

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 633

Representative Boggs

A BILL

To amend section 4123.68 of the Revised Code to 1
make COVID-19 contracted by specified types of 2
employees an occupational disease under the 3
Workers' Compensation Law under certain 4
circumstances and to declare an emergency. 5

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

Section 1. That section 4123.68 of the Revised Code be 6
amended to read as follows: 7

Sec. 4123.68. Every employee who is disabled because of 8
the contraction of an occupational disease or the dependent of 9
an employee whose death is caused by an occupational disease, is 10
entitled to the compensation provided by sections 4123.55 to 11
4123.59 and 4123.66 of the Revised Code subject to the 12
modifications relating to occupational diseases contained in 13
this chapter. An order of the administrator issued under this 14
section is appealable pursuant to sections 4123.511 and 4123.512 15
of the Revised Code. 16

The following diseases are occupational diseases and 17
compensable as such when contracted by an employee in the course 18
of the employment in which such employee was engaged and due to 19

the nature of any process described in this section. A disease 20
which meets the definition of an occupational disease is 21
compensable pursuant to this chapter though it is not 22
specifically listed in this section. 23

SCHEDULE 24

Description of disease or injury and description of 25
process: 26

(A) Anthrax: Handling of wool, hair, bristles, hides, and 27
skins. 28

(B) Glanders: Care of any equine animal suffering from 29
glanders; handling carcass of such animal. 30

(C) Lead poisoning: Any industrial process involving the 31
use of lead or its preparations or compounds. 32

(D) Mercury poisoning: Any industrial process involving 33
the use of mercury or its preparations or compounds. 34

(E) Phosphorous poisoning: Any industrial process 35
involving the use of phosphorous or its preparations or 36
compounds. 37

(F) Arsenic poisoning: Any industrial process involving 38
the use of arsenic or its preparations or compounds. 39

(G) Poisoning by benzol or by nitro-derivatives and amido- 40
derivatives of benzol (dinitro-benzol, anilin, and others): Any 41
industrial process involving the use of benzol or nitro- 42
derivatives or amido-derivatives of benzol or its preparations 43
or compounds. 44

(H) Poisoning by gasoline, benzine, naphtha, or other 45
volatile petroleum products: Any industrial process involving 46

the use of gasoline, benzine, naphtha, or other volatile petroleum products.	47 48
(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.	49 50 51
(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.	52 53
(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.	54 55 56 57 58 59
(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.	60 61 62 63
(M) Compressed air illness: Any industrial process carried on in compressed air.	64 65
(N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide.	66 67
(O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.	68 69 70
(P) Manganese dioxide poisoning: Any process involving the grinding or milling of manganese dioxide or the escape of manganese dioxide dust.	71 72 73
(Q) Radium poisoning: Any industrial process involving the	74

use of radium and other radioactive substances in luminous	75
paint.	76
(R) Tenosynovitis and prepatellar bursitis: Primary	77
tenosynovitis characterized by a passive effusion or crepitus	78
into the tendon sheath of the flexor or extensor muscles of the	79
hand, due to frequently repetitive motions or vibrations, or	80
prepatellar bursitis due to continued pressure.	81
(S) Chrome ulceration of the skin or nasal passages: Any	82
industrial process involving the use of or direct contact with	83
chromic acid or bichromates of ammonium, potassium, or sodium or	84
their preparations.	85
(T) Potassium cyanide poisoning: Any industrial process	86
involving the use of or direct contact with potassium cyanide.	87
(U) Sulphur dioxide poisoning: Any industrial process in	88
which sulphur dioxide gas is evolved by the expansion of liquid	89
sulphur dioxide.	90
(V) Berylliosis: Berylliosis means a disease of the lungs	91
caused by breathing beryllium in the form of dust or fumes,	92
producing characteristic changes in the lungs and demonstrated	93
by x-ray examination, by biopsy or by autopsy.	94
This chapter does not entitle an employee or the	95
employee's dependents to compensation, medical treatment, or	96
payment of funeral expenses for disability or death from	97
berylliosis unless the employee has been subjected to injurious	98
exposure to beryllium dust or fumes in the employee's employment	99
in this state preceding the employee's disablement and only in	100
the event of such disability or death resulting within eight	101
years after the last injurious exposure; provided that such	102
eight-year limitation does not apply to disability or death from	103

exposure occurring after January 1, 1976. In the event of death 104
following continuous total disability commencing within eight 105
years after the last injurious exposure, the requirement of 106
death within eight years after the last injurious exposure does 107
not apply. 108

Before awarding compensation for partial or total 109
disability or death due to berylliosis, the administrator of 110
workers' compensation shall refer the claim to a qualified 111
medical specialist for examination and recommendation with 112
regard to the diagnosis, the extent of the disability, the 113
nature of the disability, whether permanent or temporary, the 114
cause of death, and other medical questions connected with the 115
claim. An employee shall submit to such examinations, including 116
clinical and x-ray examinations, as the administrator requires. 117
In the event that an employee refuses to submit to examinations, 118
including clinical and x-ray examinations, after notice from the 119
administrator, or in the event that a claimant for compensation 120
for death due to berylliosis fails to produce necessary consents 121
and permits, after notice from the administrator, so that such 122
autopsy examination and tests may be performed, then all rights 123
for compensation are forfeited. The reasonable compensation of 124
such specialist and the expenses of examinations and tests shall 125
be paid, if the claim is allowed, as part of the expenses of the 126
claim, otherwise they shall be paid from the surplus fund. 127

(W) Cardiovascular, pulmonary, or respiratory diseases 128
incurred by firefighters or police officers following exposure 129
to heat, smoke, toxic gases, chemical fumes and other toxic 130
substances: Any cardiovascular, pulmonary, or respiratory 131
disease of a firefighter or police officer caused or induced by 132
the cumulative effect of exposure to heat, the inhalation of 133
smoke, toxic gases, chemical fumes and other toxic substances in 134

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

This chapter does not entitle a firefighter, or police 145
officer, or the firefighter's or police officer's dependents to 146
compensation, medical treatment, or payment of funeral expenses 147
for disability or death from a cardiovascular, pulmonary, or 148
respiratory disease, unless the firefighter or police officer 149
has been subject to injurious exposure to heat, smoke, toxic 150
gases, chemical fumes, and other toxic substances in the 151
firefighter's or police officer's employment in this state 152
preceding the firefighter's or police officer's disablement, 153
some portion of which has been after January 1, 1967, except as 154
provided in division (E) of section 4123.57 of the Revised Code. 155

Compensation on account of cardiovascular, pulmonary, or 156
respiratory diseases of firefighters and police officers is 157
payable only in the event of temporary total disability, 158
permanent total disability, or death, in accordance with section 159
4123.56, 4123.58, or 4123.59 of the Revised Code. Medical, 160
hospital, and nursing expenses are payable in accordance with 161
this chapter. Compensation, medical, hospital, and nursing 162
expenses are payable only in the event of such disability or 163
death resulting within eight years after the last injurious 164
exposure; provided that such eight-year limitation does not 165

apply to disability or death from exposure occurring after 166
January 1, 1976. In the event of death following continuous 167
total disability commencing within eight years after the last 168
injurious exposure, the requirement of death within eight years 169
after the last injurious exposure does not apply. 170

This chapter does not entitle a firefighter or police 171
officer, or the firefighter's or police officer's dependents, to 172
compensation, medical, hospital, and nursing expenses, or 173
payment of funeral expenses for disability or death due to a 174
cardiovascular, pulmonary, or respiratory disease in the event 175
of failure or omission on the part of the firefighter or police 176
officer truthfully to state, when seeking employment, the place, 177
duration, and nature of previous employment in answer to an 178
inquiry made by the employer. 179

Before awarding compensation for disability or death under 180
this division, the administrator shall refer the claim to a 181
qualified medical specialist for examination and recommendation 182
with regard to the diagnosis, the extent of disability, the 183
cause of death, and other medical questions connected with the 184
claim. A firefighter or police officer shall submit to such 185
examinations, including clinical and x-ray examinations, as the 186
administrator requires. In the event that a firefighter or 187
police officer refuses to submit to examinations, including 188
clinical and x-ray examinations, after notice from the 189
administrator, or in the event that a claimant for compensation 190
for death under this division fails to produce necessary 191
consents and permits, after notice from the administrator, so 192
that such autopsy examination and tests may be performed, then 193
all rights for compensation are forfeited. The reasonable 194
compensation of such specialists and the expenses of examination 195
and tests shall be paid, if the claim is allowed, as part of the 196

expenses of the claim, otherwise they shall be paid from the 197
surplus fund. 198

(X) (1) Cancer contracted by a firefighter: Cancer 199
contracted by a firefighter who has been assigned to at least 200
six years of hazardous duty as a firefighter constitutes a 201
presumption that the cancer was contracted in the course of and 202
arising out of the firefighter's employment if the firefighter 203
was exposed to an agent classified by the international agency 204
for research on cancer or its successor organization as a group 205
1 or 2A carcinogen. 206

(2) The presumption described in division (X) (1) of this 207
section is rebuttable in any of the following situations: 208

(a) There is evidence that the firefighter's exposure, 209
outside the scope of the firefighter's official duties, to 210
cigarettes, tobacco products, or other conditions presenting an 211
extremely high risk for the development of the cancer alleged, 212
was probably a significant factor in the cause or progression of 213
the cancer. 214

(b) There is evidence that shows, by a preponderance of 215
competent scientific evidence, that exposure to the type of 216
carcinogen alleged did not or could not have caused the cancer 217
being alleged. 218

(c) There is evidence that the firefighter was not exposed 219
to an agent classified by the international agency for research 220
on cancer as a group 1 or 2A carcinogen. 221

(d) There is evidence that the firefighter incurred the 222
type of cancer alleged before becoming a member of the fire 223
department. 224

(e) The firefighter is seventy years of age or older. 225

(3) The presumption described in division (X) (1) of this 226
section does not apply if it has been more than fifteen years 227
since the firefighter was last assigned to hazardous duty as a 228
firefighter. 229

(4) Compensation for cancer contracted by a firefighter in 230
the course of hazardous duty under division (X) of this section 231
is payable only in the event of temporary total disability, 232
working wage loss, permanent total disability, or death, in 233
accordance with division (A) or (B) (1) of section 4123.56 and 234
sections 4123.58 and 4123.59 of the Revised Code. 235

(5) As used in division (X) of this section, "hazardous 236
duty" has the same meaning as in 5 C.F.R. 550.902, as amended. 237

(Y) Silicosis: Silicosis means a disease of the lungs 238
caused by breathing silica dust (silicon dioxide) producing 239
fibrous nodules distributed through the lungs and demonstrated 240
by x-ray examination, by biopsy or by autopsy. 241

(Z) Coal miners' pneumoconiosis: Coal miners' 242
pneumoconiosis, commonly referred to as "black lung disease," 243
resulting from working in the coal mine industry and due to 244
exposure to the breathing of coal dust, and demonstrated by x- 245
ray examination, biopsy, autopsy or other medical or clinical 246
tests. 247

This chapter does not entitle an employee or the 248
employee's dependents to compensation, medical treatment, or 249
payment of funeral expenses for disability or death from 250
silicosis, asbestosis, or coal miners' pneumoconiosis unless the 251
employee has been subject to injurious exposure to silica dust 252
(silicon dioxide), asbestos, or coal dust in the employee's 253
employment in this state preceding the employee's disablement, 254

some portion of which has been after October 12, 1945, except as 255
provided in division (E) of section 4123.57 of the Revised Code. 256

Compensation on account of silicosis, asbestosis, or coal 257
miners' pneumoconiosis are payable only in the event of 258
temporary total disability, permanent total disability, or 259
death, in accordance with sections 4123.56, 4123.58, and 4123.59 260
of the Revised Code. Medical, hospital, and nursing expenses are 261
payable in accordance with this chapter. Compensation, medical, 262
hospital, and nursing expenses are payable only in the event of 263
such disability or death resulting within eight years after the 264
last injurious exposure; provided that such eight-year 265
limitation does not apply to disability or death occurring after 266
January 1, 1976, and further provided that such eight-year 267
limitation does not apply to any asbestosis cases. In the event 268
of death following continuous total disability commencing within 269
eight years after the last injurious exposure, the requirement 270
of death within eight years after the last injurious exposure 271
does not apply. 272

This chapter does not entitle an employee or the 273
employee's dependents to compensation, medical, hospital and 274
nursing expenses, or payment of funeral expenses for disability 275
or death due to silicosis, asbestosis, or coal miners' 276
pneumoconiosis in the event of the failure or omission on the 277
part of the employee truthfully to state, when seeking 278
employment, the place, duration, and nature of previous 279
employment in answer to an inquiry made by the employer. 280

Before awarding compensation for disability or death due 281
to silicosis, asbestosis, or coal miners' pneumoconiosis, the 282
administrator shall refer the claim to a qualified medical 283
specialist for examination and recommendation with regard to the 284

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

(AA) Radiation illness: Any industrial process involving 300
the use of radioactive materials. 301

Claims for compensation and benefits due to radiation 302
illness are payable only in the event death or disability 303
occurred within eight years after the last injurious exposure 304
provided that such eight-year limitation does not apply to 305
disability or death from exposure occurring after January 1, 306
1976. In the event of death following continuous disability 307
which commenced within eight years of the last injurious 308
exposure the requirement of death within eight years after the 309
last injurious exposure does not apply. 310

(BB) Asbestosis: Asbestosis means a disease caused by 311
inhalation or ingestion of asbestos, demonstrated by x-ray 312
examination, biopsy, autopsy, or other objective medical or 313
clinical tests. 314

(CC) (1) COVID-19: COVID-19 contracted by an employee 315
described in division (CC) (2) of this section during the 316
emergency declared by Executive Order 2020-01D, issued March 9, 317
2020, constitutes a presumption, which may be refuted by 318
affirmative evidence, that COVID-19 was contracted in the course 319
of and arising out of the employee's employment. This division 320
applies only to claims arising during the period of the 321
emergency declared by Executive Order 2020-01D, issued on March 322
9, 2020, and to claims arising during the fourteen-day period 323
after that emergency ends. 324

(2) Division (CC) (1) of this section applies to an 325
employee employed at any of the following: 326

(a) A nursing home or residential care facility, as those 327
terms are defined in section 3721.01 of the Revised Code; 328

(b) A health care facility or location, as that term is 329
defined in section 2305.234 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 that 347
immediate action is crucial to protecting the public health 348
during an outbreak of COVID-19. Therefore, this act shall go 349
into immediate effect. 350