

HOUSE BILL No. 1465

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4-8-3.

Synopsis: Intern eligibility for unemployment benefits. Provides that "employment", for purposes of unemployment benefits, does not include service by an individual during an internship with a duration of not more than 90 days.

Effective: July 1, 2015.

Carbaugh, Ober, Morris

January 14, 2015, read first time and referred to Committee on Employment, Labor and Pensions.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1465



A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-4-8-3, AS AMENDED BY P.L.2-2007,
2 SECTION 292, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2015]: Sec. 3. "Employment" shall not include
4 the following:
5 (1) Except as provided in section 2(i) of this chapter, service
6 performed prior to January 1, 1978, in the employ of this state,
7 any other state, any town or city, or political subdivision, or any
8 instrumentality of any of them, other than service performed in
9 the employ of a municipally owned public utility as defined in this
10 article; or service performed in the employ of the United States of
11 America, or an instrumentality of the United States immune under
12 the Constitution of the United States from the contributions
13 imposed by this article, except that to the extent that the Congress
14 of the United States shall permit states to require any
15 instrumentalities of the United States to make payments into an



1 unemployment fund under a state unemployment compensation
2 statute, all of the provisions of this article shall be applicable to
3 such instrumentalities, in the same manner, to the same extent,
4 and on the same terms as to all other employers, employing units,
5 individuals, and services. However, if this state shall not be
6 certified for any year by the Secretary of Labor under Section
7 3304 of the Internal Revenue Code the payments required of such
8 instrumentalities with respect to such year shall be refunded by
9 the commissioner from the fund in the same manner and within
10 the same period as is provided in IC 22-4-32-19 with respect to
11 contribution erroneously paid or wrongfully assessed.

12 (2) Service with respect to which unemployment compensation is
13 payable under an unemployment compensation system
14 established by an Act of Congress; however, the department is
15 authorized to enter into agreements with the proper agencies
16 under such Act of Congress which agreements shall become
17 effective ten (10) days after publication thereof, in accordance
18 with rules adopted by the department under IC 4-22-2, to provide
19 reciprocal treatment to individuals who have, after acquiring
20 potential rights to benefits under this article, acquired rights to
21 unemployment compensation under such Act of Congress, or who
22 have, after having acquired potential rights to unemployment
23 compensation under such Act of Congress, acquired rights to
24 benefits under this article.

25 (3) "Agricultural labor" as provided in section 2(l)(1) of this
26 chapter shall include only services performed:

27 (A) on a farm, in the employ of any person, in connection with
28 cultivating the soil or in connection with raising or harvesting
29 any agricultural or horticultural commodity, including the
30 raising, shearing, feeding, caring for, training, and
31 management of livestock, bees, poultry, and furbearing
32 animals and wildlife;

33 (B) in the employ of the owner or tenant or other operator of
34 a farm, in connection with the operation, management,
35 conservation, improvement, or maintenance of such farm and
36 its tools and equipment, or in salvaging timber or clearing land
37 of brush and other debris left by a hurricane, if the major part
38 of such service is performed on a farm;

39 (C) in connection with the production or harvesting of any
40 commodity defined as an agricultural commodity in Section
41 15(g) of the Agricultural Marketing Act (12 U.S.C. 1141j(g))
42 as amended, or in connection with the operation or



1 maintenance of ditches, canals, reservoirs, or waterways, not
 2 owned or operated for profit, used exclusively for supplying
 3 and storing water for farming purposes;

4 (D) in the employ of:

5 (i) the operator of a farm in handling, planting, drying,
 6 packing, packaging, processing, freezing, grading, storing,
 7 or delivering to storage or to market or to a carrier for
 8 transportation to market, in its unmanufactured state, any
 9 agricultural or horticultural commodity; but only if such
 10 operator produced more than one-half (1/2) of the
 11 commodity with respect to which such service is performed;
 12 or

13 (ii) a group of operators of farms (or a cooperative
 14 organization of which such operators are members) in the
 15 performance of service described in item (i), but only if such
 16 operators produce more than one-half (1/2) of the
 17 commodity with respect to which such service is performed;
 18 except the provisions of items (i) and (ii) shall not be deemed
 19 to be applicable with respect to service performed in
 20 connection with commercial canning or commercial freezing
 21 or in connection with any agricultural or horticultural
 22 commodity after its delivery to a terminal market for
 23 distribution for consumption; or

24 (E) on a farm operated for profit if such service is not in the
 25 course of the employer's trade or business or is domestic
 26 service in a private home of the employer.

27 (4) As used in subdivision (3), "farm" includes stock, dairy,
 28 poultry, fruit, furbearing animals, and truck farms, nurseries,
 29 orchards, greenhouses, or other similar structures used primarily
 30 for the raising of agricultural or horticultural commodities.

31 (5) Domestic service in a private home, local college club, or
 32 local chapter of a college fraternity or sorority, except as provided
 33 in section 2(m) of this chapter.

34 (6) Service performed on or in connection with a vessel or aircraft
 35 not an American vessel or American aircraft, if the employee is
 36 employed on and in connection with such vessel or aircraft when
 37 outside the United States.

38 (7) Service performed by an individual in the employ of child or
 39 spouse, and service performed by a child under the age of
 40 twenty-one (21) in the employ of a parent.

41 (8) Service not in the course of the employing unit's trade or
 42 business performed in any calendar quarter by an individual,



1 unless the cash remuneration paid for such service is fifty dollars
 2 (\$50) or more and such service is performed by an individual who
 3 is regularly employed by such employing unit to perform such
 4 service. For the purposes of this subdivision, an individual shall
 5 be deemed to be regularly employed to perform service not in the
 6 course of an employing unit's trade or business during a calendar
 7 quarter only if:

8 (A) on each of some of twenty-four (24) days during such
 9 quarter such individual performs such service for some portion
 10 of the day; or

11 (B) such individual was regularly employed (as determined
 12 under clause (A)) by such employing unit in the performance
 13 of such service during the preceding calendar quarter.

14 (9) Service performed by an individual in any calendar quarter in
 15 the employ of any organization exempt from income tax under
 16 Section 501 of the Internal Revenue Code (except those services
 17 included in sections 2(i) and 2(j) of this chapter if the
 18 remuneration for such service is less than fifty dollars (\$50)).

19 (10) Service performed in the employ of a hospital, if such service
 20 is performed by a patient of such hospital.

21 (11) Service performed in the employ of a school or eligible
 22 postsecondary educational institution if the service is performed:

23 (A) by a student who is enrolled and is regularly attending
 24 classes at the school or eligible postsecondary educational
 25 institution; or

26 (B) by the spouse of such a student, if such spouse is advised,
 27 at the time such spouse commences to perform such service,
 28 that:

29 (i) the employment of such spouse to perform such service
 30 is provided under a program to provide financial assistance
 31 to such student by the school or eligible postsecondary
 32 educational institution; and

33 (ii) such employment will not be covered by any program of
 34 unemployment insurance.

35 (12) Service performed by an individual who is enrolled at a
 36 nonprofit or public educational institution which normally
 37 maintains a regular faculty and curriculum and normally has a
 38 regularly organized body of students in attendance at the place
 39 where its educational activities are carried on as a student in a
 40 full-time program, taken for credit at such institution, which
 41 combines academic instruction with work experience, if such
 42 service is an integral part of such program, and such institution



- 1 has so certified to the employer, except that this subdivision shall
2 not apply to service performed in a program established for or on
3 behalf of an employer or group of employers.
- 4 (13) Service performed in the employ of a government foreign to
5 the United States of America, including service as a consular or
6 other officer or employee or a nondiplomatic representative.
- 7 (14) Service performed in the employ of an instrumentality
8 wholly owned by a government foreign to that of the United
9 States of America, if the service is of a character similar to that
10 performed in foreign countries by employees of the United States
11 of America or of an instrumentality thereof, and if the board finds
12 that the Secretary of State of the United States has certified to the
13 Secretary of the Treasury of the United States that the
14 government, foreign to the United States, with respect to whose
15 instrumentality exemption is claimed, grants an equivalent
16 exemption with respect to similar service performed in such
17 country by employees of the United States and of
18 instrumentalities thereof.
- 19 (15) Service performed as a student nurse in the employ of a
20 hospital or nurses' training school by an individual who is
21 enrolled and is regularly attending classes in a nurses' training
22 school chartered or approved pursuant to state law; and service
23 performed as an intern in the employ of a hospital by an
24 individual who has completed a four (4) year course in a medical
25 school chartered or approved pursuant to state law.
- 26 (16) Service performed by an individual as an insurance producer
27 or as an insurance solicitor, if all such service performed by such
28 individual is performed for remuneration solely by way of
29 commission.
- 30 (17) Service performed by an individual:
- 31 (A) under the age of eighteen (18) in the delivery or
32 distribution of newspapers or shopping news, not including
33 delivery or distribution to any point for subsequent delivery or
34 distribution; or
- 35 (B) in, and at the time of, the sale of newspapers or magazines
36 to ultimate consumers, under an arrangement under which the
37 newspapers or magazines are to be sold by the individual at a
38 fixed price, the individual's compensation being based on the
39 retention of the excess of such price over the amount at which
40 the newspapers or magazines are charged to the individual,
41 whether or not the individual is guaranteed a minimum amount
42 of compensation for such service, or is entitled to be credited



- 1 with the unsold newspapers or magazines turned back.
2 (18) Service performed in the employ of an international
3 organization.
4 (19) Except as provided in IC 22-4-7-1, services covered by an
5 election duly approved by the agency charged with the
6 administration of any other state or federal unemployment
7 compensation law in accordance with an arrangement pursuant to
8 IC 22-4-22-1 through IC 22-4-22-5, during the effective period of
9 such election.
10 (20) If the service performed during one-half (1/2) or more of any
11 pay period by an individual for an employing unit constitutes
12 employment, all the services of such individual for such period
13 shall be deemed to be employment; but if the services performed
14 during more than one-half (1/2) of any pay period by such an
15 individual do not constitute employment, then none of the
16 services of such individual for such period shall be deemed to be
17 employment. As used in this subsection, "pay period" means a
18 period of not more than thirty-one (31) consecutive days for
19 which a payment of remuneration is ordinarily made to the
20 individual by the employing unit. This subsection shall not be
21 applicable with respect to services performed in a pay period by
22 any such individual where any such service is excepted by
23 subdivision (2).
24 (21) Service performed by an inmate of a custodial or penal
25 institution.
26 (22) Service performed as a precinct election officer (as defined
27 in IC 3-5-2-40.1).
28 **(23) Service performed by an individual during an internship**
29 **with a duration of not more than ninety (90) days.**

