

As Introduced

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S. B. No. 94

Senator Patton

Cosponsors: Senators Stewart, Schaffer, Hughes, Miller, D.

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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 shall include diagnosis and evaluation of the existence of any

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 521

glanders; handling carcass of such animal.	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 corneal surface of the eye due to carbon, pitch, tar, or tarry	550 551

compounds: Handling or industrial use of carbon, pitch, or tarry compounds.	552 553
(M) Compressed air illness: Any industrial process carried on in compressed air.	554 555
(N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide.	556 557
(O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.	558 559 560
(P) Manganese dioxide poisoning: Any process involving the grinding or milling of manganese dioxide or the escape of manganese dioxide dust.	561 562 563
(Q) Radium poisoning: Any industrial process involving the use of radium and other radioactive substances in luminous paint.	564 565
(R) Tenosynovitis and prepatellar bursitis: Primary tenosynovitis characterized by a passive effusion or crepitus into the tendon sheath of the flexor or extensor muscles of the hand, due to frequently repetitive motions or vibrations, or prepatellar bursitis due to continued pressure.	566 567 568 569 570
(S) Chrome ulceration of the skin or nasal passages: Any industrial process involving the use of or direct contact with chromic acid or bichromates of ammonium, potassium, or sodium or their preparations.	571 572 573 574
(T) Potassium cyanide poisoning: Any industrial process involving the use of or direct contact with potassium cyanide.	575 576
(U) Sulphur dioxide poisoning: Any industrial process in which sulphur dioxide gas is evolved by the expansion of liquid sulphur dioxide.	577 578 579
(V) Berylliosis: Berylliosis means a disease of the lungs caused by breathing beryllium in the form of dust or fumes,	580 581

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 804
section. 805

Section 4. The amendments made by this act to sections 806
4123.57 and 4123.68 of the Revised Code apply only to claims 807
pursuant to Chapters 4121. and 4123. of the Revised Code arising 808
on and after the effective date of this section. 809