

2022 INDIANA LEGISLATIVE UPDATE

Provided by [Indiana Outdoor Management Alliance \(IOMA\)](#) / Prepared by The Corydon Group

The 2022 Indiana General Assembly adjourned this year's short session *sine die* early Wednesday, March 9th. Generally, short sessions are low-key as legislators are eager to adjourn and return to their districts to campaign for re-election. All 100 House members and 25 of the 50 Senate members face voters this year. However, this session was anything but low-key. Instead, the legislature debated and passed sweeping legislation to curb vaccine mandates, lower taxes, curb agency powers, and enhance data security. This year also demonstrated why it is crucial to have the Indiana Outdoor Management Alliance (IOMA) representing the interest of INLA and our industry.

Vaccine Mandates

While the U.S. Supreme Court weighed legal arguments for and against federal COVID vaccine mandates, Indiana sought to find a way to end its public health emergency. Before the legislature convened, Governor Eric Holcomb asked the legislature for three statutory changes to protect Indiana residents once he lifted the emergency. These changes included: allowing for enhanced federal matching funds for Medicaid expenditures to continue; allowing the secretary of the Family and Social Services Administration (FSSA) to issue an emergency declaration to continue participating in the federal Supplemental Nutrition Assistance Program (SNAP) and allowing for the vaccination of children ages - 11.

The House and the Senate drafted differing bills to meet his request. HB 1001 - Administrative Authority, authored by Rep. Matt Lehman (R – Berne), provided the governor's requested changes. Additionally, it prohibited Indiana governmental entities from requiring immunization "passports" and prohibited employers from requiring employees to receive a COVID-19 immunization unless the employer allowed for religious and medical exemptions. The bill initially included a penalty for employers who did not grant such exemptions, but the House removed the penalty.

Meanwhile, the Senate drafted SB 3 – Administrative Authority, authored by Sen. Ed Charbonneau (R – Valparaiso), which provided the governor's three requested changes without the immunization prohibition or penalties.

The Indiana House finally passed a revised version of HB 1001, allowing for the continuation of enhanced Medicaid and food assistance benefits and continuing to allow children aged 12 and under to receive COVID-19 vaccinations outside a doctor's office. It also places new restrictions on private business COVID-19 vaccines in Indiana, adopting federal guidelines for medical or religious exemptions. Employers also must exempt those who test positive for COVID antibodies due to "natural immunity" in the prior three months. Employers may require exempt employees to be tested for COVID-19 twice per week.

On Thursday, March 3rd, Gov. Holcomb signed an executive order ending Indiana's COVID-19 public health emergency first declared in March 2020, days before the emergency order expired.

Taxes

Because of the unexpectedly large budget surplus – nearly \$5 billion – House Republicans and the governor advocated cutting taxes this session. They argued that the size of the surplus was proof that the state was collecting too much. Meanwhile, Senate leadership indicated they preferred to address taxes next year in the budget session to gauge the impact of inflation and a possible recession on state revenues.

Both chambers engaged in a vigorous tax discussion. Part of this discussion included extending the state sales tax to services. HB 1083 – Tax and Fiscal Matters, authored by Rep. Jeff Thompson (R – Lizton), would have changed individual and business tax rates and extended the sales tax to services. SB 372 – Taxation, authored by Sen. Andy Zay (R – Huntington), would have decreased or phased out several taxes, including the adjusted gross income tax, and eliminated the corporate adjusted gross income tax. It also would have extended the sales tax to services starting in January 2023.

Eventually, one bill emerged as the primary tax bill. HB 1002 – Various Tax Matters, authored by the House Ways & Means Chairman, Rep. Tim "Doc" Brown (R – Crawfordsville), "is intended to decrease what is being taxed to Indiana citizens" by making several changes to the tax code. Brown announced that he would not include a sales tax on services in any bill; instead, the legislature would study the issue this summer. We will ensure the IOMA is included in these discussions.

The final tax package that the legislature eventually passed includes reducing the individual income tax rate from 3.23% to 2.9% over seven years and eliminating the gross utility receipts and use tax.

Agency Power

The legislature sought to limit state agency powers—agencies like the state chemist office HB 1063 – De Novo Judicial Review of Agency Action, authored by Rep. Chris Jeter (R – Fishers), provided that a court must, when reviewing agency actions (like those of the pesticide review board) under the Administrative Orders and Procedures Act (AOPA), use a *de novo* standard when determining issues of fact or law without deference to the agency. Statutorily, courts must give deference to an agency’s opinion and reviews facts only confined to the agency record and may not substitute its judgment for that of the agency. Rep. Jeter argued that this standard creates an uneven playing field that favors state agencies over citizens.

HB 1100 – Agency Oversight and Rulemaking Procedures, authored by Rep. Steve Bartels (R – Eckerty), sought to change the process for emergency rules and executive orders. It limited the governor’s executive orders and emergency rules to 180 days unless approved by the legislature. Before issuing emergency orders, agencies must provide an economic impact statement, explain any penalty or fine, and a reason for issuing the rule, which the Attorney General’s Office must approve. It also limited emergency rules to two years.

Neither bill passed, but legislators amended portions of HB 1100 into another bill (HEA 1211) on the final day. The revised bill included the requirement for agencies to submit emergency rules to the attorney general for review and approval, limits such rules to 180 days, requires an agency to submit an economic impact statement, and further requires agencies to readopt rules every four years instead of seven years (current law).

Data Security

The legislature also sought to protect Hoosiers’ online data. SB 358 – Personal Information and Social Media Policies, authored by Sen. Liz Brown (R – Fort Wayne), would have established duties for businesses collecting personal data about Indiana consumers and rights for Indiana consumers regarding the data collected. The bill gave consumers the right to access their data and correct inaccuracies annually. It gave the attorney general authority to investigate and enforce suspected violations and would have gone into effect in 2025. Though the bill appeared to be heading for the governor’s desk, the House chose not to hear the bill before the deadline, and it died on the House floor.

Meanwhile, HB 1351 – Disclosure or Notification of Data Breach, authored by Representative Martin Carbaugh (R – Fort Wayne), passed. It requires disclosure or notice within 45 days after discovering a breach. So, database owners who have experienced a breach must notify Indiana residents whose information might be compromised.

So despite it being a short session, it was significant both in terms of the legislation that passed and some that didn’t pass. The debates laid the groundwork for future policy discussions over issues important to our industry, like extending the sales tax to services and defining a businesses’ responsibility for consumer data. These discussions demonstrate the importance of IOMA representing the INLA and our industry.