Further Advancing the Safety, Health and Prosperity of Hoosiers in the Workplace

The Indiana Department of Labor ended another fiscal year on June 30 with a 10.1% reversion in state tax dollars. The reversion combined with federal grants and the dedicated funds that went into the general fund are evidence that we operated very leanly, while not sacrificing quality work.

We have reduced the time it takes to complete a wage claim case, as well as the time to complete occupational health and safety consultations. IOSHA conducted more inspections in calendar year 2009 than they had in several years, and the Bureau of Child Labor provided free training to hundreds of employers on Indiana’s Child Labor laws. Additionally, online portals have been created to address many of your needs, providing an electronic option for submitting many agency forms (if that is your preference). The governor directs each agency to serve the needs of Hoosiers, without standing in the way of increasing Hoosier incomes. By being meticulous about every dollar that we spend, we do our part to keep your taxes as low as possible. I am confident that you would be pleased to see how dedicated this corps of public servants is to completing its mission on time, under budget and in a quality manner.

As part of our quality commitment and long range planning, I want to let you know that we currently have a job opening, and potentially more in the near future. I invite you to check our website for direct links to available positions. Visit our homepage, and click on “Career Opportunities” on the left side for existing open jobs. Check back as more will likely be posted, due to upcoming retirements, etc. This is a great place to work, with all of our staff making a positive difference in people’s lives.

Regards,
Lori A. Torres
Commissioner of Labor

Partnering for Hoosier Workplace Safety and Health

The Indiana Department of Labor (IDOL) recently renewed two strategic safety and health alliances with the Indiana Ready Mixed Concrete Association (IRMCA) and the Sheet Metal and Air Conditioning Contractors Association (SMACNA). The goal of both alliances is to further advance the occupational safety and health of Hoosiers in the workplace as well as share information concerning best practices.

IRMCA was founded in 1943 as a not-for-profit organization. Today, the association has grown to include more than 70 producer and supplier companies as members of the association. SMACNA of Central Indiana is comprised of Indianapolis Area Sheet Metal Contractors, the Lafayette Area Sheet Metal Contractors and the Fort Wayne Area Sheet Metal Contractors Association, as well as companies in most of Indiana’s major cities. Companies in 49 of Indiana’s 92 counties are involved in the SMACNA organization.

The IDOL will provide alliance members with expertise on the recognition and prevention of workplace safety and health hazards. Both IRMCA and SMACNA will provide annual occupational injury and illness data to the IDOL for review analysis. The IDOL/SMACNA alliance also includes the Sheet Metal Workers Local 20 and private consulting firm, Safety Resources, Inc. Use of the IDOL’s free OSHA consultation program, INSafe, is encouraged by each of the alliance associations’ members.

Alliances and partnerships provide an opportunity for the signatory parties to form a more cooperative and proactive relationship with one another. For more information on the IDOL’s alliances and partnerships, please click here. Additional information on IRMCA is available at wwwIRMCA.com. Information about SMACNA of Indiana may be found online at www.smacnaindiana.com/default.htm.

The Indiana Department of Labor is making daily updates to our website to keep you well informed. Visit us online at www.in.gov/dol.
SAFETY ALERT:

Recordkeeping and Reporting Work-related Injuries, Illnesses and Fatalities

Contributed by: Jay D. King
INSafe Health Consultant

Unless your business has ten or fewer employees or your industry is specifically exempt from OSHA’s recordkeeping requirements, you are required to prepare and maintain records of work-related injuries and illnesses.

Recordkeeping is a critical part of an employer’s safety and health efforts for many reasons. First and foremost, keeping track of work-related injuries and illnesses can help prevent them in the future. Using injury and illness data helps identify problem areas. The more an employer knows, the better everyone is at identifying and correcting hazardous conditions in the workplace. Also, as employee awareness about injuries, illnesses and hazards in the workplace improves, workers are more likely to follow safe work practices and procedures and report potentially dangerous situations to their employer.

Businesses with fewer than ten employees during the entire calendar year, as well as low hazard establishments such as retail, service, finance, insurance or real estate, are exempt from the OSHA recordkeeping requirements. While exempt from the recordkeeping requirements, these types of establishments are not exempt from additional requirements with respect to reporting workplace catastrophes and fatalities.

OSHA Regulations

CFR 1904.39 specifies requirements beyond recording incidents on the OSHA injury and illness log in more severe cases of work-related injury or illness, such as catastrophes and fatalities. A catastrophe is an incident defined as a work-related event that results in three (3) or more employees being hospitalized overnight. Not only is the employer required to document the incident on the OSHA injury and illness log, but the employer is also required to immediately notify the Indiana Occupational Safety and Health Administration (IOSHA). Contacting the police, fire or ambulatory service does not meet the requirement of providing the appropriate notice to IOSHA (see the information box on this page for the appropriate phone number for IOSHA). Notification to IOSHA must be made within eight (8) hours of the incident.

An employer is also required to notify IOSHA in the event of a workplace fatality. In instances where the employer is not immediately notified of a workplace fatality or catastrophe, the employer must report the event within eight (8) hours of learning of the incident.

Fatality or catastrophe incidents must be reported to IOSHA by phone. Reporting the incident by regular or certified mail, fax or e-mail is strictly prohibited by the federal Occupational Safety and Health Administration (OSHA).

Failure to Report

Often times, when an employer is not sure whether a fatality or catastrophe is work related, they fail to report the incident to IOSHA. Regardless of whether or not an employer thinks the fatality or catastrophe is work-related, they should always notify IOSHA. Once IOSHA has been notified, a determination about whether or not to initiate an investigation is made. IOSHA investigates the circumstances of the incident resulting in catastrophe or fatality, usually on-site, to determine the cause of the incident and if violations of the Occupational Safety and Health Act (OSH Act) are involved. Investigations of workplace incidents such as a fatalities and catastrophes may differ in the length of time necessary to complete the investigation, depending upon nature and complexity of the incident.

Often, employers fail to notify IOSHA of fatalities resulting from causes such as automobile accidents, heat exhaustion, heart attacks, asthmatic episodes, choking, workplace violence (homicides), suicides, drowning and even bee stings. These types of incidents must be reported.

Reporting Workplace Catastrophes & Fatalities to IOSHA
During regular business hours (M-F, 8-4:30 p.m.) phone (317) 232-2693. If outside of business hours or during a holiday, phone (800) 321-OSHA.

Required Information to Report

• The name of establishment (company or business).
• Location of the incident.
• Time of the incident.
• Names of any fatally injured or hospitalized employees.
• Number of fatally injured/hospitalized.
• Name of the employer’s contact person, including telephone numbers.
• Brief description of the incident.

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It Happened Here: Marion County

**Background:** All workplace fatalities must be reported to the Indiana Occupational Safety and Health Administration (IOSHA) by an employer, regardless of whether or not the employer believes the fatality is work-related. In the most recent federal year, CFR 1904.39 was cited 125 times by compliance officers in the U.S and Puerto Rico. Approximately one-third of these citations were in the construction industry. The citations resulted in fines issued to employers totaling more than $159,000.

**Event:** In February 2009, in Marion County, a school employee tripped and fell down a flight of stairs. The employee struck their head and suffered a subdural hematoma, resulting in a fatal stroke a short time later. The employer did not contact IOSHA to notify them of the death nor did they file notice with the Indiana Worker’s Compensation Board. The employer did not believe that such an incident was considered a work related fatality, and attributed the event and the manner of death to the employee’s advanced age.

Over a year later, in March 2010, while preparing a list of honorees for the annual Workers Memorial, an employee of the Indiana Department of Labor noticed a discrepancy in the lists of 2009 fatally injured Hoosier workers. Newspaper articles on the fatality indicated that the victim was a candidate for the Worker’s Memorial list however, they were not present on the Worker’s Compensation Board list or the IOSHA list.

Upon review of the death certificate and the circumstances surrounding the death, IOSHA determined that it was a fatal work-related injury and the employee’s age was irrelevant. The employer had failed to notify IOSHA, a violation of the Occupational Safety and Health Act of 1970 (OSH Act).

**Lessons Learned:** Employers should take the following steps to learn more about OSHA’s requirement to report workplace fatalities and certain injuries:

- **Educate Yourself:** Review the reporting requirements contained in the previous article, and do applicable research in OSHA standards.
- **Follow this General Rule:** If it happened at work, there is always a probability that it is work related, and therefore reportable.
- **Check with IOSHA:** If you are not sure whether a fatality or catastrophe is “work related,” always err on the side of caution and contact IOSHA at (317) 232-2693.
- **Employers should investigate all near-miss incidents to determine causality, as well as perform a root cause analysis (RCA).**
- **Employers should work with employees to complete and revise job hazard analyses (JHAs) as often as necessary.**
- **Employers should work to foster a culture of workplace safety and health, and hold themselves accountable for their employees’ understanding and following all written safety and health policies, rules, procedures and regulations.**
Hazardous and Prohibited Occupations for Minors Updated

Does your business hire employees under the age of 18? Are you a parent of a teen who is looking to get a part-time job? Are you a teen looking for after school employment? Are you a school administrator responsible for issuing work permits to minors? If you answered “yes” to any of the above questions, you’ll want to review the information that follows.

By law, employees under the age of 18 are restricted from working in certain prohibited and hazardous occupations. These restrictions are in place to help maintain the safety and health of minors in the workplace. Effective June 19, 2010, the United States Department of Labor (U.S. DOL) updated the Prohibited and Hazardous Occupations for minors as defined in the Fair Labor Standards Act (FLSA). The changes in the law reflect advancements in technology or job descriptions that have come about since the laws were initially conceived, over 30 years ago. Many of the changes help to better define the occupations that minors may perform. Several of the changes also incorporate new restrictions and, in some cases, include occupations that were not originally contemplated by the FLSA.

14 and 15 Year-Olds

Nearly all of the Prohibited Occupations for employees 14 and 15 years of age have been updated or better defined and several new Prohibited Occupations were added with the recent changes. The Prohibited Occupations now include advertising by holding signs, waving banners or wearing costumes and youth peddling. Several occupations have also recently been designated as permissible for minors including lifeguarding (15 and older) and new classifications of intellectual and artistic work. Additionally, minors ages 14 and 15 may not be employed in the occupations deemed hazardous for 16 and 17 year-olds as well. For a complete listing of the Prohibited Occupations please click here.

16 and 17 Year-Olds

The Hazardous Occupations for 16 and 17 year-olds have also changed. Specifically, many occupations related to forest firefighting and fire prevention have now been designated as Hazardous, and the definitions of what types of machinery a 16 or 17 year-old can operate are more clearly defined.

Resources for Employers

Please review the chart below for examples of Hazardous Occupations for minors. However, The information in the chart below is not an exhaustive list of the Hazardous Occupations. For more information on Prohibited and Hazardous Occupations, please click here. The Bureau of Child Labor offers free, one-hour teleconference trainings covering all of Indiana’s Child Labor laws. The Child Labor law training schedule is available online here. To enroll in an upcoming training, please e-mail the Bureau of Child Labor at childlabor@dol.in.gov.

<table>
<thead>
<tr>
<th>Hazardous Occupations† for 16 and 17 Year-Olds</th>
<th>Explanation/Examples</th>
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</thead>
<tbody>
<tr>
<td>Manufacturing and storing explosives</td>
<td>Working in a fireworks store. Exception: retail stores which happen to sell fireworks.</td>
</tr>
<tr>
<td>Driving a motor vehicle and being an outside helper on a motor vehicle</td>
<td>Driving on public roadways or working on the outside of a garbage truck.</td>
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<tr>
<td>Any type of mining (coal or otherwise)</td>
<td>Any occupation which involves extraction of coal or minerals from the earth.</td>
</tr>
<tr>
<td>Sawmilling and logging</td>
<td>Sawing &amp; processing trees or lumber; working with any powered wood working machine (fixed or portable).</td>
</tr>
<tr>
<td>Operation of power-driven woodworking machines*</td>
<td>Any work with power-driven machines which change the shape of or cut metal.</td>
</tr>
<tr>
<td>Operation of power-driven metal-forming, punching and shearing machines*</td>
<td>SEE: Power-driven woodworking machines* AND Power-driven metal-forming, punching and shearing machines.*</td>
</tr>
<tr>
<td>Operation of power-driven circular saws, band saws and guillotine shears*</td>
<td>Operation of an elevator, crane or forklift.</td>
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<tr>
<td>Operation of power-driven hoisting apparatus</td>
<td>Administering X-rays.</td>
</tr>
<tr>
<td>Exposure to radioactive substances</td>
<td>Operating, cleaning, prepping horizontal or vertical dough mixers and the operation of bread molding machines.</td>
</tr>
<tr>
<td>Operations involved in wrecking, demolition or shipbreaking</td>
<td>The deconstruction of a building, ship, etc. for disposal or scrap (including clean-up).</td>
</tr>
<tr>
<td>Operation of power-driven paper product machines*</td>
<td>Operation of cardboard or paper bailing machines.</td>
</tr>
<tr>
<td>Roofing operations/any work on a roof*</td>
<td>Laying shingles, roof top HVAC work, installing cable satellite dishes.</td>
</tr>
<tr>
<td>Excavation operations*</td>
<td>Any work in trenches or depths deeper than four (4) feet. Any work in tunnels or shafts.</td>
</tr>
<tr>
<td>Meat packing or processing</td>
<td>Operation of electric meat slicing, grinding or cutting machines. Example: Delicatessen.</td>
</tr>
<tr>
<td>Manufacturing of brick, tile or kindred products</td>
<td>Production of brick, sewer pipe or other clay building materials.</td>
</tr>
</tbody>
</table>

*These occupations have exemptions for students who are participating in certain apprentice or student learner programs.
†This is not an inclusive list of prohibited occupations. These examples should only aid in understanding the rules.
Online Services Expanded and Enhanced

As Hoosiers become more savvy with electronic communication, the Indiana Department of Labor (IDOL) recognizes the need to enhance available electronic services. The IDOL has developed electronic versions of agency forms, as well as established e-mail addresses to quickly address customer questions and concerns. Not only do electronic forms increase the efficiency of form submissions, they also provide better customer service to Hoosiers by making more options available. Since January 2010, the IDOL has developed three new electronic forms, as well as a new paper form to help streamline the IOSHA complaint process.

Earlier this year, the IDOL’s Wage & Hour division launched the online Application for Wage Claim, which had previously only been available in paper form. Today, Hoosiers can file the Application for Wage Claim if they believe they are owed wages which they have not been paid. For more information on the wage claim process, please click here.

The IDOL’s Whistleblower Protection Unit launched the online Whistleblower Protection Complaint form. Previously, whistleblower complaints were made via phone call. Employees can now file a whistleblower protection complaint if they believe they have been subject to adverse employment action (see page 6) by their employer as a result of raising occupational safety and health concerns.

In addition to providing Whistleblower Protection to Hoosiers, the IDOL’s Whistleblower Protection Unit also investigates Age Discrimination complaints. To aid in this process, the Unit has developed an online Age Discrimination Complaint form. Age discrimination complaints can be accepted by the IDOL from individuals between the ages of 40 and 75, who believe they’ve been discriminated against in employment for reasons of age. The employer must employ 20 or fewer employees. For employers who employ 20 or more employees, the complainant will need to contact the Equal Employment Opportunity Commission.

The Indiana Occupational Safety and Health Administration (IOSHA) has created an electronic Informal OSHA Complaint form. This form was developed to help streamline the complaint process. Informal complaints can be filed by anyone who wishes to notify IOSHA of potential workplace hazards, and informal complaints can be made anonymously. For more information on what constitutes a formal and informal complaint, please click here. Complaints can still be made via e-mail, regular mail and telephone, utilizing the electronic form ensures that IOSHA receives all necessary information in order to potentially initiate an investigation.

In addition to the electronic informal complaint form, IOSHA has produced a paper form to assist individuals in filing formal IOSHA complaints. While formal complaints can still be made by writing IOSHA a detailed letter of alleged safety violations, by using the form, a current employee or employee representative can ensure that they include all pertinent information in their complaint. To download the Formal IOSHA Complaint form, please click here.

<table>
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<tr>
<th>Email Your Question to the Indiana Department of Labor</th>
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<tr>
<td><strong>For questions or concerns about...</strong></td>
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<tr>
<td>Indiana’s wage and hour laws</td>
</tr>
<tr>
<td>Indiana’s child labor laws</td>
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<tr>
<td>Workplace safety and health questions or concerns</td>
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<tr>
<td>Indiana’s Bureau of Mines and Mine Safety</td>
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<tr>
<td>Whistleblower protection and age discrimination</td>
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<tr>
<td>Filing a workplace safety or health complaint</td>
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<tr>
<td>Las preguntas de individuos de hablar de Español</td>
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<tr>
<td>Questions from media outlets (i.e. journalists, reporters, etc.)</td>
</tr>
<tr>
<td>All other inquiries</td>
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Contributed by: Katie E. Wall
INSafe Administrative Assistant
The Indiana Department of Labor and Office of the Attorney General Recover Nearly $15K for Hoosier Whistleblowers

Contributed by: Aaron Raff, Deputy Attorney General - Civil Rights & Employment Litigation
Office of the Indiana Attorney General

Any employee who believes that he or she has been discharged from employment or otherwise discriminated against by an employer for raising safety and health related concerns may, within 30 days after the violation occurs, file a whistleblower complaint with the Indiana Department of Labor (IDOL). The Indiana Occupational Safety and Health Act (IOSH Act; IC §22-8-1.1 et seq.) provides whistleblower protection to an employee against discrimination or retaliation when that employee raises safety and health concerns which are protected under the Act.

Upon receipt of a whistleblower complaint, the IDOL conducts an investigation. If the Commissioner of Labor determines that a violation has occurred, the IDOL, through the Indiana Attorney General’s Office (OAG), brings a “whistleblower” action against the employer. Within 90 days of receipt of a whistleblower complaint, complainant will be notified in writing of the determination.

Remedies available in whistleblower actions include court orders to restrain further violations of the IOSH Act and for all appropriate relief, including rehiring or reinstatement of the complainant to their former position with monetary damages in the form of back pay (taking into account interim earnings by the employee).

Recently, the OAG and the IDOL were able to resolve three whistleblower cases, and recover nearly $15,000 for Indiana whistleblowers. More information from these cases may be found in the illustration box below. These cases should serve as an example to employers that discrimination against employees for raising safety and health concerns does have consequences.

Indiana employees should be aware of the protections afforded to them in the law, and both employees and employers should carefully review the obligations and protections in the IOSH Act to avoid similar situations from occurring at their place of business. For further information, please visit the IDOL’s Whistleblower Protection Unit’s website at www.in.gov/dol/whistleblower, or contact the Attorney General’s Office at www.in.gov/attorneygeneral/2353.htm.

Case 1. The complainant raised concerns to management about after hours OSHA training, and was terminated for questioning their supervisor. The complaint was received in February 2010, and in June 2010, the case was settled. The settlement included a payment of $4,250 to the employee, an agreement by the Respondent to cease alleged unlawful practices and post a non-discrimination notice for a specified time.

Case 2. The complainant raised safety and health concerns to management at their company, and was subsequently terminated. The June 2010 settlement included a payment of $5,500 to the employee, and an agreement by the Respondent to post a non-discrimination notice for a specified time.

Case 3. The complainant participated in an IOSHA inspection, and was subsequently terminated in July 2009. A settlement was reached in November, 2009, which included a payment of $5,000 to the employee and an agreement by the Respondent to cease alleged unlawful practices and post a non-discrimination notice for specified time.

Potential Adverse Employment Actions

- Firing or laying off
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denial of benefits
- Intimidation
- Reassignment affecting prospects of promotion
- Reducing pay or hours

Indiana Whistleblower Cases
Bureau of Mines Holds 22nd Annual Mine Rescue Competition

Don “Blink” McCorkle
Director of the Indiana Bureau of Mines and Mine Safety


Indiana’s Gibson County Coal Company’s mine rescue team finished first in the bench competition and third in both the mine rescue and preshift competitions. Other participating teams from Indiana included the Indiana State Mine Rescue Team, Peabody Coal’s North and South teams and Prosperity Mine’s team. All five Indiana teams performed well in the competition.

The purpose of this competition, as well as other mine rescue team training, is to better prepare the mine rescue teams in the event of a mine emergency. Those that participate in these competitions are dedicated to the safety and health of fellow miners and would risk their lives to save them. Like a firefighter who runs into a burning building when everyone else is running out, when everyone is running out of a coal mine, these teams run in to do their jobs.

The winners of Mine Rescue Competitions are recognized by their peers on that given day for their expertise and accomplishments, but all teams have the respect of their fellow mine rescue brothers and sisters for their willingness to put their lives on the line to save those of their fellow miners.

For more information on the Indiana Bureau of Mines, please e-mail mines@dol.in.gov or visit www.in.gov/dol/mines.htm.
Recognizing Excellence

_Recognizing Excellence_ spotlights Hoosier employers and their employees for their efforts in achieving status in either the Indiana Voluntary Protection Program (VPP) or Indiana Safety and Health Achievement Recognition Program (INSHARP). The Indiana Department of Labor congratulates the following employers and employees for their efforts to ensure Hoosier occupational safety and health. Additional information on INSHARP or VPP may be found online at [www.in.gov/dol](http://www.in.gov/dol).

**INSHARP**

**New:**
Decrane Aerospace Carl F. Booth Veneers (Jeffersonville, IN)
Quadrant EPP (Fort Wayne, IN)
Closure Systems International, Inc. (Crawfordsville, IN)
USALCO Michigan City Plant, LLC (Michigan City, IN)

**Recertified:**
SIRS Industries (Boonville, IN)

**VPP**

**Recertified:**
Monsanto Company (Rushville, IN)

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The _Indiana Labor Insider_ is a free electronic bi-monthly newsletter of the Indiana Department of Labor’s INSafe Division. INSafe provides free on-site OSHA consultation, resources and training to Indiana small and high hazard employers. For questions or comments regarding content or to subscribe or unsubscribe, please e-mail INSafe at insafe@dol.in.gov.