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Senator Faber

**Cosponsors: Senators Seitz, Spada, Coughlin, Mumper, Schaffer, Amstutz,
Stivers, Buehrer, Grendell, Harris, Niehaus, Schuring, Wilson, Fedor,
Padgett, Sawyer, Cates, Austria**

**Representatives Yuko, Uecker, Combs, Slesnick, Stewart, D., Adams, Collier,
Hughes**

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A B I L L

To amend sections 4123.01, 4123.26, 4123.29, 4123.34, 1
4123.51, 4123.54, 4123.82, and 4123.88 and to 2
enact sections 4123.292 and 4123.542 to prohibit 3
an employee from filing a claim for workers' 4
compensation benefits in this state if the 5
employee has received a decision on the merits of 6
a claim filed in another state for the same injury 7
or occupational disease, to allow an Ohio employer 8
to obtain workers' compensation insurance for 9
claims arising in other states through the 10
Administrator of Workers' Compensation, if the 11
Administrator elects to provide such insurance, or 12
an insurance company, to make other changes to the 13
Workers' Compensation Law regarding interstate 14
workers' compensation claims and the surplus of 15
the State Insurance Fund, and to allow an 16
individual whose primary occupation is as a 17
journalist to access specified worker's 18
compensation records. 19

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

Section 1. That sections 4123.01, 4123.26, 4123.29, 4123.34, 20
4123.51, 4123.54, 4123.82, 4123.88 be amended and sections 21
4123.292 and 4123.542 of the Revised Code be enacted to read as 22
follows: 23

Sec. 4123.01. As used in this chapter: 24

(A)(1) "Employee" means: 25

(a) Every person in the service of the state, or of any 26
county, municipal corporation, township, or school district 27
therein, including regular members of lawfully constituted police 28
and fire departments of municipal corporations and townships, 29
whether paid or volunteer, and wherever serving within the state 30
or on temporary assignment outside thereof, and executive officers 31
of boards of education, under any appointment or contract of hire, 32
express or implied, oral or written, including any elected 33
official of the state, or of any county, municipal corporation, or 34
township, or members of boards of education. 35

As used in division (A)(1)(a) of this section, the term 36
"employee" includes the following persons when responding to an 37
inherently dangerous situation that calls for an immediate 38
response on the part of the person, regardless of whether the 39
person is within the limits of the jurisdiction of the person's 40
regular employment or voluntary service when responding, on the 41
condition that the person responds to the situation as the person 42
otherwise would if the person were on duty in the person's 43
jurisdiction: 44

(i) Off-duty peace officers. As used in division (A)(1)(a)(i) 45
of this section, "peace officer" has the same meaning as in 46
section 2935.01 of the Revised Code. 47

(ii) Off-duty firefighters, whether paid or volunteer, of a lawfully constituted fire department. 48
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(iii) Off-duty first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, or emergency medical technicians-paramedic, whether paid or volunteer, of an ambulance service organization or emergency medical service organization pursuant to Chapter 4765. of the Revised Code. 50
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(b) Every person in the service of any person, firm, or private corporation, including any public service corporation, that (i) employs one or more persons regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, including aliens and minors, household workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single household and casual workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single employer, or (ii) is bound by any such contract of hire or by any other written contract, to pay into the state insurance fund the premiums provided by this chapter. 56
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(c) Every person who performs labor or provides services pursuant to a construction contract, as defined in section 4123.79 of the Revised Code, if at least ten of the following criteria apply: 68
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(i) The person is required to comply with instructions from the other contracting party regarding the manner or method of performing services; 72
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(ii) The person is required by the other contracting party to have particular training; 75
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(iii) The person's services are integrated into the regular functioning of the other contracting party; 77
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(iv) The person is required to perform the work personally;	79
(v) The person is hired, supervised, or paid by the other contracting party;	80 81
(vi) A continuing relationship exists between the person and the other contracting party that contemplates continuing or recurring work even if the work is not full time;	82 83 84
(vii) The person's hours of work are established by the other contracting party;	85 86
(viii) The person is required to devote full time to the business of the other contracting party;	87 88
(ix) The person is required to perform the work on the premises of the other contracting party;	89 90
(x) The person is required to follow the order of work set by the other contracting party;	91 92
(xi) The person is required to make oral or written reports of progress to the other contracting party;	93 94
(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;	95 96
(xiii) The person's expenses are paid for by the other contracting party;	97 98
(xiv) The person's tools and materials are furnished by the other contracting party;	99 100
(xv) The person is provided with the facilities used to perform services;	101 102
(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;	103 104
(xvii) The person is not performing services for a number of employers at the same time;	105 106
(xviii) The person does not make the same services available	107

to the general public;	108
(xix) The other contracting party has a right to discharge the person;	109 110
(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.	111 112 113
Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or if a self-insuring employer has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the person who has entered into a contract, whether written or verbal, with such independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.	114 115 116 117 118 119 120 121 122 123 124 125
<u>(d) Every person to whom all of the following apply:</u>	126
<u>(i) The person is a resident of a state other than this state and is covered by that other state's workers' compensation law;</u>	127 128
<u>(ii) The person performs labor or provides services for that person's employer while temporarily within this state;</u>	129 130
<u>(iii) The laws of that other state do not include the provisions described in division (H)(4) of section 4123.54 of the Revised Code.</u>	131 132 133
(2) "Employee" does not mean:	134
(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry;	135 136 137

(b) Any officer of a family farm corporation;	138
(c) An individual incorporated as a corporation; or	139
(d) An individual who otherwise is an employee of an employer	140
but who signs the waiver and affidavit specified in section	141
4123.15 of the Revised Code on the condition that the	142
administrator has granted a waiver and exception to the	143
individual's employer under section 4123.15 of the Revised Code.	144
Any employer may elect to include as an "employee" within	145
this chapter, any person excluded from the definition of	146
"employee" pursuant to division (A)(2) of this section. If an	147
employer is a partnership, sole proprietorship, individual	148
incorporated as a corporation, or family farm corporation, such	149
employer may elect to include as an "employee" within this	150
chapter, any member of such partnership, the owner of the sole	151
proprietorship, the individual incorporated as a corporation, or	152
the officers of the family farm corporation. In the event of an	153
election, the employer shall serve upon the bureau of workers'	154
compensation written notice naming the persons to be covered,	155
include such employee's remuneration for premium purposes in all	156
future payroll reports, and no person excluded from the definition	157
of "employee" pursuant to division (A)(2) of this section,	158
proprietor, individual incorporated as a corporation, or partner	159
shall be deemed an employee within this division until the	160
employer has served such notice.	161
For informational purposes only, the bureau shall prescribe	162
such language as it considers appropriate, on such of its forms as	163
it considers appropriate, to advise employers of their right to	164
elect to include as an "employee" within this chapter a sole	165
proprietor, any member of a partnership, an individual	166
incorporated as a corporation, the officers of a family farm	167
corporation, or a person excluded from the definition of	168
"employee" under division (A)(2) of this section, that they should	169

check any health and disability insurance policy, or other form of 170
health and disability plan or contract, presently covering them, 171
or the purchase of which they may be considering, to determine 172
whether such policy, plan, or contract excludes benefits for 173
illness or injury that they might have elected to have covered by 174
workers' compensation. 175

(B) "Employer" means: 176

(1) The state, including state hospitals, each county, 177
municipal corporation, township, school district, and hospital 178
owned by a political subdivision or subdivisions other than the 179
state; 180

(2) Every person, firm, professional employer organization as 181
defined in section 4125.01 of the Revised Code, and private 182
corporation, including any public service corporation, that (a) 183
has in service one or more employees or shared employees regularly 184
in the same business or in or about the same establishment under 185
any contract of hire, express or implied, oral or written, or (b) 186
is bound by any such contract of hire or by any other written 187
contract, to pay into the insurance fund the premiums provided by 188
this chapter. 189

All such employers are subject to this chapter. Any member of 190
a firm or association, who regularly performs manual labor in or 191
about a mine, factory, or other establishment, including a 192
household establishment, shall be considered an employee in 193
determining whether such person, firm, or private corporation, or 194
public service corporation, has in its service, one or more 195
employees and the employer shall report the income derived from 196
such labor to the bureau as part of the payroll of such employer, 197
and such member shall thereupon be entitled to all the benefits of 198
an employee. 199

(C) "Injury" includes any injury, whether caused by external 200

accidental means or accidental in character and result, received 201
in the course of, and arising out of, the injured employee's 202
employment. "Injury" does not include: 203

(1) Psychiatric conditions except where the claimant's 204
psychiatric conditions have arisen from an injury or occupational 205
disease sustained by that claimant or where the claimant's 206
psychiatric conditions have arisen from sexual conduct in which 207
the claimant was forced by threat of physical harm to engage or 208
participate; 209

(2) Injury or disability caused primarily by the natural 210
deterioration of tissue, an organ, or part of the body; 211

(3) Injury or disability incurred in voluntary participation 212
in an employer-sponsored recreation or fitness activity if the 213
employee signs a waiver of the employee's right to compensation or 214
benefits under this chapter prior to engaging in the recreation or 215
fitness activity; 216

(4) A condition that pre-existed an injury unless that 217
pre-existing condition is substantially aggravated by the injury. 218
Such a substantial aggravation must be documented by objective 219
diagnostic findings, objective clinical findings, or objective 220
test results. Subjective complaints may be evidence of such a 221
substantial aggravation. However, subjective complaints without 222
objective diagnostic findings, objective clinical findings, or 223
objective test results are insufficient to substantiate a 224
substantial aggravation. 225

(D) "Child" includes a posthumous child and a child legally 226
adopted prior to the injury. 227

(E) "Family farm corporation" means a corporation founded for 228
the purpose of farming agricultural land in which the majority of 229
the voting stock is held by and the majority of the stockholders 230
are persons or the spouse of persons related to each other within 231

the fourth degree of kinship, according to the rules of the civil law, and at least one of the related persons is residing on or actively operating the farm, and none of whose stockholders are a corporation. A family farm corporation does not cease to qualify under this division where, by reason of any devise, bequest, or the operation of the laws of descent or distribution, the ownership of shares of voting stock is transferred to another person, as long as that person is within the degree of kinship stipulated in this division.

(F) "Occupational disease" means a disease contracted in the course of employment, which by its causes and the characteristics of its manifestation or the condition of the employment results in a hazard which distinguishes the employment in character from employment generally, and the employment creates a risk of contracting the disease in greater degree and in a different manner from the public in general.

(G) "Self-insuring employer" means an employer who is granted the privilege of paying compensation and benefits directly under section 4123.35 of the Revised Code, including a board of county commissioners for the sole purpose of constructing a sports facility as defined in section 307.696 of the Revised Code, provided that the electors of the county in which the sports facility is to be built have approved construction of a sports facility by ballot election no later than November 6, 1997.

(H) "Public employer" means an employer as defined in division (B)(1) of this section.

(I) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of gender; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to

complete vaginal or anal intercourse. 264

(J) "Other-states' insurer" means an insurance company that 265
is authorized to provide workers' compensation insurance coverage 266
in any of the states that permit employers to obtain insurance for 267
workers' compensation claims through insurance companies. 268

(K) "Other-states' coverage" means insurance coverage 269
purchased by an employer for workers' compensation claims that 270
arise in a state or states other than this state and that are 271
filed by the employees of the employer or those employee's 272
dependents, as applicable, in that other state or those other 273
states. 274

Sec. 4123.26. Every employer shall keep records of, and 275
furnish to the bureau of workers' compensation upon request, all 276
information required by the administrator of workers' compensation 277
to carry out this chapter. In January of each year, every employer 278
of the state employing one or more employees regularly in the same 279
business, or in or about the same establishment, shall prepare and 280
mail to the bureau at its main office in Columbus a statement 281
containing the following information, as applicable: 282

(A) The number of employees employed during the preceding 283
year from the first day of January through the thirty-first day of 284
December; 285

(B) The number of such employees employed at each kind of 286
employment and the aggregate amount of wages paid to such 287
employees; 288

(C) If an employer elects to obtain other-states' coverage 289
pursuant to section 4123.292 of the Revised Code through either 290
the administrator, if the administrator elects to offer such 291
coverage, or an other-states' insurer for claims arising in a 292
state or states other than this state, all of the following 293

<u>information:</u>	294
<u>(1) The amount of wages the employer paid to the employer's employees for performing labor or providing services for the employer in this state;</u>	295 296 297
<u>(2) The amount of wages the employer paid to the employer's employees for performing labor or providing services for the employer in a state or states other than this state.</u>	298 299 300
<u>The allocation of wages identified by the employer pursuant to divisions (C)(1) and (2) of this section shall not be presumed to be an indication of the law under which an employee is eligible to receive compensation and benefits.</u>	301 302 303 304
The information shall be furnished on a blank to be prepared by the bureau. The bureau shall furnish the blanks to employers free of charge upon request therefor. Every employer receiving from the bureau any blank, with directions to fill out the same, shall cause the same to be properly filled out so as to answer fully and correctly all questions therein propounded, and give all the information therein sought, or if unable to do so, he <u>the employer</u> shall give to the bureau in writing good and sufficient reasons for such failure. The bureau may require that the information required to be furnished be verified under oath and returned to the bureau within the period fixed by it or by law. The bureau or any person employed by the bureau for that purpose, may examine, under oath, any employer, or the officer, agent, or employee thereof, for the purpose of ascertaining any information which the employer is required to furnish to the bureau.	305 306 307 308 309 310 311 312 313 314 315 316 317 318 319
No employer shall fail to furnish to the bureau the annual statement required by this section, nor shall any employer fail to keep records of or furnish such other information as may be required by the bureau under this section.	320 321 322 323
Whoever violates this section shall forfeit five hundred	324

dollars, to be collected in a civil action brought against the 325
employer in the name of the state, to be paid into the state 326
insurance fund and become a part thereof. 327

Sec. 4123.29. (A) The administrator of workers' compensation, 328
subject to the approval of the bureau of workers' compensation 329
board of directors, shall do all of the following: 330

(1) Classify occupations or industries with respect to their 331
degree of hazard and determine the risks of the different classes 332
according to the categories the national council on compensation 333
insurance establishes that are applicable to employers in this 334
state; 335

(2)(a) Fix the rates of premium of the risks of the classes 336
based upon the total payroll in each of the classes of occupation 337
or industry sufficiently large to provide a fund for the 338
compensation provided for in this chapter and to maintain a state 339
insurance fund from year to year. The administrator shall set the 340
rates at a level that assures the solvency of the fund. Where the 341
payroll cannot be obtained or, in the opinion of the 342
administrator, is not an adequate measure for determining the 343
premium to be paid for the degree of hazard, the administrator may 344
determine the rates of premium upon such other basis, consistent 345
with insurance principles, as is equitable in view of the degree 346
of hazard, and whenever in this chapter reference is made to 347
payroll or expenditure of wages with reference to fixing premiums, 348
the reference shall be construed to have been made also to such 349
other basis for fixing the rates of premium as the administrator 350
may determine under this section. 351

(b) If an employer elects to obtain other-states' coverage 352
pursuant to section 4123.292 of the Revised Code through either 353
the administrator, if the administrator elects to offer such 354
coverage, or an other-states' insurer, calculate the employer's 355

premium for the state insurance fund in the same manner as 356
otherwise required under division (A) of this section and section 357
4123.34 of the Revised Code, except that when the administrator 358
determines the expenditure of wages, payroll, or both upon which 359
to base the employer's premium, the administrator shall use only 360
the expenditure of wages, payroll, or both attributable to the 361
labor performed and services provided by that employer's employees 362
when those employees performed labor and provided services in this 363
state only and to which the other-states' coverage does not apply. 364
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(c) The administrator in setting or revising rates shall 366
furnish to employers an adequate explanation of the basis for the 367
rates set. 368

(3) Develop and make available to employers who are paying 369
premiums to the state insurance fund alternative premium plans. 370
Alternative premium plans shall include retrospective rating 371
plans. The administrator may make available plans under which an 372
advanced deposit may be applied against a specified deductible 373
amount per claim. 374

(4)(a) Offer to insure the obligations of employers under 375
this chapter under a plan that groups, for rating purposes, 376
employers, and pools the risk of the employers within the group 377
provided that the employers meet all of the following conditions: 378

(i) All of the employers within the group are members of an 379
organization that has been in existence for at least two years 380
prior to the date of application for group coverage; 381

(ii) The organization was formed for purposes other than that 382
of obtaining group workers' compensation under this division; 383

(iii) The employers' business in the organization is 384
substantially similar such that the risks which are grouped are 385
substantially homogeneous; 386

(iv) The group of employers consists of at least one hundred 387
members or the aggregate workers' compensation premiums of the 388
members, as determined by the administrator, are expected to 389
exceed one hundred fifty thousand dollars during the coverage 390
period; 391

(v) The formation and operation of the group program in the 392
organization will substantially improve accident prevention and 393
claims handling for the employers in the group; 394

(vi) Each employer seeking to enroll in a group for workers' 395
compensation coverage has an industrial insurance account in good 396
standing with the bureau of workers' compensation such that at the 397
time the agreement is processed no outstanding premiums, 398
penalties, or assessments are due from any of the employers. 399

(b) If an organization sponsors more than one employer group 400
to participate in group plans established under this section, that 401
organization may submit a single application that supplies all of 402
the information necessary for each group of employers that the 403
organization wishes to sponsor. 404

(c) In providing employer group plans under division (A)(4) 405
of this section, the administrator shall consider an employer 406
group as a single employing entity for purposes of retrospective 407
rating. No employer may be a member of more than one group for the 408
purpose of obtaining workers' compensation coverage under this 409
division. 410

(d) At the time the administrator revises premium rates 411
pursuant to this section and section 4123.34 of the Revised Code, 412
if the premium rate of an employer who participates in a group 413
plan established under this section changes from the rate 414
established for the previous year, the administrator, in addition 415
to sending the invoice with the rate revision to that employer, 416
shall send a copy of that invoice to the third-party administrator 417

that administers the group plan for that employer's group. 418

(e) In providing employer group plans under division (A)(4) 419
of this section, the administrator shall establish a program 420
designed to mitigate the impact of a significant claim that would 421
come into the experience of a private, state fund group-rated 422
employer for the first time and be a contributing factor in that 423
employer being excluded from a group-rated plan. The administrator 424
shall establish eligibility criteria and requirements that such 425
employers must satisfy in order to participate in this program. 426
For purposes of this program, the administrator shall establish a 427
discount on premium rates applicable to employers who qualify for 428
the program. 429

(f) In no event shall division (A)(4) of this section be 430
construed as granting to an employer status as a self-insuring 431
employer. 432

(g) The administrator shall develop classifications of 433
occupations or industries that are sufficiently distinct so as not 434
to group employers in classifications that unfairly represent the 435
risks of employment with the employer. 436

(5) Generally promote employer participation in the state 437
insurance fund through the regular dissemination of information to 438
all classes of employers describing the advantages and benefits of 439
opting to make premium payments to the fund. To that end, the 440
administrator shall regularly make employers aware of the various 441
workers' compensation premium packages developed and offered 442
pursuant to this section. 443

(6) Make available to every employer who is paying premiums 444
to the state insurance fund a program whereby the employer or the 445
employer's agent pays to the claimant or on behalf of the claimant 446
the first fifteen thousand dollars of a compensable workers' 447
compensation medical-only claim filed by that claimant that is 448

related to the same injury or occupational disease. No formal 449
application is required; however, an employer must elect to 450
participate by telephoning the bureau after July 1, 1995. Once an 451
employer has elected to participate in the program, the employer 452
will be responsible for all bills in all medical-only claims with 453
a date of injury the same or later than the election date, unless 454
the employer notifies the bureau within fourteen days of receipt 455
of the notification of a claim being filed that it does not wish 456
to pay the bills in that claim, or the employer notifies the 457
bureau that the fifteen thousand dollar maximum has been paid, or 458
the employer notifies the bureau of the last day of service on 459
which it will be responsible for the bills in a particular 460
medical-only claim. If an employer elects to enter the program, 461
the administrator shall not reimburse the employer for such 462
amounts paid and shall not charge the first fifteen thousand 463
dollars of any medical-only claim paid by an employer to the 464
employer's experience or otherwise use it in merit rating or 465
determining the risks of any employer for the purpose of payment 466
of premiums under this chapter. If an employer elects to enter the 467
program and the employer fails to pay a bill for a medical-only 468
claim included in the program, the employer shall be liable for 469
that bill and the employee for whom the employer failed to pay the 470
bill shall not be liable for that bill. The administrator shall 471
adopt rules to implement and administer division (A)(6) of this 472
section. Upon written request from the bureau, the employer shall 473
provide documentation to the bureau of all medical-only bills that 474
they are paying directly. Such requests from the bureau may not be 475
made more frequently than on a semiannual basis. Failure to 476
provide such documentation to the bureau within thirty days of 477
receipt of the request may result in the employer's forfeiture of 478
participation in the program for such injury. The provisions of 479
this section shall not apply to claims in which an employer with 480
knowledge of a claimed compensable injury or occupational disease, 481

has paid wages in lieu of compensation or total disability. 482

(B) The administrator, with the advice and consent of the 483
board, by rule, may do both of the following: 484

(1) Grant an employer who makes the employer's semiannual 485
premium payment at least one month prior to the last day on which 486
the payment may be made without penalty, a discount as the 487
administrator fixes from time to time; 488

(2) Levy a minimum annual administrative charge upon risks 489
where semiannual premium reports develop a charge less than the 490
administrator considers adequate to offset administrative costs of 491
processing. 492

Sec. 4123.292. (A) Notwithstanding sections 4123.35 and 493
4123.82 of the Revised Code, an employer may elect to obtain 494
other-states' coverage through an other-states' insurer or, if the 495
administrator of workers' compensation elects to offer such 496
coverage, through the administrator pursuant to division (B) of 497
this section. An employer who elects to obtain other-states' 498
coverage shall submit a written notice to the administrator 499
stating that election and, if the employer elects to obtain that 500
coverage through an other-states' insurer, the name of the 501
other-states' insurer through whom the employer has obtained that 502
coverage. If an employer fails to pay the employer's premium for 503
other-states' coverage, the administrator shall consider the 504
employer to be noncompliant for the purposes of having 505
other-states' coverage but shall not consider the employer to be a 506
noncomplying employer for purposes of this chapter or Chapter 507
4121., 4127., or 4131. of the Revised Code unless the employer 508
otherwise fails to comply with section 4123.35 of the Revised 509
Code. 510

(B) The administrator may secure other-states' coverage to 511
allow an employer who wishes to obtain other-states' coverage 512

pursuant to this section and who elects to obtain that coverage 513
through the administrator for workers' compensation claims arising 514
in a state or states other than this state. If the administrator 515
elects to secure other-states' coverage, the administrator shall 516
follow the competitive bidding requirements specified in Chapter 517
125. of the Revised Code to select one other-states' insurer, and 518
the administrator, with the advice and consent of the bureau of 519
workers' compensation board of directors, shall award the contract 520
to provide other-states' coverage for employers located in this 521
state to the other-states' insurer that is the lowest and best 522
bidder. 523

(C) If the administrator elects to secure other-states' 524
coverage pursuant to division (B) of this section, the 525
administrator shall calculate an employer's premium for 526
other-states' coverage provided through the administrator 527
separately from calculating any other premiums or assessments 528
charged under this chapter or Chapter 4121., 4127., or 4131. of 529
the Revised Code. The administrator shall calculate the employer's 530
other-states' coverage premium in the same manner the 531
administrator calculates an employer's premium for the state 532
insurance fund pursuant to division (A) of section 4123.29 and 533
section 4123.34 of the Revised Code, except that, when calculating 534
the employer's premium for other-states' coverage under this 535
division, the administrator shall do all of the following: 536

(1) Base the employer's other-states' coverage premium on the 537
terms specified in the contract the administrator enters into with 538
an insurance company pursuant to division (B) of this section; 539

(2) When determining the expenditure of wages, payroll, or 541
both upon which to base the employer's other-states' coverage 542
premium, use only the amount of wages, payroll, or both the 543
employer paid to the employer's employees for performing labor or 544

providing services for the employer in a state or states other 545
than this state; 546

(3) Not take into account the amount of wages, payroll, or 547
both the employer paid to the employer's employees for performing 548
labor or providing services for the employer in this state or any 549
compensation or benefits paid for claims covered by the state 550
insurance fund. 551

(D) If the administrator elects to secure other states' 552
coverage, the administrator, with the advice and consent of the 553
board, shall adopt rules to implement divisions (B) and (C) of 554
this section. 555

(E) An other-states' insurer that provides other-states' 556
coverage to an employer pursuant to this section shall do all of 557
the following when calculating the employer's premium for that 558
coverage: 559

(1) When determining the amount of wages, payroll, or both 560
upon which to base the employer's premium, use only the amount of 561
wages, payroll, or both the employer paid to the employer's 562
employees for performing labor or providing services for the 563
employer in a state or states other than this state; 564

(2) Not take into account the amount of wages, payroll, or 565
both the employer paid to the employer's employees for performing 566
labor or providing services for the employer in this state or any 567
compensation or benefits paid for claims otherwise covered by this 568
chapter or Chapter 4121., 4127., or 4131. of the Revised Code; 569

(3) Take into account any other factors the other-states' 570
insurer uses to calculate premiums for workers' compensation 571
insurance. 572

(F) The board and the individual members thereof, the 573
administrator, and the bureau of workers' compensation shall not 574
incur any obligation or liability if another state determines that 575

the other-states' coverage provided under this section does not 576
satisfy the requirements specified in that state's workers' 577
compensation law for obtaining workers' compensation coverage in 578
that state. 579

Sec. 4123.34. It shall be the duty of the bureau of workers' 580
compensation board of directors and the administrator of workers' 581
compensation to safeguard and maintain the solvency of the state 582
insurance fund and all other funds specified in this chapter and 583
Chapters 4121., 4127., and 4131. of the Revised Code. The 584
administrator, in the exercise of the powers and discretion 585
conferred upon the administrator in section 4123.29 of the Revised 586
Code, shall fix and maintain, with the advice and consent of the 587
board, for each class of occupation or industry, the lowest 588
possible rates of premium consistent with the maintenance of a 589
solvent state insurance fund and the creation and maintenance of a 590
reasonable surplus, after the payment of legitimate claims for 591
injury, occupational disease, and death that the administrator 592
authorizes to be paid from the state insurance fund for the 593
benefit of injured, diseased, and the dependents of killed 594
employees. In establishing rates, the administrator shall take 595
into account the necessity of ensuring sufficient money is set 596
aside in the premium payment security fund to cover any defaults 597
in premium obligations. The administrator shall observe all of the 598
following requirements in fixing the rates of premium for the 599
risks of occupations or industries: 600

(A) The administrator shall keep an accurate account of the 601
money paid in premiums by each of the several classes of 602
occupations or industries, and the losses on account of injuries, 603
occupational disease, and death of employees thereof, and also 604
keep an account of the money received from each individual 605
employer and the amount of losses incurred against the state 606
insurance fund on account of injuries, occupational disease, and 607

death of the employees of the employer. 608

(B) Ten per cent of the money paid into the state insurance 609
fund shall be set aside for the creation of a surplus until the 610
surplus amounts to the sum of one hundred thousand dollars, after 611
which time, whenever necessary in the judgment of the 612
administrator to guarantee a solvent state insurance fund, a sum 613
not exceeding five per cent of all the money paid into the state 614
insurance fund shall be credited to the surplus fund. In addition 615
to all statutory authority under this chapter and Chapter 4121. of 616
the Revised Code, the administrator has discretionary and 617
contingency authority to make charges to surplus. The 618
administrator shall account for all charges, whether statutory, 619
discretionary, or contingency, that the administrator may make to 620
surplus. A revision of basic rates shall be made annually on the 621
first day of July. 622

Notwithstanding any provision of the law to the contrary, one 623
hundred eighty days after the effective date on which 624
self-insuring employers first may elect under division (D) of 625
section 4121.66 of the Revised Code to directly pay for 626
rehabilitation expenses, the administrator shall calculate the 627
deficit, if any, in the portion of surplus fund that is used for 628
reimbursement to self-insuring employers for all expenses other 629
than handicapped reimbursement under section 4123.343 of the 630
Revised Code. The administrator, from time to time, may determine 631
whether the surplus fund has such a deficit and may assess all 632
self-insuring employers who participated in the portion of the 633
surplus fund during the accrual of the deficit and who during that 634
time period have not made the election under division (D) of 635
section 4121.66 of the Revised Code the amount the administrator 636
determines necessary to reduce the deficit. 637

Revisions of basic rates shall be in accordance with the 638
oldest four of the last five calendar years of the combined 639

accident and occupational disease experience of the administrator 640
in the administration of this chapter, as shown by the accounts 641
kept as provided in this section, excluding the experience of 642
employers that are no longer active if the administrator 643
determines that the inclusion of those employers would have a 644
significant negative impact on the remainder of the employers in a 645
particular manual classification; and the administrator shall 646
adopt rules, with the advice and consent of the board, governing 647
rate revisions, the object of which shall be to make an equitable 648
distribution of losses among the several classes of occupation or 649
industry, which rules shall be general in their application. 650

(C) The administrator may apply that form of rating system 651
that the administrator finds is best calculated to merit rate or 652
individually rate the risk more equitably, predicated upon the 653
basis of its individual industrial accident and occupational 654
disease experience, and may encourage and stimulate accident 655
prevention. The administrator shall develop fixed and equitable 656
rules controlling the rating system, which rules shall conserve to 657
each risk the basic principles of workers' compensation insurance. 658

(D) The administrator, from the money paid into the state 659
insurance fund, shall set aside into an account of the state 660
insurance fund titled a premium payment security fund sufficient 661
money to pay for any premiums due from an employer and uncollected 662
that are in excess of the employer's premium security deposit. 663

The fund shall be in the custody of the treasurer of state. 664
All investment earnings of the fund shall be deposited in the 665
fund. Disbursements from the fund shall be made by the bureau of 666
workers' compensation upon order of the administrator to the state 667
insurance fund. The use of the moneys held by the premium payment 668
security fund is restricted to reimbursement to the state 669
insurance fund of premiums due and uncollected in excess of an 670
employer's premium security deposit. The moneys constituting the 671

premium payment security fund shall be maintained without regard 672
to or reliance upon any other fund. This section does not prevent 673
the deposit or investment of the premium payment security fund 674
with any other fund created by this chapter, but the premium 675
payment security fund is separate and distinct for every other 676
purpose and a strict accounting thereof shall be maintained. 677

(E) The administrator may grant discounts on premium rates 678
for employers who meet either of the following requirements: 679

(1) Have not incurred a compensable injury for one year or 680
more and who maintain an employee safety committee or similar 681
organization or make periodic safety inspections of the workplace. 682

(2) Successfully complete a loss prevention program 683
prescribed by the superintendent of the division of safety and 684
hygiene and conducted by the division or by any other person 685
approved by the superintendent. 686

(F)(1) In determining the premium rates for the construction 687
industry the administrator shall calculate the employers' premiums 688
based upon the actual remuneration construction industry employees 689
receive from construction industry employers, provided that the 690
amount of remuneration the administrator uses in calculating the 691
premiums shall not exceed an average weekly wage equal to one 692
hundred fifty per cent of the statewide average weekly wage as 693
defined in division (C) of section 4123.62 of the Revised Code. 694

(2) Division (F)(1) of this section shall not be construed as 695
affecting the manner in which benefits to a claimant are awarded 696
under this chapter. 697

(3) As used in division (F) of this section, "construction 698
industry" includes any activity performed in connection with the 699
erection, alteration, repair, replacement, renovation, 700
installation, or demolition of any building, structure, highway, 701
or bridge. 702

Sec. 4123.51. The administrator of workers' compensation 703
shall by published notices and other appropriate means endeavor to 704
cause claims to be filed in the service office of the bureau of 705
workers' compensation from which the investigation and 706
determination of the claim may be made most expeditiously. A claim 707
or appeal under this chapter or Chapter 4121., 4127., or 4131. of 708
the Revised Code may be filed with any office of the bureau of 709
workers' compensation or the industrial commission, within the 710
required statutory period, and is considered received for the 711
purpose of processing the claims or appeals. 712

The administrator, on the form an employee or an individual 713
acting on behalf of the employee files with the administrator or a 714
self-insuring employer to initiate a claim under this chapter or 715
Chapter 4121., 4127., or 4131. of the Revised Code, shall include 716
a statement that is substantially similar to the following 717
statement in bold font and set apart from all other text in the 718
form: 719

"By signing this form, I elect to only receive compensation, 720
benefits, or both that are provided for in this claim under Ohio's 721
workers' compensation laws. I understand and I hereby waive and 722
release my right to receive compensation and benefits under the 723
workers' compensation laws of another state for the injury or 724
occupational disease, or the death resulting from an injury or 725
occupational disease, for which I am filing this claim. I have not 726
received compensation and benefits under the workers' compensation 727
laws of another state for this claim, and I will not file and have 728
not filed a claim in another state for the injury or occupational 729
disease or death resulting from an injury or occupational disease 730
for which I am filing this claim." 731

Sec. 4123.54. (A) Every employee, who is injured or who 732
contracts an occupational disease, and the dependents of each 733

employee who is killed, or dies as the result of an occupational 734
disease contracted in the course of employment, wherever such 735
injury has occurred or occupational disease has been contracted, 736
provided the same were not: 737

(1) Purposely self-inflicted; or 738

(2) Caused by the employee being intoxicated or under the 739
influence of a controlled substance not prescribed by a physician 740
where the intoxication or being under the influence of the 741
controlled substance not prescribed by a physician was the 742
proximate cause of the injury, is entitled to receive, either 743
directly from the employee's self-insuring employer as provided in 744
section 4123.35 of the Revised Code, or from the state insurance 745
fund, the compensation for loss sustained on account of the 746
injury, occupational disease, or death, and the medical, nurse, 747
and hospital services and medicines, and the amount of funeral 748
expenses in case of death, as are provided by this chapter. 749

(B) For the purpose of this section, provided that an 750
employer has posted written notice to employees that the results 751
of, or the employee's refusal to submit to, any chemical test 752
described under this division may affect the employee's 753
eligibility for compensation and benefits pursuant to this chapter 754
and Chapter 4121. of the Revised Code, there is a rebuttable 755
presumption that an employee is intoxicated or under the influence 756
of a controlled substance not prescribed by the employee's 757
physician and that being intoxicated or under the influence of a 758
controlled substance not prescribed by the employee's physician is 759
the proximate cause of an injury under either of the following 760
conditions: 761

(1) When any one or more of the following is true: 762

(a) The employee, through a qualifying chemical test 763
administered within eight hours of an injury, is determined to 764

have an alcohol concentration level equal to or in excess of the 765
levels established in divisions (A)(1)(b) to (i) of section 766
4511.19 of the Revised Code; 767

(b) The employee, through a qualifying chemical test 768
administered within thirty-two hours of an injury, is determined 769
to have one of the following controlled substances not prescribed 770
by the employee's physician in the employee's system that tests 771
above the following levels in an enzyme multiplied immunoassay 772
technique screening test and above the levels established in 773
division (B)(1)(c) of this section in a gas chromatography mass 774
spectrometry test: 775

(i) For amphetamines, one thousand nanograms per milliliter 776
of urine; 777

(ii) For cannabinoids, fifty nanograms per milliliter of 778
urine; 779

(iii) For cocaine, including crack cocaine, three hundred 780
nanograms per milliliter of urine; 781

(iv) For opiates, two thousand nanograms per milliliter of 782
urine; 783

(v) For phencyclidine, twenty-five nanograms per milliliter 784
of urine. 785

(c) The employee, through a qualifying chemical test 786
administered within thirty-two hours of an injury, is determined 787
to have one of the following controlled substances not prescribed 788
by the employee's physician in the employee's system that tests 789
above the following levels by a gas chromatography mass 790
spectrometry test: 791

(i) For amphetamines, five hundred nanograms per milliliter 792
of urine; 793

(ii) For cannabinoids, fifteen nanograms per milliliter of 794

urine;	795
(iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine;	796 797
(iv) For opiates, two thousand nanograms per milliliter of urine;	798 799
(v) For phencyclidine, twenty-five nanograms per milliliter of urine.	800 801
(d) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have barbiturates, benzodiazepines, methadone, or propoxyphene in the employee's system that tests above levels established by laboratories certified by the United States department of health and human services.	802 803 804 805 806 807
(2) When the employee refuses to submit to a requested chemical test, on the condition that that employee is or was given notice that the refusal to submit to any chemical test described in division (B)(1) of this section may affect the employee's eligibility for compensation and benefits under this chapter and Chapter 4121. of the Revised Code.	808 809 810 811 812 813
(C)(1) For purposes of division (B) of this section, a chemical test is a qualifying chemical test if it is administered to an employee after an injury under at least one of the following conditions:	814 815 816 817
(a) When the employee's employer had reasonable cause to suspect that the employee may be intoxicated or under the influence of a controlled substance not prescribed by the employee's physician;	818 819 820 821
(b) At the request of a police officer pursuant to section 4511.191 of the Revised Code, and not at the request of the employee's employer;	822 823 824

(c) At the request of a licensed physician who is not 825
employed by the employee's employer, and not at the request of the 826
employee's employer. 827

(2) As used in division (C)(1)(a) of this section, 828
"reasonable cause" means, but is not limited to, evidence that an 829
employee is or was using alcohol or a controlled substance drawn 830
from specific, objective facts and reasonable inferences drawn 831
from these facts in light of experience and training. These facts 832
and inferences may be based on, but are not limited to, any of the 833
following: 834

(a) Observable phenomena, such as direct observation of use, 835
possession, or distribution of alcohol or a controlled substance, 836
or of the physical symptoms of being under the influence of 837
alcohol or a controlled substance, such as but not limited to 838
slurred speech, dilated pupils, odor of alcohol or a controlled 839
substance, changes in affect, or dynamic mood swings; 840

(b) A pattern of abnormal conduct, erratic or aberrant 841
behavior, or deteriorating work performance such as frequent 842
absenteeism, excessive tardiness, or recurrent accidents, that 843
appears to be related to the use of alcohol or a controlled 844
substance, and does not appear to be attributable to other 845
factors; 846

(c) The identification of an employee as the focus of a 847
criminal investigation into unauthorized possession, use, or 848
trafficking of a controlled substance; 849

(d) A report of use of alcohol or a controlled substance 850
provided by a reliable and credible source; 851

(e) Repeated or flagrant violations of the safety or work 852
rules of the employee's employer, that are determined by the 853
employee's supervisor to pose a substantial risk of physical 854
injury or property damage and that appear to be related to the use 855

of alcohol or a controlled substance and that do not appear 856
attributable to other factors. 857

(D) Nothing in this section shall be construed to affect the 858
rights of an employer to test employees for alcohol or controlled 859
substance abuse. 860

(E) For the purpose of this section, laboratories certified 861
by the United States department of health and human services or 862
laboratories that meet or exceed the standards of that department 863
for laboratory certification shall be used for processing the test 864
results of a qualifying chemical test. 865

(F) The written notice required by division (B) of this 866
section shall be the same size or larger then the certificate of 867
premium payment notice furnished by the bureau of workers' 868
compensation and shall be posted by the employer in the same 869
location as the certificate of premium payment notice or the 870
certificate of self-insurance. 871

(G) If a condition that pre-existed an injury is 872
substantially aggravated by the injury, and that substantial 873
aggravation is documented by objective diagnostic findings, 874
objective clinical findings, or objective test results, no 875
compensation or benefits are payable because of the pre-existing 876
condition once that condition has returned to a level that would 877
have existed without the injury. 878

(H)(1) Whenever, with respect to an employee of an employer 879
who is subject to and has complied with this chapter, there is 880
possibility of conflict with respect to the application of 881
workers' compensation laws because the contract of employment is 882
entered into and all or some portion of the work is or is to be 883
performed in a state or states other than Ohio, the employer and 884
the employee may agree to be bound by the laws of this state or by 885
the laws of some other state in which all or some portion of the 886

work of the employee is to be performed. The agreement shall be in 887
writing and shall be filed with the bureau of workers' 888
compensation within ten days after it is executed and shall remain 889
in force until terminated or modified by agreement of the parties 890
similarly filed. If the agreement is to be bound by the laws of 891
this state and the employer has complied with this chapter, then 892
the employee is entitled to compensation and benefits regardless 893
of where the injury occurs or the disease is contracted and the 894
rights of the employee and the employee's dependents under the 895
laws of this state are the exclusive remedy against the employer 896
on account of injury, disease, or death in the course of and 897
arising out of the employee's employment. If the agreement is to 898
be bound by the laws of another state and the employer has 899
complied with the laws of that state, the rights of the employee 900
and the employee's dependents under the laws of that state are the 901
exclusive remedy against the employer on account of injury, 902
disease, or death in the course of and arising out of the 903
employee's employment without regard to the place where the injury 904
was sustained or the disease contracted. If an employer and an 905
employee enter into an agreement under this division, the fact 906
that the employer and the employee entered into that agreement 907
shall not be construed to change the status of an employee whose 908
continued employment is subject to the will of the employer or the 909
employee, unless the agreement contains a provision that expressly 910
changes that status. 911

(2) If any employee or the employee's dependents ~~are awarded~~ 912
pursue workers' compensation benefits or recover damages from the 913
employer under the laws of another state, the amount awarded or 914
recovered, whether paid or to be paid in future installments, 915
shall be credited on the amount of any award of compensation or 916
benefits made to the employee or the employee's dependents by the 917
bureau. If an employee or the employee's dependents pursue or 918
receive an award of compensation or benefits under this chapter or 919

Chapter 4121., 4127., or 4131. of the Revised Code for the same 920
injury, occupational disease, or death for which the employee or 921
the employee's dependents pursued workers' compensation benefits 922
and received a decision on the merits as defined in section 923
4123.542 of the Revised Code under the laws of another state or 924
recovered damages under the laws of another state, the 925
administrator or any employer, by any lawful means, may collect 926
the amount of compensation or benefits paid to or on behalf of the 927
employee or the employee's dependents by the administrator or a 928
self-insuring employer pursuant to this chapter or Chapter 4121., 929
4127., or 4131. of the Revised Code for that award. The 930
administrator or any employer also may collect from the employee 931
or the employee's dependents any costs and attorney's fees the 932
administrator or the employer incurs in collecting that payment 933
and any attorney's fees, penalties, interest, awards, and costs 934
incurred by an employer in contesting or responding to any claim 935
filed by the employee or the employee's dependents for the same 936
injury, occupational disease, or death that was filed after the 937
original claim for which the employee or the employee's dependents 938
received a decision on the merits as described in section 4123.542 939
of the Revised Code. If the employee's employer pays premiums into 940
the state insurance fund, the administrator shall not charge the 941
amount of compensation or benefits the administrator collects 942
pursuant to this division to the employer's experience. If the 943
administrator collects any costs, penalties, interest, awards, or 944
attorney's fees incurred by a state fund employer, the 945
administrator shall forward the amount of such costs, penalties, 946
interest, awards, and attorney's fees the administrator collects 947
to that employer. If the employee's employer is a self-insuring 948
employer, the self-insuring employer shall deduct the amount of 949
compensation or benefits the self-insuring employer collects 950
pursuant to this division from the paid compensation the 951
self-insuring employer reports to the administrator under division 952

(L) of section 4123.35 of the Revised Code. 953

954

If (3) Except as otherwise stipulated in division (H)(4) of 955
this section, if an employee is a resident of a state other than 956
this state and is insured under the workers' compensation law or 957
similar laws of a state other than this state, the employee and 958
the employee's dependents are not entitled to receive compensation 959
or benefits under this chapter, on account of injury, disease, or 960
death arising out of or in the course of employment while 961
temporarily within this state, and the rights of the employee and 962
the employee's dependents under the laws of the other state are 963
the exclusive remedy against the employer on account of the 964
injury, disease, or death. 965

(4) Division (H)(3) of this section does not apply to an 966
employee described in that division, or the employee's dependents, 967
unless both of the following apply: 968

(a) The laws of the other state limit the ability of an 969
employee who is a resident of this state and is covered by this 970
chapter and Chapter 4123. of the Revised Code, or the employee's 971
dependents, to receive compensation or benefits under the other 972
state's workers' compensation law on account of injury, disease, 973
or death incurred by the employee that arises out of or in the 974
course of the employee's employment while temporarily within that 975
state in the same manner as specified in division (H)(3) of this 976
section for an employee who is a resident of a state other than 977
this state, or the employee's dependents; 978

(b) The laws of the other state limit the liability of the 979
employer of the employee who is a resident of this state and who 980
is described in division (H)(4)(a) of this section for that 981
injury, disease, or death, in the same manner specified in 982
division (H)(3) of this section for the employer of an employee 983
who is a resident of the other state. 984

(5) An employee, or the dependent of an employee, who elects to receive compensation and benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for a claim may not receive compensation and benefits under the workers' compensation laws of any state other than this state for that same claim. For each claim submitted by or on behalf of an employee, the administrator or, if the employee is employed by a self-insuring employer, the self-insuring employer shall request the employee or the employee's dependent to sign an election that affirms the employee's or employee's dependent's acceptance of electing to receive compensation and benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for that claim that also affirmatively waives and releases the employee's or the employee's dependent's right to file for and receive compensation and benefits under the laws of any state other than this state for that claim. The employee or employee's dependent shall sign the election form within twenty-eight days after the administrator or self-insuring employer submits the request or the administrator or self-insuring employer shall suspend that claim until the administrator or self-insuring employer receives the signed election form.

(I) Compensation or benefits are not payable to a claimant during the period of confinement of the claimant 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.

Sec. 4123.542. An employee or the dependents of an employee who receive a decision on the merits of a claim for compensation or benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code shall not file a claim for the same injury, occupational disease, or death in another state under the workers'

compensation laws of that state. An employee or the employee's 1017
dependents who receive a decision on the merits of a claim for 1018
compensation or benefits under the workers' compensation laws of 1019
another state shall not file a claim for compensation and benefits 1020
under this chapter or Chapter 4121., 4127., or 4131. of the 1021
Revised Code for the same injury, occupational disease, or death. 1022

As used in this section, "a decision on the merits" means a 1024
decision determined or adjudicated for compensability of a claim 1025
and not on jurisdictional grounds. 1026

Sec. 4123.82. (A) All contracts and agreements are void which 1027
undertake to indemnify or insure an employer against loss or 1028
liability for the payment of compensation to workers or their 1029
dependents for death, injury, or occupational disease occasioned 1030
in the course of the workers' employment, or which provide that 1031
the insurer shall pay the compensation, or which indemnify the 1032
employer against damages when the injury, disease, or death arises 1033
from the failure to comply with any lawful requirement for the 1034
protection of the lives, health, and safety of employees, or when 1035
the same is occasioned by the willful act of the employer or any 1036
of the employer's officers or agents, or by which it is agreed 1037
that the insurer shall pay any such damages. No license or 1038
authority to enter into any such agreements or issue any such 1039
policies of insurance shall be granted or issued by any public 1040
authority in this state. Any corporation organized or admitted 1041
under the laws of this state to transact liability insurance as 1042
defined in section 3929.01 of the Revised Code may by amendment of 1043
its articles of incorporation or by original articles of 1044
incorporation, provide therein for the authority and purpose to 1045
make insurance in states, territories, districts, and counties, 1046
other than the state of Ohio, and in the state of Ohio in respect 1047

of contracts permitted by division (B) of this section, 1048
indemnifying employers against loss or liability for payment of 1049
compensation to workers and employees and their dependents for 1050
death, injury, or occupational disease occasioned in the course of 1051
the employment and to insure and indemnify employers against loss, 1052
expense, and liability by risk of bodily injury or death by 1053
accident, disability, sickness, or disease suffered by workers and 1054
employees for which the employer may be liable or has assumed 1055
liability. 1056

(B) Notwithstanding division (A) of this section: 1057

(1) No contract because of that division is void which 1058
undertakes to indemnify a self-insuring employer against all or 1059
part of such employer's loss in excess of at least fifty thousand 1060
dollars from any one disaster or event arising out of the 1061
employer's liability under this chapter, but no insurance 1062
corporation shall, directly or indirectly, represent an employer 1063
in the settlement, adjudication, determination, allowance, or 1064
payment of claims. The superintendent of insurance shall enforce 1065
this prohibition by such disciplinary orders directed against the 1066
offending insurance corporation as the superintendent of insurance 1067
deems appropriate in the circumstances and the administrator of 1068
workers' compensation shall enforce this prohibition by such 1069
disciplinary orders directed against the offending employer as the 1070
administrator deems appropriate in the circumstances, which orders 1071
may include revocation of the insurance corporation's right to 1072
enter into indemnity contracts and revocation of the employer's 1073
status as a self-insuring employer. 1074

(2) The administrator may enter into a contract of indemnity 1075
with any such employer upon such terms, payment of such premium, 1076
and for such amount and form of indemnity as the administrator 1077
determines and the bureau of workers' compensation board of 1078
directors may procure reinsurance of the liability of the public 1079

and private funds under this chapter, or any part of the liability 1080
in respect of either or both of the funds, upon such terms and 1081
premiums or other payments from the fund or funds as the 1082
administrator deems prudent in the maintenance of a solvent fund 1083
or funds from year to year. When making the finding of fact which 1084
the administrator is required by section 4123.35 of the Revised 1085
Code to make with respect to the financial ability of an employer, 1086
no contract of indemnity, or the ability of the employer to 1087
procure such a contract, shall be considered as increasing the 1088
financial ability of the employer. 1089

(C) Nothing in this section shall be construed to prohibit 1090
the administrator or an other-states' insurer from providing to 1091
employers in this state other-states' coverage in accordance with 1092
section 4123.292 of the Revised Code. 1093

Sec. 4123.88. (A) No person shall orally or in writing, 1094
directly or indirectly, or through any agent or other person 1095
fraudulently hold the person's self out or represent the person's 1096
self or any of the person's partners or associates as authorized 1097
by a claimant or employer to take charge of, or represent the 1098
claimant or employer in respect of, any claim or matter in 1099
connection therewith before the bureau of workers' compensation or 1100
the industrial commission or its district or staff hearing 1101
officers. No person shall directly or indirectly solicit 1102
authority, or pay or give anything of value to another person to 1103
solicit authority, or accept or receive pay or anything of value 1104
from another person for soliciting authority, from a claimant or 1105
employer to take charge of, or represent the claimant or employer 1106
in respect of, any claim or appeal which is or may be filed with 1107
the bureau or commission. No person shall, without prior authority 1108
from the bureau, a member of the commission, the claimant, or the 1109
employer, examine or directly or indirectly cause or employ 1110
another person to examine any claim file or any other file 1111

pertaining thereto. No person shall forge an authorization for the 1112
purpose of examining or cause another person to examine any such 1113
file. No district or staff hearing officer or other employee of 1114
the bureau or commission, notwithstanding the provisions of 1115
section 4123.27 of the Revised Code, shall divulge any information 1116
in respect of any claim or appeal which is or may be filed with a 1117
district or staff hearing officer, the bureau, or commission to 1118
any person other than members of the commission or to the superior 1119
of the employee except upon authorization of the administrator of 1120
workers' compensation or a member of the commission or upon 1121
authorization of the claimant or employer. 1122

(B) The records described or referred to in division (A) of 1123
this section are not public records as defined in division (A)(1) 1124
of section 149.43 of the Revised Code. Any information directly or 1125
indirectly identifying the address or telephone number of a 1126
claimant, regardless of whether the claimant's claim is active or 1127
closed, is not a public record. No person shall solicit or obtain 1128
any such information from any such employee without first having 1129
obtained an authorization therefor as provided in this section. 1130

(C) Except as otherwise specified in division (D) of this 1131
section, information kept by the commission or the bureau pursuant 1132
to this section is for the exclusive use and information of the 1133
commission and the bureau in the discharge of their official 1134
duties, and shall not be open to the public nor be used in any 1135
court in any action or proceeding pending therein, unless the 1136
commission or the bureau is a party to the action or proceeding. 1137
The information, however, may be tabulated and published by the 1138
commission or the bureau in statistical form for the use and 1139
information of other state agencies and the public. 1140

(D)(1) Upon receiving a written request made and signed by an 1141
individual whose primary occupation is as a journalist, the 1142
commission or the bureau shall disclose to the ~~journalist~~ 1143

individual the address or addresses and telephone number or 1144
numbers of claimants, regardless of whether their claims are 1145
active or closed, and the dependents of those claimants. 1146

(2) ~~A journalist~~ An individual described in division (D)(1) 1147
of this section is permitted to request the information described 1148
in that division ~~(D)(1) of this section~~ for multiple workers or 1149
dependents in one written request. 1150

(3) ~~A journalist~~ An individual described in division (D)(1) 1151
of this section shall include all of the following in the written 1152
request: 1153

(a) The ~~journalist's~~ individual's name, title, and signature; 1154

(b) The name and title of the ~~journalist's~~ individual's 1155
employer; 1156

(c) A statement that the disclosure of the information sought 1157
is in the public interest. 1158

(4) Neither the commission nor the bureau may inquire as to 1159
the specific public interest served by the disclosure of 1160
information requested by ~~a journalist~~ an individual under division 1161
(D) of this section. 1162

(E) As used in this section, "journalist" has the same 1163
meaning as in division (B)(9) of section 149.43 of the Revised 1164
Code. 1165

Section 2. That existing sections 4123.01, 4123.26, 4123.29, 1166
4123.34, 4123.51, 4123.54, 4123.82, and 4123.88 of the Revised 1167
Code are hereby repealed. 1168

Section 3. This act applies to all claims pursuant to 1169
Chapters 4121., 4123., 4127., and 4131. of the Revised Code 1170
arising on and after the effective date of this act. 1171

Section 4. In the case of any institution of higher education 1172
that has sustained claims arising from deaths and injuries of a 1173
catastrophic nature arising from a motor vehicle accident 1174
occurring outside of this state, the Administrator of Workers' 1175
Compensation shall suspend the imposition of any premium increase 1176
or any change in the experience of such an institution of higher 1177
education until after the conclusion of any subrogation claims 1178
that are brought by the Administrator in relation to those deaths 1179
and injuries. 1180

Section 5. Notwithstanding division (A) of section 4121.78 of 1181
the Revised Code, any legislation proposing to make changes to 1182
Chapters 4121., 4123., 4125., 4127., and 4131. of the Revised Code 1183
that is enacted by the General Assembly on or before June 30, 1184
2008, shall not be subject to the requirement of the Workers' 1185
Compensation Council to study all changes to those chapters and to 1186
report to the General Assembly on their probable costs, actuarial 1187
implications, and desirability as a matter of public policy. 1188