

As Introduced

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Representatives Kelly, Patton

**Cosponsors: Representatives Boyd, Rogers, Galonski, Hambley, Leland, Brent,
Russo, Ingram, Howse, Smith, K., Boggs, Brown, Sobecki, Lightbody, Denson,
O'Brien, Weinstein**

A BILL

To amend section 4123.68 of the Revised Code to 1
make COVID-19 contracted by an employee of a 2
retail food establishment or food processing 3
establishment an occupational disease under the 4
Workers' Compensation Law under certain 5
circumstances and to declare an emergency. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4123.68 of the Revised Code be 7
amended to read as follows: 8

Sec. 4123.68. Every employee who is disabled because of 9
the contraction of an occupational disease or the dependent of 10
an employee whose death is caused by an occupational disease, is 11
entitled to the compensation provided by sections 4123.55 to 12
4123.59 and 4123.66 of the Revised Code subject to the 13
modifications relating to occupational diseases contained in 14
this chapter. An order of the administrator issued under this 15
section is appealable pursuant to sections 4123.511 and 4123.512 16
of the Revised Code. 17

The following diseases are occupational diseases and 18
compensable as such when contracted by an employee in the course 19
of the employment in which such employee was engaged and due to 20
the nature of any process described in this section. A disease 21
which meets the definition of an occupational disease is 22
compensable pursuant to this chapter though it is not 23
specifically listed in this section. 24

SCHEDULE 25

Description of disease or injury and description of 26
process: 27

(A) Anthrax: Handling of wool, hair, bristles, hides, and 28
skins. 29

(B) Glanders: Care of any equine animal suffering from 30
glanders; handling carcass of such animal. 31

(C) Lead poisoning: Any industrial process involving the 32
use of lead or its preparations or compounds. 33

(D) Mercury poisoning: Any industrial process involving 34
the use of mercury or its preparations or compounds. 35

(E) Phosphorous poisoning: Any industrial process 36
involving the use of phosphorous or its preparations or 37
compounds. 38

(F) Arsenic poisoning: Any industrial process involving 39
the use of arsenic or its preparations or compounds. 40

(G) Poisoning by benzol or by nitro-derivatives and amido- 41
derivatives of benzol (dinitro-benzol, anilin, and others): Any 42
industrial process involving the use of benzol or nitro- 43
derivatives or amido-derivatives of benzol or its preparations 44
or compounds. 45

(H) Poisoning by gasoline, benzine, naphtha, or other volatile petroleum products: Any industrial process involving the use of gasoline, benzine, naphtha, or other volatile petroleum products.	46 47 48 49
(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.	50 51 52
(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.	53 54
(K) Infection or inflammation of the skin on contact surfaces due to oils, cutting compounds or lubricants, dust, liquids, fumes, gases, or vapors: Any industrial process involving the handling or use of oils, cutting compounds or lubricants, or involving contact with dust, liquids, fumes, gases, or vapors.	55 56 57 58 59 60
(L) Epithelion cancer or ulceration of the skin or of the corneal surface of the eye due to carbon, pitch, tar, or tarry compounds: Handling or industrial use of carbon, pitch, or tarry compounds.	61 62 63 64
(M) Compressed air illness: Any industrial process carried on in compressed air.	65 66
(N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide.	67 68
(O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.	69 70 71
(P) Manganese dioxide poisoning: Any process involving the grinding or milling of manganese dioxide or the escape of	72 73

manganese dioxide dust.	74
(Q) Radium poisoning: Any industrial process involving the	75
use of radium and other radioactive substances in luminous	76
paint.	77
(R) Tenosynovitis and prepatellar bursitis: Primary	78
tenosynovitis characterized by a passive effusion or crepitus	79
into the tendon sheath of the flexor or extensor muscles of the	80
hand, due to frequently repetitive motions or vibrations, or	81
prepatellar bursitis due to continued pressure.	82
(S) Chrome ulceration of the skin or nasal passages: Any	83
industrial process involving the use of or direct contact with	84
chromic acid or bichromates of ammonium, potassium, or sodium or	85
their preparations.	86
(T) Potassium cyanide poisoning: Any industrial process	87
involving the use of or direct contact with potassium cyanide.	88
(U) Sulphur dioxide poisoning: Any industrial process in	89
which sulphur dioxide gas is evolved by the expansion of liquid	90
sulphur dioxide.	91
(V) Berylliosis: Berylliosis means a disease of the lungs	92
caused by breathing beryllium in the form of dust or fumes,	93
producing characteristic changes in the lungs and demonstrated	94
by x-ray examination, by biopsy or by autopsy.	95
This chapter does not entitle an employee or the	96
employee's dependents to compensation, medical treatment, or	97
payment of funeral expenses for disability or death from	98
berylliosis unless the employee has been subjected to injurious	99
exposure to beryllium dust or fumes in the employee's employment	100
in this state preceding the employee's disablement and only in	101
the event of such disability or death resulting within eight	102

years after the last injurious exposure; provided that such 103
eight-year limitation does not apply to disability or death from 104
exposure occurring after January 1, 1976. In the event of death 105
following continuous total disability commencing within eight 106
years after the last injurious exposure, the requirement of 107
death within eight years after the last injurious exposure does 108
not apply. 109

Before awarding compensation for partial or total 110
disability or death due to berylliosis, the administrator of 111
workers' compensation shall refer the claim to a qualified 112
medical specialist for examination and recommendation with 113
regard to the diagnosis, the extent of the disability, the 114
nature of the disability, whether permanent or temporary, the 115
cause of death, and other medical questions connected with the 116
claim. An employee shall submit to such examinations, including 117
clinical and x-ray examinations, as the administrator requires. 118
In the event that an employee refuses to submit to examinations, 119
including clinical and x-ray examinations, after notice from the 120
administrator, or in the event that a claimant for compensation 121
for death due to berylliosis fails to produce necessary consents 122
and permits, after notice from the administrator, so that such 123
autopsy examination and tests may be performed, then all rights 124
for compensation are forfeited. The reasonable compensation of 125
such specialist and the expenses of examinations and tests shall 126
be paid, if the claim is allowed, as part of the expenses of the 127
claim, otherwise they shall be paid from the surplus fund. 128

(W) Cardiovascular, pulmonary, or respiratory diseases 129
incurred by firefighters or police officers following exposure 130
to heat, smoke, toxic gases, chemical fumes and other toxic 131
substances: Any cardiovascular, pulmonary, or respiratory 132
disease of a firefighter or police officer caused or induced by 133

the cumulative effect of exposure to heat, the inhalation of 134
smoke, toxic gases, chemical fumes and other toxic substances in 135
the performance of the firefighter's or police officer's duty 136
constitutes a presumption, which may be refuted by affirmative 137
evidence, that such occurred in the course of and arising out of 138
the firefighter's or police officer's employment. For the 139
purpose of this section, "firefighter" means any regular member 140
of a lawfully constituted fire department of a municipal 141
corporation or township, whether paid or volunteer, and "police 142
officer" means any regular member of a lawfully constituted 143
police department of a municipal corporation, township or 144
county, whether paid or volunteer. 145

This chapter does not entitle a firefighter, or police 146
officer, or the firefighter's or police officer's dependents to 147
compensation, medical treatment, or payment of funeral expenses 148
for disability or death from a cardiovascular, pulmonary, or 149
respiratory disease, unless the firefighter or police officer 150
has been subject to injurious exposure to heat, smoke, toxic 151
gases, chemical fumes, and other toxic substances in the 152
firefighter's or police officer's employment in this state 153
preceding the firefighter's or police officer's disablement, 154
some portion of which has been after January 1, 1967, except as 155
provided in division (E) of section 4123.57 of the Revised Code. 156

Compensation on account of cardiovascular, pulmonary, or 157
respiratory diseases of firefighters and police officers is 158
payable only in the event of temporary total disability, 159
permanent total disability, or death, in accordance with section 160
4123.56, 4123.58, or 4123.59 of the Revised Code. Medical, 161
hospital, and nursing expenses are payable in accordance with 162
this chapter. Compensation, medical, hospital, and nursing 163
expenses are payable only in the event of such disability or 164

death resulting within eight years after the last injurious 165
exposure; provided that such eight-year limitation does not 166
apply to disability or death from exposure occurring after 167
January 1, 1976. In the event of death following continuous 168
total disability commencing within eight years after the last 169
injurious exposure, the requirement of death within eight years 170
after the last injurious exposure does not apply. 171

This chapter does not entitle a firefighter or police 172
officer, or the firefighter's or police officer's dependents, to 173
compensation, medical, hospital, and nursing expenses, or 174
payment of funeral expenses for disability or death due to a 175
cardiovascular, pulmonary, or respiratory disease in the event 176
of failure or omission on the part of the firefighter or police 177
officer truthfully to state, when seeking employment, the place, 178
duration, and nature of previous employment in answer to an 179
inquiry made by the employer. 180

Before awarding compensation for disability or death under 181
this division, the administrator shall refer the claim to a 182
qualified medical specialist for examination and recommendation 183
with regard to the diagnosis, the extent of disability, the 184
cause of death, and other medical questions connected with the 185
claim. A firefighter or police officer shall submit to such 186
examinations, including clinical and x-ray examinations, as the 187
administrator requires. In the event that a firefighter or 188
police officer refuses to submit to examinations, including 189
clinical and x-ray examinations, after notice from the 190
administrator, or in the event that a claimant for compensation 191
for death under this division fails to produce necessary 192
consents and permits, after notice from the administrator, so 193
that such autopsy examination and tests may be performed, then 194
all rights for compensation are forfeited. The reasonable 195

compensation of such specialists and the expenses of examination 196
and tests shall be paid, if the claim is allowed, as part of the 197
expenses of the claim, otherwise they shall be paid from the 198
surplus fund. 199

(X) (1) Cancer contracted by a firefighter: Cancer 200
contracted by a firefighter who has been assigned to at least 201
six years of hazardous duty as a firefighter constitutes a 202
presumption that the cancer was contracted in the course of and 203
arising out of the firefighter's employment if the firefighter 204
was exposed to an agent classified by the international agency 205
for research on cancer or its successor organization as a group 206
1 or 2A carcinogen. 207

(2) The presumption described in division (X) (1) of this 208
section is rebuttable in any of the following situations: 209

(a) There is evidence that the firefighter's exposure, 210
outside the scope of the firefighter's official duties, to 211
cigarettes, tobacco products, or other conditions presenting an 212
extremely high risk for the development of the cancer alleged, 213
was probably a significant factor in the cause or progression of 214
the cancer. 215

(b) There is evidence that shows, by a preponderance of 216
competent scientific evidence, that exposure to the type of 217
carcinogen alleged did not or could not have caused the cancer 218
being alleged. 219

(c) There is evidence that the firefighter was not exposed 220
to an agent classified by the international agency for research 221
on cancer as a group 1 or 2A carcinogen. 222

(d) There is evidence that the firefighter incurred the 223
type of cancer alleged before becoming a member of the fire 224

department. 225

(e) The firefighter is seventy years of age or older. 226

(3) The presumption described in division (X) (1) of this 227
section does not apply if it has been more than fifteen years 228
since the firefighter was last assigned to hazardous duty as a 229
firefighter. 230

(4) Compensation for cancer contracted by a firefighter in 231
the course of hazardous duty under division (X) of this section 232
is payable only in the event of temporary total disability, 233
working wage loss, permanent total disability, or death, in 234
accordance with division (A) or (B) (1) of section 4123.56 and 235
sections 4123.58 and 4123.59 of the Revised Code. 236

(5) As used in division (X) of this section, "hazardous 237
duty" has the same meaning as in 5 C.F.R. 550.902, as amended. 238

(Y) Silicosis: Silicosis means a disease of the lungs 239
caused by breathing silica dust (silicon dioxide) producing 240
fibrous nodules distributed through the lungs and demonstrated 241
by x-ray examination, by biopsy or by autopsy. 242

(Z) Coal miners' pneumoconiosis: Coal miners' 243
pneumoconiosis, commonly referred to as "black lung disease," 244
resulting from working in the coal mine industry and due to 245
exposure to the breathing of coal dust, and demonstrated by x- 246
ray examination, biopsy, autopsy or other medical or clinical 247
tests. 248

This chapter does not entitle an employee or the 249
employee's dependents to compensation, medical treatment, or 250
payment of funeral expenses for disability or death from 251
silicosis, asbestosis, or coal miners' pneumoconiosis unless the 252
employee has been subject to injurious exposure to silica dust 253

(silicon dioxide), asbestos, or coal dust in the employee's 254
employment in this state preceding the employee's disablement, 255
some portion of which has been after October 12, 1945, except as 256
provided in division (E) of section 4123.57 of the Revised Code. 257

Compensation on account of silicosis, asbestosis, or coal 258
miners' pneumoconiosis are payable only in the event of 259
temporary total disability, permanent total disability, or 260
death, in accordance with sections 4123.56, 4123.58, and 4123.59 261
of the Revised Code. Medical, hospital, and nursing expenses are 262
payable in accordance with this chapter. Compensation, medical, 263
hospital, and nursing expenses are payable only in the event of 264
such disability or death resulting within eight years after the 265
last injurious exposure; provided that such eight-year 266
limitation does not apply to disability or death occurring after 267
January 1, 1976, and further provided that such eight-year 268
limitation does not apply to any asbestosis cases. In the event 269
of death following continuous total disability commencing within 270
eight years after the last injurious exposure, the requirement 271
of death within eight years after the last injurious exposure 272
does not apply. 273

This chapter does not entitle an employee or the 274
employee's dependents to compensation, medical, hospital and 275
nursing expenses, or payment of funeral expenses for disability 276
or death due to silicosis, asbestosis, or coal miners' 277
pneumoconiosis in the event of the failure or omission on the 278
part of the employee truthfully to state, when seeking 279
employment, the place, duration, and nature of previous 280
employment in answer to an inquiry made by the employer. 281

Before awarding compensation for disability or death due 282
to silicosis, asbestosis, or coal miners' pneumoconiosis, the 283

administrator shall refer the claim to a qualified medical 284
specialist for examination and recommendation with regard to the 285
diagnosis, the extent of disability, the cause of death, and 286
other medical questions connected with the claim. An employee 287
shall submit to such examinations, including clinical and x-ray 288
examinations, as the administrator requires. In the event that 289
an employee refuses to submit to examinations, including 290
clinical and x-ray examinations, after notice from the 291
administrator, or in the event that a claimant for compensation 292
for death due to silicosis, asbestosis, or coal miners' 293
pneumoconiosis fails to produce necessary consents and permits, 294
after notice from the commission, so that such autopsy 295
examination and tests may be performed, then all rights for 296
compensation are forfeited. The reasonable compensation of such 297
specialist and the expenses of examinations and tests shall be 298
paid, if the claim is allowed, as a part of the expenses of the 299
claim, otherwise they shall be paid from the surplus fund. 300

(AA) Radiation illness: Any industrial process involving 301
the use of radioactive materials. 302

Claims for compensation and benefits due to radiation 303
illness are payable only in the event death or disability 304
occurred within eight years after the last injurious exposure 305
provided that such eight-year limitation does not apply to 306
disability or death from exposure occurring after January 1, 307
1976. In the event of death following continuous disability 308
which commenced within eight years of the last injurious 309
exposure the requirement of death within eight years after the 310
last injurious exposure does not apply. 311

(BB) Asbestosis: Asbestosis means a disease caused by 312
inhalation or ingestion of asbestos, demonstrated by x-ray 313

examination, biopsy, autopsy, or other objective medical or 314
clinical tests. 315

(CC) (1) COVID-19: COVID-19 contracted by an employee 316
described in division (CC) (2) of this section during the 317
emergency declared by Executive Order 2020-01D, issued March 9, 318
2020, constitutes a presumption, which may be refuted by 319
affirmative evidence, that COVID-19 was contracted in the course 320
of and arising out of the employee's employment. This division 321
applies only to claims arising during the period of the 322
emergency declared by Executive Order 2020-01D, issued on March 323
9, 2020. 324

(2) Division (CC) (1) of this section applies to both of 325
the following: 326

(a) An employee of a retail food establishment as defined 327
in section 3717.01 of the Revised Code; 328

(b) An employee of a food processing establishment as 329
defined in section 3715.021 of the Revised Code. 330

All conditions, restrictions, limitations, and other 331
provisions of this section, with reference to the payment of 332
compensation or benefits on account of silicosis or coal miners' 333
pneumoconiosis apply to the payment of compensation or benefits 334
on account of any other occupational disease of the respiratory 335
tract resulting from injurious exposures to dust. 336

The refusal to produce the necessary consents and permits 337
for autopsy examination and testing shall not result in 338
forfeiture of compensation provided the administrator finds that 339
such refusal was the result of bona fide religious convictions 340
or teachings to which the claimant for compensation adhered 341
prior to the death of the decedent. 342

Section 2. That existing section 4123.68 of the Revised 343
Code is hereby repealed. 344

Section 3. This act is hereby declared to be an emergency 345
measure necessary for the immediate preservation of the public 346
peace, health, and safety. The reason for such necessity is to 347
address urgent needs of the state arising from a COVID-19 348
outbreak. Therefore, this act shall go into immediate effect. 349