

PROPOSED AMENDMENT

HB 1098 # 1

DIGEST

Work based learning programs. Removes the definition of "work based learning course" and adds a definition for "work based learning program". Requires an intermediary and an employer to enter into an agreement that sets forth the duties and responsibilities of the intermediary and the employer when participating in a work based learning program. Provides that, subject to certain limitations, a student who performs services for an employer as part of a work based learning program is entitled to compensation and benefits under the worker's compensation and worker's occupational diseases compensation laws. Repeals provisions relating to the federal School to Work Opportunities Act. Adds a charter school to the definition of "participant" in the chapter regarding insurance coverage for participants of work based learning courses. Removes language that prohibits an insurer from taking certain actions relating to a policy of employer's liability insurance, worker's compensation insurance, or any other class of insurance to provide coverage for a participant of a work based learning course solely on the basis that a student to be covered under the policy is less than 18 years of age or is enrolled in a work based learning course.

- 1 Page 1, delete lines 12 through 17.
- 2 Page 2, delete lines 1 through 14, begin a new paragraph and insert:
- 3 **"Sec. 2. As used in this chapter, "work based learning program"**
- 4 **refers to:**
- 5 **(1) an apprenticeship program (as defined in IC 20-43-8-0.3);**
- 6 **(2) a modern youth apprenticeship (as defined in**
- 7 **IC 20-51.4-2-9.5);**
- 8 **(3) a pre-apprenticeship program that meets the elements of**
- 9 **a quality pre-apprenticeship program established by the**
- 10 **United States Department of Labor; and**
- 11 **(4) a work based learning course (as defined in**
- 12 **IC 20-43-8-0.7).**
- 13 **Sec. 3. (a) If an intermediary connects a student with an**
- 14 **employer to obtain work experience as part of a work based**
- 15 **learning program, the intermediary and the employer shall enter**
- 16 **into a written agreement that sets forth the duties and**
- 17 **responsibilities of the intermediary and the employer when**
- 18 **participating in the work based learning program.**
- 19 **(b) An agreement under subsection (a) must specify the**
- 20 **allocation, to either the intermediary or the employer, of the**

responsibility to obtain employer liability insurance and worker's compensation insurance.

Sec. 4. An intermediary that connects a student with an employer to obtain work experience as part of a work based learning program may assume responsibility for ensuring compliance with:

- (1) any requirements for participation in the work based learning program; and**
- (2) all applicable federal and state laws and regulations.**

Sec. 5. Unless otherwise expressly agreed to by an intermediary and an employer in an agreement under section 3 of this chapter, an employer that employs a student in a work based learning program retains the exclusive rights to direct, supervise, train, and control the work of the student with respect to the business activities of the employer.

SECTION 3. IC 22-3-2-2.5 IS REPEALED [EFFECTIVE JULY 1, 2026]. ~~Sec. 2.5: (a) As used in this section, "school to work student" refers to a student participating in on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).~~

~~(b) Except as provided in IC 22-3-7-2.5, a school to work student is entitled to the following compensation and benefits under this article:~~

- ~~(1) Medical benefits under IC 22-3-2 through IC 22-3-6;~~
- ~~(2) Permanent partial impairment compensation under IC 22-3-3-10. Permanent partial impairment compensation for a school to work student shall be paid in a lump sum upon agreement or final award;~~
- ~~(3) In the case that death results from the injury:~~

~~(A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars (\$175,000); payable upon agreement or final award to any dependents of the student under IC 22-3-3-18 through IC 22-3-3-20; or, if the student has no dependents, to the student's parents; and~~

~~(B) burial compensation under IC 22-3-3-21.~~

~~(c) For the sole purpose of modifying an award under IC 22-3-3-27, a school to work student's average weekly wage is presumed to be equal to the federal minimum wage;~~

~~(d) A school to work student is not entitled to the following compensation under this article:~~

- ~~(1) Temporary total disability compensation under IC 22-3-3-8;~~
- ~~(2) Temporary partial disability compensation under IC 22-3-3-9;~~

(e) Except for remedies available under IC 5-2-6.1, recovery under subsection (b) is the exclusive right and remedy for:

(1) a school to work student; and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a school to work student, on account of personal injury or death by accident arising out of and in the course of school to work employment.

SECTION 4. IC 22-3-2-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 2.6. (a) As used in this section, "work based learning program" refers to:**

(1) an apprenticeship program (as defined in IC 20-43-8-0.3);

(2) a modern youth apprenticeship (as defined in IC 20-51.4-2-9.5);

(3) a pre-apprenticeship program that meets the elements of a quality pre-apprenticeship program established by the United States Department of Labor; and

(4) a work based learning course (as defined in IC 20-43-8-0.7).

(b) Except as provided in subsection (c), a student who performs services for an employer as part of a work based learning program:

(1) is entitled to compensation and benefits under IC 22-3-2 through IC 22-3-6; and

(2) may not recover any additional benefit otherwise payable as a result of being less than seventeen (17) years of age under the definition of a minor in IC 22-3-6-1.

(c) The following apply if a student is unpaid for the services performed for an employer as part of a work based learning program:

(1) The student is not entitled to the following compensation:

(A) Temporary total disability compensation under IC 22-3-3-8.

(B) Temporary partial disability compensation under IC 22-3-3-9.

(2) In the case that death results from the injury, death benefits in a lump sum amount of one hundred seventy-five thousand dollars (\$175,000) shall be paid upon agreement or final award to any dependents of the student under IC 22-3-3-18 through IC 22-3-3-20, or, if the student has no

dependents, to the student's parents.

(d) Except for remedies available under IC 5-2-6.1, recovery under this section is the exclusive right and remedy for:

(1) a student who performs services for an employer as part of a work based learning program; and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a student who performs services for an employer as part of a work based learning program; on account of personal injury or death by accident arising out of and in the course of employment as part of the work based learning program.

SECTION 5. IC 22-3-6-1, AS AMENDED BY P.L.160-2022, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: 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, limited liability partnership, or corporation or the receiver or trustee of the same, using the services of another for pay. A corporation, limited liability company, or limited liability partnership that controls the activities of another corporation, limited liability company, or limited liability partnership, or a corporation and a limited liability company or a corporation and a limited liability partnership that are commonly owned entities, or the controlled corporation, limited liability company, limited liability partnership, or commonly owned entities, and a parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the controlled corporation's, the limited liability company's, the limited liability partnership's, the commonly owned entities', 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~~

1 ~~forth in IC 22-3-2-2.5.~~ **employs a student as part of a work based**
 2 **learning program to the extent set forth in IC 22-3-2-2.6.** The term
 3 does not include a nonprofit corporation that is recognized as tax
 4 exempt under Section 501(c)(3) of the Internal Revenue Code (as
 5 defined in IC 6-3-1-11(a)) to the extent the corporation enters into an
 6 independent contractor agreement with a person for the performance
 7 of youth coaching services on a part-time basis.

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

13 (1) An executive officer elected or appointed and empowered in
 14 accordance with the charter and bylaws of a corporation, other
 15 than a municipal corporation or governmental subdivision or a
 16 charitable, religious, educational, or other nonprofit corporation,
 17 is an employee of the corporation under IC 22-3-2 through
 18 IC 22-3-6. An officer of a corporation who is an employee of the
 19 corporation under IC 22-3-2 through IC 22-3-6 may elect not to
 20 be an employee of the corporation under IC 22-3-2 through
 21 IC 22-3-6. An officer of a corporation who is also an owner of any
 22 interest in the corporation may elect not to be an employee of the
 23 corporation under IC 22-3-2 through IC 22-3-6. If an officer
 24 makes this election, the officer must serve written notice of the
 25 election on the corporation's insurance carrier and the board. An
 26 officer of a corporation may not be considered to be excluded as
 27 an employee under IC 22-3-2 through IC 22-3-6 until the notice
 28 is received by the insurance carrier and the board.

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

40 (3) Any reference to an employee who has been injured, when the

1 employee is dead, also includes the employee's legal
2 representatives, dependents, and other persons to whom
3 compensation may be payable.

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

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

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

19 (5) A partner in a partnership may elect to include the partner as
20 an employee under IC 22-3-2 through IC 22-3-6 if the partner is
21 actually engaged in the partnership business. If a partner makes
22 this election, the partner must serve upon the partner's insurance
23 carrier and upon the board written notice of the election. No
24 partner may be considered an employee under IC 22-3-2 through
25 IC 22-3-6 until the notice has been received. If a partner in a
26 partnership:

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

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

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

36 (A) they are licensed real estate agents;

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

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

1 purposes.

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

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

18 (9) A member or manager in a limited liability company may elect
19 to include the member or manager as an employee under
20 IC 22-3-2 through IC 22-3-6 if the member or manager is actually
21 engaged in the limited liability company business. If a member or
22 manager makes this election, the member or manager must serve
23 upon the member's or manager's insurance carrier and upon the
24 board written notice of the election. A member or manager may
25 not be considered an employee under IC 22-3-2 through IC 22-3-6
26 until the notice has been received.

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

30 **(10) A student who performs services for an employer as part**
31 **of a work based learning program, either paid or unpaid, is an**
32 **employee to the extent set forth in IC 22-3-2-2.6.**

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

39 (12) An individual who is not an employee of the state or a
40 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).

(13) A driver providing drive away operations is an independent contractor and not an employee when:

(A) the vehicle being driven is the commodity being delivered; and

(B) the driver has entered into an agreement with the party arranging for the transportation that specifies the driver is an independent contractor and not an employee.

(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 22-2-18-40 (before its expiration on June 30, 2021) and IC 22-2-18.1-23, 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 **or a work based learning program (as defined in IC 22-3-2.2-2.6)** shall be considered a full-time employee for the purpose of computing compensation 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 program under IC 20-37-2-7 **or a work based learning program (as defined in IC 22-3-2.2-2.6)**, the following formula shall be used. Calculate the product of:

- 1 (A) the student employee's hourly wage rate; multiplied by
 2 (B) forty (40) hours.
- 3 The result obtained is the amount of the average weekly wages for
 4 the student employee.
- 5 (e) "Injury" and "personal injury" mean only injury by accident
 6 arising out of and in the course of the employment and do not include
 7 a disease in any form except as it results from the injury.
- 8 (f) "Billing review service" refers to a person or an entity that
 9 reviews a medical service provider's bills or statements for the purpose
 10 of determining pecuniary liability. The term includes an employer's
 11 worker's compensation insurance carrier if the insurance carrier
 12 performs such a review.
- 13 (g) "Billing review standard" means the data used by a billing
 14 review service to determine pecuniary liability.
- 15 (h) "Community" means a geographic service area based on ZIP
 16 code districts defined by the United States Postal Service according to
 17 the following groupings:
- 18 (1) The geographic service area served by ZIP codes with the first
 19 three (3) digits 463 and 464.
- 20 (2) The geographic service area served by ZIP codes with the first
 21 three (3) digits 465 and 466.
- 22 (3) The geographic service area served by ZIP codes with the first
 23 three (3) digits 467 and 468.
- 24 (4) The geographic service area served by ZIP codes with the first
 25 three (3) digits 469 and 479.
- 26 (5) The geographic service area served by ZIP codes with the first
 27 three (3) digits 460, 461 (except 46107), and 473.
- 28 (6) The geographic service area served by the 46107 ZIP code and
 29 ZIP codes with the first three (3) digits 462.
- 30 (7) The geographic service area served by ZIP codes with the first
 31 three (3) digits 470, 471, 472, 474, and 478.
- 32 (8) The geographic service area served by ZIP codes with the first
 33 three (3) digits 475, 476, and 477.
- 34 (i) "Medical service provider" refers to a person or an entity that
 35 provides services or products to an employee under IC 22-3-2 through
 36 IC 22-3-6. Except as otherwise provided in IC 22-3-2 through
 37 IC 22-3-6, the term includes a medical service facility.
- 38 (j) "Medical service facility" means any of the following that
 39 provides a service or product under IC 22-3-2 through IC 22-3-6 and
 40 uses the CMS 1450 (UB-04) form or the CMS 1500 (HCFA-1500)

form for Medicare reimbursement:

(1) An ambulatory outpatient surgical center (as defined in IC 16-18-2-14).

(2) A hospital (as defined in IC 16-18-2-179).

(3) A hospital based health facility (as defined in IC 16-18-2-180).

(4) A medical center (as defined in IC 16-18-2-223.4).

(k) "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, as follows:

(1) This subdivision applies before July 1, 2014, to all medical service providers, and after June 30, 2014, to a medical service provider that is not a medical service facility. Payment of the charges 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.

(2) Payment of the charges in a reasonable amount, which is established by payment of one (1) of the following:

(A) The amount negotiated at any time between the medical service facility and any of the following, if an amount has been negotiated:

(i) The employer.

(ii) The employer's insurance carrier.

(iii) A billing review service on behalf of a person described in item (i) or (ii).

(iv) A direct provider network that has contracted with a person described in item (i) or (ii).

(B) Two hundred percent (200%) of the amount that would be paid to the medical service facility on the same date for the same service or product under the medical service facility's Medicare reimbursement rate, if, after conducting the negotiations described in clause (A), an agreement has not been reached.

(l) "Service or product" or "services and products" refers to medical, hospital, surgical, or nursing service, treatment, and supplies provided under IC 22-3-2 through IC 22-3-6.

SECTION 1. IC 22-3-7-2.5 IS REPEALED [EFFECTIVE JULY 1, 2026]. ~~Sec. 2-5: (a) As used in this section, "school to work student" refers to a student participating in on-the-job training under the federal~~

School to Work Opportunities Act (20 U.S.C. 6101 et seq.):

(b) A school to work student is entitled to the following compensation and benefits under this chapter:

(1) Medical benefits;

(2) Permanent partial impairment compensation under section 16 of this chapter. Permanent partial impairment compensation for a school to work student shall be paid in a lump sum upon agreement or final award;

(3) In the case that death results from the injury:

(A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars (\$175,000); payable upon agreement or final award to any dependents of the student under sections 11 through 14 of this chapter; or, if the student has no dependents; to the student's parents; and

(B) burial compensation under section 15 of this chapter;

(c) For the sole purpose of modifying an award under section 27 of this chapter, a school to work student's average weekly wage is presumed to be equal to the federal minimum wage;

(d) A school to work student is not entitled to the following compensation under this chapter:

(1) Temporary total disability compensation under section 16 of this chapter;

(2) Temporary partial disability compensation under section 19 of this chapter;

(e) Except for remedies available under IC 5-2-6.1, recovery under subsection (b) is the exclusive right and remedy for:

(1) a school to work student; and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a school to work student;

on account of disablement or death by occupational disease arising out of and in the course of school to work employment.

SECTION 6. IC 22-3-7-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 2.6. (a) As used in this section, "work based learning program" refers to:

(1) an apprenticeship program (as defined in IC 20-43-8-0.3);

(2) a modern youth apprenticeship (as defined in IC 20-51.4-2-9.5);

(3) a pre-apprenticeship program that meets the elements of a quality pre-apprenticeship program established by the

1 United States Department of Labor; and

2 (4) a work based learning course (as defined in
3 IC 20-43-8-0.7).

4 (b) Except as provided in subsection (c), a student who performs
5 services for an employer as part of a work based learning
6 program:

7 (1) is entitled to compensation and benefits under this
8 chapter; and

9 (2) may not recover any additional benefit otherwise payable
10 as a result of being less than seventeen (17) years of age under
11 the definition of a minor in section 9 of this chapter.

12 (c) The following apply if a student is unpaid for the services
13 performed for an employer as part of a work based learning
14 program:

15 (1) The student is not entitled to the following compensation:

16 (A) Temporary total disability compensation under section
17 16 of this chapter.

18 (B) Temporary partial disability compensation under
19 section 16 of this chapter.

20 (2) In the case that death results from the injury, death
21 benefits in a lump sum amount of one hundred seventy-five
22 thousand dollars (\$175,000) shall be paid upon agreement or
23 final award to any dependents of the student under sections 11
24 through 14 of this chapter, or, if the student has no
25 dependents, to the student's parents.

26 (d) Except for remedies available under IC 5-2-6.1, recovery
27 under this section is the exclusive right and remedy for:

28 (1) a student who performs services for an employer as part
29 of a work based learning program; and

30 (2) the personal representatives, dependents, or next of kin, at
31 common law or otherwise, of a student who performs services
32 for an employer as part of a work based learning program;

33 on account of disablement or death by occupational disease arising
34 out of and in the course of employment as part of the work based
35 learning program.

36 SECTION 7. IC 22-3-7-9, AS AMENDED BY P.L.160-2022,
37 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2026]: Sec. 9. (a) As used in this chapter, "employer" includes
39 the state and any political subdivision, any municipal corporation
40 within the state, any individual or the legal representative of a deceased

individual, firm, association, limited liability company, limited liability partnership, or corporation or the receiver or trustee of the same, using the services of another for pay. A corporation, limited liability company, or limited liability partnership that controls the activities of another corporation, limited liability company, or limited liability partnership, or a corporation and a limited liability company or a corporation and a limited liability partnership that are commonly owned entities, or the controlled corporation, limited liability company, limited liability partnership, or commonly owned entities, and a parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the controlled corporation's, the limited liability company's, the limited liability partnership's, the commonly owned entities', 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~~ **employs a student as part of a work based learning program to the extent set forth in section 2.6 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.

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

9 (A) is an independent contractor in the construction trades and
10 does not make the election provided under this subdivision,
11 the owner must obtain a certificate of exemption under section
12 34.5 of this chapter; or

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

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

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

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

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

33 (A) they are licensed real estate agents;

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

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

39 (5) A person is an independent contractor in the construction
40 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 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.~~

(7) A student who performs services for an employer as part of a work based learning program, either paid or unpaid, is an employee to the extent set forth in section 2.6 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 an employee of the corporation under this chapter may elect not to be an employee of the corporation under this chapter. An officer of a corporation who is also an owner of any interest in 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 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).

1 (c) As used in this chapter, "minor" means an individual who has
2 not reached seventeen (17) years of age. A minor employee shall be
3 considered as being of full age for all purposes of this chapter.
4 However, if the employee is a minor who, at the time of the last
5 exposure, is employed, required, suffered, or permitted to work in
6 violation of the employment of minors laws of this state, the amount of
7 compensation and death benefits, as provided in this chapter, shall be
8 double the amount which would otherwise be recoverable. The
9 insurance carrier shall be liable on its policy for one-half (1/2) of the
10 compensation or benefits that may be payable on account of the
11 disability or death of the minor, and the employer shall be wholly liable
12 for the other one-half (1/2) of the compensation or benefits. If the
13 employee is a minor who is not less than sixteen (16) years of age and
14 who has not reached seventeen (17) years of age, and who at the time
15 of the last exposure is employed, suffered, or permitted to work at any
16 occupation which is not prohibited by law, the provisions of this
17 subsection prescribing double the amount otherwise recoverable do not
18 apply. The rights and remedies granted to a minor under this chapter on
19 account of disease shall exclude all rights and remedies of the minor,
20 the minor's parents, the minor's personal representatives, dependents,
21 or next of kin at common law, statutory or otherwise, on account of any
22 disease.

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

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

39 (f) For the purposes of this chapter, no compensation shall be
40 payable for or on account of any occupational diseases unless

1 disablement, as defined in subsection (e), occurs within two (2) years
 2 after the last day of the last exposure to the hazards of the disease
 3 except for the following:

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

9 (2) In all cases of occupational disease caused by the exposure to
 10 radiation, no compensation shall be payable unless disablement,
 11 as defined in subsection (e), occurs within two (2) years from the
 12 date on which the employee had knowledge of the nature of the
 13 employee's occupational disease or, by exercise of reasonable
 14 diligence, should have known of the existence of such disease and
 15 its causal relationship to the employee's employment.

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

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

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

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

37 (1) where death occurs during the pendency of a claim filed by an
 38 employee within two (2) years after the date of disablement and
 39 which claim has not resulted in a decision or has resulted in a
 40 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:

(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 services or products to an employee under this chapter. Except as otherwise provided in this chapter, the term includes a medical service facility.

(l) As used in this chapter, "medical service facility" means any of the following that provides a service or product under this chapter and uses the CMS 1450 (UB-04) form or the CMS 1500 (HCFA-1500) form for Medicare reimbursement:

(1) An ambulatory outpatient surgical center (as defined in

1 IC 16-18-2-14).

2 (2) A hospital (as defined in IC 16-18-2-179).

3 (3) A hospital based health facility (as defined in
4 IC 16-18-2-180).

5 (4) A medical center (as defined in IC 16-18-2-223.4).

6 (m) As used in this chapter, "pecuniary liability" means the
7 responsibility of an employer or the employer's insurance carrier for the
8 payment of the charges for each specific service or product for human
9 medical treatment provided under this chapter as follows:

10 (1) This subdivision applies before July 1, 2014, to all medical
11 service providers, and after June 30, 2014, to a medical service
12 provider that is not a medical service facility. Payment of the
13 charges in a defined community, equal to or less than the charges
14 made by medical service providers at the eightieth percentile in
15 the same community for like services or products.

16 (2) Payment of the charges in a reasonable amount, which is
17 established by payment of one (1) of the following:

18 (A) The amount negotiated at any time between the medical
19 service facility and any of the following, if an amount has been
20 negotiated:

21 (i) The employer.

22 (ii) The employer's insurance carrier.

23 (iii) A billing review service on behalf of a person described
24 in item (i) or (ii).

25 (iv) A direct provider network that has contracted with a
26 person described in item (i) or (ii).

27 (B) Two hundred percent (200%) of the amount that would be
28 paid to the medical service facility on the same date for the
29 same service or product under the medical service facility's
30 Medicare reimbursement rate, if, after conducting the
31 negotiations described in clause (A), an agreement has not
32 been reached.

33 (n) "Service or product" or "services and products" refers to
34 medical, hospital, surgical, or nursing service, treatment, and supplies
35 provided under this chapter."

36 Page 2, delete lines 27 through 42, begin a new paragraph and
37 insert:

38 **"Sec. 4. As used in this chapter, "participant" refers to any of**
39 **the following:**

40 **(1) An employer that employs a student in a work based**

1 learning program.

2 (2) A student who is enrolled in a work based learning
3 program.

4 (3) An intermediary (as defined in IC 21-18-1-3.5).

5 (4) A school corporation (as defined in IC 20-18-2-16(a)).

6 (5) A charter school (as defined in IC 20-24-1-4).

7 **Sec. 5. As used in this chapter, "work based learning program"**
8 **refers to:**

9 (1) an apprenticeship program (as defined in IC 20-43-8-0.3);

10 (2) a modern youth apprenticeship (as defined in
11 IC 20-51.4-2-9.5);

12 (3) a pre-apprenticeship program that meets the elements of
13 a quality pre-apprenticeship program established by the
14 United States Department of Labor; and

15 (4) a work based learning course (as defined in
16 IC 20-43-8-0.7).

17 **Sec. 6. Any:**

18 (1) underwriting decision made by an insurer that issues a
19 policy of employer's liability insurance or worker's
20 compensation insurance to provide coverage for a
21 participant; or

22 (2) rating factor applied to a participant for a policy described
23 in subdivision (1);

24 **must be based on objective risk based criteria that are applied**
25 **uniformly and without regard to the age of the student to be**
26 **covered under the policy.**

27 SECTION 9. IC 36-8-12-2, AS AMENDED BY P.L.10-2019,
28 SECTION 139, IS AMENDED TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2026]: Sec. 2. As used in this chapter:

30 "Emergency medical services personnel" means individuals certified
31 by the emergency medical services commission established by
32 IC 16-31-2-1 who:

33 (1) as a result of a written application, have been elected or
34 appointed to membership in a volunteer fire department; and

35 (2) have executed a pledge to faithfully perform, with or without
36 nominal compensation, the work related duties assigned and
37 orders given to the individuals by the chief of the volunteer fire
38 department or an officer of the volunteer fire department,
39 including orders or duties involving education and training.

40 "Employee" means a person in the service of another person under

1 a written or implied contract of hire or apprenticeship.

2 "Employer" means:

3 (1) a political subdivision;

4 (2) an individual or the legal representative of a deceased
5 individual;

6 (3) a firm;

7 (4) an association;

8 (5) a limited liability company; **or**

9 ~~(6) an employer that provides on-the-job training under the~~
10 ~~federal School to Work Opportunities Act (20 U.S.C. 6101 et~~
11 ~~seq.) to the extent set forth in IC 22-3-2-2.5(a); or~~

12 ~~(7) (6) a corporation or its receiver or trustee;~~

13 that uses the services of another person for pay.

14 "Essential employee" means an employee:

15 (1) who the employer has determined to be essential to the
16 operation of the employer's daily enterprise; and

17 (2) without whom the employer is likely to suffer economic injury
18 as a result of the absence of the essential employee.

19 "Nominal compensation" means annual compensation of not more
20 than twenty thousand dollars (\$20,000).

21 "Public servant" has the meaning set forth in IC 35-31.5-2-261.

22 "Responsible party" has the meaning set forth in IC 13-11-2-191(d).

23 "Volunteer fire department" means a department or association
24 organized for the purpose of answering fire alarms, extinguishing fires,
25 and providing other emergency services, the majority of members of
26 which receive no compensation or nominal compensation for their
27 services.

28 "Volunteer firefighter" means a firefighter:

29 (1) who, as a result of a written application, has been elected or
30 appointed to membership in a volunteer fire department;

31 (2) who has executed a pledge to faithfully perform, with or
32 without nominal compensation, the work related duties assigned
33 and orders given to the firefighter by the chief of the volunteer
34 fire department or an officer of the volunteer fire department,
35 including orders or duties involving education and training as
36 prescribed by the volunteer fire department or the state; and

37 (3) whose name has been entered on a roster of volunteer
38 firefighters that is kept by the volunteer fire department and that
39 has been approved by the proper officers of the unit.

40 "Volunteer member" means a member of a volunteer emergency

- 1 medical services association connected with a unit as set forth in
- 2 IC 16-31-5-1(6).".
- 3 Delete page 3.
- 4 Renumber all SECTIONS consecutively.
(Reference is to HB 1098 as introduced.)