

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 605**

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

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 section does not apply if it has been more than fifteen years since the firefighter was last assigned to hazardous duty as a firefighter.	227 228 229 230
(4) Compensation for cancer contracted by a firefighter in the course of hazardous duty under division (X) of this section is payable only in the event of temporary total disability, working wage loss, permanent total disability, or death, in accordance with division (A) or (B) (1) of section 4123.56 and sections 4123.58 and 4123.59 of the Revised Code.	231 232 233 234 235 236
(5) As used in division (X) of this section, "hazardous duty" has the same meaning as in 5 C.F.R. 550.902, as amended.	237 238
(Y) Silicosis: Silicosis means a disease of the lungs caused by breathing silica dust (silicon dioxide) producing fibrous nodules distributed through the lungs and demonstrated by x-ray examination, by biopsy or by autopsy.	239 240 241 242
(Z) Coal miners' pneumoconiosis: Coal miners' pneumoconiosis, commonly referred to as "black lung disease," resulting from working in the coal mine industry and due to exposure to the breathing of coal dust, and demonstrated by x-ray examination, biopsy, autopsy or other medical or clinical tests.	243 244 245 246 247 248
This chapter does not entitle an employee or the employee's dependents to compensation, medical treatment, or payment of funeral expenses for disability or death from silicosis, asbestosis, or coal miners' pneumoconiosis unless the employee has been subject to injurious exposure to silica dust	249 250 251 252 253

(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 Code is hereby repealed. 343  
344

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