

IC 22

TITLE 22. LABOR AND SAFETY

IC 22-1

ARTICLE 1. DEPARTMENT OF LABOR

IC 22-1-1

Chapter 1. Powers and Duties of the Department

IC 22-1-1-1

Creation

Sec. 1. There is created a department of labor, which shall be administered by a commissioner of labor.

(Formerly: Acts 1945, c.334, s.1.) As amended by P.L.37-1985, SEC.16.

IC 22-1-1-2

Commissioner of labor; term of office; bonds; oath

Sec. 2. (a) The commissioner of labor shall be appointed by the governor for a term not to exceed four (4) years and shall serve at the will of the governor and until his successor shall have been appointed and shall have qualified. Any vacancy in the office of commissioner of labor shall be filled by appointment by the governor for the unexpired term.

(b) The commissioner of labor shall be the administrative and executive officer of the department of labor, shall supervise and direct the work of the department, shall have immediate charge of the administration and enforcement of all the laws and rules that the department is required by law to enforce and administer, shall have general charge of all inspections and investigations, and shall perform such other duties as may be prescribed in this chapter.

(c) The commissioner shall adopt and use an official seal for the authentication of the orders and records of the department.

(d) Before entering upon the discharge of his official duties, the commissioner shall:

(1) execute a bond, payable to the state in such amount and with such sureties as shall be approved by the governor, conditioned for the faithful discharge of his official duties; and

(2) take and subscribe an oath, which shall be endorsed upon his official bond;

and the bond and oath when so executed shall be filed in the office of the secretary of state.

(e) The commissioner is authorized and directed to classify and fix the minimum standards for the personnel of the department and to formulate salary schedules with the approval of the governor for the services so classified.

(Formerly: Acts 1945, c.334, s.2.) As amended by P.L.37-1985, SEC.17.

IC 22-1-1-2.5

Commissioner of labor; restoration to position or employment

Sec. 2.5. (a) Any individual appointed commissioner of labor who:

- (1) in order to perform the duties of office has left or leaves a position or employment, other than a temporary position or employment, in the employ of any employer;
- (2) is still qualified to perform the duties of employment; and
- (3) makes application for reemployment within ten (10) days after the expiration of the term of office or after removal from office;

shall be restored by the employer to the position or employment at not less than the same pay or to a similar position or employment and pay unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so. When the commissioner is restored to employment, it shall be done without discrimination, nor shall the commissioner be caused to suffer inconvenience or any other adverse action by the employer, as a result of any action taken while serving as commissioner.

(b) Any individual who is restored to a position or employment under this chapter shall be considered as having been on leave of absence during the period of service as commissioner of labor and is entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on leave of absence in effect with the employer.

(c) Any individual who is a member of a labor organization who is appointed commissioner of labor shall be considered for all purposes as being on leave of absence during the period of service as commissioner of labor.

(d) In case any employer or labor organization fails or refuses to comply with this chapter, the judge of the circuit court of the circuit in which the employer maintains a place of business shall have power, upon the filing of an appropriate pleading by the individual entitled to the benefits of this chapter, to specifically require the employer or labor organization to comply with this chapter, and, as an incident thereto to compensate the individual for any loss of wages or benefits suffered by reason of the employer's or labor organization's unlawful action.

As added by P.L.37-1985, SEC.18.

IC 22-1-1-3

Department of labor; office space; traveling expenses

Sec. 3. (a) The department of labor shall be provided with adequate offices in the state capitol building or in some other suitable building in Indianapolis, in which its records shall be kept and its official business shall be transacted.

(b) The commissioner of labor and the several employees of the department shall be entitled to receive from the state their necessary and actual expenses while traveling on the business of the department, as provided in the state travel policies and procedures

established by the department of administration and approved by the state budget agency.

(c) All salaries and expenses of the department shall be audited and paid out of appropriations made to the department of labor for that purpose in the manner prescribed by law for the payment of the expenses of other departments of the state government.

(Formerly: Acts 1945, c.334, s.3.) As amended by P.L.37-1985, SEC.19.

IC 22-1-1-4

Department of labor; bureaus

Sec. 4. The following bureaus are created within the department of labor:

- (1) The bureau of mines and mine safety.
- (2) The bureau of child labor.

(Formerly: Acts 1945, c.334, s.4; Acts 1975, P.L.235, SEC.2.) As amended by P.L.37-1985, SEC.20.

IC 22-1-1-5

Bureaus; powers and duties

Sec. 5. (a) The bureau of mines and mining safety shall do the following:

- (1) have immediate charge of the administration of the underground mine laws of this state;
- (2) provide safety consultation services to any underground mine operator at the request of the operator;
- (3) provide mine safety and health education information to all underground mine operators; and
- (4) investigate all fatalities occurring in underground mine operations for the purpose of data collection; however, an investigation shall not interfere with investigations by the federal Mine Safety and Health Administration.

(b) The bureau of child labor shall have immediate charge of the supervision of children who are gainfully employed, including employment certificate violations under IC 20-33-3-38.5, IC 20-33-3-39, and IC 20-33-3-40. A child employee under the jurisdiction of the bureau of child labor may file a complaint with the bureau of child labor if the employer of the child employee requires noncompliance by the child employee with the provisions of IC 20-33-3-38.5.

(Formerly: Acts 1945, c.334, s.5; Acts 1975, P.L.235, SEC.3.) As amended by P.L.37-1985, SEC.21; P.L.215-1989, SEC.1; P.L.182-2006, SEC.10; P.L.35-2007, SEC.1.

IC 22-1-1-6

Bureaus; directors; appointment

Sec. 6. Each bureau is under the immediate charge of a director who is under the immediate charge of the commissioner. A director for each bureau shall be appointed by the commissioner of labor with the approval of the governor.

(Formerly: Acts 1945, c.334, s.6.) As amended by P.L.215-1989, SEC.2.

IC 22-1-1-7

Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-1-1-8

Commissioner of labor; general powers and duties

Sec. 8. The commissioner of labor may do the following:

(1) Make or cause to be made all necessary inspections to see that all of the laws and rules enacted or adopted for that purpose and that the department is required to enforce are promptly and effectively administered and executed.

(2) Collect, collate, and publish statistical and other information relating to working conditions in this state and to the enforcement of this chapter and such rules as may be necessary to the advancement of the purposes of this chapter, but no publicity of any information involving the name or identity of any employer, employee, or other person, firm, limited liability company, or corporation shall be given. It shall be unlawful for the commissioner or any person to divulge, or to make known in any way not provided by law, to any person the operation, style of work, or apparatus of any employer, or the amount or sources of income, profits, losses, expenditures, or any part thereof obtained by him in the discharge of his official duties.

(3) Except as otherwise provided by law, employ, promote, and remove clerks, inspectors, and other employees as needed or as the service of the department of labor may require, and with the approval of the governor, within the appropriation therefor, fix their compensation and to assign to them their duties. Employees of the department are covered by IC 4-15-2.

(4) Promote the voluntary arbitration, mediation, and conciliation of disputes between employers and employees, for the purpose of avoiding strikes, lockouts, boycotts, blacklists, discrimination, and legal proceedings in matters of employment. The commissioner may appoint temporary boards of arbitration, provide for the payment of the necessary expenses of the boards, order reasonable compensation paid to each member engaged in arbitration, prescribe and adopt rules of procedure for arbitration boards, conduct investigations and hearings, publish reports and advertisements, and do all other things convenient and necessary to accomplish the purpose of this chapter. The commissioner may designate an employee of the department to act as chief mediator and may detail other employees, from time to time, to act as his assistants for the purpose of executing this chapter. Any employee of the department who may act on a temporary board shall serve without extra compensation.

(Formerly: Acts 1945, c.334, s.8.) As amended by P.L.37-1985,

SEC.22; P.L.8-1993, SEC.269.

IC 22-1-1-9

Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-1-1-10

Safe place to work

Sec. 10. Every employer and place of employment under the jurisdiction of the department of labor created by this chapter shall:

- (1) furnish employment that is safe for the employees therein;
- (2) furnish and use safety devices, safeguards, methods, and processes reasonably adequate to render employment and place of employment safe; and
- (3) do every other thing reasonably necessary to protect the safety of the employee.

(Formerly: Acts 1945, c.334, s.10.) As amended by P.L.37-1985, SEC.23.

IC 22-1-1-11

Commissioner of labor; powers and duties

Sec. 11. The commissioner of labor is authorized and directed to do the following:

- (1) To investigate and adopt rules under IC 4-22-2 prescribing what safety devices, safeguards, or other means of protection shall be adopted for the prevention of accidents in every employment or place of employment, to determine what suitable devices, safeguards, or other means of protection for the prevention of industrial accidents or occupational diseases shall be adopted or followed in any or all employments or places of employment, and to adopt rules under IC 4-22-2 applicable to either employers or employees, or both for the prevention of accidents and the prevention of industrial or occupational diseases.
- (2) Whenever, in the judgment of the commissioner of labor, any place of employment is not being maintained in a sanitary manner or is being maintained in a manner detrimental to the health of the employees therein, to obtain any necessary technical or expert advice and assistance from the state department of health. The state department of health, upon the request of the commissioner of labor, shall furnish technical or expert advice and assistance to the commissioner and take the steps authorized or required by the health laws of the state.
- (3) Annually forward the report received from the mining board under IC 22-10-1.5-5(a)(5) to the legislative council in an electronic format under IC 5-14-6 and request from the general assembly funding for necessary additional mine inspectors.
- (4) Administer the mine safety fund established under IC 22-10-12-16.

(Formerly: Acts 1945, c.334, s.11.) As amended by P.L.37-1985,

SEC.24; P.L.2-1992, SEC.738; P.L.187-2003, SEC.1; P.L.28-2004, SEC.158; P.L.35-2007, SEC.2.

IC 22-1-1-12

Rules; petition for variation

Sec. 12. (a) If there will be practical difficulties or unnecessary hardships in carrying out any rule, order, or determination of the commissioner of labor, the commissioner of labor may, after a public hearing, authorize a variation from any requirement, if the spirit of the rule and of the law will be otherwise observed. Any person who is affected by any rule, or his agent, may petition the commissioner of labor, in writing, for variation, stating the grounds therefor. The commissioner of labor shall fix a day for a hearing on the petition and shall give reasonable notice thereof to the petitioner.

(b) A properly indexed record of all variations made shall be kept in the office of the department of labor and shall be open to public inspection.

(Formerly: Acts 1945, c.334, s.12.) As amended by P.L.37-1985, SEC.25.

IC 22-1-1-13

Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-1-1-14

Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-1-1-15

Labor information; wages and hours; records

Sec. 15. (a) Every employer, employee, owner or other person shall furnish to the commissioner of labor any information which the commissioner of labor is authorized to require, and shall make true and specific answers to all questions, whether submitted orally or in writing, which are authorized to be put to him.

(b) Every employer shall keep a true and accurate record of the name, address or occupation of each person employed by him, and of the daily and weekly hours worked by each such person and of the wages paid each pay period to each such person. Provided however, That the record of the daily and weekly hours worked or of the wages paid shall not be required for any person employed in a bona fide executive, agricultural, domestic, administrative or professional capacity or in the capacity of an outside salesman. No employer shall make or cause to be made any false entries in any such record.

(Formerly: Acts 1945, c.334, s.15.)

IC 22-1-1-16

Investigations; right of entry

Sec. 16. The commissioner of labor and his authorized representative shall have the power and the authority to enter any

place of employment for the purpose of collecting facts and statistics relating to the employment of workers and of making inspections for the proper enforcement of all of the labor laws of this state, including IC 5-16-7. No employer or owner shall refuse to admit the commissioner of labor or his authorized representatives to his place of employment.

(Formerly: Acts 1945, c.334, s.16.) As amended by P.L.35-1990, SEC.41.

IC 22-1-1-17

Investigations; depositions; subpoenas; production of books and papers; contempt

Sec. 17. The commissioner of labor and any officer or employee of the department of labor designated by the commissioner, in the performance of any duty, or the execution of any power prescribed by law, may administer oaths, certify to official acts and records, and, where specifically ordered by the governor, take and cause to be taken depositions of witnesses, issue subpoenas, and compel the attendance of witnesses and the production of papers, books, accounts, payrolls relating to the employment of workers, documents, records, and testimony. In case of the failure of any person to comply with any subpoena lawfully issued, or on the refusal of any witness to produce evidence or to testify to any matter regarding which he may be lawfully interrogated, it shall be the duty of any circuit or superior court upon application of the commissioner or any officer or employee of the department of labor and a showing of the probable materiality of books, records, and papers, or, in the case of a witness, that he is believed to be possessed of information material to the examination, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements, of a subpoena issued from a court or a refusal to testify therein.

(Formerly: Acts 1945, c.334, s.17.) As amended by P.L.37-1985, SEC.26.

IC 22-1-1-18

Rule violations; prosecution

Sec. 18. It shall be the duty of the several prosecuting attorneys of the respective judicial circuits or the attorney-general of the state of Indiana on the relation of the state of Indiana, upon the request of the commissioner of labor, or any of his authorized representatives, to prosecute any violation of any law, rule or order which it is made the duty of the commissioner to enforce.

(Formerly: Acts 1945, c.334, s.18.)

IC 22-1-1-19

Repealed

(Repealed by Acts 1971, P.L.356, SEC.2.)

IC 22-1-1-20

Repealed

(Repealed by Acts 1979, P.L.17, SEC.55.)

IC 22-1-1-21

Repealed

(Repealed by P.L.37-1985, SEC.60.)

IC 22-1-1-22

Information sharing concerning construction workers misclassified as independent contractors

Sec. 22. (a) This section applies after December 31, 2009.

(b) As used in this section, "contractor" means:

- (1) a sole proprietor;
- (2) a partnership;
- (3) a firm;
- (4) a corporation;
- (5) a limited liability company;
- (6) an association; or
- (7) another legal entity;

that engages in construction and is authorized by law to do business in Indiana. The term includes a general contractor, a subcontractor, and a lower tiered contractor. The term does not include the state, the federal government, or a political subdivision.

(c) The department of labor shall cooperate with the:

- (1) department of workforce development established by IC 22-4.1-2-1;
- (2) department of state revenue established by IC 6-8.1-2-1; and
- (3) worker's compensation board of Indiana created by IC 22-3-1-1(a);

by sharing information concerning any suspected improper classification by a contractor of an individual as an independent contractor (as defined in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).

(d) For purposes of IC 5-14-3-4, information shared under this section is confidential, may not be published, and is not open to public inspection.

(e) An officer or employee of the department of labor who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor.

As added by P.L.164-2009, SEC.2.