-39.5 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2012]: **Sec. 39.5. An individual who is an**
 35 **employer, a firm, a limited liability company, or a corporation that**
 36 **violates section 5 or 14 of this chapter concerning an employment**
 37 **certificate violation is subject to the following civil penalties to be**
 38 **assessed by the department of labor:**

39 **(1) Fifty dollars (\$50) for the first violation identified during**
 40 **an initial inspection.**

41 **(2) One hundred dollars (\$100) for the second violation**
 42 **identified in a subsequent inspection.**



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(3) Two hundred dollars (\$200) for a third or subsequent violation that is identified in an inspection subsequent to the inspection under subdivision (2).

SECTION 7. IC 20-33-3-40, AS AMENDED BY P.L.182-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 40. An individual who is an employer, a firm, a limited liability company, or a corporation that violates this chapter may be assessed the civil penalties described in this section by the department of labor. For an hour violation of more than thirty (30) minutes under sections 22 through 28 of this chapter, each violation of section 30 of this chapter, ~~an age violation under section 31 or 32 of this chapter, or each minor employed in violation of section 31(b) of this chapter, or a hazardous occupation violation under section 35 or 36 of this chapter,~~ the civil penalties are as follows:

- (1) A warning letter for any violations identified during an initial inspection.
- (2) One hundred dollars (\$100) per instance for each violation identified in a subsequent inspection.
- (3) Two hundred dollars (\$200) per instance for a third violation that is identified in a subsequent inspection.
- (4) Four hundred dollars (\$400) per instance for a fourth or subsequent violation that is identified in an inspection subsequent to the inspection under subdivision (3). ~~and occurs not more than two (2) years after a prior violation.~~

SECTION 8. IC 20-33-3-40.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 40.3. An individual who is an employer, a firm, a limited liability company, or a corporation that violates section 35 of this chapter concerning a hazardous occupation violation may be subject to the following civil penalties to be assessed by the department of labor:**

- (1) Up to one thousand dollars (\$1,000) for the first violation.**
- (2) Up to five thousand dollars (\$5,000) for the second and subsequent violation.**
- (3) Not less than eleven thousand dollars (\$11,000) and not more than fifty thousand dollars (\$50,000) for a violation if a child suffers serious bodily injury (as defined in IC 35-41-1-25) or death.**

SECTION 9. IC 20-33-3-40.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 40.5. An individual who is an employer, a firm, a limited liability company, or a corporation that**

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1 **violates section 31 or 32 of this chapter concerning an age violation**
 2 **is subject to the following civil penalties to be assessed by the**
 3 **department of labor:**

4 **(1) Five hundred dollars (\$500) for the first violation.**

5 **(2) One thousand dollars (\$1,000) for the second and**
 6 **subsequent violation.**

7 SECTION 10. IC 20-33-3-41, AS ADDED BY P.L.1-2005,
 8 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2012]: Sec. 41. (a) A civil penalty assessed under section 39,
 10 **or 39.5, 40, 40.3, or 40.5** of this chapter:

11 (1) is subject to IC 4-21.5-3-6; and

12 (2) becomes effective without a proceeding under IC 4-21.5-3
 13 unless a person requests an administrative review not later than
 14 thirty (30) days after notice of the assessment is given.

15 (b) For purposes of determining:

16 (1) whether a second **or subsequent** violation has occurred when
 17 assessing a civil penalty under subsection (a), a **first prior**
 18 violation expires ~~one (1) year~~ **five (5) years** after the date of
 19 issuance of a **the most recent** warning letter **or report or notice**
 20 **of violation** by the department of labor under subsection (a); and

21 (2) recurring violations of this section, each location of an
 22 employer shall be considered separate and distinct from another
 23 location of the same employer.

24 SECTION 11. IC 20-33-3-42, AS ADDED BY P.L.1-2005,
 25 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2012]: Sec. 42. (a) There is established an employment of
 27 youth fund to educate affected parties on the purposes and contents of
 28 this chapter and the responsibilities of all parties under this chapter.

29 (b) One-half (1/2) of the employment of youth fund each year shall
 30 be used for the purpose of the education provision of this subsection,
 31 and may be used to award grants to provide educational programs. The
 32 remaining one-half (1/2) of the employment of youth fund shall be used
 33 each year for the expenses of hiring and salaries of additional
 34 inspectors to enforce this chapter under section 39 of this chapter.

35 (c) The employment of youth fund shall be administered by the
 36 department of labor. The expenses of administering the employment of
 37 youth fund shall be paid from money in the fund. The treasurer of state
 38 shall invest the money in the employment of youth fund not currently
 39 needed to meet the obligations of the fund in the same manner as other
 40 public funds may be invested. Interest that accrues from these
 41 investments shall be deposited in the employment of youth fund.
 42 Money in the employment of youth fund at the end of a state fiscal year



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does not revert to the state general fund.

(d) Revenue received from civil penalties under this ~~section~~ **chapter** shall be deposited in the employment of youth fund.

(e) All inspectors hired to enforce this chapter shall also be available to educate affected parties on the purposes and contents of this chapter and the responsibilities of all parties under this chapter.

SECTION 12. IC 20-33-3-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 44. The commissioner of the department of labor may adopt rules under IC 4-22-2 necessary to implement this chapter, provided the rules are not inconsistent with this chapter or other applicable statutes.**

SECTION 13. IC 20-37-2-8, AS AMENDED BY P.L.234-2007, SECTION 129, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) A student in career and technical education and employed under section 7 of this chapter:

(1) is entitled to the rights of recovery of a worker of at least seventeen (17) years of age under the worker's compensation and occupational diseases laws (IC 22-3-2 through IC 22-3-7); and

(2) may not recover any additional benefit otherwise payable as a result of being less than ~~seventeen (17)~~ **eighteen (18)** years of age under the definition of a minor in IC 22-3-6-1.

The student is considered the employee of the employer while performing services for the employer under section 7 of this chapter.

(b) A student performing services for an employer under section 7 of this chapter is considered a full-time employee in computing compensation for permanent impairment under the worker's compensation law (IC 22-3-2 through IC 22-3-6).

(c) Employers and students under section 7 of this chapter are exempt from IC 20-33-3-35.

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 337, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 3. IC 20-33-3-32, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 32. This chapter may not prevent a child of any age from singing, playing, or performing in a studio, circus, theatrical, or musical exhibition, concert, or festival, in radio and television broadcasts, or as a live or photographic model. Employment certificates are not required for employment or appearances set forth in this section, but a child less than eighteen (18) years of age may not be employed except under the following conditions:

(1) The activities described in this section must not:

(A) be detrimental to the life, health, safety, or welfare of the child; or

(B) interfere with the schooling of the child.

Provision shall be made for education equivalent to full-time school attendance in the public schools for children less than sixteen (16) years of age.

(2) A:

(A) parent; or

(B) person who:

(i) is at least eighteen (18) years of age; and

(ii) has received permission from the child's parent to accompany the child;

shall accompany a child less than sixteen (16) years of age at all rehearsals, appearances, and performances.

(3) The employment or appearance may not be in a cabaret, dance hall, night club, tavern, or other similar place."

Page 2, line 18, after "(c)" delete "A" and insert "**For a**".

Page 2, line 18, after "(b)" insert ",".

Page 2, line 18, strike "is a hazardous occupation violation".

Page 2, line 19, strike "subject to".

Page 2, line 19, delete "sections 40.3 and".

Page 2, line 19, strike "41 of this chapter." and insert "**an individual who is an employer, a firm, a limited liability company, or a corporation is subject to the following civil penalties to be assessed by the department of labor:**

(1) Fifty dollars (\$50) for the first violation.

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- (2) Two hundred fifty dollars (\$250) for the second violation.**
- (3) One thousand dollars (\$1,000) for the third and subsequent violations."**

Page 3, line 38, delete "or 36(b)".

Page 3, line 39, delete "is" and insert "**may be**".

Page 3, line 41, delete "One" and insert "**Up to one**".

Page 3, line 42, delete "Five" and insert "**Up to five**".

Page 4, between lines 32 and 33, begin a new paragraph and insert:
"SECTION 11. IC 20-33-3-42, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 42. (a) There is established an employment of youth fund to educate affected parties on the purposes and contents of this chapter and the responsibilities of all parties under this chapter.

(b) One-half (1/2) of the employment of youth fund each year shall be used for the purpose of the education provision of this subsection, and may be used to award grants to provide educational programs. The remaining one-half (1/2) of the employment of youth fund shall be used each year for the expenses of hiring and salaries of additional inspectors to enforce this chapter under section 39 of this chapter.

(c) The employment of youth fund shall be administered by the department of labor. The expenses of administering the employment of youth fund shall be paid from money in the fund. The treasurer of state shall invest the money in the employment of youth fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the employment of youth fund. Money in the employment of youth fund at the end of a state fiscal year does not revert to the state general fund.

(d) Revenue received from civil penalties under this ~~section~~ **chapter** shall be deposited in the employment of youth fund.

(e) All inspectors hired to enforce this chapter shall also be available to educate affected parties on the purposes and contents of this chapter and the responsibilities of all parties under this chapter."

Page 5, delete lines 15 through 42.

Delete pages 6 through 17.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 337 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 7, Nays 0.

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