

SUMMARY

An employer may not require, as a condition of employment, an employee or prospective employee to refrain from using tobacco products outside the course of the employee's or prospective employee's employment. An employer also may not discriminate against an employee with respect to compensation and benefits, or terms and conditions of employment based on the employee's or prospective employee's use of tobacco products outside the course of employment. However, an employer may implement financial incentives intended to reduce tobacco use, and related to employee health benefits provided by the employer. An employee or prospective employee may bring civil action against the employer to enforce this law. This does not apply to an employer that is a church, a religious organization, or a school or business conducted by a religious organization.

IND. CODE §§ 22-5-4-1 et seq. (2006).

IC 22-5-4

Chapter 4. Off Duty Use of Tobacco by Employee

IC 22-5-4-1

Condition of employment; discrimination

Sec. 1. (a) Except as provided in subsection (b), an employer may not:

(1) require, as a condition of employment, an employee or prospective employee to refrain from using; or

(2) discriminate against an employee with respect to:

(A) the employee's compensation and benefits; or

(B) terms and conditions of employment;

based on the employee's use of;

tobacco products outside the course of the employee's or prospective employee's employment.

(b) An employer may implement financial incentives:

(1) intended to reduce tobacco use; and

(2) related to employee health benefits provided by the employer.

As added by P.L.175-1991, SEC.1. Amended by P.L.136-2006, SEC.1.

IC 22-5-4-2

Enforcement; civil actions

Sec. 2. (a) An employee or prospective employee may bring a civil action against an employer to enforce section 1 of this chapter.

(b) If an employer violates section 1 of this chapter, the court may do the following:

(1) Award:

(A) actual damages; and

(B) court costs and reasonable attorney's fees;

to the prevailing employee or prospective employee.

(2) Enjoin further violation of this chapter.

As added by P.L.175-1991, SEC.1.

IC 22-5-4-3**Effect of chapter on other rights or remedies**

Sec. 3. This chapter does not limit an employee's or prospective employee's rights or remedies under any other state or federal law.

As added by P.L.175-1991, SEC.1.

IC 22-5-4-4**Application of chapter**

Sec. 4. This chapter does not apply to an employer that is:

- (1) a church;
- (2) a religious organization; or
- (3) a school or business conducted by a church or religious organization.

As added by P.L.175-1991, SEC.1.