

# INdiana Labor Insider

March/April 2011

Advancing the safety, health and prosperity of Hoosiers in the workplace

Mitchell E. Daniels Jr., Governor  
Lori A. Torres, Commissioner of Labor

## Stay Tuned for Many More Updates!

*Who* knew that labor policies would be the impetus for the longest legislative walk out in history? It is an interesting time to be in the labor department! This edition of our newsletter has a short run down of legislation that has passed or is still working its way through the legislature, as well as residential construction articles, how 14–17 year-olds get work permits for that summer job and the list of award winners for the 2011 Governor's Workplace Safety Awards. Congratulations to those companies that were honored for *advancing workplace safety and health* at their work sites!

Notwithstanding politics and philosophical differences, staff here continues to concentrate on getting things done. You can see our quarterly metrics by clicking [here](#). We continue to work on improving our service to you by being subject matter experts and responding timely and accurately

to you. We are trying to improve on that by developing our own staff, and addressing our technical skills so that we can address your needs better.

Stay tuned for our After Action Report once the legislative session closes. We'll update you on the new laws that may affect you regarding labor and employment issues.



Lori A. Torres  
Commissioner of Labor

To your health and wealth,



Lori A. Torres  
Commissioner

## Excellence in Hoosier Occupational Safety and Health

*Eight* Indiana organizations and one individual received top occupational safety and health honors from Indiana Department of Labor Commissioner Lori Torres. Commissioner Torres presented the 2011 Governor's Workplace Safety Awards (GWSA) on behalf of Governor Mitch Daniels, Jr. at the annual [Indiana Safety and Health Conference](#) on Wednesday, March 2.



The GWSAs recognize companies and their employees who implement best practices for eliminating workplace injuries and illnesses. All Hoosier businesses, unions, municipalities, schools, service organizations, nonprofit organizations and individuals are eligible to apply for the awards. To qualify, a company must be deemed to be free of any compliance disputes concerning all applicable local, state and federal statutes and regulations.

Additional information about the 2011 and past GWSA recipients may be found online by clicking [here](#).

### 2011 Governor's Workplace Safety Award Recipients

#### **Education & Outreach - External**

Monsanto Company, Windfall Soybean Production

#### **Education & Outreach - Internal**

USALCO Michigan City Plant, LLC (Small Company)

Peerless Pump (Medium Company)

Raytheon Technical Services (Large Company)

#### **Innovations**

Univertical Corporation (Small Company)

Acument Global Technologies (Medium Company)

Union Hospital, Inc. (Large Company)

#### **Overall Safety for Construction**

Gribbins Insulation Company, Inc.

#### **Education & Outreach in Construction**

Mr. William D. Mott

# SAFETY ALERT:

## Fall Protection in Residential Construction

Contributed by Mario Moroné, INSafe Administrative Assistant

### Roofing

Roofing is a demanding skill that is done best by those who possess superior physical strength, a sense of balance and do not have a phobia of heights. As spring approaches, workers will spend increased hours working up on roofs. Worker safety is important on any construction job, and working on roof tops is no exception. There are numerous safety precautions to consider for roofing safety.

### Occupational Injuries and Illnesses

The most obvious hazard associated with roofing is **falling**. Each year, **falls** consistently account for a large number of fatalities in the construction industry. In the construction industry in Indiana in 2009, there were five (5) worker fatalities from falls. A number of factors are often involved in falls, including unstable working surfaces, misuse or failure to use fall protection equipment and human error. Other hazards associated with this craft include **electrocution, heat stress** and exposure to **harmful chemicals and vapors**.

According to the Bureau of Labor Statistics' (BLS) Survey of Occupational Injuries and Illnesses (SOII), common injuries that occurred among the roofing occupation in 2009 included **falling to a lower level** (33.3%), **struck by an object** (13.4%), **overexertion in lifting** (8.4%), **falling on the same level** (7.6%) and **struck against an object** (7.6%). Leading sources of injury during this time frame were **floors and ground surfaces** (22.9%), followed by **parts and materials** (28.1%) and **motion or position of the injured worker** (9.7%). The most frequent roofing injuries were **sprains, strains and tears** (40.3%), **cuts, lacerations and punctures** (22.8%) and **fractures** (21.52%). Roofers hurt while on the job were virtually all **male** (98.8%) and **Hispanic** (52.8%), but closely followed by **Caucasian** (40.4%). Most often in 2009, the worker was between ages of **35-44** (32.7%).

### OSHA's New Residential Fall Protection Directive

In December 2010, the federal Occupational Safety and Health Administration (OSHA) announced a new directive to safeguard residential roofing construction workers against

falls. This directive becomes **enforceable in Indiana on July 1, 2011**. To read the directive on the Indiana Department of Labor's website, please click [here](#).

### Keeping Employees Safe

Without the proper safety measures in place, roofers have a greater probability of falling from roofs or ladders. Generally speaking, OSHA standards require employers to ensure that employees **working six feet or more above lower levels** use **guardrails, safety nets or personal fall arrest systems**. A personal fall arrest system may consist of a **full body harness, deceleration device, lanyard and an anchor point**.

To be effective, a fall restraint system must be rigged to prevent a worker from reaching a fall hazard and may consist of a full body harness or belt connected to an anchor point at the center of a roof by a lanyard of a length that will not allow a worker to physically reach the edge of the roof. Occupational studies have shown that using guardrails, fall arrest systems, safety nets, covers and restraint systems can prevent many deaths and injuries from falls.

To positively impact worker safety and health, employers should perform a risk assessment, including the identification of risks that will be encountered prior to performing the specific tasks required for the job. Training employees in safe work practices and proper use and maintenance of any personal protective equipment (PPE) is absolutely essential. Employees should also receive training to appropriately recognize and report potential safety and health hazards to management for further action.

The employer must also determine if roof surfaces have the strength and structural integrity to support employees safely. Employees shall be allowed to work on those surfaces only when they have the appropriate strength and structural integrity.

For employees working on low-slope roofs with unprotected sides and edges, levels of six feet or more must be protected from falling by **guardrail systems, safety net systems, personal fall arrest systems** or a **combination of a warning line system and guardrail system**. On roofs of



*In 2009, five Hoosier construction workers suffered a fatal fall.*

50 feet or less in width, usage of a safety monitoring system without a warning line is permitted. Employees working on steep roofs with unprotected sides and edges six feet or more above lower levels should be protected by guardrail systems with toe boards, safety net systems or personal fall arrest systems.

Walking around the entire structure can help determine locations of nearby **electrical devices** or **power lines**. Assessing or measuring the roof's pitch or angle can provide a view of extra safety measures on steeper roofs. In addition to physical or safety hazards, employers should also remain aware of potential hazards like **noxious fumes** from a chimney.

Other areas of concern with respect to residential roofing safety include **safely getting onto and off of the roof**. Ensuring employees have a secure means of entering and exiting the roof is essential. Proper **housekeeping** must also be maintained to prevent materials, tools and supplies from causing trip hazards and from falling from rooftops.

## Additional Resources

A residential fall protection fact sheet is available online at [www.osha.gov/doc/fall\\_protection\\_factsheet.pdf](http://www.osha.gov/doc/fall_protection_factsheet.pdf). In addition, a sample fall protection plan is available online by clicking [here](#). Worker safety and health information specific to the residential construction industry may be found online by clicking [here](#). For specific questions about residential roofing safety or to ask about other workplace safety and health concerns, please contact INSafe by email at [insafe@dol.in.gov](mailto:insafe@dol.in.gov) or phone (317) 232-2688.

On-site OSHA consultation is also available to assist employers in developing and implementing occupational safety and health programs. In addition, the INSafe Consultant will work with employers in the identification and correction of workplace safety and health hazards. INSafe consultation visits may be initiated by completing the online request form at [www.in.gov/dol/insafeconsultation](http://www.in.gov/dol/insafeconsultation).



An employee is outfitted with residential fall protection. (Photo from [www.OSHA.gov](http://www.OSHA.gov).)



## It Happened Here: Kosciusko County

**Background:** The top four construction hazards as cited by the Occupational Safety and Health Administration (OSHA) are falls, struck-by, caught in/between and electrocution. In Indiana in 2009, there were five fatal falls in the construction industry.

**Event:** On the morning of March 26, 2010, in Kosciusko County, a roofing crew was preparing to cover a roof with metal shingles. A 53 year-old worker slipped on the metal roof and fell approximately 30 feet to the ground. Co-workers called 911. Emergency responders arrived on the scene and found the worker unresponsive and not breathing. The emergency responders initiated CPR and transported the worker to the hospital. The worker sustained a cervical fracture and was pronounced deceased at the hospital.

**Lessons Learned:** To reduce the likelihood of and prevent similar incidents from occurring in the future, employers and employees should:

- Train employees to recognize the safety and health hazards associated with each job, task and work site.

- Provide, train and use personal fall arrest equipment. This equipment should be regularly inspected to ensure there are no signs of wear. Employees must also be adequately trained on the use of personal fall arrest equipment.
- Install and maintain perimeter protection.
- Use all equipment including, but not limited to ladders and scaffolds safely. Regular and documented inspections of this equipment should also occur.
- Incorporate regular “safety talks” (also known as “Toolbox Talks”). These talks are conducted on-site, relatively brief in nature and conducted by the site supervisor, foreman, safety supervisor or senior employee.
- Investigate all near-miss incidents to determine causality, as well as perform root cause analysis (RCA).
- Foster a culture of workplace safety and health, and hold yourself accountable for your employees’ understanding and following of all written safety and health policies, rules, procedures and regulations.



## You Asked, We Answered - Residential Fall Protection

### How does the new directive differ from the “old” directive?

The prior directive allowed employers engaged in specific residential construction activities to use specified alternative methods of fall protection such as slide guards or safety monitoring systems rather than conventional fall protection. Employers could use alternative methods without first proving that conventional fall protection was infeasible or created a greater hazard and without a written fall protection plan.

By issuing this new directive, all residential construction employers must comply with [29 CFR 1926.501\(b\)\(13\)](#).

### When does the new residential fall protection directive become effective?

In Indiana, the new residential fall protection directive becomes enforceable on July 1, 2011.

### What does OSHA consider residential construction?

Residential construction satisfies the following two elements: the end-use of the structure being built must be

a home, (i.e. dwelling) and the structure being built must be constructed using traditional wood frame construction materials and methods. Limited use of structural steel in a predominantly wood-framed home, such as a steel I-beam to help support wood framing, does not disqualify a structure from being considered residential construction.

### At what height am I required to provide my employees fall protection in a residential construction setting?

Generally speaking, residential construction employers must ensure employees working at six (6) feet or more above lower levels use guardrails, safety nets or personal fall arrest systems. A personal fall arrest system may consist of a full body harness, a deceleration device, a lanyard and an anchor point.

For more information on residential fall protection for construction, please click [here](#). For questions on residential fall protection or general worker safety and health, please email INSafe at [insafe@dol.in.gov](mailto:insafe@dol.in.gov) or call at (317) 232-2688.

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## Minors Seeking Employment Must First Obtain a Work Permit

*Contributed by Sarah Eplin, Indiana Department of Labor Summer Intern - 2010*

**As** the summer break approaches, many minors (14-17 years of age) will seek part-time employment. For some, this will be their first job. Prior to employing minors, employers must ensure they obtain a work permit.

A minor may not work or participate in paid training until he or she has obtained a work permit. There are, however, a few exceptions. If a minor is working as a **farm laborer, domestic worker, golf caddie, newspaper carrier, performer/actor/model**, or if **legally emancipated**, a **high school graduate** (or equivalent), or **employed by his or her own parent who is the sole proprietor of a business**, the minor is exempt from obtaining a work permit.

Work permits are obtained from the accredited high school in the school district where the minor resides. To obtain a work permit, a minor must first be hired by an employer. This employer must provide the accredited school with written notice that they intend to hire the minor, as well as the hours the minor will work and the types of duties the minor will perform. The minor must take this notice, in person, to the permit issuing officer at the accredited high school. The minor will also need to provide proof of age—traditionally a copy of his or her birth certificate. Once these documents are examined and found to be in good order, the minor should be issued a work permit. The work permit must then be given

to the employer and must remain on file at the site where the minor is working. Work permits are issued per employer. If a minor changes employers, they must obtain a new work permit.

Permit issuing officers have the discretion as to whether or not to issue a work permit to a minor. Work permits may be denied based on poor academics or attendance. Similarly, issuing officers may revoke a work permit if a minor’s grades or attendance slip or if a minor withdraws from school without following all required protocols. If a work permit is revoked, the minor may not work until it has been re-issued.

Some schools close for extended periods during breaks and holidays. Minors should always plan accordingly and ask an official in the school what the permit issuing hours will be. If a minor works without a work permit, the employer could be fined for not having a work permit from the minor on file.

For more information about Indiana’s Child Labor laws please visit [www.in.gov/dol/childlabor.htm](http://www.in.gov/dol/childlabor.htm). Answers to many of the Bureau of Child Labor’s Frequently Asked Questions are also available [here](#).



# The Benefits Add Up: Worker Safety and Health Add Value

Contributed by Jerry Townsend, IOSHA Construction Safety Inspector

**Both** employers and employees desire a safe and healthful workplace. No one wants to experience, nor witness a work-related injury or illness. Preventing worker injuries and illnesses does not have to be a difficult task.

Just as a company's business plan is an operational and functional road map, their written safety and health program communicates policies, procedures, work practices and resources to protect employees from occupational safety and health hazards. Without a plan, workers may not understand individual responsibilities when safety and health issues arise.

Establishing a safe and healthy work environment for employees affects a business' profitability. Less time and money are spent on work-related injuries and regulatory agency fines. Money saved can be reinvested into the company's welfare, growth and worker productivity, creating an increased level of financial stability.

Knowing their well being is important to management, will have a positive impact on employee morale, reduce absenteeism and turnover. A safe and healthy workplace can inspire employees to maintain a positive attitude about going to work and discovering their potential.

Often, organizations take on the persona of their leader.

When a corporation's new president or department head takes over, employees perceive what new culture he or she implements in the environment. For instance, if a relaxed dress code is allowed, employees will dress accordingly. The same applies to worker safety and health. If management is lax in enforcing safety policies and procedures, employees will follow suit.

I recently took my car to the local automobile dealership for repairs. Upon learning my profession, the service manager instructed an employee to, "Make sure (Bob) wears his safety glasses when he turns the rotors today." This sends the wrong message. Rather, employers should inform employees to, "Stay alert to any potential hazards associated with tasks and jobs. Your on-the-job safety and health may depend on it."

Developing and implementing an effective workplace safety and health management system can be achieved using tools developed by the [Occupational Safety and Health Administration](#) (OSHA). OSHA has designed a small business handbook that guides employers in developing and implementing effective worker safety and health management systems. To access this handbook, please click [here](#).

Employers may request on-site consultation assistance from INSafe. To learn more about INSafe click [here](#).

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## Indiana Legislative Update

**As** the session nears a scheduled close date, there are still several bills alive that impact labor policy and implementation. As of April 8, the following bills have passed or may still pass:

**HB 1129 and SB 18:** Essentially, the legislation would disallow transmitting or reading texts or emails, or dialing a cell phone while driving, unless done by hands free or voice operated technology.

**HB 1130:** This would require all regulatory agencies to issue a warning to first time offenders, rather than impose a fine, subject to some exceptions.

**HB 1203:** Guarantees employees the right to vote by secret ballot in union elections and the right of the employer to engage in a campaign against union representation, unless contrary to the National Labor Relations Act.

**HB 1216:** Raises the minimum amount of a public works project for which a prevailing wage scale must be established from \$150,000 currently, to \$350,000 by January 1, 2013, allowing smaller projects to proceed without a wage scale being adopted by committee. The bill also prohibits splitting projects, has debarment provisions for violators and alters the reports to be considered by the committee. Finally, it prohibits project labor agreements on public projects without a referendum question being submitted to the voters.

**HB 1538:** Prohibits a unit of government from establishing a minimum wage that exceeds Indiana's minimum wage rate, unless that governmental unit is a party to a particular contract and establishes wages for that contract.

**SB 418:** Provides that wage scales set by a common construction wage committee shall be effective for contracts let within three months. Otherwise, a new scale must be adopted by a new committee.

**SB 576:** Makes a number of changes in the workers compensation laws, including permits, mediation of contested claims, increases the penalties for violators to criminal misdemeanors as well as increasing monetary penalties for repeat offenders. It also allows a court to order an employer to cease doing business if it fails to pay benefits when due, allows for more compliance activities, and requires a health care provider to application for adjustment of the healthcare provider's fee within two years.

**SB590:** Addresses many aspects of immigration, too lengthy to recap.

All descriptions are intended to be brief overviews. Readers should review the bill in its current state for the most updated information. All bills can be viewed by clicking [here](#).



# Developing Workplace Policies to Protect Your Business

Contributed by Rick J. Ruble, Deputy Commissioner and General Counsel

The article below is intended for general information and does not constitute legal advice. Nothing herein should be considered a legal opinion. The reader is encouraged to consult with legal counsel to determine how laws, rules, regulations or information contained or referenced in this communication may apply to the reader's specific circumstances.

**When** was the last time you reviewed your workplace policies? Nearly every business should have workplace policies or an employee handbook and review them periodically to make certain they comply with changing federal and state laws. Developing good workplace policies is generally less expensive than defending wage and hour claims or lawsuits alleging workplace discrimination, sexual harassment or wrongful discharge—just ask any good employment attorney or trial court judge.

Even if you are a sole-proprietor or small employer and accomplish much of your work using independent contractors, you should examine the relationship between your business and “contractors” to make certain you really have “contractors” and not “employees.” Government agencies are scrutinizing “independent contractor” relationships much more critically for signs of fraud and abuse.

Recently, a California contractor was convicted of insurance fraud and perjury and fined \$1.6 million for

failing to report payroll to worker's compensation and the state unemployment insurance department. The contractor claimed all his workers were independent contractors. They were not. Last year, an Illinois roofing and siding contractor faced fines of \$1,683,000 proposed by the Illinois Department of Labor for allegedly misclassifying employees as “independent contractors.”

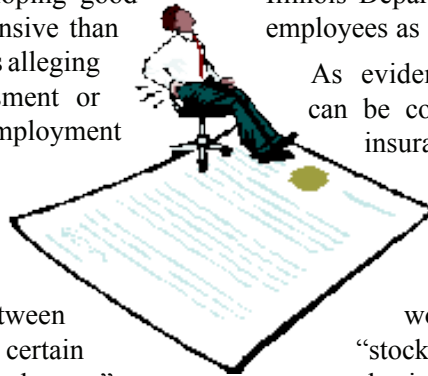
As evident in the aforementioned cases, mistakes can be costly. Good workplace policies, like good insurance policies, help protect your business. Large corporations may have in-house counsel or relationships with law firms to handle these matters, but you don't need to spend a fortune to have well-drafted workplace policies. Some law firms maintain “stock” policies that they can custom-tailor to suit your business needs.

Please see the informational box “Employer Policies,” located on the bottom left corner of this page for a list of some policies to consider and discuss with an experienced employment attorney or human resource professional. The list is certainly not exhaustive and is not a substitute for good legal advice, but is intended to prompt you to evaluate policies you may want to implement or update.

The final important point to know about workplace policies is that once you adopt policies, you should clearly communicate them to your managers, supervisors, and employees, and make certain they are consistently followed.

Now, before you get interrupted by other urgent matters, schedule a time on your calendar to update your workplace policies and have them reviewed for compliance by a knowledgeable employment law attorney or human resource professional. You will be glad you did.

For additional information about the Indiana Department of Labor's Wage and Hour Division, please visit [www.in.gov/dol/wagehour.htm](http://www.in.gov/dol/wagehour.htm). Answers to many Indiana wage and hour Frequently Asked Questions are also available online by clicking [here](#).



## Employer Policies

1. Equal Employment Opportunity (this is different than “Affirmative Action”)
2. Hiring procedures
3. Classification (employee or contractor? overtime eligible or overtime exempt?)
4. Compensation (i.e. salary, commission, bonus, vacation pay, holiday pay, etc.)
5. Employee benefits
6. Performance appraisal
7. Attendance
8. Discipline
9. Termination and resignation
10. Ethics and professional conduct
11. Dress code
12. Drug free workplace
13. Sexual harassment
14. Workplace violence
15. Access to personnel records (does employee or former employee have access?)
16. Confidentiality/Trade Secrets/Non-competition/Non-solicitation (they are different)
17. Use of employer's property (e.g. vehicles, computers, credit cards, etc.)
18. Employee leave policies:
  - a. Vacation leave
  - b. Sick leave
  - c. Personal leave
  - d. Family Medical Leave (FMLA)
  - e. Military leave
  - f. Judicial leave (subpoena, summons, jury duty)
  - g. Unpaid leave (authorized and unauthorized)

# Upcoming Training Opportunities

**Child Labor Law Teleconferences:** There are many opportunities for you to participate in our trainings, which we offer via teleconference, so you don't lose productive time and can keep your employees on-site. These training opportunities are provided free of charge; however, registration is required. To register for an upcoming teleconference, please e-mail [childlabor@dol.in.gov](mailto:childlabor@dol.in.gov). Please be sure to include your name, e-mail address and the date and time of the training in which you wish to participate. If enrolling a group of individuals, please list the name of each attendee.

Date	Sponsor	Class*	Time
May 5, 2011	IDOL Bureau of Child Labor	Child Labor Laws (Teleconference)	10:00 a.m. & 1:00 p.m. EST
May 10, 2011	IDOL Bureau of Child Labor	Child Labor Laws (Teleconference)	10:00 a.m. & 1:00 p.m. EST
June 2, 2011	IDOL Bureau of Child Labor	Child Labor Laws (Teleconference)	10:00 a.m. & 1:00 p.m. EST
June 7, 2011	IDOL Bureau of Child Labor	Child Labor Laws (Teleconference)	10:00 a.m. & 1:00 p.m. EST
July 7, 2011	IDOL Bureau of Child Labor	Child Labor Laws (Teleconference)	10:00 a.m. & 1:00 p.m. EST
July 12, 2011	IDOL Bureau of Child Labor	Child Labor Laws (Teleconference)	10:00 a.m. & 1:00 p.m. EST

\*Registration is required, and will close 48 hours prior to the scheduled teleconference.

**Workplace Safety and Health Training:** For a listing of upcoming occupational safety and health-related training, please click [here](#).

(Please note: This is not a complete list of all occupational safety and health training provided throughout the State of Indiana.)

## 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 VPP and INSHARP may be found online at [www.in.gov/dol](http://www.in.gov/dol).

### INSHARP

**New:** Rauch, Inc. (215 Spring Street, New Albany, IN)

**Recertified:** City of Jasper (Jasper, IN)

### VPP

**New Merit:** Vulcraft (St. Joe, IN)

**Recertified:** NIBCO, Inc. (Goshen, IN)  
Sullair Corporation Customer Care (Michigan City, IN)



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](mailto:insafe@dol.in.gov).

