

IC 22-4.1-4

Chapter 4. Duties

IC 22-4.1-4-1

Duties regarding workforce development initiatives

Sec. 1. The department may undertake duties identified by the commissioner as related to workforce development initiatives that were required of or authorized to be undertaken before July 1, 1994, by:

- (1) the department of employment and training services;
- (2) the office of workforce literacy established by IC 22-4.1-10-1; or
- (3) the Indiana commission for career and technical education established by IC 22-4.1-13-6.

As added by P.L.105-1994, SEC.5. Amended by P.L.21-1995, SEC.142; P.L.1-2005, SEC.187; P.L.140-2007, SEC.7; P.L.234-2007, SEC.146; P.L.3-2008, SEC.162.

IC 22-4.1-4-2

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Sec. 2. (a) This section applies only to an employer who employs individuals within the state.

(b) As used in this section, "date of hire" is the first date that an employee provides labor or services to an employer.

(c) As used in this section, "employee":

- (1) has the meaning set forth in Chapter 24 of the Internal Revenue Code of 1986; and
- (2) includes any individual:
 - (A) required under Internal Revenue Service regulations to complete a federal form W-4; and
 - (B) who has provided services to an employer.

The term does not include an employee of a federal or state agency who performs intelligence or counter intelligence functions if the head of the agency determines that the reporting information required under this section could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(d) As used in this section, "employer" has the meaning set forth in Section 3401(d) of the Internal Revenue Code of 1986. The term includes:

- (1) governmental agencies and labor organizations; and
- (2) a person doing business in the state as identified by:
 - (A) the person's federal employer identification number; or
 - (B) if applicable, the common paymaster, as defined in Section 3121 of the Internal Revenue Code or the payroll reporting agent of the employer, as described in IRS Rev. Proc. 70-6, 1970-1, C.B. 420.

(e) As used in this section, "labor organization" has the meaning set forth in 42 U.S.C. 653A(a)(2)(B)(ii).

(f) The department shall maintain the Indiana directory of new hires as required under 42 U.S.C. 653A.

(g) The directory under subsection (f) must contain information that an employer must provide to the department for each newly hired employee as follows:

(1) The information must be transmitted within twenty (20) business days of the employee's date of hire.

(2) If an employer transmits reports under this section magnetically or electronically, the information must be transmitted in two (2) monthly transactions that are:

(A) not less than twelve (12) days apart; and

(B) not more than sixteen (16) days apart.

If mailed, the report is considered timely if it is postmarked on or before the due date. If the report is transmitted by facsimile machine or by using electronic or magnetic media, the report is considered timely if it is received on or before the due date.

(h) The employer shall provide the information required under this section on an employee's withholding allowance certificate (Internal Revenue Service form W-4) or, at the employer's option, an equivalent form. The report may be transmitted to the department by first class mail, by facsimile machine, electronically, or magnetically. The report must include at least the following:

(1) The name, address, and Social Security number of the employee.

(2) The name, address, and federal tax identification number of the employer.

(3) The date of hire of the employee.

(i) An employer that has employees in two (2) or more states and that transmits reports under this section electronically or magnetically may comply with this section by doing the following:

(1) Designating one (1) state to receive each report.

(2) Notifying the Secretary of the United States Department of Health and Human Services which state will receive the reports.

(3) Transmitting the reports to the agency in the designated state that is charged with receiving the reports.

(j) The department may impose a civil penalty of five hundred dollars (\$500) on an employer that fails to comply with this section if the failure is a result of a conspiracy between the employer and the employee to:

(1) not provide the required report; or

(2) provide a false or an incomplete report.

(k) The information received from an employer regarding newly hired employees shall be:

(1) entered into the state's new hire directory within five (5) business days of receipt; and

(2) forwarded to the national directory of new hires within three (3) business days after entry into the state's new hire directory.

The state shall use quality control standards established by the Administrators of the National Directory of New Hires.

(l) The information contained in the Indiana directory of new hires is available only for use by the department for purposes required by 42 U.S.C. 653A, unless otherwise provided by law.

(m) The department of child services shall reimburse the department for any costs incurred in carrying out this section.

(n) The department of child services and the department shall enter into a purchase of service agreement that establishes procedures necessary to administer this section.

As added by P.L.257-1997(ss), SEC.35. Amended by P.L.290-2001, SEC.34; P.L.131-2009, SEC.4.

IC 22-4.1-4-3

Training program priority for National Guard members and spouses

Sec. 3. (a) As used in this section, "active duty" means full-time service in the National Guard for more than thirty (30) consecutive days in a calendar year.

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

- (1) the Indiana Army National Guard; or
- (2) the Indiana Air National Guard.

(c) This section applies to a member of the National Guard who:

- (1) is a resident of Indiana; and
- (2) serves on active duty.

(d) Unless otherwise provided by federal law, the department shall give a member of the National Guard or the spouse of a member of the National Guard priority for placement in any federal or state employment or training program administered by the department if the member or the member's spouse:

- (1) submits documentation satisfactory to the department establishing the dates of the member's active service; and
- (2) meets the eligibility requirements for the program.

(e) The priority status under subsection (d) for a member of the National Guard expires one (1) year after the date the member is discharged or released from active duty.

(f) The priority status under subsection (d) for the spouse of a member of the National Guard expires on the date the member is discharged or released from active duty.

As added by P.L.11-2007, SEC.1.

IC 22-4.1-4-4

Information sharing concerning construction workers misclassified as independent contractors

Sec. 4. (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 shall cooperate with the:

- (1) department of labor created by IC 22-1-1-1;
- (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 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.4.

IC 22-4.1-4-5

Coordination with commission for higher education and department of workforce development to develop entrepreneurship education

Sec. 5. The department shall coordinate with the commission for higher education (IC 21-18-1) and the Indiana state board of education (IC 20-19-2) to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force.

As added by P.L.172-2011, SEC.129.