As Reported by the House Commerce and Labor Committee

135th General Assembly

Regular Session 2023-2024

H. B. No. 273

Representative Mathews

Cosponsors: Representatives Seitz, Johnson, Roemer

A BILL

То	amend sections 4109.08, 4111.09, 4112.07,	1
	4115.07, 4123.54, 4123.83, and 4167.11 of the	2
	Revised Code to allow employers to post certain	3
	labor law notices on the internet.	4

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

Section 1. That sections 4109.08, 4111.09, 4112.07,	5
4115.07, 4123.54, 4123.83, and 4167.11 of the Revised Code be	6
amended to read as follows:	7
Sec. 4109.08. (A) No minor shall be employed unless the	8
employer keeps on the premises posts a complete list of all	9
minors employed by the employer at a particular establishment	10
and a printed <u>an</u> abstract to be furnished by the director of	11
commerce summarizing the provisions of this chapter.	12
The list and abstract shall be posted in one of the	13
following ways:	14
(1) On the premises in plain view in a conspicuous place	15
which is frequented by the largest number of minor employees,	16
and to which all minor employees have access;	17

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(2)	On	the	internet	in	а	manner	that	is	accessible	to	the	-	18
emplover	's e	mplo	vees.										19

- (B) An enforcement official may require any employer, in 20 or about whose establishment an employee apparently under 21 eighteen years of age is employed and whose age and schooling 22 certificate is not on file with the director of commerce as 23 required by section 3331.01 of the Revised Code, to furnish the 24 enforcement official satisfactory evidence that the employee is 25 in fact eighteen years of age or older. The enforcement official 26 27 shall require from the employer the same evidence of age of the employee as is required by section 3331.02 of the Revised Code 28 upon the issuance of an age and schooling certificate. No 29 employer shall fail to produce the evidence. 30
- (C) Any employee apparently under eighteen years of age, working in any occupation or establishment with respect to which there are restrictions by rule or law governing the employment of minors, with respect to whom the employer has not furnished satisfactory evidence that the person is at or above the age required for performance of employment with the employer after being requested to do so, and who refuses to give to an enforcement official the employee's name, age, and place of residence may be taken into custody and charged with being an unruly child or other appropriate charge under Chapter 2151. or 2152. of the Revised Code.
- (D) No person shall, with the intent to assist a minor to
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 procure employment, make a false statement by any means,
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 including by submitting falsified forms electronically, to any
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 employer or to any person authorized to issue an age and
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 schooling certificate.
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 - Sec. 4111.09. (A) Every employer subject to sections

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in legal tender, without any deduction for food, sleeping accommodations, transportation, use of small tools, or any other thing of any kind or description. This section does not apply where the employer and employee enter into an agreement in writing at the beginning of any term of employment covering deductions for food, sleeping accommodations, or other similar item, provided such agreement is submitted by the employer to the public authority fixing the rate of wages and is approved by such public authority as fair and reasonable.

All contractors or subcontractors falling within or 86 affected by sections 4115.03 to 4115.16 of the Revised Code, 87 shall keep full and accurate payroll records with respect to 88 wages paid each employee and the number of hours worked by each 89 employee, covering all disbursements of wages to their employees 90 to whom they are required to pay not less than the prevailing 91 rate of wages. Such payroll records shall be open to inspection 92 by any authorized representative of the contracting public 93 authority, including the prevailing wage coordinator or the 94 director of commerce at any reasonable time and as often as may 95 be necessary, and such records shall not be destroyed or removed 96 from the state for the period of one year following the 97 completion of the public improvement in connection with which 98 the records are made. There shall be posted in a prominent and 99 accessible place on the site of the work, or on the internet in 100 a manner that is accessible to the contractor's or 101 <u>subcontractor's employees</u>, a legible statement of the schedule 102 of wage rates specified in the contract to the various 103 classifications of laborers, workers, and mechanics employed, 104 said statement to remain posted during the life of each 105 contract. 106

Each contractor or subcontractor shall file with the

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contracting public authority upon completion of the public

improvement and prior to final payment therefor an affidavit

stating that the contractor or subcontractor has fully complied

with sections 4115.03 to 4115.16 of the Revised Code.

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Sec. 4123.54. (A) Except as otherwise provided in this 112 division or divisions (I) and (K) of this section, every 113 employee, who is injured or who contracts an occupational 114 disease, and the dependents of each employee who is killed, or 115 dies as the result of an occupational disease contracted in the 116 117 course of employment, wherever the injury has occurred or occupational disease has been contracted, is entitled to receive 118 the compensation for loss sustained on account of the injury, 119 occupational disease, or death, and the medical, nurse, and 120 hospital services and medicines, and the amount of funeral 121 expenses in case of death, as are provided by this chapter. The 122 compensation and benefits shall be provided, as applicable, 123 directly from the employee's self-insuring employer as provided 124 in section 4123.35 of the Revised Code or from the state 125 insurance fund. An employee or dependent is not entitled to 126 receive compensation or benefits under this division if the 127 employee's injury or occupational disease is either of the 128 following: 129

- (1) Purposely self-inflicted;
- (2) Caused by the employee being intoxicated, under the

 influence of a controlled substance not prescribed by a

 physician, or under the influence of marihuana if being

 intoxicated, under the influence of a controlled substance not

 prescribed by a physician, or under the influence of marihuana

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 was the proximate cause of the injury.
 - (B) For the purpose of this section, provided that an

employer has posted written notice to employees that the results	138
of, or the employee's refusal to submit to, any chemical test	139
described under this division may affect the employee's	140
eligibility for compensation and benefits pursuant to this	141
chapter and Chapter 4121. of the Revised Code, there is a	142
rebuttable presumption that an employee is intoxicated, under	143
the influence of a controlled substance not prescribed by the	144
employee's physician, or under the influence of marihuana and	145
that being intoxicated, under the influence of a controlled	146
substance not prescribed by the employee's physician, or under	147
the influence of marihuana is the proximate cause of an injury	148
under either of the following conditions:	149

- (1) When any one or more of the following is true:
- (a) The employee, through a qualifying chemical test administered within eight hours of an injury, is determined to have an alcohol concentration level equal to or in excess of the levels established in divisions (A)(1)(b) to (i) of section 4511.19 of the Revised Code.
- (b) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have a controlled substance not prescribed by the employee's physician or marihuana in the employee's system at a level equal to or in excess of the cutoff concentration level for the particular substance as provided in section 40.87 of Title 49 of the Code of Federal Regulations, 49 C.F.R. 40.87, as amended.
- (c) The employee, through a qualifying chemical test

 administered within thirty-two hours of an injury, is determined

 to have barbiturates, benzodiazepines, or methadone in the

 employee's system that tests above levels established by

 laboratories certified by the United States department of health

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and human services.	168
(2) When the employee refuses to submit to a requested	169
chemical test, on the condition that that employee is or was	170
given notice that the refusal to submit to any chemical test	171
described in division (B)(1) of this section may affect the	172
employee's eligibility for compensation and benefits under this	173
chapter and Chapter 4121. of the Revised Code.	174
(C)(1) For purposes of division (B) of this section, a	175
chemical test is a qualifying chemical test if it is	176
administered to an employee after an injury under at least one	177
of the following conditions:	178
(a) When the employee's employer had reasonable cause to	179
suspect that the employee may be intoxicated, under the	180
influence of a controlled substance not prescribed by the	181
employee's physician, or under the influence of marihuana;	182
(b) At the request of a police officer pursuant to section	183
4511.191 of the Revised Code, and not at the request of the	184
<pre>employee's employer;</pre>	185
(c) At the request of a licensed physician who is not	186
employed by the employee's employer, and not at the request of	187
the employee's employer.	188
(2) As used in division (C)(1)(a) of this section,	189
"reasonable cause" means, but is not limited to, evidence that	190
an employee is or was using alcohol, a controlled substance, or	191
marihuana drawn from specific, objective facts and reasonable	192
inferences drawn from these facts in light of experience and	193
training. These facts and inferences may be based on, but are	194
not limited to, any of the following:	195
(a) Observable phenomena, such as direct observation of	196

use, possession, or distribution of alcohol, a controlled	197
substance, or marihuana, or of the physical symptoms of being	198
under the influence of alcohol, a controlled substance, or	199
marihuana, such as but not limited to slurred speech; dilated	200
pupils; odor of alcohol, a controlled substance, or marihuana;	201
changes in affect; or dynamic mood swings;	202
(b) A pattern of abnormal conduct, erratic or aberrant	203
behavior, or deteriorating work performance such as frequent	204
absenteeism, excessive tardiness, or recurrent accidents, that	205
appears to be related to the use of alcohol, a controlled	206
substance, or marihuana, and does not appear to be attributable	207
to other factors;	208
(c) The identification of an employee as the focus of a	209
criminal investigation into unauthorized possession, use, or	210
trafficking of a controlled substance or marihuana;	211
(d) A report of use of alcohol, a controlled substance, or	212
marihuana provided by a reliable and credible source;	213
(e) Repeated or flagrant violations of the safety or work	214
rules of the employee's employer, that are determined by the	215
employee's supervisor to pose a substantial risk of physical	216
injury or property damage and that appear to be related to the	217
use of alcohol, a controlled substance, or marihuana and that do	218
not appear attributable to other factors.	219
(D) Nothing in this section shall be construed to affect	220
the rights of an employer to test employees for alcohol or	221
controlled substance abuse.	222
(E) For the purpose of this section, laboratories	223
certified by the United States department of health and human	224

services or laboratories that meet or exceed the standards of

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that department for laboratory certification shall be used for 226 processing the test results of a qualifying chemical test. 227

- (F) The written notice required by division (B) of this 228 section shall be the same size or larger than the proof of 229 workers' compensation coverage furnished by the bureau of 230 workers' compensation and shall be posted by the employer in the 231 same location as the proof of workers' compensation coverage or 232 the certificate of self-insurance. An employer may post the 233 written notice required by division (B) of this section on the 234 internet in a manner that is accessible to the employer's 235 employees. 236
- (G) If a condition that pre-existed an injury is substantially aggravated by the injury, and that substantial aggravation is documented by objective diagnostic findings, objective clinical findings, or objective test results, no compensation or benefits are payable because of the pre-existing condition once that condition has returned to a level that would have existed without the injury.
- (H) (1) Whenever, with respect to an employee of an 244 employer who is subject to and has complied with this chapter, 245 there is possibility of conflict with respect to the application 246 of workers' compensation laws because the contract of employment 247 is entered into and all or some portion of the work is or is to 248 be performed in a state or states other than Ohio, the employer 249 and the employee may agree to be bound by the laws of this state 250 or by the laws of some other state in which all or some portion 251 of the work of the employee is to be performed. The agreement 252 shall be in writing and shall be filed with the bureau of 253 workers' compensation within ten days after it is executed and 254 shall remain in force until terminated or modified by agreement 255

of the parties similarly filed. If the agreement is to be bound	256
by the laws of this state and the employer has complied with	257
this chapter, then the employee is entitled to compensation and	258
benefits regardless of where the injury occurs or the disease is	259
contracted and the rights of the employee and the employee's	260
dependents under the laws of this state are the exclusive remedy	261
against the employer on account of injury, disease, or death in	262
the course of and arising out of the employee's employment. If	263
the agreement is to be bound by the laws of another state and	264
the employer has complied with the laws of that state, the	265
rights of the employee and the employee's dependents under the	266
laws of that state are the exclusive remedy against the employer	267
on account of injury, disease, or death in the course of and	268
arising out of the employee's employment without regard to the	269
place where the injury was sustained or the disease contracted.	270
If an employer and an employee enter into an agreement under	271
this division, the fact that the employer and the employee	272
entered into that agreement shall not be construed to change the	273
status of an employee whose continued employment is subject to	274
the will of the employer or the employee, unless the agreement	275
contains a provision that expressly changes that status.	276

(2) If an employee or the employee's dependents receive an award of compensation or benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for the same injury, occupational disease, or death for which the employee or the employee's dependents previously pursued or otherwise elected to accept workers' compensation benefits and received a decision on the merits as defined in section 4123.542 of the Revised Code under the laws of another state or recovered damages under the laws of another state, the claim shall be disallowed and the administrator or any self-insuring employer, by any lawful

means, may collect from the employee or the employee's	287
dependents any of the following:	288
(a) The amount of compensation or benefits paid to or on	289
behalf of the employee or the employee's dependents by the	290
administrator or a self-insuring employer pursuant to this	291
chapter or Chapter 4121., 4127., or 4131. of the Revised Code	292
for that award;	293
(b) Any interest, attorney's fees, and costs the	294
administrator or the self-insuring employer incurs in collecting	295
that payment.	296
(3) If an employee or the employee's dependents receive an	297
award of compensation or benefits under this chapter or Chapter	298
4121., 4127., or 4131. of the Revised Code and subsequently	299
pursue or otherwise elect to accept workers' compensation	300
benefits or damages under the laws of another state for the same	301
injury, occupational disease, or death the claim under this	302
chapter or Chapter 4121., 4127., or 4131. of the Revised Code	303
shall be disallowed. The administrator or a self-insuring	304
employer, by any lawful means, may collect from the employee or	305
the employee's dependents or other-states' insurer any of the	306
following:	307
(a) The amount of compensation or benefits paid to or on	308
behalf of the employee or the employee's dependents by the	309
administrator or the self-insuring employer pursuant to this	310
chapter or Chapter 4121., 4127., or 4131. of the Revised Code	311
for that award;	312
(b) Any interest, costs, and attorney's fees the	313
administrator or the self-insuring employer incurs in collecting	314
that payment;	315

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- (c) Any costs incurred by an employer in contesting or 316 responding to any claim filed by the employee or the employee's 317 dependents for the same injury, occupational disease, or death 318 that was filed after the original claim for which the employee 319 or the employee's dependents received a decision on the merits 320 as described in section 4123.542 of the Revised Code. 321
- (4) If the employee's employer pays premiums into the 322 state insurance fund, the administrator shall not charge the 323 amount of compensation or benefits the administrator collects 324 pursuant to division (H)(2) or (3) of this section to the 325 326 employer's experience. If the administrator collects any costs incurred by an employer in contesting or responding to any claim 327 pursuant to division (H)(2) or (3) of this section, the 328 administrator shall forward the amount collected to that 329 employer. If the employee's employer is a self-insuring 330 employer, the self-insuring employer shall deduct the amount of 3.31 compensation or benefits the self-insuring employer collects 332 pursuant to this division from the paid compensation the self-333 insuring employer reports to the administrator under division 334 (L) of section 4123.35 of the Revised Code. 335
- (5) If an employee is a resident of a state other than this state and is insured under the workers' compensation law or similar laws of a state other than this state, the employee and the employee's dependents are not entitled to receive compensation or benefits under this chapter, on account of injury, disease, or death arising out of or in the course of employment while temporarily within this state, and the rights of the employee and the employee's dependents under the laws of the other state are the exclusive remedy against the employer on account of the injury, disease, or death.

(6) An employee, or the dependent of an employee, who	346
elects to receive compensation and benefits under this chapter	347
or Chapter 4121., 4127., or 4131. of the Revised Code for a	348
claim may not receive compensation and benefits under the	349
workers' compensation laws of any state other than this state	350
for that same claim. For each claim submitted by or on behalf of	351
an employee, the administrator or, if the employee is employed	352
by a self-insuring employer, the self-insuring employer, shall	353
request the employee or the employee's dependent to sign an	354
election that affirms the employee's or employee's dependent's	355
acceptance of electing to receive compensation and benefits	356
under this chapter or Chapter 4121., 4127., or 4131. of the	357
Revised Code for that claim that also affirmatively waives and	358
releases the employee's or the employee's dependent's right to	359
file for and receive compensation and benefits under the laws of	360
any state other than this state for that claim. The employee or	361
employee's dependent shall sign the election form within twenty-	362
eight days after the administrator or self-insuring employer	363
submits the request or the administrator or self-insuring	364
employer shall dismiss that claim.	365

In the event a workers' compensation claim has been filed 366 in another jurisdiction on behalf of an employee or the 367 dependents of an employee, and the employee or dependents 368 subsequently elect to receive compensation, benefits, or both 369 under this chapter or Chapter 4121., 4127., or 4131. of the 370 Revised Code, the employee or dependent shall withdraw or refuse 371 acceptance of the workers' compensation claim filed in the other 372 jurisdiction in order to pursue compensation or benefits under 373 the laws of this state. If the employee or dependents were 374 awarded workers' compensation benefits or had recovered damages 375 under the laws of the other state, any compensation and benefits 376

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awarded under this chapter or Chapter 4121., 4127., or 4131. of 377 the Revised Code shall be paid only to the extent to which those 378 payments exceed the amounts paid under the laws of the other 379 state. If the employee or dependent fails to withdraw or to 380 refuse acceptance of the workers' compensation claim in the 381 other jurisdiction within twenty-eight days after a request made 382 by the administrator or a self-insuring employer, the 383 administrator or self-insuring employer shall dismiss the 384 employee's or employee's dependents' claim made in this state. 385

- (I) If an employee who is covered under the federal 386 "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 387 33 U.S.C. 901 et seq., is injured or contracts an occupational 388 disease or dies as a result of an injury or occupational 389 disease, and if that employee's or that employee's dependents' 390 claim for compensation or benefits for that injury, occupational 391 disease, or death is subject to the jurisdiction of that act, 392 the employee or the employee's dependents are not entitled to 393 apply for and shall not receive compensation or benefits under 394 this chapter and Chapter 4121. of the Revised Code. The rights 395 of such an employee and the employee's dependents under the 396 federal "Longshore and Harbor Workers' Compensation Act," 98 397 Stat. 1639, 33 U.S.C. 901 et seq., are the exclusive remedy 398 against the employer for that injury, occupational disease, or 399 death. 400
- (J) Compensation or benefits are not payable to a claimant or a dependent during the period of confinement of the claimant or dependent in any state or federal correctional institution, or in any county jail in lieu of incarceration in a state or federal correctional institution, whether in this or any other state for conviction of violation of any state or federal criminal law.

(K) An employer, upon the approval of the administrator, 408 may provide for workers' compensation coverage for the 409 employer's employees who are professional athletes and coaches 410 by submitting to the administrator proof of coverage under a 411 league policy issued under the laws of another state under 412 either of the following circumstances: 413 (1) The employer administers the payroll and workers' 414 compensation insurance for a professional sports team subject to 415 a collective bargaining agreement, and the collective bargaining 416 agreement provides for the uniform administration of workers' 417 418 compensation benefits and compensation for professional athletes. 419 (2) The employer is a professional sports league, or is a 420 member team of a professional sports league, and all of the 421 following apply: 422 (a) The professional sports league operates as a single 423 entity, whereby all of the players and coaches of the sports 424 league are employees of the sports league and not of the 425 individual member teams. 426 (b) The professional sports league at all times maintains 427 workers' compensation insurance that provides coverage for the 428 players and coaches of the sports league. 429 (c) Each individual member team of the professional sports 430 league, pursuant to the organizational or operating documents of 431 the sports league, is obligated to the sports league to pay to 432 the sports league any workers' compensation claims that are not 433 covered by the workers' compensation insurance maintained by the 434 sports league. 435 If the administrator approves the employer's proof of 436

coverage submitted under division (K) of this section, a 437 professional athlete or coach who is an employee of the employer 438 and the dependents of the professional athlete or coach are not 439 entitled to apply for and shall not receive compensation or 440 benefits under this chapter and Chapter 4121. of the Revised 441 Code. The rights of such an athlete or coach and the dependents 442 of such an athlete or coach under the laws of the state where 443 the policy was issued are the exclusive remedy against the 444 employer for the athlete or coach if the athlete or coach 445 suffers an injury or contracts an occupational disease in the 446 course of employment, or for the dependents of the athlete or 447 the coach if the athlete or coach is killed as a result of an 448 injury or dies as a result of an occupational disease, 449 regardless of the location where the injury was suffered or the 450 occupational disease was contracted. 451

Sec. 4123.83. Each employer paying premiums into the state 452 insurance fund or electing directly to pay compensation to the 453 employer's injured employees or the dependents of the employer's 454 killed employees as provided in section 4123.35 of the Revised 455 Code, shall post conspicuously in the employer's place or places-456 of employment notices, which shall be furnished at least 457 annually by the bureau of workers' compensation. The employer 458 shall post the notice conspicuously in the employer's place or 459 places of employment or on the internet in a manner that is 460 accessible to the employer's employees. The notice shall state 461 that it is proof of workers' compensation coverage, or that the 462 employer has complied with section 4123.35 of the Revised Code 463 and has been authorized by the administrator of workers' 464 compensation directly to compensate employees or dependents, and 465 the date of the authorization. The notice shall indicate that 466 coverage is contingent on continued payment of premiums and 467

assessments due. The notice, when posted, constitutes sufficient
notice to the employer's employees of the fact that the employer
carries workers' compensation coverage or that the employer has
complied with the elective provisions of section 4123.35 of the
Revised Code.

- Sec. 4167.11. (A) In order to further the purposes of this chapter, the administrator of workers' compensation shall develop and maintain, for public employers and public employees, an effective program of collection, compilation, and analysis of employment risk reduction statistics.
- (B) To implement and maintain division (A) of this section, the administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules in accordance with Chapter 119. of the Revised Code that extend to all of the following:
- (1) Requiring each public employer to make, keep, and preserve, and make available to the administrator, reports and records regarding the public employer's activities, as determined by the rule that are necessary or appropriate for the enforcement of this chapter or for developing information regarding the causes and prevention of occupational accidents and illnesses. The rule shall prescribe which of these reports and records shall or may be furnished to public employees and public employee representatives.
- (2) Requiring every public employer, through posting of notices or other appropriate means, to keep their public employees informed of public employees' rights and obligations under this chapter, including the provisions of applicable Ohio employment risk reduction standards. The rule shall allow any required notice to be posted on the internet in a manner that is

accessible to the public employer's employees.	498
(3) Requiring public employers to maintain accurate	499
records of public employee exposure to potentially toxic	500
materials, carcinogenic materials, and harmful physical agents	501
that are required to be monitored or measured under rules	502
adopted under the guidelines of division (C) of section 4167.07	503
of the Revised Code. The rule shall provide public employees or	504
public employee representatives an opportunity to observe the	505
monitoring or measuring, and to have access on request to the	506
records thereof, and may provide public employees or public	507
employee representatives an opportunity to participate in and to	508
undertake their own monitoring or measuring. The rules also	509
shall permit each current or former public employee to have	510
access to the records that indicate their own exposure to toxic	511
materials, carcinogenic materials, or harmful agents.	512
(C) The administrator shall obtain any information under	513
division (B) of this section with a minimum burden upon the	514
public employer and shall, to the maximum extent feasible,	515
reduce unnecessary duplication of efforts in obtaining the	516
information.	517
Section 2. That existing sections 4109.08, 4111.09,	518
4112.07, 4115.07, 4123.54, 4123.83, and 4167.11 of the Revised	519
Code are hereby repealed.	520