

**As Introduced**

**128th General Assembly  
Regular Session  
2009-2010**

**H. B. No. 246**

**Representatives Yuko, Stewart**

**Cosponsors: Representatives Garland, Mallory, Pillich, Hagan, Murray,  
Foley, Patten, Luckie, Lundy, Winburn, Boyd, Chandler, Slesnick, Letson,  
Snitchler, Oelslager**

—

**A B I L L**

To amend sections 742.38, 4123.57, and 4123.68 of the  
Revised Code to provide that a firefighter, police  
officer, or public emergency medical services  
worker who is disabled as a result of specified  
types of cancer or certain contagious or  
infectious diseases is presumed for purposes of  
the laws governing workers' compensation and the  
Ohio Police and Fire Pension Fund to have incurred  
the disease while performing official duties as a  
firefighter, police officer, or public emergency  
medical services worker.

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

**Section 1.** That sections 742.38, 4123.57, and 4123.68 of the  
Revised Code be amended to read as follows:

**Sec. 742.38.** (A)(1) The board of trustees of the Ohio police  
and fire pension fund shall adopt rules establishing minimum  
medical testing and diagnostic standards or procedures to be  
incorporated into physical examinations administered by physicians

to prospective members of the fund. The standards or procedures 18  
shall include diagnosis and evaluation of the existence of any 19  
heart disease, cardiovascular disease, or respiratory disease. The 20  
rules shall specify the form of the physician's report and the 21  
information to be included in it. 22

The board shall notify all employers of the establishment of 23  
the minimum standards or procedures and shall include with the 24  
notice a copy of the standards or procedures. The board shall 25  
notify all employers of any changes made to the standards or 26  
procedures. Once the standards or procedures take effect, 27  
employers shall cause each prospective member of the fund to 28  
submit to a physical examination that incorporates the standards 29  
or procedures. 30

(2) Division (A)(2) of this section applies to an employee 31  
who becomes a member of the fund on or after the date the minimum 32  
standards or procedures described in division (A)(1) of this 33  
section take effect. For each employee described in division 34  
(A)(2) of this section, the employer shall forward to the board a 35  
copy of the physician's report of a physical examination that 36  
incorporates the standards or procedures described in division 37  
(A)(1) of this section. If an employer fails to forward the report 38  
in the form required by the board on or before the date that is 39  
sixty days after the employee becomes a member of the fund, the 40  
board shall assess against the employer a penalty determined under 41  
section 742.353 of the Revised Code. 42

(B) Application for a disability benefit may be made by a 43  
member of the fund or, if the member is incapacitated as defined 44  
in rules adopted by the board, by a person acting on the member's 45  
behalf. Not later than fourteen days after receiving an 46  
application for a disability benefit from a member or a person 47  
acting on behalf of a member, the board shall notify the member's 48  
employer that an application has been filed. The notice shall 49

state the member's position or rank. Not later than twenty-eight 50  
days after receiving the notice or filing an application on behalf 51  
of a member, the employer shall forward to the board a statement 52  
certifying the member's job description and any other information 53  
required by the board to process the application. 54

If the member applying for a disability benefit becomes a 55  
member of the fund prior to the date the minimum standards or 56  
procedures described in division (A)(1) of this section take 57  
effect, the board may request from the member's employer a copy of 58  
the physician's report of the member's physical examination taken 59  
on entry into the police or fire department or, if the employer 60  
does not have a copy of the report, a written statement certifying 61  
that the employer does not have a copy of the report. If an 62  
employer fails to forward the report or statement in the form 63  
required by the board on or before the date that is twenty-eight 64  
days after the date of the request, the board shall assess against 65  
the employer a penalty determined under section 742.353 of the 66  
Revised Code. The board shall maintain the information submitted 67  
under this division and division (A)(2) of this section in the 68  
member's file. 69

(C) For purposes of determining under division (D) of this 70  
section whether a member of the fund is disabled, the board shall 71  
adopt rules establishing objective criteria under which the board 72  
shall make the determination. The rules shall include standards 73  
that provide for all of the following: 74

(1) Evaluating a member's illness or injury on which an 75  
application for disability benefits is based; 76

(2) Defining the occupational duties of a police officer or 77  
firefighter; 78

(3) Providing for the board to assign competent and 79  
disinterested physicians and vocational evaluators to conduct 80

examinations of a member; 81

(4) Requiring a written report for each disability 82  
application that includes a summary of findings, medical opinions, 83  
including an opinion on whether the illness or injury upon which 84  
the member's application for disability benefits is based was 85  
caused or induced by the actual performance of the member's 86  
official duties, and any recommendations or comments based on the 87  
medical opinions; 88

(5) Providing for the board to consider the member's 89  
potential for retraining or reemployment. 90

(D) This division does not apply to members of the fund who 91  
have elected to receive benefits and pensions in accordance with 92  
division (A) or (B) of section 742.37 of the Revised Code or from 93  
a police relief and pension fund or a firemen's relief and pension 94  
fund in accordance with the rules of that fund in force on April 95  
1, 1947. 96

(1) As used in division (D)(1) of this section: 97

(a) "Totally disabled" means a member of the fund is unable 98  
to perform the duties of any gainful occupation for which the 99  
member is reasonably fitted by training, experience, and 100  
accomplishments. Absolute helplessness is not a prerequisite of 101  
being totally disabled. 102

(b) "Permanently disabled" means a condition of disability 103  
from which there is no present indication of recovery. 104

A member of the fund who is permanently and totally disabled 105  
as the result of the performance of the member's official duties 106  
as a member of a police or fire department shall be paid annual 107  
disability benefits in accordance with division (A) of section 108  
742.39 of the Revised Code. In determining whether a member of the 109  
fund is permanently and totally disabled, the board shall consider 110  
standards adopted under division (C) of this section applicable to 111

the determination. 112

(2) A member of the fund who is partially disabled as the 113  
result of the performance of the member's official duties as a 114  
member of a police or fire department shall, if the disability 115  
prevents the member from performing those duties and impairs the 116  
member's earning capacity, receive annual disability benefits in 117  
accordance with division (B) of section 742.39 of the Revised 118  
Code. In determining whether a member of the fund is partially 119  
disabled, the board shall consider standards adopted under 120  
division (C) of this section applicable to the determination. 121

(3)(a) A member of the fund who is disabled as a result of 122  
heart disease or any cardiovascular or respiratory disease of a 123  
chronic nature, which disease or any evidence of which disease was 124  
not revealed by the physical examination passed by the member on 125  
entry into the department, is presumed to have incurred the 126  
disease while performing the member's official duties, unless the 127  
contrary is shown by competent evidence. 128

(b) A member of the fund who is a member of a police 129  
department or who is a member of a fire department who has been 130  
assigned to at least three years of hazard duty as a member of a 131  
fire department, and is disabled as a result of any of the 132  
following types of cancer or disease, is presumed to have incurred 133  
the cancer or disease while performing the member's official 134  
duties: 135

(i) Cancer of the lung, brain, kidney, bladder, rectum, 136  
stomach, skin, or prostate; 137

(ii) Non-Hodgkins lymphoma; 138

(iii) Leukemia; 139

(iv) Multiple myeloma; 140

(v) Testicular or colorectal cancer; 141

(vi) A contagious or infectious disease specified in rules 142  
adopted pursuant to division (F) of section 3701.248 of the 143  
Revised Code. 144

The presumption described in division (D)(3)(b) of this 145  
section does not apply if competent evidence to the contrary of 146  
the presumption is shown or if the cancer or disease that resulted 147  
in a member's disability, or any evidence of that cancer or 148  
disease, was revealed by the physical examination passed by the 149  
member on entry into the department. 150

(4) A member of the fund who has completed five or more years 151  
of active service in a police or fire department and has incurred 152  
a disability not caused or induced by the actual performance of 153  
the member's official duties as a member of the department, or by 154  
the member's own negligence, shall if the disability prevents the 155  
member from performing those duties and impairs the member's 156  
earning capacity, receive annual disability benefits in accordance 157  
with division (C) of section 742.39 of the Revised Code. In 158  
determining whether a member of the fund is disabled, the board 159  
shall consider standards adopted under division (C) of this 160  
section applicable to the determination. 161

(5) The board shall notify a member of its final action 162  
awarding a disability benefit to the member within thirty days of 163  
the final action. The notice shall be sent by certified mail, 164  
return receipt requested. Not later than ninety days after receipt 165  
of notice from the board, the member shall elect, on a form 166  
provided by the board, either to accept or waive the disability 167  
benefit award. If the member elects to waive the disability 168  
benefit award or fails to make an election within the time period, 169  
the award is rescinded. A member who later seeks a disability 170  
benefit award shall be required to make a new application, which 171  
shall be dealt with in accordance with the procedures used for 172  
original disability benefit applications. 173

A person is not eligible to apply for or receive disability 174  
benefits under this division, section 742.39 of the Revised Code, 175  
or division (C)(2), (3), (4), or (5) of former section 742.37 of 176  
the Revised Code unless the person is a member of the fund on the 177  
date on which the application for disability benefits is submitted 178  
to the fund. 179

With the exception of persons who may make application for 180  
increased benefits as provided in division (D)(2) or (4) of this 181  
section or division (C)(3) or (5) of former section 742.37 of the 182  
Revised Code on or after July 24, 1986, or persons who may make 183  
application for benefits as provided in section 742.26 of the 184  
Revised Code, no person receiving a pension or benefit under this 185  
section or division (C) of former section 742.37 of the Revised 186  
Code may apply for any new, changed, or different benefit. 187

**Sec. 4123.57.** Partial disability compensation shall be paid 188  
as follows. 189

Except as provided in this section, not earlier than 190  
twenty-six weeks after the date of termination of the latest 191  
period of payments under section 4123.56 of the Revised Code, or 192  
not earlier than twenty-six weeks after the date of the injury or 193  
contraction of an occupational disease in the absence of payments 194  
under section 4123.56 of the Revised Code, the employee may file 195  
an application with the bureau of workers' compensation for the 196  
determination of the percentage of the employee's permanent 197  
partial disability resulting from an injury or occupational 198  
disease. 199

Whenever the application is filed, the bureau shall send a 200  
copy of the application to the employee's employer or the 201  
employer's representative and shall schedule the employee for a 202  
medical examination by the bureau medical section. The bureau 203  
shall send a copy of the report of the medical examination to the 204

employee, the employer, and their representatives. Thereafter, the 205  
administrator of workers' compensation shall review the employee's 206  
claim file and make a tentative order as the evidence before the 207  
administrator at the time of the making of the order warrants. If 208  
the administrator determines that there is a conflict of evidence, 209  
the administrator shall send the application, along with the 210  
claimant's file, to the district hearing officer who shall set the 211  
application for a hearing. 212

The administrator shall notify the employee, the employer, 213  
and their representatives, in writing, of the tentative order and 214  
of the parties' right to request a hearing. Unless the employee, 215  
the employer, or their representative notifies the administrator, 216  
in writing, of an objection to the tentative order within twenty 217  
days after receipt of the notice thereof, the tentative order 218  
shall go into effect and the employee shall receive the 219  
compensation provided in the order. In no event shall there be a 220  
reconsideration of a tentative order issued under this division. 221

If the employee, the employer, or their representatives 222  
timely notify the administrator of an objection to the tentative 223  
order, the matter shall be referred to a district hearing officer 224  
who shall set the application for hearing with written notices to 225  
all interested persons. Upon referral to a district hearing 226  
officer, the employer may obtain a medical examination of the 227  
employee, pursuant to rules of the industrial commission. 228

(A) The district hearing officer, upon the application, shall 229  
determine the percentage of the employee's permanent disability, 230  
except as is subject to division (B) of this section, based upon 231  
that condition of the employee resulting from the injury or 232  
occupational disease and causing permanent impairment evidenced by 233  
medical or clinical findings reasonably demonstrable. The employee 234  
shall receive sixty-six and two-thirds per cent of the employee's 235  
average weekly wage, but not more than a maximum of thirty-three 236



and one-third per cent of the statewide average weekly wage as 237  
defined in division (C) of section 4123.62 of the Revised Code, 238  
per week regardless of the average weekly wage, for the number of 239  
weeks which equals the percentage of two hundred weeks. Except on 240  
application for reconsideration, review, or modification, which is 241  
filed within ten days after the date of receipt of the decision of 242  
the district hearing officer, in no instance shall the former 243  
award be modified unless it is found from medical or clinical 244  
findings that the condition of the claimant resulting from the 245  
injury has so progressed as to have increased the percentage of 246  
permanent partial disability. A staff hearing officer shall hear 247  
an application for reconsideration filed and the staff hearing 248  
officer's decision is final. An employee may file an application 249  
for a subsequent determination of the percentage of the employee's 250  
permanent disability. If such an application is filed, the bureau 251  
shall send a copy of the application to the employer or the 252  
employer's representative. No sooner than sixty days from the date 253  
of the mailing of the application to the employer or the 254  
employer's representative, the administrator shall review the 255  
application. The administrator may require a medical examination 256  
or medical review of the employee. The administrator shall issue a 257  
tentative order based upon the evidence before the administrator, 258  
provided that if the administrator requires a medical examination 259  
or medical review, the administrator shall not issue the tentative 260  
order until the completion of the examination or review. 261

The employer may obtain a medical examination of the employee 262  
and may submit medical evidence at any stage of the process up to 263  
a hearing before the district hearing officer, pursuant to rules 264  
of the commission. The administrator shall notify the employee, 265  
the employer, and their representatives, in writing, of the nature 266  
and amount of any tentative order issued on an application 267  
requesting a subsequent determination of the percentage of an 268  
employee's permanent disability. An employee, employer, or their 269

representatives may object to the tentative order within twenty 270  
days after the receipt of the notice thereof. If no timely 271  
objection is made, the tentative order shall go into effect. In no 272  
event shall there be a reconsideration of a tentative order issued 273  
under this division. If an objection is timely made, the 274  
application for a subsequent determination shall be referred to a 275  
district hearing officer who shall set the application for a 276  
hearing with written notice to all interested persons. No 277  
application for subsequent percentage determinations on the same 278  
claim for injury or occupational disease shall be accepted for 279  
review by the district hearing officer unless supported by 280  
substantial evidence of new and changed circumstances developing 281  
since the time of the hearing on the original or last 282  
determination. 283

No award shall be made under this division based upon a 284  
percentage of disability which, when taken with all other 285  
percentages of permanent disability, exceeds one hundred per cent. 286  
If the percentage of the permanent disability of the employee 287  
equals or exceeds ninety per cent, compensation for permanent 288  
partial disability shall be paid for two hundred weeks. 289

Compensation payable under this division accrues and is 290  
payable to the employee from the date of last payment of 291  
compensation, or, in cases where no previous compensation has been 292  
paid, from the date of the injury or the date of the diagnosis of 293  
the occupational disease. 294

When an award under this division has been made prior to the 295  
death of an employee, all unpaid installments accrued or to accrue 296  
under the provisions of the award are payable to the surviving 297  
spouse, or if there is no surviving spouse, to the dependent 298  
children of the employee, and if there are no children surviving, 299  
then to other dependents as the administrator determines. 300

(B) In cases included in the following schedule the 301

compensation payable per week to the employee is the statewide 302  
average weekly wage as defined in division (C) of section 4123.62 303  
of the Revised Code per week and shall continue during the periods 304  
provided in the following schedule: 305

For the loss of a first finger, commonly known as a thumb, 306  
sixty weeks. 307

For the loss of a second finger, commonly called index 308  
finger, thirty-five weeks. 309

For the loss of a third finger, thirty weeks. 310

For the loss of a fourth finger, twenty weeks. 311

For the loss of a fifth finger, commonly known as the little 312  
finger, fifteen weeks. 313

The loss of a second, or distal, phalange of the thumb is 314  
considered equal to the loss of one half of such thumb; the loss 315  
of more than one half of such thumb is considered equal to the 316  
loss of the whole thumb. 317

The loss of the third, or distal, phalange of any finger is 318  
considered equal to the loss of one-third of the finger. 319

The loss of the middle, or second, phalange of any finger is 320  
considered equal to the loss of two-thirds of the finger. 321

The loss of more than the middle and distal phalanges of any 322  
finger is considered equal to the loss of the whole finger. In no 323  
case shall the amount received for more than one finger exceed the 324  
amount provided in this schedule for the loss of a hand. 325

For the loss of the metacarpal bone (bones of the palm) for 326  
the corresponding thumb, or fingers, add ten weeks to the number 327  
of weeks under this division. 328

For ankylosis (total stiffness of) or contractures (due to 329  
scars or injuries) which makes any of the fingers, thumbs, or 330  
parts of either useless, the same number of weeks apply to the 331

members or parts thereof as given for the loss thereof. 332

If the claimant has suffered the loss of two or more fingers 333  
by amputation or ankylosis and the nature of the claimant's 334  
employment in the course of which the claimant was working at the 335  
time of the injury or occupational disease is such that the 336  
handicap or disability resulting from the loss of fingers, or loss 337  
of use of fingers, exceeds the normal handicap or disability 338  
resulting from the loss of fingers, or loss of use of fingers, the 339  
administrator may take that fact into consideration and increase 340  
the award of compensation accordingly, but the award made shall 341  
not exceed the amount of compensation for loss of a hand. 342

For the loss of a hand, one hundred seventy-five weeks. 343

For the loss of an arm, two hundred twenty-five weeks. 344

For the loss of a great toe, thirty weeks. 345

For the loss of one of the toes other than the great toe, ten 346  
weeks. 347

The loss of more than two-thirds of any toe is considered 348  
equal to the loss of the whole toe. 349

The loss of less than two-thirds of any toe is considered no 350  
loss, except as to the great toe; the loss of the great toe up to 351  
the interphalangeal joint is co-equal to the loss of one-half of 352  
the great toe; the loss of the great toe beyond the 353  
interphalangeal joint is considered equal to the loss of the whole 354  
great toe. 355

For the loss of a foot, one hundred fifty weeks. 356

For the loss of a leg, two hundred weeks. 357

For the loss of the sight of an eye, one hundred twenty-five 358  
weeks. 359

For the permanent partial loss of sight of an eye, the 360  
portion of one hundred twenty-five weeks as the administrator in 361

each case determines, based upon the percentage of vision actually 362  
lost as a result of the injury or occupational disease, but, in no 363  
case shall an award of compensation be made for less than 364  
twenty-five per cent loss of uncorrected vision. "Loss of 365  
uncorrected vision" means the percentage of vision actually lost 366  
as the result of the injury or occupational disease. 367

For the permanent and total loss of hearing of one ear, 368  
twenty-five weeks; but in no case shall an award of compensation 369  
be made for less than permanent and total loss of hearing of one 370  
ear. 371

For the permanent and total loss of hearing, one hundred 372  
twenty-five weeks; but, except pursuant to the next preceding 373  
paragraph, in no case shall an award of compensation be made for 374  
less than permanent and total loss of hearing. 375

In case an injury or occupational disease results in serious 376  
facial or head disfigurement which either impairs or may in the 377  
future impair the opportunities to secure or retain employment, 378  
the administrator shall make an award of compensation as it deems 379  
proper and equitable, in view of the nature of the disfigurement, 380  
and not to exceed the sum of ten thousand dollars. For the purpose 381  
of making the award, it is not material whether the employee is 382  
gainfully employed in any occupation or trade at the time of the 383  
administrator's determination. 384

When an award under this division has been made prior to the 385  
death of an employee all unpaid installments accrued or to accrue 386  
under the provisions of the award shall be payable to the 387  
surviving spouse, or if there is no surviving spouse, to the 388  
dependent children of the employee and if there are no such 389  
children, then to such dependents as the administrator determines. 390

When an employee has sustained the loss of a member by 391  
severance, but no award has been made on account thereof prior to 392

the employee's death, the administrator shall make an award in 393  
accordance with this division for the loss which shall be payable 394  
to the surviving spouse, or if there is no surviving spouse, to 395  
the dependent children of the employee and if there are no such 396  
children, then to such dependents as the administrator determines. 397

(C) Compensation for partial impairment under divisions (A) 398  
and (B) of this section is in addition to the compensation paid 399  
the employee pursuant to section 4123.56 of the Revised Code. A 400  
claimant may receive compensation under divisions (A) and (B) of 401  
this section. 402

In all cases arising under division (B) of this section, if 403  
it is determined by any one of the following: (1) the amputee 404  
clinic at University hospital, Ohio state university; (2) the 405  
rehabilitation services commission; (3) an amputee clinic or 406  
prescribing physician approved by the administrator or the 407  
administrator's designee, that an injured or disabled employee is 408  
in need of an artificial appliance, or in need of a repair 409  
thereof, regardless of whether the appliance or its repair will be 410  
serviceable in the vocational rehabilitation of the injured 411  
employee, and regardless of whether the employee has returned to 412  
or can ever again return to any gainful employment, the bureau 413  
shall pay the cost of the artificial appliance or its repair out 414  
of the surplus created by division (B) of section 4123.34 of the 415  
Revised Code. 416

In those cases where a rehabilitation services commission 417  
recommendation that an injured or disabled employee is in need of 418  
an artificial appliance would conflict with their state plan, 419  
adopted pursuant to the "Rehabilitation Act of 1973," 87 Stat. 420  
355, 29 U.S.C.A. 701, the administrator or the administrator's 421  
designee or the bureau may obtain a recommendation from an amputee 422  
clinic or prescribing physician that they determine appropriate. 423

(D) If an employee of a state fund employer makes application 424

for a finding and the administrator finds that the employee has 425  
contracted silicosis as defined in division ~~(X)~~(Y), or coal 426  
miners' pneumoconiosis as defined in division ~~(Y)~~(Z), or 427  
asbestosis as defined in division ~~(AA)~~(BB) of section 4123.68 of 428  
the Revised Code, and that a change of such employee's occupation 429  
is medically advisable in order to decrease substantially further 430  
exposure to silica dust, asbestos, or coal dust and if the 431  
employee, after the finding, has changed or shall change the 432  
employee's occupation to an occupation in which the exposure to 433  
silica dust, asbestos, or coal dust is substantially decreased, 434  
the administrator shall allow to the employee an amount equal to 435  
fifty per cent of the statewide average weekly wage per week for a 436  
period of thirty weeks, commencing as of the date of the 437  
discontinuance or change, and for a period of one hundred weeks 438  
immediately following the expiration of the period of thirty 439  
weeks, the employee shall receive sixty-six and two-thirds per 440  
cent of the loss of wages resulting directly and solely from the 441  
change of occupation but not to exceed a maximum of an amount 442  
equal to fifty per cent of the statewide average weekly wage per 443  
week. No such employee is entitled to receive more than one 444  
allowance on account of discontinuance of employment or change of 445  
occupation and benefits shall cease for any period during which 446  
the employee is employed in an occupation in which the exposure to 447  
silica dust, asbestos, or coal dust is not substantially less than 448  
the exposure in the occupation in which the employee was formerly 449  
employed or for any period during which the employee may be 450  
entitled to receive compensation or benefits under section 4123.68 451  
of the Revised Code on account of disability from silicosis, 452  
asbestosis, or coal miners' pneumoconiosis. An award for change of 453  
occupation for a coal miner who has contracted coal miners' 454  
pneumoconiosis may be granted under this division even though the 455  
coal miner continues employment with the same employer, so long as 456  
the coal miner's employment subsequent to the change is such that 457

the coal miner's exposure to coal dust is substantially decreased 458  
and a change of occupation is certified by the claimant as 459  
permanent. The administrator may accord to the employee medical 460  
and other benefits in accordance with section 4123.66 of the 461  
Revised Code. 462

(E) If a firefighter or police officer makes application for 463  
a finding and the administrator finds that the firefighter or 464  
police officer has contracted a cardiovascular and pulmonary 465  
disease as defined in division (W) of section 4123.68 of the 466  
Revised Code, and that a change of the firefighter's or police 467  
officer's occupation is medically advisable in order to decrease 468  
substantially further exposure to smoke, toxic gases, chemical 469  
fumes, and other toxic vapors, and if the firefighter, or police 470  
officer, after the finding, has changed or changes occupation to 471  
an occupation in which the exposure to smoke, toxic gases, 472  
chemical fumes, and other toxic vapors is substantially decreased, 473  
the administrator shall allow to the firefighter or police officer 474  
an amount equal to fifty per cent of the statewide average weekly 475  
wage per week for a period of thirty weeks, commencing as of the 476  
date of the discontinuance or change, and for a period of 477  
seventy-five weeks immediately following the expiration of the 478  
period of thirty weeks the administrator shall allow the 479  
firefighter or police officer sixty-six and two-thirds per cent of 480  
the loss of wages resulting directly and solely from the change of 481  
occupation but not to exceed a maximum of an amount equal to fifty 482  
per cent of the statewide average weekly wage per week. No such 483  
firefighter or police officer is entitled to receive more than one 484  
allowance on account of discontinuance of employment or change of 485  
occupation and benefits shall cease for any period during which 486  
the firefighter or police officer is employed in an occupation in 487  
which the exposure to smoke, toxic gases, chemical fumes, and 488  
other toxic vapors is not substantially less than the exposure in 489  
the occupation in which the firefighter or police officer was 490



formerly employed or for any period during which the firefighter 491  
or police officer may be entitled to receive compensation or 492  
benefits under section 4123.68 of the Revised Code on account of 493  
disability from a cardiovascular and pulmonary disease. The 494  
administrator may accord to the firefighter or police officer 495  
medical and other benefits in accordance with section 4123.66 of 496  
the Revised Code. 497

(F) An order issued under this section is appealable pursuant 498  
to section 4123.511 of the Revised Code but is not appealable to 499  
court under section 4123.512 of the Revised Code. 500

**Sec. 4123.68.** Every employee who is disabled because of the 501  
contraction of an occupational disease or the dependent of an 502  
employee whose death is caused by an occupational disease, is 503  
entitled to the compensation provided by sections 4123.55 to 504  
4123.59 and 4123.66 of the Revised Code subject to the 505  
modifications relating to occupational diseases contained in this 506  
chapter. An order of the administrator issued under this section 507  
is appealable pursuant to sections 4123.511 and 4123.512 of the 508  
Revised Code. 509

The following diseases are occupational diseases and 510  
compensable as such when contracted by an employee in the course 511  
of the employment in which such employee was engaged and due to 512  
the nature of any process described in this section. A disease 513  
which meets the definition of an occupational disease is 514  
compensable pursuant to this chapter though it is not specifically 515  
listed in this section. 516

SCHEDULE 517

Description of disease or injury and description of process: 518

(A) Anthrax: Handling of wool, hair, bristles, hides, and 519  
skins. 520

(B) Glanders: Care of any equine animal suffering from glanders; handling carcass of such animal.	521 522
(C) Lead poisoning: Any industrial process involving the use of lead or its preparations or compounds.	523 524
(D) Mercury poisoning: Any industrial process involving the use of mercury or its preparations or compounds.	525 526
(E) Phosphorous poisoning: Any industrial process involving the use of phosphorous or its preparations or compounds.	527 528
(F) Arsenic poisoning: Any industrial process involving the use of arsenic or its preparations or compounds.	529 530
(G) Poisoning by benzol or by nitro-derivatives and amido-derivatives of benzol (dinitro-benzol, anilin, and others): Any industrial process involving the use of benzol or nitro-derivatives or amido-derivatives of benzol or its preparations or compounds.	531 532 533 534 535
(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.	536 537 538 539
(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.	540 541 542
(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.	543 544
(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.	545 546 547 548 549
(L) Epithelion cancer or ulceration of the skin or of the	550

corneal surface of the eye due to carbon, pitch, tar, or tarry	551
compounds: Handling or industrial use of carbon, pitch, or tarry	552
compounds.	553
(M) Compressed air illness: Any industrial process carried on	554
in compressed air.	555
(N) Carbon dioxide poisoning: Any process involving the	556
evolution or resulting in the escape of carbon dioxide.	557
(O) Brass or zinc poisoning: Any process involving the	558
manufacture, founding, or refining of brass or the melting or	559
smelting of zinc.	560
(P) Manganese dioxide poisoning: Any process involving the	561
grinding or milling of manganese dioxide or the escape of	562
manganese dioxide dust.	563
(Q) Radium poisoning: Any industrial process involving the	564
use of radium and other radioactive substances in luminous paint.	565
(R) Tenosynovitis and prepatellar bursitis: Primary	566
tenosynovitis characterized by a passive effusion or crepitus into	567
the tendon sheath of the flexor or extensor muscles of the hand,	568
due to frequently repetitive motions or vibrations, or prepatellar	569
bursitis due to continued pressure.	570
(S) Chrome ulceration of the skin or nasal passages: Any	571
industrial process involving the use of or direct contact with	572
chromic acid or bichromates of ammonium, potassium, or sodium or	573
their preparations.	574
(T) Potassium cyanide poisoning: Any industrial process	575
involving the use of or direct contact with potassium cyanide.	576
(U) Sulphur dioxide poisoning: Any industrial process in	577
which sulphur dioxide gas is evolved by the expansion of liquid	578
sulphur dioxide.	579
(V) Berylliosis: Berylliosis means a disease of the lungs	580

caused by breathing beryllium in the form of dust or fumes, 581  
producing characteristic changes in the lungs and demonstrated by 582  
x-ray examination, by biopsy or by autopsy. 583

This chapter does not entitle an employee or ~~his~~ the 584  
employee's dependents to compensation, medical treatment, or 585  
payment of funeral expenses for disability or death from 586  
berylliosis unless the employee has been subjected to injurious 587  
exposure to beryllium dust or fumes in ~~his~~ the employee's 588  
employment in this state preceding ~~his~~ the employee's disablement 589  
and only in the event of such disability or death resulting within 590  
eight years after the last injurious exposure; provided that such 591  
eight-year limitation does not apply to disability or death from 592  
exposure occurring after January 1, 1976. In the event of death 593  
following continuous total disability commencing within eight 594  
years after the last injurious exposure, the requirement of death 595  
within eight years after the last injurious exposure does not 596  
apply. 597

Before awarding compensation for partial or total disability 598  
or death due to berylliosis, the administrator of workers' 599  
compensation shall refer the claim to a qualified medical 600  
specialist for examination and recommendation with regard to the 601  
diagnosis, the extent of the disability, the nature of the 602  
disability, whether permanent or temporary, the cause of death, 603  
and other medical questions connected with the claim. An employee 604  
shall submit to such examinations, including clinical and x-ray 605  
examinations, as the administrator requires. In the event that an 606  
employee refuses to submit to examinations, including clinical and 607  
x-ray examinations, after notice from the administrator, or in the 608  
event that a claimant for compensation for death due to 609  
berylliosis fails to produce necessary consents and permits, after 610  
notice from the administrator, so that such autopsy examination 611  
and tests may be performed, then all rights for compensation are 612

forfeited. The reasonable compensation of such specialist and the 613  
expenses of examinations and tests shall be paid, if the claim is 614  
allowed, as part of the expenses of the claim, otherwise they 615  
shall be paid from the surplus fund. 616

(W) Cardiovascular, pulmonary, or respiratory diseases 617  
incurred by ~~fire fighters~~ firefighters or police officers 618  
following exposure to heat, smoke, toxic gases, chemical fumes and 619  
other toxic substances: Any cardiovascular, pulmonary, or 620  
respiratory disease of a ~~fire fighter~~ firefighter or police 621  
officer caused or induced by the cumulative effect of exposure to 622  
heat, the inhalation of smoke, toxic gases, chemical fumes and 623  
other toxic substances in the performance of ~~his~~ the firefighter's 624  
or police officer's duty constitutes a presumption, which may be 625  
refuted by affirmative evidence, that such occurred in the course 626  
of and arising out of ~~his~~ the firefighter's or police officer's 627  
employment. For the purpose of this section, "~~fire fighter~~ 628  
firefighter" means any regular member of a lawfully constituted 629  
fire department of a municipal corporation or township, whether 630  
paid or volunteer, and "police officer" means any regular member 631  
of a lawfully constituted police department of a municipal 632  
corporation, township or county, whether paid or volunteer. 633

This chapter does not entitle a ~~fire fighter~~ firefighter, or 634  
police officer, or ~~his~~ the firefighter's or police officer's 635  
dependents to compensation, medical treatment, or payment of 636  
funeral expenses for disability or death from a cardiovascular, 637  
pulmonary, or respiratory disease, unless the ~~fire fighter~~ 638  
firefighter or police officer has been subject to injurious 639  
exposure to heat, smoke, toxic gases, chemical fumes, and other 640  
toxic substances in ~~his~~ the firefighter's or police officer's 641  
employment in this state preceding ~~his~~ the firefighter's or police 642  
officer's disablement, some portion of which has been after 643  
January 1, 1967, except as provided in division (E) of section 644

4123.57 of the Revised Code. 645

Compensation on account of cardiovascular, pulmonary, or 646  
respiratory diseases of ~~fire-fighters~~ firefighters and police 647  
officers is payable only in the event of temporary total 648  
disability, permanent total disability, or death, in accordance 649  
with section 4123.56, 4123.58, or 4123.59 of the Revised Code. 650  
Medical, hospital, and nursing expenses are payable in accordance 651  
with this chapter. Compensation, medical, hospital, and nursing 652  
expenses are payable only in the event of such disability or death 653  
resulting within eight years after the last injurious exposure; 654  
provided that such eight-year limitation does not apply to 655  
disability or death from exposure occurring after January 1, 1976. 656  
In the event of death following continuous total disability 657  
commencing within eight years after the last injurious exposure, 658  
the requirement of death within eight years after the last 659  
injurious exposure does not apply. 660

This chapter does not entitle a ~~fire-fighter~~ firefighter or 661  
police officer, or ~~his~~ the firefighter's or police officer's 662  
dependents, to compensation, medical, hospital, and nursing 663  
expenses, or payment of funeral expenses for disability or death 664  
due to a cardiovascular, pulmonary, or respiratory disease in the 665  
event of failure or omission on the part of the ~~fire-fighter~~ 666  
firefighter or police officer truthfully to state, when seeking 667  
employment, the place, duration, and nature of previous employment 668  
in answer to an inquiry made by the employer. 669

Before awarding compensation for disability or death under 670  
this division, the administrator shall refer the claim to a 671  
qualified medical specialist for examination and recommendation 672  
with regard to the diagnosis, the extent of disability, the cause 673  
of death, and other medical questions connected with the claim. A 674  
~~fire-fighter~~ firefighter or police officer shall submit to such 675  
examinations, including clinical and x-ray examinations, as the 676

administrator requires. In the event that a ~~fire fighter~~ 677  
firefighter or police officer refuses to submit to examinations, 678  
including clinical and x-ray examinations, after notice from the 679  
administrator, or in the event that a claimant for compensation 680  
for death under this division fails to produce necessary consents 681  
and permits, after notice from the administrator, so that such 682  
autopsy examination and tests may be performed, then all rights 683  
for compensation are forfeited. The reasonable compensation of 684  
such specialists and the expenses of examination and tests shall 685  
be paid, if the claim is allowed, as part of the expenses of the 686  
claim, otherwise they shall be paid from the surplus fund. 687

(X)(1) Cancer or disease contracted by a firefighter, police 688  
officer, or public emergency medical services worker: Any of the 689  
following types of cancer or disease contracted by a firefighter, 690  
police officer, or public emergency medical services worker who, 691  
in the case of a firefighter or public emergency medical services 692  
worker, has been assigned at least three years of hazard duty as a 693  
firefighter or public emergency medical services worker, 694  
constitutes a presumption, which may be refuted by affirmative 695  
evidence, that the cancer or disease was contracted in the course 696  
of and arising out of the firefighter's, police officer's, or 697  
public emergency medical services worker's employment: 698

(a) Cancer of the lung, brain, kidney, bladder, rectum, 699  
stomach, skin, or prostate; 700

(b) Non-Hodgkins lymphoma; 701

(c) Leukemia; 702

(d) Multiple myeloma; 703

(e) Testicular or colorectal cancer; 704

(f) A contagious or infectious disease specified in rules 705  
adopted pursuant to division (F) of section 3701.248 of the 706  
Revised Code. 707

(2) As used in division (X)(1) of this section: 708

(a) "Public emergency medical services worker" means a person 709  
who holds a current valid certificate issued under Chapter 4765. 710  
of the Revised Code and is a member of a public retirement system. 711

(b) "Public retirement system" has the same meaning as in 712  
section 2907.15 of the Revised Code. 713

(Y) Silicosis: Silicosis means a disease of the lungs caused 714  
by breathing silica dust (silicon dioxide) producing fibrous 715  
nodules distributed through the lungs and demonstrated by x-ray 716  
examination, by biopsy or by autopsy. 717

~~(Y)~~(Z) Coal miners' pneumoconiosis: Coal miners' 718  
pneumoconiosis, commonly referred to as "black lung disease," 719  
resulting from working in the coal mine industry and due to 720  
exposure to the breathing of coal dust, and demonstrated by x-ray 721  
examination, biopsy, autopsy or other medical or clinical tests. 722

This chapter does not entitle an employee or ~~his~~ the 723  
employee's dependents to compensation, medical treatment, or 724  
payment of funeral expenses for disability or death from 725  
silicosis, asbestosis, or coal miners' pneumoconiosis unless the 726  
employee has been subject to injurious exposure to silica dust 727  
(silicon dioxide), asbestos, or coal dust in ~~his~~ the employee's 728  
employment in this state preceding ~~his~~ the employee's disablement, 729  
some portion of which has been after October 12, 1945, except as 730  
provided in division (E) of section 4123.57 of the Revised Code. 731

Compensation on account of silicosis, asbestosis, or coal 732  
miners' pneumoconiosis are payable only in the event of temporary 733  
total disability, permanent total disability, or death, in 734  
accordance with sections 4123.56, 4123.58, and 4123.59 of the 735  
Revised Code. Medical, hospital, and nursing expenses are payable 736  
in accordance with this chapter. Compensation, medical, hospital, 737  
and nursing expenses are payable only in the event of such 738



disability or death resulting within eight years after the last 739  
injurious exposure; provided that such eight-year limitation does 740  
not apply to disability or death occurring after January 1, 1976, 741  
and further provided that such eight-year limitation does not 742  
apply to any asbestosis cases. In the event of death following 743  
continuous total disability commencing within eight years after 744  
the last injurious exposure, the requirement of death within eight 745  
years after the last injurious exposure does not apply. 746

This chapter does not entitle an employee or ~~his~~ the 747  
employee's dependents to compensation, medical, hospital and 748  
nursing expenses, or payment of funeral expenses for disability or 749  
death due to silicosis, asbestosis, or coal miners' pneumoconiosis 750  
in the event of the failure or omission on the part of the 751  
employee truthfully to state, when seeking employment, the place, 752  
duration, and nature of previous employment in answer to an 753  
inquiry made by the employer. 754

Before awarding compensation for disability or death due to 755  
silicosis, asbestosis, or coal miners' pneumoconiosis, the 756  
administrator shall refer the claim to a qualified medical 757  
specialist for examination and recommendation with regard to the 758  
diagnosis, the extent of disability, the cause of death, and other 759  
medical questions connected with the claim. An employee shall 760  
submit to such examinations, including clinical and x-ray 761  
examinations, as the administrator requires. In the event that an 762  
employee refuses to submit to examinations, including clinical and 763  
x-ray examinations, after notice from the administrator, or in the 764  
event that a claimant for compensation for death due to silicosis, 765  
asbestosis, or coal miners' pneumoconiosis fails to produce 766  
necessary consents and permits, after notice from the commission, 767  
so that such autopsy examination and tests may be performed, then 768  
all rights for compensation are forfeited. The reasonable 769  
compensation of such specialist and the expenses of examinations 770

and tests shall be paid, if the claim is allowed, as a part of the 771  
expenses of the claim, otherwise they shall be paid from the 772  
surplus fund. 773

~~(Z)~~(AA) Radiation illness: Any industrial process involving 774  
the use of radioactive materials. 775

Claims for compensation and benefits due to radiation illness 776  
are payable only in the event death or disability occurred within 777  
eight years after the last injurious exposure provided that such 778  
eight-year limitation does not apply to disability or death from 779  
exposure occurring after January 1, 1976. In the event of death 780  
following continuous disability which commenced within eight years 781  
of the last injurious exposure the requirement of death within 782  
eight years after the last injurious exposure does not apply. 783

~~(AA)~~(BB) Asbestosis: Asbestosis means a disease caused by 784  
inhalation or ingestion of asbestos, demonstrated by x-ray 785  
examination, biopsy, autopsy, or other objective medical or 786  
clinical tests. 787

All conditions, restrictions, limitations, and other 788  
provisions of this section, with reference to the payment of 789  
compensation or benefits on account of silicosis or coal miners' 790  
pneumoconiosis apply to the payment of compensation or benefits on 791  
account of any other occupational disease of the respiratory tract 792  
resulting from injurious exposures to dust. 793

The refusal to produce the necessary consents and permits for 794  
autopsy examination and testing shall not result in forfeiture of 795  
compensation provided the administrator finds that such refusal 796  
was the result of bona fide religious convictions or teachings to 797  
which the claimant for compensation adhered prior to the death of 798  
the decedent. 799

**Section 2.** That existing sections 742.38, 4123.57, and 800

4123.68 of the Revised Code are hereby repealed. 801

**Section 3.** The amendment made by this act to section 742.38 802  
of the Revised Code applies to an application for a disability 803  
benefit that is filed on or after the effective date of this act. 804

**Section 4.** The amendments made by this act to sections 805  
4123.57 and 4123.68 of the Revised Code apply only to claims 806  
pursuant to Chapters 4121. and 4123. of the Revised Code arising 807  
on and after the effective date of this act. 808