

**As Passed by the Senate**

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**Sub. S. B. No. 252**

**Senators Patton, Brown**

**Cosponsors: Senators Hughes, Turner, Schiavoni, Kearney, LaRose,  
Gardner, Sawyer, Tavares, Bacon, Balderson, Eklund, Faber, Gentile, Hite,  
Jones, Lehner, Manning, Obhof, Oelslager, Uecker, Widener**

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**A B I L L**

To amend sections 4123.01, 4123.026, and 4123.46 of 1  
the Revised Code to make peace officers, 2  
firefighters, and emergency medical workers 3  
diagnosed with post-traumatic stress disorder 4  
arising from employment without an accompanying 5  
physical injury eligible for compensation and 6  
benefits under Ohio's Workers' Compensation Law. 7

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

**Section 1.** That sections 4123.01, 4123.026, and 4123.46 of 8  
the Revised Code be amended to read as follows: 9

**Sec. 4123.01.** As used in this chapter: 10

(A)(1) "Employee" means: 11

(a) Every person in the service of the state, or of any 12  
county, municipal corporation, township, or school district 13  
therein, including regular members of lawfully constituted police 14  
and fire departments of municipal corporations and townships, 15  
whether paid or volunteer, and wherever serving within the state 16

or on temporary assignment outside thereof, and executive officers 17  
of boards of education, under any appointment or contract of hire, 18  
express or implied, oral or written, including any elected 19  
official of the state, or of any county, municipal corporation, or 20  
township, or members of boards of education. 21

As used in division (A)(1)(a) of this section, the term 22  
"employee" includes the following persons when responding to an 23  
inherently dangerous situation that calls for an immediate 24  
response on the part of the person, regardless of whether the 25  
person is within the limits of the jurisdiction of the person's 26  
regular employment or voluntary service when responding, on the 27  
condition that the person responds to the situation as the person 28  
otherwise would if the person were on duty in the person's 29  
jurisdiction: 30

(i) Off-duty peace officers. ~~As used in division (A)(1)(a)(i)~~ 31  
~~of this section, "peace officer" has the same meaning as in~~ 32  
~~section 2935.01 of the Revised Code.~~ 33

(ii) Off-duty firefighters, ~~whether paid or volunteer, of a~~ 34  
~~lawfully constituted fire department.~~ 35

(iii) Off-duty ~~first responders, emergency medical~~ 36  
~~technicians basic, emergency medical technicians intermediate, or~~ 37  
~~emergency medical technicians paramedic, whether paid or~~ 38  
~~volunteer, emergency medical workers of an ambulance service~~ 39  
~~organization or emergency medical service organization pursuant to~~ 40  
~~Chapter 4765. of the Revised Code.~~ 41

(b) Every person in the service of any person, firm, or 42  
private corporation, including any public service corporation, 43  
that (i) employs one or more persons regularly in the same 44  
business or in or about the same establishment under any contract 45  
of hire, express or implied, oral or written, including aliens and 46  
minors, household workers who earn one hundred sixty dollars or 47

more in cash in any calendar quarter from a single household and 48  
casual workers who earn one hundred sixty dollars or more in cash 49  
in any calendar quarter from a single employer, or (ii) is bound 50  
by any such contract of hire or by any other written contract, to 51  
pay into the state insurance fund the premiums provided by this 52  
chapter. 53

(c) Every person who performs labor or provides services 54  
pursuant to a construction contract, as defined in section 4123.79 55  
of the Revised Code, if at least ten of the following criteria 56  
apply: 57

(i) The person is required to comply with instructions from 58  
the other contracting party regarding the manner or method of 59  
performing services; 60

(ii) The person is required by the other contracting party to 61  
have particular training; 62

(iii) The person's services are integrated into the regular 63  
functioning of the other contracting party; 64

(iv) The person is required to perform the work personally; 65

(v) The person is hired, supervised, or paid by the other 66  
contracting party; 67

(vi) A continuing relationship exists between the person and 68  
the other contracting party that contemplates continuing or 69  
recurring work even if the work is not full time; 70

(vii) The person's hours of work are established by the other 71  
contracting party; 72

(viii) The person is required to devote full time to the 73  
business of the other contracting party; 74

(ix) The person is required to perform the work on the 75  
premises of the other contracting party; 76

(x) The person is required to follow the order of work set by 77

the other contracting party;	78
(xi) The person is required to make oral or written reports of progress to the other contracting party;	79 80
(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;	81 82
(xiii) The person's expenses are paid for by the other contracting party;	83 84
(xiv) The person's tools and materials are furnished by the other contracting party;	85 86
(xv) The person is provided with the facilities used to perform services;	87 88
(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;	89 90
(xvii) The person is not performing services for a number of employers at the same time;	91 92
(xviii) The person does not make the same services available to the general public;	93 94
(xix) The other contracting party has a right to discharge the person;	95 96
(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.	97 98 99
Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or if a self-insuring employer has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the	100 101 102 103 104 105 106 107

person who has entered into a contract, whether written or verbal, 108  
with such independent contractor unless such employees or their 109  
legal representatives or beneficiaries elect, after injury or 110  
death, to regard such independent contractor as the employer. 111

(d) Every person to whom all of the following apply: 112

(i) The person is a resident of a state other than this state 113  
and is covered by that other state's workers' compensation law; 114

(ii) The person performs labor or provides services for that 115  
person's employer while temporarily within this state; 116

(iii) The laws of that other state do not include the 117  
provisions described in division (H)(4) of section 4123.54 of the 118  
Revised Code. 119

(2) "Employee" does not mean: 120

(a) A duly ordained, commissioned, or licensed minister or 121  
assistant or associate minister of a church in the exercise of 122  
ministry; 123

(b) Any officer of a family farm corporation; 124

(c) An individual incorporated as a corporation; or 125

(d) An individual who otherwise is an employee of an employer 126  
but who signs the waiver and affidavit specified in section 127  
4123.15 of the Revised Code on the condition that the 128  
administrator has granted a waiver and exception to the 129  
individual's employer under section 4123.15 of the Revised Code. 130

Any employer may elect to include as an "employee" within 131  
this chapter, any person excluded from the definition of 132  
"employee" pursuant to division (A)(2) of this section. If an 133  
employer is a partnership, sole proprietorship, individual 134  
incorporated as a corporation, or family farm corporation, such 135  
employer may elect to include as an "employee" within this 136  
chapter, any member of such partnership, the owner of the sole 137

proprietorship, the individual incorporated as a corporation, or 138  
the officers of the family farm corporation. In the event of an 139  
election, the employer shall serve upon the bureau of workers' 140  
compensation written notice naming the persons to be covered, 141  
include such employee's remuneration for premium purposes in all 142  
future payroll reports, and no person excluded from the definition 143  
of "employee" pursuant to division (A)(2) of this section, 144  
proprietor, individual incorporated as a corporation, or partner 145  
shall be deemed an employee within this division until the 146  
employer has served such notice. 147

For informational purposes only, the bureau shall prescribe 148  
such language as it considers appropriate, on such of its forms as 149  
it considers appropriate, to advise employers of their right to 150  
elect to include as an "employee" within this chapter a sole 151  
proprietor, any member of a partnership, an individual 152  
incorporated as a corporation, the officers of a family farm 153  
corporation, or a person excluded from the definition of 154  
"employee" under division (A)(2) of this section, that they should 155  
check any health and disability insurance policy, or other form of 156  
health and disability plan or contract, presently covering them, 157  
or the purchase of which they may be considering, to determine 158  
whether such policy, plan, or contract excludes benefits for 159  
illness or injury that they might have elected to have covered by 160  
workers' compensation. 161

(B) "Employer" means: 162

(1) The state, including state hospitals, each county, 163  
municipal corporation, township, school district, and hospital 164  
owned by a political subdivision or subdivisions other than the 165  
state; 166

(2) Every person, firm, professional employer organization as 167  
defined in section 4125.01 of the Revised Code, and private 168  
corporation, including any public service corporation, that (a) 169

has in service one or more employees or shared employees regularly 170  
in the same business or in or about the same establishment under 171  
any contract of hire, express or implied, oral or written, or (b) 172  
is bound by any such contract of hire or by any other written 173  
contract, to pay into the insurance fund the premiums provided by 174  
this chapter. 175

All such employers are subject to this chapter. Any member of 176  
a firm or association, who regularly performs manual labor in or 177  
about a mine, factory, or other establishment, including a 178  
household establishment, shall be considered an employee in 179  
determining whether such person, firm, or private corporation, or 180  
public service corporation, has in its service, one or more 181  
employees and the employer shall report the income derived from 182  
such labor to the bureau as part of the payroll of such employer, 183  
and such member shall thereupon be entitled to all the benefits of 184  
an employee. 185

(C) "Injury" includes any injury, whether caused by external 186  
accidental means or accidental in character and result, received 187  
in the course of, and arising out of, the injured employee's 188  
employment. "Injury" does not include: 189

(1) Psychiatric conditions except ~~where~~ as follows: 190

(a) Where the claimant's psychiatric conditions have arisen 191  
from an injury or occupational disease sustained by that claimant 192  
~~or where;~~ 193

(b) Where the claimant's psychiatric conditions have arisen 194  
from sexual conduct in which the claimant was forced by threat of 195  
physical harm to engage or participate; 196

(c) Where the claimant is a peace officer, firefighter, or 197  
emergency medical worker and is diagnosed with post-traumatic 198  
stress disorder that has arisen from the claimant's employment as 199  
a peace officer, firefighter, or emergency medical worker. 200

(2) Injury or disability caused primarily by the natural deterioration of tissue, an organ, or part of the body;	201 202
(3) Injury or disability incurred in voluntary participation in an employer-sponsored recreation or fitness activity if the employee signs a waiver of the employee's right to compensation or benefits under this chapter prior to engaging in the recreation or fitness activity;	203 204 205 206 207
(4) A condition that pre-existed an injury unless that pre-existing condition is substantially aggravated by the injury. Such a substantial aggravation must be documented by objective diagnostic findings, objective clinical findings, or objective test results. Subjective complaints may be evidence of such a substantial aggravation. However, subjective complaints without objective diagnostic findings, objective clinical findings, or objective test results are insufficient to substantiate a substantial aggravation.	208 209 210 211 212 213 214 215 216
(D) "Child" includes a posthumous child and a child legally adopted prior to the injury.	217 218
(E) "Family farm corporation" means a corporation founded for the purpose of farming agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons or the spouse of persons related to each other within the fourth degree of kinship, according to the rules of the civil law, and at least one of the related persons is residing on or actively operating the farm, and none of whose stockholders are a corporation. A family farm corporation does not cease to qualify under this division where, by reason of any devise, bequest, or the operation of the laws of descent or distribution, the ownership of shares of voting stock is transferred to another person, as long as that person is within the degree of kinship stipulated in this division.	219 220 221 222 223 224 225 226 227 228 229 230 231



(F) "Occupational disease" means a disease contracted in the 232  
course of employment, which by its causes and the characteristics 233  
of its manifestation or the condition of the employment results in 234  
a hazard which distinguishes the employment in character from 235  
employment generally, and the employment creates a risk of 236  
contracting the disease in greater degree and in a different 237  
manner from the public in general. 238

(G) "Self-insuring employer" means an employer who is granted 239  
the privilege of paying compensation and benefits directly under 240  
section 4123.35 of the Revised Code, including a board of county 241  
commissioners for the sole purpose of constructing a sports 242  
facility as defined in section 307.696 of the Revised Code, 243  
provided that the electors of the county in which the sports 244  
facility is to be built have approved construction of a sports 245  
facility by ballot election no later than November 6, 1997. 246

(H) "Public employer" means an employer as defined in 247  
division (B)(1) of this section. 248

(I) "Sexual conduct" means vaginal intercourse between a male 249  
and female; anal intercourse, fellatio, and cunnilingus between 250  
persons regardless of gender; and, without privilege to do so, the 251  
insertion, however slight, of any part of the body or any 252  
instrument, apparatus, or other object into the vaginal or anal 253  
cavity of another. Penetration, however slight, is sufficient to 254  
complete vaginal or anal intercourse. 255

(J) "Other-states' insurer" means an insurance company that 256  
is authorized to provide workers' compensation insurance coverage 257  
in any of the states that permit employers to obtain insurance for 258  
workers' compensation claims through insurance companies. 259

(K) "Other-states' coverage" means insurance coverage 260  
purchased by an employer for workers' compensation claims that 261  
arise in a state or states other than this state and that are 262

filed by the employees of the employer or those employee's 263  
dependents, as applicable, in that other state or those other 264  
states. 265

(L) "Peace officer" has the same meaning as in section 266  
2935.01 of the Revised Code. 267

(M) "Firefighter" means a firefighter, whether paid or 268  
volunteer, of a lawfully constituted fire department. 269

(N) "Emergency medical worker" means a first responder, 270  
emergency medical technician-basic, emergency medical 271  
technician-intermediate, or emergency medical 272  
technician-paramedic, certified under Chapter 4765. of the Revised 273  
Code, whether paid or volunteer. 274

**Sec. 4123.026.** ~~(A)~~ The administrator of workers' 275  
compensation, or a self-insuring public employer for the peace 276  
officers, firefighters, and emergency medical workers employed by 277  
or volunteering for that self-insuring public employer, shall pay 278  
the costs of conducting post-exposure medical diagnostic services, 279  
consistent with the standards of medical care existing at the time 280  
of the exposure, to investigate whether an injury or occupational 281  
disease was sustained by a peace officer, firefighter, or 282  
emergency medical worker when coming into contact with the blood 283  
or other body fluid of another person in the course of and arising 284  
out of the peace officer's, firefighter's, or emergency medical 285  
worker's employment, or when responding to an inherently dangerous 286  
situation in the manner described in, and in accordance with the 287  
conditions specified under, division (A)(1)(a) of section 4123.01 288  
of the Revised Code, through any of the following means: 289

~~(1)~~(A) Splash or spatter in the eye or mouth, including when 290  
received in the course of conducting mouth-to-mouth resuscitation; 291

~~(2)~~(B) A puncture in the skin; 292

~~(3)(C)~~ A cut in the skin or another opening in the skin such as an open sore, wound, lesion, abrasion, or ulcer. 293  
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~~(B) As used in this section:~~ 295

~~(1) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.~~ 296  
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~~(2) "Firefighter" means a firefighter, whether paid or volunteer, of a lawfully constituted fire department.~~ 298  
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~~(3) "Emergency medical worker" means a first responder, emergency medical technician basic, emergency medical technician intermediate, or emergency medical technician paramedic, certified under Chapter 4765. of the Revised Code, whether paid or volunteer.~~ 300  
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**Sec. 4123.46.** (A)(1) Except as provided in division (A)(2) of this section, the bureau of workers' compensation shall disburse the state insurance fund to employees of employers who have paid into the fund the premiums applicable to the classes to which they belong when the employees have been injured in the course of their employment, wherever the injuries have occurred, and provided the injuries have not been purposely self-inflicted, or to the dependents of the employees in case death has ensued. 305  
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(2) As long as injuries have not been purposely self-inflicted, the bureau shall disburse the surplus fund created under section 4123.34 of the Revised Code to off-duty peace officers, firefighters, and emergency medical technicians, ~~and first responders~~ workers, or to their dependents if death ensues, who are injured while responding to inherently dangerous situations that call for an immediate response on the part of the person, regardless of whether the person was within the limits of the person's jurisdiction when responding, on the condition that the person responds to the situation as the person otherwise would 313  
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if the person were on duty in the person's jurisdiction. 323

As used in division (A)(2) of this section, "peace officer," 324  
"firefighter," and "emergency medical ~~technician,~~" "~~first~~ 325  
~~responder worker,~~" ~~and "jurisdiction"~~ have the same meanings as in 326  
section 4123.01 of the Revised Code. 327

(B) All self-insuring employers, in compliance with this 328  
chapter, shall pay the compensation to injured employees, or to 329  
the dependents of employees who have been killed in the course of 330  
their employment, unless the injury or death of the employee was 331  
purposely self-inflicted, and shall furnish the medical, surgical, 332  
nurse, and hospital care and attention or funeral expenses as 333  
would have been paid and furnished by virtue of this chapter under 334  
a similar state of facts by the bureau out of the state insurance 335  
fund if the employer had paid the premium into the fund. 336

If any rule or regulation of a self-insuring employer 337  
provides for or authorizes the payment of greater compensation or 338  
more complete or extended medical care, nursing, surgical, and 339  
hospital attention, or funeral expenses to the injured employees, 340  
or to the dependents of the employees as may be killed, the 341  
employer shall pay to the employees, or to the dependents of 342  
employees killed, the amount of compensation and furnish the 343  
medical care, nursing, surgical, and hospital attention or funeral 344  
expenses provided by the self-insuring employer's rules and 345  
regulations. 346

(C) Payment to injured employees, or to their dependents in 347  
case death has ensued, is in lieu of any and all rights of action 348  
against the employer of the injured or killed employees. 349

**Section 2.** That existing sections 4123.01, 4123.026, and 350  
4123.46 of the Revised Code are hereby repealed. 351