

**As Reported by the Senate Insurance, Commerce and Labor
Committee**

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

S. B. No. 238

Senator Seitz

**Cosponsors: Senators Grendell, Cates, Stewart, Jones, Niehaus, Schaffer,
Gibbs, Schuring, Buehrer, Hughes**

—

A B I L L

To amend sections 2743.02, 2744.02, 4123.01, and 1
4123.511 and to enact sections 2307.82, 4123.513, 2
4123.514, and 4123.515 of the Revised Code to 3
prohibit illegal and unauthorized aliens from 4
receiving compensation and benefits under Ohio's 5
Workers' Compensation Law. 6

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

Section 1. That sections 2743.02, 2744.02, 4123.01, and 7
4123.511 be amended and sections 2307.82, 4123.513, 4123.514, and 8
4123.515 of the Revised Code be enacted to read as follows: 9

Sec. 2307.82. (A) As used in this section, "employer," 10
"illegal alien," "Immigration Reform and Control Act," 11
"occupational disease," and "unauthorized alien" have the same 12
meanings as in section 4123.01 of the Revised Code. 13

(B) Except as provided in division (C) of this section, no 14
court in this state has jurisdiction over a claim for damages 15
suffered by an illegal alien or an unauthorized alien by reason of 16
personal injury sustained or occupational disease contracted by 17

the illegal alien or unauthorized alien in the course of 18
employment caused by the wrongful act or omission or neglect of 19
the employer. Except as provided in division (C) of this section, 20
an illegal alien or unauthorized alien assumes the risk of 21
incurring such injury or contracting an occupational disease, and 22
that assumption is a complete bar to a recovery of damages for 23
such injury or occupational disease. 24

(C) A court in this state has jurisdiction over a claim 25
brought by an illegal alien or unauthorized alien against an 26
employer for damages suffered by reason of personal injury 27
sustained or occupational disease contracted in the course of 28
employment caused by the wrongful act or omission or neglect of 29
the employer if the employer employed the illegal alien or 30
unauthorized alien knowing that the illegal alien or unauthorized 31
alien was not authorized to work under the Immigration Reform and 32
Control Act. 33

Nothing in this section shall be construed to prevent an 34
illegal alien or an unauthorized alien from bringing a claim 35
against an employer in a court of competent jurisdiction for an 36
intentional tort allegedly committed by the employer against the 37
illegal alien or unauthorized alien. 38

Sec. 2743.02. (A)(1) The state hereby waives its immunity 39
from liability, except as provided for the office of the state 40
fire marshal in division (G)(1) of section 9.60 ~~and~~ division (B) 41
of section 3737.221 of the Revised Code, and division (I) of this 42
section and subject to division (H) of this section, and consents 43
to be sued, and have its liability determined, in the court of 44
claims created in this chapter in accordance with the same rules 45
of law applicable to suits between private parties, except that 46
the determination of liability is subject to the limitations set 47
forth in this chapter and, in the case of state universities or 48

colleges, in section 3345.40 of the Revised Code, and except as 49
provided in division (A)(2) or (3) of this section. To the extent 50
that the state has previously consented to be sued, this chapter 51
has no applicability. 52

Except in the case of a civil action filed by the state, 53
filing a civil action in the court of claims results in a complete 54
waiver of any cause of action, based on the same act or omission, 55
which the filing party has against any officer or employee, as 56
defined in section 109.36 of the Revised Code. The waiver shall be 57
void if the court determines that the act or omission was 58
manifestly outside the scope of the officer's or employee's office 59
or employment or that the officer or employee acted with malicious 60
purpose, in bad faith, or in a wanton or reckless manner. 61

(2) If a claimant proves in the court of claims that an 62
officer or employee, as defined in section 109.36 of the Revised 63
Code, would have personal liability for the officer's or 64
employee's acts or omissions but for the fact that the officer or 65
employee has personal immunity under section 9.86 of the Revised 66
Code, the state shall be held liable in the court of claims in any 67
action that is timely filed pursuant to section 2743.16 of the 68
Revised Code and that is based upon the acts or omissions. 69

(3)(a) Except as provided in division (A)(3)(b) of this 70
section, the state is immune from liability in any civil action or 71
proceeding involving the performance or nonperformance of a public 72
duty, including the performance or nonperformance of a public duty 73
that is owed by the state in relation to any action of an 74
individual who is committed to the custody of the state. 75

(b) The state immunity provided in division (A)(3)(a) of this 76
section does not apply to any action of the state under 77
circumstances in which a special relationship can be established 78
between the state and an injured party. A special relationship 79
under this division is demonstrated if all of the following 80

elements exist:	81
(i) An assumption by the state, by means of promises or actions, of an affirmative duty to act on behalf of the party who was allegedly injured;	82 83 84
(ii) Knowledge on the part of the state's agents that inaction of the state could lead to harm;	85 86
(iii) Some form of direct contact between the state's agents and the injured party;	87 88
(iv) The injured party's justifiable reliance on the state's affirmative undertaking.	89 90
(B) The state hereby waives the immunity from liability of all hospitals owned or operated by one or more political subdivisions and consents for them to be sued, and to have their liability determined, in the court of common pleas, in accordance with the same rules of law applicable to suits between private parties, subject to the limitations set forth in this chapter. This division is also applicable to hospitals owned or operated by political subdivisions which have been determined by the supreme court to be subject to suit prior to July 28, 1975.	91 92 93 94 95 96 97 98 99
(C) Any hospital, as defined in section 2305.113 of the Revised Code, may purchase liability insurance covering its operations and activities and its agents, employees, nurses, interns, residents, staff, and members of the governing board and committees, and, whether or not such insurance is purchased, may, to such extent as its governing board considers appropriate, indemnify or agree to indemnify and hold harmless any such person against expense, including attorney's fees, damage, loss, or other liability arising out of, or claimed to have arisen out of, the death, disease, or injury of any person as a result of the negligence, malpractice, or other action or inaction of the indemnified person while acting within the scope of the	100 101 102 103 104 105 106 107 108 109 110 111

indemnified person's duties or engaged in activities at the 112
request or direction, or for the benefit, of the hospital. Any 113
hospital electing to indemnify such persons, or to agree to so 114
indemnify, shall reserve such funds as are necessary, in the 115
exercise of sound and prudent actuarial judgment, to cover the 116
potential expense, fees, damage, loss, or other liability. The 117
superintendent of insurance may recommend, or, if such hospital 118
requests the superintendent to do so, the superintendent shall 119
recommend, a specific amount for any period that, in the 120
superintendent's opinion, represents such a judgment. This 121
authority is in addition to any authorization otherwise provided 122
or permitted by law. 123

(D) Recoveries against the state shall be reduced by the 124
aggregate of insurance proceeds, disability award, or other 125
collateral recovery received by the claimant. This division does 126
not apply to civil actions in the court of claims against a state 127
university or college under the circumstances described in section 128
3345.40 of the Revised Code. The collateral benefits provisions of 129
division (B)(2) of that section apply under those circumstances. 130

(E) The only defendant in original actions in the court of 131
claims is the state. The state may file a third-party complaint or 132
counterclaim in any civil action, except a civil action for two 133
thousand five hundred dollars or less, that is filed in the court 134
of claims. 135

(F) A civil action against an officer or employee, as defined 136
in section 109.36 of the Revised Code, that alleges that the 137
officer's or employee's conduct was manifestly outside the scope 138
of the officer's or employee's employment or official 139
responsibilities, or that the officer or employee acted with 140
malicious purpose, in bad faith, or in a wanton or reckless manner 141
shall first be filed against the state in the court of claims, 142
which has exclusive, original jurisdiction to determine, 143

initially, whether the officer or employee is entitled to personal 144
immunity under section 9.86 of the Revised Code and whether the 145
courts of common pleas have jurisdiction over the civil action. 146
The officer or employee may participate in the immunity 147
determination proceeding before the court of claims to determine 148
whether the officer or employee is entitled to personal immunity 149
under section 9.86 of the Revised Code. 150

The filing of a claim against an officer or employee under 151
this division tolls the running of the applicable statute of 152
limitations until the court of claims determines whether the 153
officer or employee is entitled to personal immunity under section 154
9.86 of the Revised Code. 155

(G) Whenever a claim lies against an officer or employee who 156
is a member of the Ohio national guard, and the officer or 157
employee was, at the time of the act or omission complained of, 158
subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 159
U.S.C. 2671, et seq., then the Federal Tort Claims Act is the 160
exclusive remedy of the claimant and the state has no liability 161
under this section. 162

(H) If an inmate of a state correctional institution has a 163
claim against the state for the loss of or damage to property and 164
the amount claimed does not exceed three hundred dollars, before 165
commencing an action against the state in the court of claims, the 166
inmate shall file a claim for the loss or damage under the rules 167
adopted by the director of rehabilitation and correction pursuant 168
to this division. The inmate shall file the claim within the time 169
allowed for commencement of a civil action under section 2743.16 170
of the Revised Code. If the state admits or compromises the claim, 171
the director shall make payment from a fund designated by the 172
director for that purpose. If the state denies the claim or does 173
not compromise the claim at least sixty days prior to expiration 174
of the time allowed for commencement of a civil action based upon 175

the loss or damage under section 2743.16 of the Revised Code, the 176
inmate may commence an action in the court of claims under this 177
chapter to recover damages for the loss or damage. 178

The director of rehabilitation and correction shall adopt 179
rules pursuant to Chapter 119. of the Revised Code to implement 180
this division. 181

(I) The state is not liable in any civil action brought by or 182
on behalf of an illegal alien or an unauthorized alien for damages 183
suffered by reason of personal injury sustained or occupational 184
disease contracted in the course of employment caused by the 185
wrongful act or omission or neglect of the state acting as an 186
employer unless the state employed that illegal alien or 187
unauthorized alien knowing that the illegal alien or unauthorized 188
alien was not authorized to work under the Immigration Reform and 189
Control Act. 190

As used in this division, "illegal alien," "Immigration 191
Reform and Control Act," "occupational disease," and "unauthorized 192
alien" have the same meanings as in section 4123.01 of the Revised 193
Code. 194

Sec. 2744.02. (A)(1) For the purposes of this chapter, the 195
functions of political subdivisions are hereby classified as 196
governmental functions and proprietary functions. Except as 197
provided in division (B) of this section, a political subdivision 198
is not liable in damages in a civil action for injury, death, or 199
loss to person or property allegedly caused by any act or omission 200
of the political subdivision or an employee of the political 201
subdivision in connection with a governmental or proprietary 202
function. A political subdivision is not liable in any civil 203
action brought by or on behalf of an illegal alien or an 204
unauthorized alien for damages suffered by reason of personal 205
injury sustained or occupational disease contracted in the course 206

of employment caused by the wrongful act or omission or neglect of 207
the political subdivision acting as an employer unless the 208
political subdivision employed that illegal alien or unauthorized 209
alien knowing that the illegal alien or unauthorized alien was not 210
authorized to work under the Immigration Reform and Control Act. 211

As used in this division, "illegal alien," "Immigration 212
Reform and Control Act," "occupational disease," and "unauthorized 213
alien" have the same meanings as in section 4123.01 of the Revised 214
Code. 215

(2) The defenses and immunities conferred under this chapter 216
apply in connection with all governmental and proprietary 217
functions performed by a political subdivision and its employees, 218
whether performed on behalf of that political subdivision or on 219
behalf of another political subdivision. 220

(3) Subject to statutory limitations upon their monetary 221
jurisdiction, the courts of common pleas, the municipal courts, 222
and the county courts have jurisdiction to hear and determine 223
civil actions governed by or brought pursuant to this chapter. 224

(B) Subject to sections 2744.03 and 2744.05 of the Revised 225
Code, a political subdivision is liable in damages in a civil 226
action for injury, death, or loss to person or property allegedly 227
caused by an act or omission of the political subdivision or of 228
any of its employees in connection with a governmental or 229
proprietary function, as follows: 230

(1) Except as otherwise provided in this division, political 231
subdivisions are liable for injury, death, or loss to person or 232
property caused by the negligent operation of any motor vehicle by 233
their employees when the employees are engaged within the scope of 234
their employment and authority. The following are full defenses to 235
that liability: 236

(a) A member of a municipal corporation police department or 237

any other police agency was operating a motor vehicle while 238
responding to an emergency call and the operation of the vehicle 239
did not constitute willful or wanton misconduct; 240

(b) A member of a municipal corporation fire department or 241
any other firefighting agency was operating a motor vehicle while 242
engaged in duty at a fire, proceeding toward a place where a fire 243
is in progress or is believed to be in progress, or answering any 244
other emergency alarm and the operation of the vehicle did not 245
constitute willful or wanton misconduct; 246

(c) A member of an emergency medical service owned or 247
operated by a political subdivision was operating a motor vehicle 248
while responding to or completing a call for emergency medical 249
care or treatment, the member was holding a valid commercial 250
driver's license issued pursuant to Chapter 4506. or a driver's 251
license issued pursuant to Chapter 4507. of the Revised Code, the 252
operation of the vehicle did not constitute willful or wanton 253
misconduct, and the operation complies with the precautions of 254
section 4511.03 of the Revised Code. 255

(2) Except as otherwise provided in sections 3314.07 and 256
3746.24 of the Revised Code, political subdivisions are liable for 257
injury, death, or loss to person or property caused by the 258
negligent performance of acts by their employees with respect to 259
proprietary functions of the political subdivisions. 260

(3) Except as otherwise provided in section 3746.24 of the 261
Revised Code, political subdivisions are liable for injury, death, 262
or loss to person or property caused by their negligent failure to 263
keep public roads in repair and other negligent failure to remove 264
obstructions from public roads, except that it is a full defense 265
to that liability, when a bridge within a municipal corporation is 266
involved, that the municipal corporation does not have the 267
responsibility for maintaining or inspecting the bridge. 268

(4) Except as otherwise provided in section 3746.24 of the Revised Code, political subdivisions are liable for injury, death, or loss to person or property that is caused by the negligence of their employees and that occurs within or on the grounds of, and is due to physical defects within or on the grounds of, buildings that are used in connection with the performance of a governmental function, including, but not limited to, office buildings and courthouses, but not including jails, places of juvenile detention, workhouses, or any other detention facility, as defined in section 2921.01 of the Revised Code.

(5) In addition to the circumstances described in divisions (B)(1) to (4) of this section, a political subdivision is liable for injury, death, or loss to person or property when civil liability is expressly imposed upon the political subdivision by a section of the Revised Code, including, but not limited to, sections 2743.02 and 5591.37 of the Revised Code. Civil liability shall not be construed to exist under another section of the Revised Code merely because that section imposes a responsibility or mandatory duty upon a political subdivision, because that section provides for a criminal penalty, because of a general authorization in that section that a political subdivision may sue and be sued, or because that section uses the term "shall" in a provision pertaining to a political subdivision.

(C) An order that denies a political subdivision or an employee of a political subdivision the benefit of an alleged immunity from liability as provided in this chapter or any other provision of the law is a final order.

Sec. 4123.01. As used in this chapter:

(A)(1) "Employee" means:

(a) Every person in the service of the state, or of any county, municipal corporation, township, or school district

therein, including regular members of lawfully constituted police 300
and fire departments of municipal corporations and townships, 301
whether paid or volunteer, and wherever serving within the state 302
or on temporary assignment outside thereof, and executive officers 303
of boards of education, under any appointment or contract of hire, 304
express or implied, oral or written, including any elected 305
official of the state, or of any county, municipal corporation, or 306
township, or members of boards of education. 307

As used in division (A)(1)(a) of this section, the term 308
"employee" includes the following persons when responding to an 309
inherently dangerous situation that calls for an immediate 310
response on the part of the person, regardless of whether the 311
person is within the limits of the jurisdiction of the person's 312
regular employment or voluntary service when responding, on the 313
condition that the person responds to the situation as the person 314
otherwise would if the person were on duty in the person's 315
jurisdiction: 316

(i) Off-duty peace officers. As used in division (A)(1)(a)(i) 317
of this section, "peace officer" has the same meaning as in 318
section 2935.01 of the Revised Code. 319

(ii) Off-duty firefighters, whether paid or volunteer, of a 320
lawfully constituted fire department. 321

(iii) Off-duty first responders, emergency medical 322
technicians-basic, emergency medical technicians-intermediate, or 323
emergency medical technicians-paramedic, whether paid or 324
volunteer, of an ambulance service organization or emergency 325
medical service organization pursuant to Chapter 4765. of the 326
Revised Code. 327

(b) Every person in the service of any person, firm, or 328
private corporation, including any public service corporation, 329
that (i) employs one or more persons regularly in the same 330

business or in or about the same establishment under any contract 331
of hire, express or implied, oral or written, including aliens ~~and~~ 332
authorized to work by the United States department of homeland 333
security or its successor; minors₇; household workers who earn one 334
hundred sixty dollars or more in cash in any calendar quarter from 335
a single household; and casual workers who earn one hundred sixty 336
dollars or more in cash in any calendar quarter from a single 337
employer₇; or (ii) is bound by any such contract of hire or by any 338
other written contract, to pay into the state insurance fund the 339
premiums provided by this chapter. 340

(c) Every person who performs labor or provides services 341
pursuant to a construction contract, as defined in section 4123.79 342
of the Revised Code, if at least ten of the following criteria 343
apply: 344

(i) The person is required to comply with instructions from 345
the other contracting party regarding the manner or method of 346
performing services; 347

(ii) The person is required by the other contracting party to 348
have particular training; 349

(iii) The person's services are integrated into the regular 350
functioning of the other contracting party; 351

(iv) The person is required to perform the work personally; 352

(v) The person is hired, supervised, or paid by the other 353
contracting party; 354

(vi) A continuing relationship exists between the person and 355
the other contracting party that contemplates continuing or 356
recurring work even if the work is not full time; 357

(vii) The person's hours of work are established by the other 358
contracting party; 359

(viii) The person is required to devote full time to the 360

business of the other contracting party;	361
(ix) The person is required to perform the work on the premises of the other contracting party;	362 363
(x) The person is required to follow the order of work set by the other contracting party;	364 365
(xi) The person is required to make oral or written reports of progress to the other contracting party;	366 367
(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;	368 369
(xiii) The person's expenses are paid for by the other contracting party;	370 371
(xiv) The person's tools and materials are furnished by the other contracting party;	372 373
(xv) The person is provided with the facilities used to perform services;	374 375
(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;	376 377
(xvii) The person is not performing services for a number of employers at the same time;	378 379
(xviii) The person does not make the same services available to the general public;	380 381
(xix) The other contracting party has a right to discharge the person;	382 383
(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.	384 385 386
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	387 388 389

workers' compensation for the person's employment or occupation or 390
if a self-insuring employer has failed to pay compensation and 391
benefits directly to the employer's injured and to the dependents 392
of the employer's killed employees as required by section 4123.35 393
of the Revised Code, shall be considered as the employee of the 394
person who has entered into a contract, whether written or verbal, 395
with such independent contractor unless such employees or their 396
legal representatives or beneficiaries elect, after injury or 397
death, to regard such independent contractor as the employer. 398

(d) Every person to whom all of the following apply: 399

(i) The person is a resident of a state other than this state 400
and is covered by that other state's workers' compensation law; 401

(ii) The person performs labor or provides services for that 402
person's employer while temporarily within this state; 403

(iii) The laws of that other state do not include the 404
provisions described in division (H)(4) of section 4123.54 of the 405
Revised Code. 406

(2) "Employee" does not mean any of the following: 407

(a) A duly ordained, commissioned, or licensed minister or 408
assistant or associate minister of a church in the exercise of 409
ministry; 410

(b) Any officer of a family farm corporation; 411

(c) An individual incorporated as a corporation; ~~or~~ 412

(d) An individual who otherwise is an employee of an employer 413
but who signs the waiver and affidavit specified in section 414
4123.15 of the Revised Code on the condition that the 415
administrator has granted a waiver and exception to the 416
individual's employer under section 4123.15 of the Revised Code; 417

(e) An illegal alien or an unauthorized alien. 418

Any employer may elect to include as an "employee" within 419

this chapter, any person excluded from the definition of 420
"employee" pursuant to ~~division~~ divisions (A)(2)(a) to (d) of this 421
section. If an employer is a partnership, sole proprietorship, 422
individual incorporated as a corporation, or family farm 423
corporation, such employer may elect to include as an "employee" 424
within this chapter, any member of such partnership, the owner of 425
the sole proprietorship, the individual incorporated as a 426
corporation, or the officers of the family farm corporation. In 427
the event of an election, the employer shall serve upon the bureau 428
of workers' compensation written notice naming the persons to be 429
covered, include such employee's remuneration for premium purposes 430
in all future payroll reports, and no person excluded from the 431
definition of "employee" pursuant to ~~division~~ divisions (A)(2)(a) 432
to (d) of this section, proprietor, individual incorporated as a 433
corporation, or partner shall be deemed an employee within this 434
division until the employer has served such notice. 435

For informational purposes only, the bureau shall prescribe 436
such language as it considers appropriate, on such of its forms as 437
it considers appropriate, to advise employers of their right to 438
elect to include as an "employee" within this chapter a sole 439
proprietor, any member of a partnership, an individual 440
incorporated as a corporation, the officers of a family farm 441
corporation, or a person excluded from the definition of 442
"employee" under ~~division~~ divisions (A)(2)(a) to (d) of this 443
section, that they should check any health and disability 444
insurance policy, or other form of health and disability plan or 445
contract, presently covering them, or the purchase of which they 446
may be considering, to determine whether such policy, plan, or 447
contract excludes benefits for illness or injury that they might 448
have elected to have covered by workers' compensation. 449

(B) "Employer" means: 450

(1) The state, including state hospitals, each county, 451

municipal corporation, township, school district, and hospital 452
owned by a political subdivision or subdivisions other than the 453
state; 454

(2) Every person, firm, professional employer organization as 455
defined in section 4125.01 of the Revised Code, and private 456
corporation, including any public service corporation, that (a) 457
has in service one or more employees or shared employees regularly 458
in the same business or in or about the same establishment under 459
any contract of hire, express or implied, oral or written, or (b) 460
is bound by any such contract of hire or by any other written 461
contract, to pay into the insurance fund the premiums provided by 462
this chapter. 463

All such employers are subject to this chapter. Any member of 464
a firm or association, who regularly performs manual labor in or 465
about a mine, factory, or other establishment, including a 466
household establishment, shall be considered an employee in 467
determining whether such person, firm, or private corporation, or 468
public service corporation, has in its service, one or more 469
employees and the employer shall report the income derived from 470
such labor to the bureau as part of the payroll of such employer, 471
and such member shall thereupon be entitled to all the benefits of 472
an employee. 473

(C) "Injury" includes any injury, whether caused by external 474
accidental means or accidental in character and result, received 475
in the course of, and arising out of, the injured employee's 476
employment. "Injury" does not include: 477

(1) Psychiatric conditions except where the claimant's 478
psychiatric conditions have arisen from an injury or occupational 479
disease sustained by that claimant or where the claimant's 480
psychiatric conditions have arisen from sexual conduct in which 481
the claimant was forced by threat of physical harm to engage or 482
participate; 483

(2) Injury or disability caused primarily by the natural 484
deterioration of tissue, an organ, or part of the body; 485

(3) Injury or disability incurred in voluntary participation 486
in an employer-sponsored recreation or fitness activity if the 487
employee signs a waiver of the employee's right to compensation or 488
benefits under this chapter prior to engaging in the recreation or 489
fitness activity; 490

(4) A condition that pre-existed an injury unless that 491
pre-existing condition is substantially aggravated by the injury. 492
Such a substantial aggravation must be documented by objective 493
diagnostic findings, objective clinical findings, or objective 494
test results. Subjective complaints may be evidence of such a 495
substantial aggravation. However, subjective complaints without 496
objective diagnostic findings, objective clinical findings, or 497
objective test results are insufficient to substantiate a 498
substantial aggravation. 499

(D) "Child" includes a posthumous child and a child legally 500
adopted prior to the injury. 501

(E) "Family farm corporation" means a corporation founded for 502
the purpose of farming agricultural land in which the majority of 503
the voting stock is held by and the majority of the stockholders 504
are persons or the spouse of persons related to each other within 505
the fourth degree of kinship, according to the rules of the civil 506
law, and at least one of the related persons is residing on or 507
actively operating the farm, and none of whose stockholders are a 508
corporation. A family farm corporation does not cease to qualify 509
under this division where, by reason of any devise, bequest, or 510
the operation of the laws of descent or distribution, the 511
ownership of shares of voting stock is transferred to another 512
person, as long as that person is within the degree of kinship 513
stipulated in this division. 514

(F) "Occupational disease" means a disease contracted in the 515
course of employment, which by its causes and the characteristics 516
of its manifestation or the condition of the employment results in 517
a hazard which distinguishes the employment in character from 518
employment generally, and the employment creates a risk of 519
contracting the disease in greater degree and in a different 520
manner from the public in general. 521

(G) "Self-insuring employer" means an employer who is granted 522
the privilege of paying compensation and benefits directly under 523
section 4123.35 of the Revised Code, including a board of county 524
commissioners for the sole purpose of constructing a sports 525
facility as defined in section 307.696 of the Revised Code, 526
provided that the electors of the county in which the sports 527
facility is to be built have approved construction of a sports 528
facility by ballot election no later than November 6, 1997. 529

(H) "Public employer" means an employer as defined in 530
division (B)(1) of this section. 531

(I) "Sexual conduct" means vaginal intercourse between a male 532
and female; anal intercourse, fellatio, and cunnilingus between 533
persons regardless of gender; and, without privilege to do so, the 534
insertion, however slight, of any part of the body or any 535
instrument, apparatus, or other object into the vaginal or anal 536
cavity of another. Penetration, however slight, is sufficient to 537
complete vaginal or anal intercourse. 538

(J) "Other-states' insurer" means an insurance company that 539
is authorized to provide workers' compensation insurance coverage 540
in any of the states that permit employers to obtain insurance for 541
workers' compensation claims through insurance companies. 542

(K) "Other-states' coverage" means insurance coverage 543
purchased by an employer for workers' compensation claims that 544
arise in a state or states other than this state and that are 545

filed by the employees of the employer or those employee's 546
dependents, as applicable, in that other state or those other 547
states. 548

(L) "Illegal alien" means an alien who is deportable if 549
apprehended because of one of the following: 550

(1) The alien entered the United States illegally without the 551
proper authorization and documents. 552

(2) The alien once entered the United States legally and has 553
since violated the terms of the status under which the alien 554
entered the United States, making that alien an "out of status" 555
alien. 556

(3) The alien once entered the United States legally but has 557
overstayed the time limits of the original legal status. 558

(M) "Unauthorized alien" means an alien who is not authorized 559
to be employed as determined in accordance with the Immigration 560
Reform and Control Act. 561

(N) "Immigration Reform and Control Act" means section 101(a) 562
of the "Immigration Reform and Control Act of 1986," 100 Stat. 563
3360, 8 U.S.C. 1324a. 564

Sec. 4123.511. (A) Within seven days after receipt of any 565
claim under this chapter, the bureau of workers' compensation 566
shall notify the claimant and the employer of the claimant of the 567
receipt of the claim and of the facts alleged therein. If the 568
bureau receives from a person other than the claimant written or 569
facsimile information or information communicated verbally over 570
the telephone indicating that an injury or occupational disease 571
has occurred or been contracted which may be compensable under 572
this chapter, the bureau shall notify the employee and the 573
employer of the information. If the information is provided 574
verbally over the telephone, the person providing the information 575

shall provide written verification of the information to the 576
bureau according to division (E) of section 4123.84 of the Revised 577
Code. The receipt of the information in writing or facsimile, or 578
if initially by telephone, the subsequent written verification, 579
and the notice by the bureau shall be considered an application 580
for compensation under section 4123.84 or 4123.85 of the Revised 581
Code, provided that the conditions of division (E) of section 582
4123.84 of the Revised Code apply to information provided verbally 583
over the telephone. Upon receipt of a claim, the bureau shall 584
advise the claimant of the claim number assigned and the 585
claimant's right to representation in the processing of a claim or 586
to elect no representation. Within twenty-eight days after the 587
employee or claimant receives the notification of a claim from the 588
bureau, the employee or claimant shall submit a copy of the 589
documentation described in section 4123.513 of the Revised Code to 590
the administrator of workers' compensation. If the bureau 591
determines that a claim is determined to be a compensable 592
lost-time claim, the bureau shall notify the claimant and the 593
employer of the availability of rehabilitation services. No bureau 594
or industrial commission employee shall directly or indirectly 595
convey any information in derogation of this right. This section 596
shall in no way abrogate the bureau's responsibility to aid and 597
assist a claimant in the filing of a claim and to advise the 598
claimant of the claimant's rights under the law. 599

The administrator ~~of workers' compensation~~ shall assign all 600
claims and investigations to the bureau service office from which 601
investigation and determination may be made most expeditiously. 602

The bureau shall investigate the facts concerning an injury 603
or occupational disease and ascertain such facts in whatever 604
manner is most appropriate and may obtain statements of the 605
employee, employer, attending physician, and witnesses in whatever 606
manner is most appropriate. 607

The administrator, with the advice and consent of the bureau of workers' compensation board of directors, may adopt rules that identify specified medical conditions that have a historical record of being allowed whenever included in a claim. The administrator may grant immediate allowance of any medical condition identified in those rules upon the filing of a claim involving that medical condition and may make immediate payment of medical bills for any medical condition identified in those rules that is included in a claim. If an employer contests the allowance of a claim involving any medical condition identified in those rules, and the claim is disallowed, payment for the medical condition included in that claim shall be charged to and paid from the surplus fund created under section 4123.34 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section and in section 4123.513 of the Revised Code, in claims other than those in which the employer is a self-insuring employer, if the administrator determines under division (A) of this section that a claimant is or is not entitled to an award of compensation or benefits, the administrator shall issue an order no later than twenty-eight days after the sending of the notice under division (A) of this section, granting or denying the payment of the compensation or benefits, or both as is appropriate to the claimant. Notwithstanding the time limitation specified in this division for the issuance of an order, if a medical examination of the claimant is required by statute, the administrator promptly shall schedule the claimant for that examination and shall issue an order no later than twenty-eight days after receipt of the report of the examination. The administrator shall notify the claimant and the employer of the claimant and their respective representatives in writing of the nature of the order and the amounts of compensation and benefit payments involved. The employer or claimant may appeal the order pursuant to division (C)

of this section within fourteen days after the date of the receipt 641
of the order. The employer and claimant may waive, in writing, 642
their rights to an appeal under this division. 643

(2) Notwithstanding the time limitation specified in division 644
(B)(1) of this section for the issuance of an order, if the 645
employer certifies a claim for payment of compensation or 646
benefits, or both, to a claimant, and the administrator has 647
completed the investigation of the claim, the payment of benefits 648
or compensation, or both, as is appropriate, shall commence upon 649
the later of the date of the certification or completion of the 650
investigation and issuance of the order by the administrator, 651
provided that the administrator shall issue the order no later 652
than the time limitation specified in division (B)(1) of this 653
section. 654

(3) If an appeal is made under division (B)(1) or (2) of this 655
section, the administrator shall forward the claim file to the 656
appropriate district hearing officer within seven days of the 657
appeal. In contested claims other than state fund claims, the 658
administrator shall forward the claim within seven days of the 659
administrator's receipt of the claim to the industrial commission, 660
which shall refer the claim to an appropriate district hearing 661
officer for a hearing in accordance with division (C) of this 662
section. 663

(C) If an employer or claimant timely appeals the order of 664
the administrator issued under division (B) of this section or in 665
the case of other contested claims other than state fund claims, 666
the commission shall refer the claim to an appropriate district 667
hearing officer according to rules the commission adopts under 668
section 4121.36 of the Revised Code. The district hearing officer 669
shall notify the parties and their respective representatives of 670
the time and place of the hearing. 671

The district hearing officer shall hold a hearing on a 672

disputed issue or claim within forty-five days after the filing of 673
the appeal under this division and issue a decision within seven 674
days after holding the hearing. The district hearing officer shall 675
notify the parties and their respective representatives in writing 676
of the order. Any party may appeal an order issued under this 677
division pursuant to division (D) of this section within fourteen 678
days after receipt of the order under this division. 679

(D) Upon the timely filing of an appeal of the order of the 680
district hearing officer issued under division (C) of this 681
section, the commission shall refer the claim file to an 682
appropriate staff hearing officer according to its rules adopted 683
under section 4121.36 of the Revised Code. The staff hearing 684
officer shall hold a hearing within forty-five days after the 685
filing of an appeal under this division and issue a decision 686
within seven days after holding the hearing under this division. 687
The staff hearing officer shall notify the parties and their 688
respective representatives in writing of the staff hearing 689
officer's order. Any party may appeal an order issued under this 690
division pursuant to division (E) of this section within fourteen 691
days after receipt of the order under this division. 692

(E) Upon the filing of a timely appeal of the order of the 693
staff hearing officer issued under division (D) of this section, 694
the commission or a designated staff hearing officer, on behalf of 695
the commission, shall determine whether the commission will hear 696
the appeal. If the commission or the designated staff hearing 697
officer decides to hear the appeal, the commission or the 698
designated staff hearing officer shall notify the parties and 699
their respective representatives in writing of the time and place 700
of the hearing. The commission shall hold the hearing within 701
forty-five days after the filing of the notice of appeal and, 702
within seven days after the conclusion of the hearing, the 703
commission shall issue its order affirming, modifying, or 704

reversing the order issued under division (D) of this section. The 705
commission shall notify the parties and their respective 706
representatives in writing of the order. If the commission or the 707
designated staff hearing officer determines not to hear the 708
appeal, within fourteen days after the expiration of the period in 709
which an appeal of the order of the staff hearing officer may be 710
filed as provided in division (D) of this section, the commission 711
or the designated staff hearing officer shall issue an order to 712
that effect and notify the parties and their respective 713
representatives in writing of that order. 714

Except as otherwise provided in this chapter and Chapters 715
4121., 4127., and 4131. of the Revised Code, any party may appeal 716
an order issued under this division to the court pursuant to 717
section 4123.512 of the Revised Code within sixty days after 718
receipt of the order, subject to the limitations contained in that 719
section. 720

(F) Every notice of an appeal from an order issued under 721
divisions (B), (C), (D), and (E) of this section shall state the 722
names of the claimant and employer, the number of the claim, the 723
date of the decision appealed from, and the fact that the 724
appellant appeals therefrom. 725

(G) All of the following apply to the proceedings under 726
divisions (C), (D), and (E) of this section: 727

(1) The parties shall proceed promptly and without 728
continuances except for good cause; 729

(2) The parties, in good faith, shall engage in the free 730
exchange of information relevant to the claim prior to the conduct 731
of a hearing according to the rules the commission adopts under 732
section 4121.36 of the Revised Code; 733

(3) The administrator is a party and may appear and 734
participate at all administrative proceedings on behalf of the 735

state insurance fund. However, in cases in which the employer is 736
represented, the administrator shall neither present arguments nor 737
introduce testimony that is cumulative to that presented or 738
introduced by the employer or the employer's representative. The 739
administrator may file an appeal under this section on behalf of 740
the state insurance fund; however, except in cases arising under 741
section 4123.343 of the Revised Code, the administrator only may 742
appeal questions of law or issues of fraud when the employer 743
appears in person or by representative. 744

(H) Except as provided in section 4121.63 of the Revised Code 745
and division (K) of this section, payments of compensation to a 746
claimant or on behalf of a claimant as a result of any order 747
issued under this chapter shall commence upon the earlier of the 748
following: 749

(1) Fourteen days after the date the administrator issues an 750
order under division (B) of this section, unless that order is 751
appealed; 752

(2) The date when the employer has waived the right to appeal 753
a decision issued under division (B) of this section; 754

(3) If no appeal of an order has been filed under this 755
section or to a court under section 4123.512 of the Revised Code, 756
the expiration of the time limitations for the filing of an appeal 757
of an order; 758

(4) The date of receipt by the employer of an order of a 759
district hearing officer, a staff hearing officer, or the 760
industrial commission issued under division (C), (D), or (E) of 761
this section. 762

(I) Payments of medical benefits payable under this chapter 763
or Chapter 4121., 4127., or 4131. of the Revised Code shall 764
commence upon the earlier of the following: 765

(1) The date of the issuance of the staff hearing officer's 766

order under division (D) of this section;	767
(2) The date of the final administrative or judicial determination.	768 769
(J) The administrator shall charge the compensation payments made in accordance with division (H) of this section or medical benefits payments made in accordance with division (I) of this section to an employer's experience immediately after the employer has exhausted the employer's administrative appeals as provided in this section or has waived the employer's right to an administrative appeal under division (B) of this section, subject to the adjustment specified in division (H) of section 4123.512 of the Revised Code.	770 771 772 773 774 775 776 777 778
(K) Upon the final administrative or judicial determination under this section or section 4123.512 of the Revised Code of an appeal of an order to pay compensation, if a claimant is found to have received compensation pursuant to a prior order which is reversed upon subsequent appeal, the claimant's employer, if a self-insuring employer, or the bureau, shall withhold from any amount to which the claimant becomes entitled pursuant to any claim, past, present, or future, under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, the amount of previously paid compensation to the claimant which, due to reversal upon appeal, the claimant is not entitled, pursuant to the following criteria:	779 780 781 782 783 784 785 786 787 788 789
(1) No withholding for the first twelve weeks of temporary total disability compensation pursuant to section 4123.56 of the Revised Code shall be made;	790 791 792
(2) Forty per cent of all awards of compensation paid pursuant to sections 4123.56 and 4123.57 of the Revised Code, until the amount overpaid is refunded;	793 794 795
(3) Twenty-five per cent of any compensation paid pursuant to section 4123.58 of the Revised Code until the amount overpaid is	796 797

refunded; 798

(4) If, pursuant to an appeal under section 4123.512 of the Revised Code, the court of appeals or the supreme court reverses the allowance of the claim, then no amount of any compensation will be withheld. 799
800
801
802

The administrator and self-insuring employers, as appropriate, are subject to the repayment schedule of this division only with respect to an order to pay compensation that was properly paid under a previous order, but which is subsequently reversed upon an administrative or judicial appeal. The administrator and self-insuring employers are not subject to, but may utilize, the repayment schedule of this division, or any other lawful means, to collect payment of compensation made to a person who was not entitled to the compensation due to fraud as determined by the administrator or the industrial commission. 803
804
805
806
807
808
809
810
811
812

(L) If a staff hearing officer or the commission fails to issue a decision or the commission fails to refuse to hear an appeal within the time periods required by this section, payments to a claimant shall cease until the staff hearing officer or commission issues a decision or hears the appeal, unless the failure was due to the fault or neglect of the employer or the employer agrees that the payments should continue for a longer period of time. 813
814
815
816
817
818
819
820

(M) Except as otherwise provided in this section or section 4123.522 of the Revised Code, no appeal is timely filed under this section unless the appeal is filed with the time limits set forth in this section. 821
822
823
824

(N) No person who is not an employee of the bureau or commission or who is not by law given access to the contents of a claims file shall have a file in the person's possession. 825
826
827

(O) Upon application of a party who resides in an area in 828

which an emergency or disaster is declared, the industrial 829
commission and hearing officers of the commission may waive the 830
time frame within which claims and appeals of claims set forth in 831
this section must be filed upon a finding that the applicant was 832
unable to comply with a filing deadline due to an emergency or a 833
disaster. 834

As used in this division: 835

(1) "Emergency" means any occasion or instance for which the 836
governor of Ohio or the president of the United States publicly 837
declares an emergency and orders state or federal assistance to 838
save lives and protect property, the public health and safety, or 839
to lessen or avert the threat of a catastrophe. 840

(2) "Disaster" means any natural catastrophe or fire, flood, 841
or explosion, regardless of the cause, that causes damage of 842
sufficient magnitude that the governor of Ohio or the president of 843
the United States, through a public declaration, orders state or 844
federal assistance to alleviate damage, loss, hardship, or 845
suffering that results from the occurrence. 846

Sec. 4123.513. (A) As used in this section and section 847
4123.514 of the Revised Code: 848

(1) "Paid compensation" has the same meaning as in division 849
(M) of section 4123.35 of the Revised Code. 850

(2) "Status verification system" means any electronic system 851
the federal government operates to enable a person to verify or 852
ascertain the citizenship or immigration status of any individual. 853
"Status verification system" includes all of the following: 854

(a) The electronic verification of work authorization program 855
known as the "e-verify program," 8 U.S.C. 1324a, operated by the 856
United States department of homeland security, and any equivalent 857
federal program that the United States department of homeland 858

security or other federal agency designates to verify the work 859
eligibility status of newly hired employees, pursuant to the 860
Immigration Reform and Control Act; 861

(b) Any independent, third-party system with an equal or 862
higher degree of reliability as the programs, systems, or 863
processes described in division (A)(2)(a) of this section; 864

(c) The social security number verification service, or any 865
similar online verification process the United States social 866
security administration operates. 867

(B) Within twenty-eight days after a claimant receives 868
notification from the bureau of workers' compensation or, if the 869
employee's employer is a self-insuring employer, from the 870
self-insuring employer, of the receipt of a claim for compensation 871
or benefits under this chapter or Chapter 4121., 4127., or 4131. 872
of the Revised Code, the claimant shall submit to the 873
administrator of workers' compensation or the self-insured 874
employer, as applicable, documentation demonstrating that the 875
claimant, or, if the claimant is a dependent of an employee who 876
died as a result of suffering an injury or contracting an 877
occupational disease, the deceased employee, was authorized to 878
work in accordance with the Immigration Reform and Control Act on 879
the date the claimant or deceased employee suffered the injury or 880
contracted the occupational disease. The documentation the 881
claimant submits shall establish an individual's identity and 882
authority to work in accordance with the Immigration Reform and 883
Control Act. 884

(C) The administrator or the self-insuring employer, as 885
applicable, may determine, in accordance with section 4123.511 of 886
the Revised Code, whether the claim is a compensable claim under 887
this chapter or Chapter 4121., 4127., or 4131. of the Revised Code 888
during the twenty-eight-day period described in division (B) of 889
this section. 890

(1) If the administrator or self-insuring employer, as applicable, determines that the claim is compensable, prior to awarding the claimant compensation or benefits for that claim, the administrator or self-insuring employer shall use a status verification system to conduct a preliminary verification that the claimant or deceased employee, as applicable, was authorized to work in accordance with the Immigration Reform and Control Act on the date the claimant or deceased employee suffered the injury or contracted the occupational disease. If the administrator or self-insuring employer determines that the claimant or deceased employee was authorized to work, the administrator or self-insuring employer may award the compensation or benefits. The award of compensation or benefits under division (C)(1) of this section does not relieve the duty of the claimant to submit the information required under division (B) of this section. If the administrator or self-insuring employer determines that the claimant or deceased employee was not authorized to work, the administrator or self-insuring employer shall stay awarding the compensation or benefits until after the administrator or self-insuring employer conducts the verification required under division (E) of this section.

(2) If the administrator or self-insuring employer, as applicable, determines during that twenty-eight-day period that the claim is not compensable, and if the claimant wishes to appeal that determination in accordance with section 4123.511 or 4123.512 of the Revised Code, the claimant shall submit to the administrator or self-insuring employer the information required under division (B) of this section.

(D) If the administrator or self-insuring employer does not receive the required documentation at the end of the twenty-eight-day period described in division (B) of this section, regardless of whether the claim is compensable, the administrator

or the self-insuring employer shall deny the claim. If the 923
administrator or self-insuring employer awarded compensation or 924
benefits under division (C)(1) of this section, the administrator 925
or self-insuring employer may, but is not required to, recover the 926
compensation or benefits awarded under that division. A claimant 927
may resubmit the claim denied under this division to the 928
administrator or a self-insuring employer if the time period 929
specified in section 4123.84 or 4123.85 of the Revised Code has 930
not lapsed. 931

(E) If the administrator or self-insuring employer, as 932
applicable, receives the required documentation within the 933
twenty-eight-day period described in division (B) of this section, 934
the administrator or self-insuring employer shall verify that the 935
claimant or deceased employee, as applicable, was authorized to 936
work in accordance with the Immigration Reform and Control Act on 937
the date the claimant or deceased employee suffered the injury or 938
contracted the occupational disease. The administrator or 939
self-insuring employer may use a status verification system to 940
verify the employee's authorization to work. If the administrator 941
or self-insuring employer determines that the claimant or deceased 942
employee was authorized to work, and if the administrator or 943
self-insuring employer has not previously issued a determination 944
as to whether the claim is compensable under division (C) of this 945
section, the administrator or self-insuring employer shall issue 946
the determination. 947

If the administrator or self-insuring employer determines 948
that the claimant or deceased employee was not authorized to work, 949
the administrator or self-insuring employer shall deny the claim. 950
If a self-insuring employer denies a claim under this division, 951
the self-insuring employer shall send written notice of that 952
denial to the administrator. If the administrator or self-insuring 953
employer denies a claim under this division and the administrator 954

or self-insuring employer previously awarded the claimant 955
compensation or benefits under division (C)(1) of this section, 956
the administrator or self-insuring employer may, but is not 957
required to, recover the compensation or benefits awarded under 958
that division. 959

(F) Except as otherwise provided in division (C)(2) of this 960
section, the denial of a claim under division (D) or (E) of this 961
section is appealable under sections 4123.511 and 4123.512 of the 962
Revised Code. 963

Sec. 4123.514. (A) If a claimant's claim is denied under 964
division (E) of section 4123.513 of the Revised Code, if the 965
employer of the claimant or the deceased employee who is the 966
subject of the claim is a state fund employer, and if the employer 967
submits proof of using a status verification system to determine 968
whether the employer's employees are authorized to work in 969
accordance with the Immigration Reform and Control Act, the 970
administrator shall reduce the next premium due to be paid by the 971
employer by the amount equal to the increase in premium resulting 972
from payments made to that claimant on or after the end of the 973
twenty-eight-day period described in division (B) of section 974
4123.513 of the Revised Code. If the administrator awarded 975
compensation or benefits under division (C) of section 4123.513 of 976
the Revised Code but subsequently denied the claim under division 977
(E) of that section, and if the administrator recovered the 978
payment made to the claimant, the administrator also shall credit 979
the employer's premium with those payments. 980

(B) If a claimant's claim is denied under division (E) of 981
section 4123.513 of the Revised Code, if the employer of the 982
claimant or the deceased employee who is the subject of the claim 983
is a self-insuring employer, and if the self-insuring employer 984
submits proof of using a status verification system to determine 985

whether the employer's employees are authorized to work in 986
accordance with the Immigration Reform and Control Act, the 987
administrator shall reduce the self-insuring employer's next 988
assessment due by the amount of assessments paid by the 989
self-insuring employer that reflected the paid compensation on 990
account of the claimant or deceased employee paid on or after the 991
end of the twenty-eight-day period described in division (B) of 992
section 4123.513 of the Revised Code. If the self-insuring 993
employer awarded compensation or benefits under division (C) of 994
section 4123.513 of the Revised Code but subsequently denied the 995
claim under division (E) of that section, and if the self-insuring 996
employer recovered the payment made to the claimant, the 997
administrator also shall reduce the assessment by the amount 998
reflected in the assessment for that paid compensation. 999

(C) An employer shall not include a claimant whose claim is 1000
denied under division (E) of section 4123.513 of the Revised Code 1001
in any subsequent report of payroll of the employer under section 1002
4123.26 of the Revised Code. 1003

Sec. 4123.515. (A) Except as otherwise provided in divisions 1004
(B) and (C) of this section, if a claim is denied under division 1005
(D) or (E) of section 4123.513 of the Revised Code, the claimant's 1006
employer, or, if the claimant is a dependent of an employee who 1007
died as a result of suffering an injury or contracting an 1008
occupational disease, the deceased employee's employer, is not 1009
liable to that claimant for damages suffered by reason of personal 1010
injury sustained or occupational disease contracted in the course 1011
of employment caused by the wrongful act or omission or neglect of 1012
the employer. For such a claimant, filing a claim under Chapter 1013
4121., 4123., 4127., or 4131. of the Revised Code is the exclusive 1014
remedy against the employer on account of injury, disease, or 1015
death in the course of and arising out of the claimant's or 1016
deceased employee's employment. Notwithstanding section 4123.77 of 1017

the Revised Code and except as provided in division (B) of this 1018
section, an irrebuttable presumption exists that the individual 1019
assumed the risk of incurring an injury or contracting an 1020
occupational disease at the workplace, or dying as a result of 1021
such an injury or occupational disease, when performing services 1022
or providing labor for that employer. 1023

(B) An employer is liable to a claimant whose claim is denied 1024
under division (D), or (E) of section 4123.513 of the Revised Code 1025
for damages suffered by reason of personal injury sustained or 1026
occupational disease contracted in the course of employment caused 1027
by the wrongful act or omission or neglect of the employer if the 1028
employer employed the claimant or the deceased employee who is the 1029
subject of the claim knowing that the claimant or deceased 1030
employee was not authorized to work under the Immigration Reform 1031
and Control Act on the date the claimant or deceased employee 1032
suffered the injury or contracted the occupational disease. 1033

(C) Nothing in this section or section 4123.513 of the 1034
Revised Code shall be construed to prevent a claimant whose claim 1035
is denied under division (D) or (E) of section 4123.513 of the 1036
Revised Code from bringing a claim against an employer in a court 1037
of competent jurisdiction for an intentional tort allegedly 1038
committed by the employer against the claimant or deceased 1039
employee who was the subject of the claim. 1040

Section 2. That existing sections 2743.02, 2744.02, 4123.01, 1041
and 4123.511 of the Revised Code are hereby repealed. 1042

Section 3. This act applies to claims arising on or after the 1043
effective date of this act. 1044