

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**H. B. No. 17**

**Representative Patton**

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**A BILL**

To amend section 4123.68 of the Revised Code 1  
regarding charging workers' compensation 2  
experience in firefighter cancer claims. 3

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

**Section 1.** That section 4123.68 of the Revised Code be 4  
amended to read as follows: 5

**Sec. 4123.68.** Every employee who is disabled because of 6  
the contraction of an occupational disease or the dependent of 7  
an employee whose death is caused by an occupational disease, is 8  
entitled to the compensation provided by sections 4123.55 to 9  
4123.59 and 4123.66 of the Revised Code subject to the 10  
modifications relating to occupational diseases contained in 11  
this chapter. An order of the administrator issued under this 12  
section is appealable pursuant to sections 4123.511 and 4123.512 13  
of the Revised Code. 14

The following diseases are occupational diseases and 15  
compensable as such when contracted by an employee in the course 16  
of the employment in which such employee was engaged and due to 17  
the nature of any process described in this section. A disease 18  
which meets the definition of an occupational disease is 19

compensable pursuant to this chapter though it is not 20  
specifically listed in this section. 21

SCHEDULE 22

Description of disease or injury and description of 23  
process: 24

(A) Anthrax: Handling of wool, hair, bristles, hides, and 25  
skins. 26

(B) Glanders: Care of any equine animal suffering from 27  
glanders; handling carcass of such animal. 28

(C) Lead poisoning: Any industrial process involving the 29  
use of lead or its preparations or compounds. 30

(D) Mercury poisoning: Any industrial process involving 31  
the use of mercury or its preparations or compounds. 32

(E) Phosphorous poisoning: Any industrial process 33  
involving the use of phosphorous or its preparations or 34  
compounds. 35

(F) Arsenic poisoning: Any industrial process involving 36  
the use of arsenic or its preparations or compounds. 37

(G) Poisoning by benzol or by nitro-derivatives and amido- 38  
derivatives of benzol (dinitro-benzol, anilin, and others): Any 39  
industrial process involving the use of benzol or nitro- 40  
derivatives or amido-derivatives of benzol or its preparations 41  
or compounds. 42

(H) Poisoning by gasoline, benzine, naphtha, or other 43  
volatile petroleum products: Any industrial process involving 44  
the use of gasoline, benzine, naphtha, or other volatile 45  
petroleum products. 46

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

(R) Tenosynovitis and prepatellar bursitis: Primary	75
tenosynovitis characterized by a passive effusion or crepitus	76
into the tendon sheath of the flexor or extensor muscles of the	77
hand, due to frequently repetitive motions or vibrations, or	78
prepatellar bursitis due to continued pressure.	79
(S) Chrome ulceration of the skin or nasal passages: Any	80
industrial process involving the use of or direct contact with	81
chromic acid or bichromates of ammonium, potassium, or sodium or	82
their preparations.	83
(T) Potassium cyanide poisoning: Any industrial process	84
involving the use of or direct contact with potassium cyanide.	85
(U) Sulphur dioxide poisoning: Any industrial process in	86
which sulphur dioxide gas is evolved by the expansion of liquid	87
sulphur dioxide.	88
(V) Berylliosis: Berylliosis means a disease of the lungs	89
caused by breathing beryllium in the form of dust or fumes,	90
producing characteristic changes in the lungs and demonstrated	91
by x-ray examination, by biopsy or by autopsy.	92
This chapter does not entitle an employee or the	93
employee's dependents to compensation, medical treatment, or	94
payment of funeral expenses for disability or death from	95
berylliosis unless the employee has been subjected to injurious	96
exposure to beryllium dust or fumes in the employee's employment	97
in this state preceding the employee's disablement and only in	98
the event of such disability or death resulting within eight	99
years after the last injurious exposure; provided that such	100
eight-year limitation does not apply to disability or death from	101
exposure occurring after January 1, 1976. In the event of death	102
following continuous total disability commencing within eight	103

years after the last injurious exposure, the requirement of 104  
death within eight years after the last injurious exposure does 105  
not apply. 106

Before awarding compensation for partial or total 107  
disability or death due to berylliosis, the administrator of 108  
workers' compensation shall refer the claim to a qualified 109  
medical specialist for examination and recommendation with 110  
regard to the diagnosis, the extent of the disability, the 111  
nature of the disability, whether permanent or temporary, the 112  
cause of death, and other medical questions connected with the 113  
claim. An employee shall submit to such examinations, including 114  
clinical and x-ray examinations, as the administrator requires. 115  
In the event that an employee refuses to submit to examinations, 116  
including clinical and x-ray examinations, after notice from the 117  
administrator, or in the event that a claimant for compensation 118  
for death due to berylliosis fails to produce necessary consents 119  
and permits, after notice from the administrator, so that such 120  
autopsy examination and tests may be performed, then all rights 121  
for compensation are forfeited. The reasonable compensation of 122  
such specialist and the expenses of examinations and tests shall 123  
be paid, if the claim is allowed, as part of the expenses of the 124  
claim, otherwise they shall be paid from the surplus fund. 125

(W) Cardiovascular, pulmonary, or respiratory diseases 126  
incurred by firefighters or police officers following exposure 127  
to heat, smoke, toxic gases, chemical fumes and other toxic 128  
substances: Any cardiovascular, pulmonary, or respiratory 129  
disease of a firefighter or police officer caused or induced by 130  
the cumulative effect of exposure to heat, the inhalation of 131  
smoke, toxic gases, chemical fumes and other toxic substances in 132  
the performance of the firefighter's or police officer's duty 133  
constitutes a presumption, which may be refuted by affirmative 134

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

This chapter does not entitle a firefighter, or police 143  
officer, or the firefighter's or police officer's dependents to 144  
compensation, medical treatment, or payment of funeral expenses 145  
for disability or death from a cardiovascular, pulmonary, or 146  
respiratory disease, unless the firefighter or police officer 147  
has been subject to injurious exposure to heat, smoke, toxic 148  
gases, chemical fumes, and other toxic substances in the 149  
firefighter's or police officer's employment in this state 150  
preceding the firefighter's or police officer's disablement, 151  
some portion of which has been after January 1, 1967, except as 152  
provided in division (E) of section 4123.57 of the Revised Code. 153

Compensation on account of cardiovascular, pulmonary, or 154  
respiratory diseases of firefighters and police officers is 155  
payable only in the event of temporary total disability, 156  
permanent total disability, or death, in accordance with section 157  
4123.56, 4123.58, or 4123.59 of the Revised Code. Medical, 158  
hospital, and nursing expenses are payable in accordance with 159  
this chapter. Compensation, medical, hospital, and nursing 160  
expenses are payable only in the event of such disability or 161  
death resulting within eight years after the last injurious 162  
exposure; provided that such eight-year limitation does not 163  
apply to disability or death from exposure occurring after 164  
January 1, 1976. In the event of death following continuous 165

total disability commencing within eight years after the last 166  
injurious exposure, the requirement of death within eight years 167  
after the last injurious exposure does not apply. 168

This chapter does not entitle a firefighter or police 169  
officer, or the firefighter's or police officer's dependents, to 170  
compensation, medical, hospital, and nursing expenses, or 171  
payment of funeral expenses for disability or death due to a 172  
cardiovascular, pulmonary, or respiratory disease in the event 173  
of failure or omission on the part of the firefighter or police 174  
officer truthfully to state, when seeking employment, the place, 175  
duration, and nature of previous employment in answer to an 176  
inquiry made by the employer. 177

Before awarding compensation for disability or death under 178  
this division, the administrator shall refer the claim to a 179  
qualified medical specialist for examination and recommendation 180  
with regard to the diagnosis, the extent of disability, the 181  
cause of death, and other medical questions connected with the 182  
claim. A firefighter or police officer shall submit to such 183  
examinations, including clinical and x-ray examinations, as the 184  
administrator requires. In the event that a firefighter or 185  
police officer refuses to submit to examinations, including 186  
clinical and x-ray examinations, after notice from the 187  
administrator, or in the event that a claimant for compensation 188  
for death under this division fails to produce necessary 189  
consents and permits, after notice from the administrator, so 190  
that such autopsy examination and tests may be performed, then 191  
all rights for compensation are forfeited. The reasonable 192  
compensation of such specialists and the expenses of examination 193  
and tests shall be paid, if the claim is allowed, as part of the 194  
expenses of the claim, otherwise they shall be paid from the 195  
surplus fund. 196

(X) (1) Cancer contracted by a firefighter: Cancer 197  
contracted by a firefighter who has been assigned to at least 198  
six years of hazardous duty as a firefighter constitutes a 199  
presumption that the cancer was contracted in the course of and 200  
arising out of the firefighter's employment if the firefighter 201  
was exposed to an agent classified by the international agency 202  
for research on cancer or its successor organization as a group 203  
1 or 2A carcinogen. 204

(2) The presumption described in division (X) (1) of this 205  
section is rebuttable in any of the following situations: 206

(a) There is evidence that the firefighter's exposure, 207  
outside the scope of the firefighter's official duties, to 208  
cigarettes, tobacco products, or other conditions presenting an 209  
extremely high risk for the development of the cancer alleged, 210  
was probably a significant factor in the cause or progression of 211  
the cancer. 212

(b) There is evidence that shows, by a preponderance of 213  
competent scientific evidence, that exposure to the type of 214  
carcinogen alleged did not or could not have caused the cancer 215  
being alleged. 216

(c) There is evidence that the firefighter was not exposed 217  
to an agent classified by the international agency for research 218  
on cancer as a group 1 or 2A carcinogen. 219

(d) There is evidence that the firefighter incurred the 220  
type of cancer alleged before becoming a member of the fire 221  
department. 222

(e) The firefighter is seventy years of age or older. 223

(3) The presumption described in division (X) (1) of this 224  
section does not apply if it has been more than fifteen years 225

since the firefighter was last assigned to hazardous duty as a 226  
firefighter. 227

(4) Compensation for cancer contracted by a firefighter in 228  
the course of hazardous duty under division (X) of this section 229  
is payable only in the event of temporary total disability, 230  
working wage loss, permanent total disability, or death, in 231  
accordance with division (A) or (B) (1) of section 4123.56 and 232  
sections 4123.58 and 4123.59 of the Revised Code. 233

(5) (a) The administrator shall charge all compensation and 234  
benefits paid from the state insurance fund on account of cancer 235  
contracted by a firefighter in the course of hazardous duty as 236  
described in division (X) of this section to the surplus fund 237  
account created under section 4123.34 of the Revised Code; 238

(b) A self-insuring employer shall deduct all compensation 239  
and benefits payable on account of cancer contracted by a 240  
firefighter in the course of hazardous duty as described in 241  
division (X) of this section from the paid compensation the 242  
self-insuring employer reports to the administrator under 243  
division (L) of section 4123.35 of the Revised Code. 244

(6) As used in division (X) of this section, "hazardous 245  
duty" has the same meaning as in 5 C.F.R. 550.902, as amended. 246

(Y) Silicosis: Silicosis means a disease of the lungs 247  
caused by breathing silica dust (silicon dioxide) producing 248  
fibrous nodules distributed through the lungs and demonstrated 249  
by x-ray examination, by biopsy or by autopsy. 250

(Z) Coal miners' pneumoconiosis: Coal miners' 251  
pneumoconiosis, commonly referred to as "black lung disease," 252  
resulting from working in the coal mine industry and due to 253  
exposure to the breathing of coal dust, and demonstrated by x- 254

ray examination, biopsy, autopsy or other medical or clinical 255  
tests. 256

This chapter does not entitle an employee or the 257  
employee's dependents to compensation, medical treatment, or 258  
payment of funeral expenses for disability or death from 259  
silicosis, asbestosis, or coal miners' pneumoconiosis unless the 260  
employee has been subject to injurious exposure to silica dust 261  
(silicon dioxide), asbestos, or coal dust in the employee's 262  
employment in this state preceding the employee's disablement, 263  
some portion of which has been after October 12, 1945, except as 264  
provided in division (E) of section 4123.57 of the Revised Code. 265

Compensation on account of silicosis, asbestosis, or coal 266  
miners' pneumoconiosis are payable only in the event of 267  
temporary total disability, permanent total disability, or 268  
death, in accordance with sections 4123.56, 4123.58, and 4123.59 269  
of the Revised Code. Medical, hospital, and nursing expenses are 270  
payable in accordance with this chapter. Compensation, medical, 271  
hospital, and nursing expenses are payable only in the event of 272  
such disability or death resulting within eight years after the 273  
last injurious exposure; provided that such eight-year 274  
limitation does not apply to disability or death occurring after 275  
January 1, 1976, and further provided that such eight-year 276  
limitation does not apply to any asbestosis cases. In the event 277  
of death following continuous total disability commencing within 278  
eight years after the last injurious exposure, the requirement 279  
of death within eight years after the last injurious exposure 280  
does not apply. 281

This chapter does not entitle an employee or the 282  
employee's dependents to compensation, medical, hospital and 283  
nursing expenses, or payment of funeral expenses for disability 284

or death due to silicosis, asbestosis, or coal miners' 285  
pneumoconiosis in the event of the failure or omission on the 286  
part of the employee truthfully to state, when seeking 287  
employment, the place, duration, and nature of previous 288  
employment in answer to an inquiry made by the employer. 289

Before awarding compensation for disability or death due 290  
to silicosis, asbestosis, or coal miners' pneumoconiosis, the 291  
administrator shall refer the claim to a qualified medical 292  
specialist for examination and recommendation with regard to the 293  
diagnosis, the extent of disability, the cause of death, and 294  
other medical questions connected with the claim. An employee 295  
shall submit to such examinations, including clinical and x-ray 296  
examinations, as the administrator requires. In the event that 297  
an employee refuses to submit to examinations, including 298  
clinical and x-ray examinations, after notice from the 299  
administrator, or in the event that a claimant for compensation 300  
for death due to silicosis, asbestosis, or coal miners' 301  
pneumoconiosis fails to produce necessary consents and permits, 302  
after notice from the commission, so that such autopsy 303  
examination and tests may be performed, then all rights for 304  
compensation are forfeited. The reasonable compensation of such 305  
specialist and the expenses of examinations and tests shall be 306  
paid, if the claim is allowed, as a part of the expenses of the 307  
claim, otherwise they shall be paid from the surplus fund. 308

(AA) Radiation illness: Any industrial process involving 309  
the use of radioactive materials. 310

Claims for compensation and benefits due to radiation 311  
illness are payable only in the event death or disability 312  
occurred within eight years after the last injurious exposure 313  
provided that such eight-year limitation does not apply to 314

disability or death from exposure occurring after January 1, 315  
1976. In the event of death following continuous disability 316  
which commenced within eight years of the last injurious 317  
exposure the requirement of death within eight years after the 318  
last injurious exposure does not apply. 319

(BB) Asbestosis: Asbestosis means a disease caused by 320  
inhalation or ingestion of asbestos, demonstrated by x-ray 321  
examination, biopsy, autopsy, or other objective medical or 322  
clinical tests. 323

All conditions, restrictions, limitations, and other 324  
provisions of this section, with reference to the payment of 325  
compensation or benefits on account of silicosis or coal miners' 326  
pneumoconiosis apply to the payment of compensation or benefits 327  
on account of any other occupational disease of the respiratory 328  
tract resulting from injurious exposures to dust. 329

The refusal to produce the necessary consents and permits 330  
for autopsy examination and testing shall not result in 331  
forfeiture of compensation provided the administrator finds that 332  
such refusal was the result of bona fide religious convictions 333  
or teachings to which the claimant for compensation adhered 334  
prior to the death of the decedent. 335

**Section 2.** That existing section 4123.68 of the Revised 336  
Code is hereby repealed. 337