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 2012 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1325

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 10-14-3-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 0.5. As used in this chapter, "backfill employee" means an employee of a political subdivision who performs the duties of a mobile support unit member during the deployment of the mobile support unit member to assist another state under the Emergency Management Assistance Compact.**

SECTION 2. IC 10-14-3-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 0.7. As used in this chapter, "Emergency Management Assistance Compact" refers to IC 10-14-5.**

SECTION 3. IC 10-14-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 15. (a) Any function under this chapter and any other activity relating to emergency management is a governmental function. The state, any political subdivision, any other agencies of the state or political subdivision of the state, or, except in cases of willful misconduct, gross negligence, or bad faith, any emergency management worker complying with or reasonably attempting to comply with this chapter or any order or rule adopted under this chapter, or under any ordinance relating to blackout or other precautionary measures enacted by any political subdivision of the state, is not liable for the death of or injury to persons or for

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damage to property as a result of any such activity. This section does not affect the right of any person to receive:

(1) benefits to which the person would otherwise be entitled under:

(A) this chapter;

(B) the worker's compensation law (IC 22-3-2 through IC 22-3-6); or

(C) any pension law; or

(2) any benefits or compensation under any federal law.

(b) Any requirement for a license to practice any professional, mechanical, or other skill does not apply to any authorized emergency management worker who, in the course of performing duties as an emergency management worker, practices a professional, mechanical, or other skill during a disaster emergency.

(c) **Except as provided in subsection (d),** a volunteer working as an authorized emergency management worker may be covered by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7). If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-7 shall be used to determine the issue.

(d) An individual described in section 19(c)(2) of this chapter is considered to be a temporary employee of the state for purposes of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7).

SECTION 4. IC 10-14-3-19, AS AMENDED BY P.L.1-2007, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 19. (a) The governor, or the executive director at the request of the governor, may establish the number of mobile support units necessary to respond to a disaster, public health emergency, public safety emergency, or other event that requires emergency action. A mobile support unit may consist of one (1) or more individuals. The executive director shall appoint a commander for each unit who has primary responsibility for the:

(1) organization;

(2) administration; and

(3) operation;

of the unit. Mobile support units shall be called to duty for training, an exercise, or a response upon orders of the governor or the executive director and shall perform the units' functions in any part of Indiana or in other states, upon the conditions specified in this section. The term of this duty shall be for a limited period of not more than sixty (60)

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days. However, the executive director may renew the duty orders for successive periods of not more than sixty (60) days if necessary for the mobile support unit to participate in or respond to the event. Members serving on the mobile support units are immune from discipline or termination by the members' employers for serving in the units.

(b) An individual selected to serve as a member of a mobile support unit may be unemployed, retired, self-employed, or employed:

(1) in any capacity, including:

(A) emergency management;

(B) fire services;

(C) emergency medical services;

(D) law enforcement;

(E) public health;

(F) medicine;

(G) public works; or

(H) mental health; and

(2) by any employer, including:

(A) the federal government;

(B) the state;

(C) a political subdivision; or

(D) a business or organization.

(c) While on duty for training, an exercise, or a response, an individual serving as a member of a mobile support unit, whether within or outside Indiana:

(1) if the individual is an employee of the state or a political subdivision of the state, whether serving within or outside the political subdivision, has the:

(A) powers;

(B) duties;

(C) rights;

(D) privileges; and

(E) immunities;

and shall receive the compensation and benefits incidental to the individual's employment; and

(2) if the individual is not an employee of the state or a political subdivision of the state, is:

(A) entitled to the same rights and immunities that are provided for an employee of the state; **and**

(B) notwithstanding section 15(c) of this chapter, considered to be a temporary employee of the state for purposes of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases

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law (IC 22-3-7).

An individual described in this subsection is considered an emergency management worker for purposes of section 15 of this chapter.

(d) If a mobile support unit is deployed outside Indiana under the emergency management assistance compact, an individual serving as a member of the mobile support unit who is not an employee of the state is considered an employee of the state for purposes of the compact.

(e) Personnel of mobile support units, while on duty, are subject to the operational control of the authority in charge of emergency management activities in the area in which the personnel are serving.

(f) The state may reimburse a political subdivision for:

(1) the compensation paid and actual and necessary travel, subsistence, and maintenance expenses of an employee of the political subdivision while the employee is serving as a member of a mobile support unit;

(2) all payments for death, disability, or injury of an employee incurred in the course of duty while the employee was serving as a member of a mobile support unit; ~~and~~

(3) all losses of or damage to supplies and equipment of the political subdivision or the employee incurred while the employee was serving as a member of a mobile support unit; **and**

(4) the cost of a backfill employee necessary for the political subdivision to fill the position and perform the duties of an employee deployed on a mobile support unit to assist another state under the Emergency Management Assistance Compact, but only if and to the extent the cost of the backfill employee represents an extra cost to the political subdivision.

(g) For an individual of a mobile support unit who is not an employee of the state or a political subdivision, the state may:

(1) compensate the individual:

(A) at a rate of pay approved by the executive director;

(B) by reimbursing the individual for the actual and necessary:

(i) travel;

(ii) subsistence; and

(iii) maintenance;

expenses of the individual of the mobile support unit incurred while the individual is on duty as a member of a mobile support unit; and

(C) for all losses of or damage to supplies and equipment of the individual incurred while the individual is on duty as a member of a mobile support unit; or

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(2) reimburse the individual's employer for:

(A) the compensation paid and the actual and necessary:

(i) travel;

(ii) subsistence; and

(iii) maintenance;

expenses of the employee while the employee is on duty as a member of a mobile support unit;

~~(B) all payments for:~~

~~(i) death;~~

~~(ii) disability; or~~

~~(iii) injury;~~

~~of the employee while the employee was on duty as a member of a mobile support unit;~~ and

~~(C)~~ **(B)** all losses of or damage to supplies and equipment of the employer or the employee incurred in the course of duty while the employee was on duty as a member of a mobile support unit.

(h) An officer or employee of the state by virtue of employment is subject to assignment:

(1) on a permanent basis to a mobile support unit in accordance with the state:

(A) emergency management program; and

(B) emergency operations plan; or

(2) on a temporary basis to an emergency management activity to meet a particular need in the event of an emergency.

Refusal to accept and perform the duties of an assignment constitutes grounds for dismissal from state employment.

SECTION 5. IC 10-14-4-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 0.3. As used in this chapter, "backfill employee" has the meaning set forth in IC 10-14-3-0.5.**

SECTION 6. IC 10-14-4-2, AS AMENDED BY P.L.107-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. As used in this chapter, "eligible entity" means a county, a city, a town, a township, or an individual who has incurred loss **or cost** because of a disaster.

SECTION 7. IC 10-14-4-6, AS AMENDED BY P.L.110-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. Subject to the restrictions under this chapter, the agency may use money in the fund to provide financial assistance as follows:

(1) To an eligible entity that:

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(A) is not an individual;
(B) contains territory for which a disaster emergency has been declared by the governor;
(C) has suffered damage to the entity's public facilities because of the disaster for which the disaster emergency was declared;
(D) has applied to the department for financial assistance in the form of a grant; and
(E) complies with all other requirements established by the agency.

(2) To an eligible entity **that:**
(A) is not an individual;
(B) contributes personnel to a mobile support unit deployed to assist another political subdivision in responding to a disaster emergency that has been declared by the governor;
(C) incurs the cost of one (1) or more backfill employees that are necessary to fill the position and perform the duties of an employee deployed on a mobile support unit;
(D) has applied to the department for financial assistance in the form of a grant; and
(E) complies with all other requirements established by the agency.

(3) To an eligible entity:
(A) who is an individual;
(B) whose primary residence is located in territory for which:
(i) the United States Small Business Administration declares a disaster; and
(ii) there has been no disaster declaration issued by the President of the United States;
(C) who has suffered damage to the entity's primary residence or individual property because of a disaster described in clause (B); and
(D) who complies with all other requirements established by the agency.

SECTION 8. IC 10-14-4-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 8.5. The agency may make a grant to an eligible entity under section 6(2) of this chapter for the cost of a backfill employee, but only if and to the extent the cost of the backfill employee represents extra cost to the political subdivision.**

SECTION 9. IC 10-14-4-11, AS AMENDED BY P.L.22-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2013]: Sec. 11. **(a)** The director shall adopt rules under IC 4-22-2 to carry out this chapter.

(b) The director may adopt emergency rules in the manner provided under IC 4-22-2-37.1 to carry out the provisions of this chapter.

SECTION 10. IC 22-3-6-1, AS AMENDED BY P.L.168-2011, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the context otherwise requires:

(a) "Employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of IC 22-3-2-6 and IC 22-3-3-31. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5. The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(b) "Employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship, written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer.

(1) An executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation, other than a municipal corporation or governmental subdivision or a charitable, religious, educational, or other nonprofit corporation, is an employee of the corporation under IC 22-3-2 through

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IC 22-3-6. An officer of a corporation who is the sole officer of the corporation is an employee of the corporation under IC 22-3-2 through IC 22-3-6, but may elect not to be an employee of the corporation under IC 22-3-2 through IC 22-3-6. If an officer makes this election, the officer must serve written notice of the election on the corporation's insurance carrier and the board. An officer of a corporation who is the sole officer of the corporation may not be considered to be excluded as an employee under IC 22-3-2 through IC 22-3-6 until the notice is received by the insurance carrier and the board.

(2) An executive officer of a municipal corporation or other governmental subdivision or of a charitable, religious, educational, or other nonprofit corporation may, notwithstanding any other provision of IC 22-3-2 through IC 22-3-6, be brought within the coverage of its insurance contract by the corporation by specifically including the executive officer in the contract of insurance. The election to bring the executive officer within the coverage shall continue for the period the contract of insurance is in effect, and during this period, the executive officers thus brought within the coverage of the insurance contract are employees of the corporation under IC 22-3-2 through IC 22-3-6.

(3) Any reference to an employee who has been injured, when the employee is dead, also includes the employee's legal representatives, dependents, and other persons to whom compensation may be payable.

(4) An owner of a sole proprietorship may elect to include the owner as an employee under IC 22-3-2 through IC 22-3-6 if the owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If the owner of a sole proprietorship:

(A) is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain a certificate of exemption under IC 22-3-2-14.5; or

(B) is an independent contractor and does not make the election provided under this subdivision, the owner may obtain a certificate of exemption under IC 22-3-2-14.5.

(5) A partner in a partnership may elect to include the partner as an employee under IC 22-3-2 through IC 22-3-6 if the partner is

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actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If a partner in a partnership:

(A) is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain a certificate of exemption under IC 22-3-2-14.5; or

(B) is an independent contractor and does not make the election provided under this subdivision, the partner may obtain a certificate of exemption under IC 22-3-2-14.5.

(6) Real estate professionals are not employees under IC 22-3-2 through IC 22-3-6 if:

(A) they are licensed real estate agents;

(B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and

(C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(7) A person is an independent contractor in the construction trades and not an employee under IC 22-3-2 through IC 22-3-6 if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(8) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376 to a motor carrier is not an employee of the motor carrier for purposes of IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(9) A member or manager in a limited liability company may elect to include the member or manager as an employee under IC 22-3-2 through IC 22-3-6 if the member or manager is actually engaged in the limited liability company business. If a member or manager makes this election, the member or manager must serve

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upon the member's or manager's insurance carrier and upon the board written notice of the election. A member or manager may not be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received.

(10) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth in IC 22-3-2-2.5.

(11) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis is not an employee for purposes of IC 22-3-2 through IC 22-3-6.

(12) An individual who is not an employee of the state or a political subdivision is considered to be a temporary employee of the state for purposes of IC 22-3-2 through IC 22-3-6 while serving as a member of a mobile support unit on duty for training, an exercise, or a response, as set forth in IC 10-14-3-19(c)(2)(B).

(c) "Minor" means an individual who has not reached seventeen (17) years of age.

(1) Unless otherwise provided in this subsection, a minor employee shall be considered as being of full age for all purposes of IC 22-3-2 through IC 22-3-6.

(2) If the employee is a minor who, at the time of the accident, is employed, required, suffered, or permitted to work in violation of IC 20-33-3-35, the amount of compensation and death benefits, as provided in IC 22-3-2 through IC 22-3-6, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the injury or death of the minor, and the employer shall be liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age and who at the time of the accident is employed, suffered, or permitted to work at any occupation which is not prohibited by law, this subdivision does not apply.

(3) A minor employee who, at the time of the accident, is a student performing services for an employer as part of an approved program under IC 20-37-2-7 shall be considered a full-time employee for the purpose of computing compensation

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for permanent impairment under IC 22-3-3-10. The average weekly wages for such a student shall be calculated as provided in subsection (d)(4).

(4) The rights and remedies granted in this subsection to a minor under IC 22-3-2 through IC 22-3-6 on account of personal injury or death by accident shall exclude all rights and remedies of the minor, the minor's parents, or the minor's personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of the injury or death. This subsection does not apply to minors who have reached seventeen (17) years of age.

(d) "Average weekly wages" means the earnings of the injured employee in the employment in which the employee was working at the time of the injury during the period of fifty-two (52) weeks immediately preceding the date of injury, divided by fifty-two (52), except as follows:

(1) If the injured employee lost seven (7) or more calendar days during this period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted.

(2) Where the employment prior to the injury extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employee's employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages, as defined in this subsection, regard shall be had to the average weekly amount which during the fifty-two (52) weeks previous to the injury was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in the same class of employment in the same district.

(3) Wherever allowances of any character made to an employee in lieu of wages are a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

(4) In computing the average weekly wages to be used in calculating an award for permanent impairment under IC 22-3-3-10 for a student employee in an approved training

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program under IC 20-37-2-7, the following formula shall be used. Calculate the product of:

(A) the student employee's hourly wage rate; multiplied by

(B) forty (40) hours.

The result obtained is the amount of the average weekly wages for the student employee.

(e) "Injury" and "personal injury" mean only injury by accident arising out of and in the course of the employment and do not include a disease in any form except as it results from the injury.

(f) "Billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(g) "Billing review standard" means the data used by a billing review service to determine pecuniary liability.

(h) "Community" means a geographic service area based on ZIP code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by ZIP codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by ZIP codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by ZIP codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by ZIP codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by ZIP codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 ZIP code and ZIP codes with the first three (3) digits 462.

(7) The geographic service area served by ZIP codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by ZIP codes with the first three (3) digits 475, 476, and 477.

(i) "Medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under IC 22-3-2 through IC 22-3-6.

(j) "Pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or

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less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

SECTION 11. IC 22-3-7-9, AS AMENDED BY P.L.6-2012, SECTION 150, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) As used in this chapter, "employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of sections 6 and 33 of this chapter. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of sections 6 and 33 of this chapter. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth under section 2.5 of this chapter. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(b) As used in this chapter, "employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer. For purposes of this chapter the following apply:

(1) Any reference to an employee who has suffered disablement, when the employee is dead, also includes the employee's legal representative, dependents, and other persons to whom compensation may be payable.

(2) An owner of a sole proprietorship may elect to include the owner as an employee under this chapter if the owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier

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and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under this chapter unless the notice has been received. If the owner of a sole proprietorship:

(A) is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain a certificate of exemption under section 34.5 of this chapter; or

(B) is an independent contractor and does not make the election provided under this subdivision, the owner may obtain a certificate of exemption under section 34.5 of this chapter.

(3) A partner in a partnership may elect to include the partner as an employee under this chapter if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under this chapter until the notice has been received. If a partner in a partnership:

(A) is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain a certificate of exemption under section 34.5 of this chapter; or

(B) is an independent contractor and does not make the election provided under this subdivision, the partner may obtain a certificate of exemption under section 34.5 of this chapter.

(4) Real estate professionals are not employees under this chapter if:

(A) they are licensed real estate agents;

(B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and

(C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(5) A person is an independent contractor in the construction trades and not an employee under this chapter if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(6) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376, to a motor carrier is not an employee of the motor carrier for purposes of this

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chapter. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(7) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth under section 2.5 of this chapter.

(8) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis is not an employee for purposes of this chapter.

(9) An officer of a corporation who is the sole officer of the corporation is an employee of the corporation under this chapter. An officer of a corporation who is the sole officer of the corporation may elect not to be an employee of the corporation under this chapter. If an officer makes this election, the officer must serve written notice of the election on the corporation's insurance carrier and the board. An officer of a corporation who is the sole officer of the corporation may not be considered to be excluded as an employee under this chapter until the notice is received by the insurance carrier and the board.

(10) An individual who is not an employee of the state or a political subdivision is considered to be a temporary employee of the state for purposes of this chapter while serving as a member of a mobile support unit on duty for training, an exercise, or a response, as set forth in IC 10-14-3-19(c)(2)(B).

(c) As used in this chapter, "minor" means an individual who has not reached seventeen (17) years of age. A minor employee shall be considered as being of full age for all purposes of this chapter. However, if the employee is a minor who, at the time of the last exposure, is employed, required, suffered, or permitted to work in violation of the child labor laws of this state, the amount of compensation and death benefits, as provided in this chapter, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the disability or death of the minor, and the employer shall be wholly liable

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for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age, and who at the time of the last exposure is employed, suffered, or permitted to work at any occupation which is not prohibited by law, the provisions of this subsection prescribing double the amount otherwise recoverable do not apply. The rights and remedies granted to a minor under this chapter on account of disease shall exclude all rights and remedies of the minor, the minor's parents, the minor's personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of any disease.

(d) This chapter does not apply to casual laborers as defined in subsection (b), nor to farm or agricultural employees, nor to household employees, nor to railroad employees engaged in train service as engineers, firemen, conductors, brakemen, flagmen, baggagemen, or foremen in charge of yard engines and helpers assigned thereto, nor to their employers with respect to these employees. Also, this chapter does not apply to employees or their employers with respect to employments in which the laws of the United States provide for compensation or liability for injury to the health, disability, or death by reason of diseases suffered by these employees.

(e) As used in this chapter, "disablement" means the event of becoming disabled from earning full wages at the work in which the employee was engaged when last exposed to the hazards of the occupational disease by the employer from whom the employee claims compensation or equal wages in other suitable employment, and "disability" means the state of being so incapacitated.

(f) For the purposes of this chapter, no compensation shall be payable for or on account of any occupational diseases unless disablement, as defined in subsection (e), occurs within two (2) years after the last day of the last exposure to the hazards of the disease except for the following:

(1) In all cases of occupational diseases caused by the inhalation of silica dust or coal dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease.

(2) In all cases of occupational disease caused by the exposure to radiation, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within two (2) years from the date on which the employee had knowledge of the nature of the employee's occupational disease or, by exercise of reasonable

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diligence, should have known of the existence of such disease and its causal relationship to the employee's employment.

(3) In all cases of occupational diseases caused by the inhalation of asbestos dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease if the last day of the last exposure was before July 1, 1985.

(4) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1985, and before July 1, 1988, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within twenty (20) years after the last day of the last exposure.

(5) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1988, no compensation shall be payable unless disablement (as defined in subsection (e)) occurs within thirty-five (35) years after the last day of the last exposure.

(g) For the purposes of this chapter, no compensation shall be payable for or on account of death resulting from any occupational disease unless death occurs within two (2) years after the date of disablement. However, this subsection does not bar compensation for death:

(1) where death occurs during the pendency of a claim filed by an employee within two (2) years after the date of disablement and which claim has not resulted in a decision or has resulted in a decision which is in process of review or appeal; or

(2) where, by agreement filed or decision rendered, a compensable period of disability has been fixed and death occurs within two (2) years after the end of such fixed period, but in no event later than three hundred (300) weeks after the date of disablement.

(h) As used in this chapter, "billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(i) As used in this chapter, "billing review standard" means the data used by a billing review service to determine pecuniary liability.

(j) As used in this chapter, "community" means a geographic service area based on ZIP code districts defined by the United States Postal Service according to the following groupings:

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(1) The geographic service area served by ZIP codes with the first three (3) digits 463 and 464.
(2) The geographic service area served by ZIP codes with the first three (3) digits 465 and 466.
(3) The geographic service area served by ZIP codes with the first three (3) digits 467 and 468.
(4) The geographic service area served by ZIP codes with the first three (3) digits 469 and 479.
(5) The geographic service area served by ZIP codes with the first three (3) digits 460, 461 (except 46107), and 473.
(6) The geographic service area served by the 46107 ZIP code and ZIP codes with the first three (3) digits 462.
(7) The geographic service area served by ZIP codes with the first three (3) digits 470, 471, 472, 474, and 478.
(8) The geographic service area served by ZIP codes with the first three (3) digits 475, 476, and 477.

(k) As used in this chapter, "medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under this chapter.

(l) As used in this chapter, "pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under this chapter in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

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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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