

H. B. No. 380
As Introduced

Topic: Attestation, Dependent benefits, presumption

1

_____ moved to amend as follows:

In line 1 of the title, after "4123.01," insert "4123.51," 2

In line 2 of the title, delete "4123.511" and insert "4123.59" 3

In line 7, after "4123.01," insert "4123.51," 4

In line 8, delete "4123.511" and insert "4123.59" 5

In line 15, after "claim" insert "brought by or on behalf
of an illegal alien or an unauthorized alien " 6
7

In line 16, delete "an illegal alien or an unauthorized
alien by" 8
9

In line 25, after "state" insert "that could otherwise
exercise jurisdiction over a claim described in division (B) of
this section but for the prohibition described in that division
"; after "over" insert "such " 10
11
12
13

Delete lines 26 through 29 14

In line 30, delete "the employer"; after "if" insert "the person bringing the claim establishes, by clear and convincing evidence, that"; delete "employed" and insert "hired"

In line 34, after "1324a" insert ". There is a rebuttable presumption that an employer did not hire a person knowing the person was an illegal alien or unauthorized alien if the employer has complied with the requirements of section 101(a) of the "Immigration Reform and Control Act of 1986," 100 Stat. 3360, 8 U.S.C. 1324a"

In line 194, after "unless" insert "the person bringing the action establishes, by clear and convincing evidence, that"; delete "employed" and insert "hired"

In line 198, after "1324a" insert ". There is a rebuttable presumption that the state did not hire a person knowing the person was an illegal alien or unauthorized alien if the state has complied with the requirements of section 101(a) of the "Immigration Reform and Control Act of 1986," 100 Stat. 3360, 8 U.S.C. 1324a"

In line 216, after "unless" insert "the person bringing the action establishes, by clear and convincing evidence, that"; delete "employed" and insert "hired"

In line 220, after "1324a" insert ". There is a rebuttable presumption that a political subdivision did not hire a person knowing the person was an illegal alien or unauthorized alien if the political subdivision has complied with the requirements of section 101(a) of the "Immigration Reform and Control Act of 1986," 100 Stat. 3360, 8 U.S.C. 1324a"

Delete lines 595 through 912, and insert:

"Sec. 4123.51. (A) The administrator of workers' 43
compensation shall by published notices and other appropriate 44
means endeavor to cause claims to be filed in the service office 45
of the bureau of workers' compensation from which the 46
investigation and determination of the claim may be made most 47
expeditiously. A claim or appeal under this chapter or Chapter 48
4121., 4127., or 4131. of the Revised Code may be filed with any 49
office of the bureau of workers' compensation or the industrial 50
commission, within the required statutory period, and is 51
considered received for the purpose of processing the claims or 52
appeals. 53

(B) The administrator, on the form an employee or an 54
individual acting on behalf of the employee files with the 55
administrator or a self-insuring employer to initiate a claim 56
under this chapter or Chapter 4121., 4127., or 4131. of the 57
Revised Code, shall include a all of the following: 58

(1) A statement that is substantially similar to the 59
following statement in bold font and set apart from all other 60
text in the form: 61

"By signing this form, I elect to only receive 62
compensation, benefits, or both that are provided for in this 63
claim under Ohio's workers' compensation laws. I understand and 64
I hereby waive and release my right to receive compensation and 65
benefits under the workers' compensation laws of another state 66
for the injury or occupational disease, or the death resulting 67
from an injury or occupational disease, for which I am filing 68
this claim. I have not received compensation and benefits under 69
the workers' compensation laws of another state for this claim, 70
and I will not file and have not filed a claim in another state 71
for the injury or occupational disease or death resulting from 72

an injury or occupational disease for which I am filing this claim." 73
74

(2) A place for the claimant to state whether the claimant is a citizen of the United States; 75
76

(3) A place for a claimant who is not a citizen of the United States to provide either of the following, as applicable: 77
78

(a) The claimant's alien registration number or other signifier that the claimant is authorized to work by the United States department of homeland security or its successor and the expiration date of the claimant's authorization to work; 79
80
81
82

(b) If the claimant is a dependent of an individual who died as a result of suffering an injury or contracting an occupational disease, the deceased individual's alien registration number or other signifier that the individual was authorized to work by the United States department of homeland security or its successor and the expiration date of the individual's authorization to work." 83
84
85
86
87
88
89

In line 913, after "(A)" insert "As used in this section, "damages" means damages suffered by reason of personal injury sustained or occupational disease contracted in the course of employment caused by the wrongful act or omission or neglect of the employer." 90
91
92
93
94

(B) To be considered eligible for compensation or benefits paid under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code, other than medical benefits as described in section 4123.66 of the Revised Code, a claimant who is not a United States citizen shall provide the administrator of workers' compensation with one of the following, as applicable: 95
96
97
98
99
100

(1) The claimant's alien registration number or other 101
signifier that the claimant is authorized to work by the United 102
States department of homeland security or its successor and the 103
expiration date of the claimant's authorization to work; 104

(2) If the claimant is a dependent of an individual who 105
died as a result of suffering an injury or contracting an 106
occupational disease, the deceased individual's alien 107
registration number or other signifier that the individual was 108
authorized to work by the United States department of homeland 109
security or its successor and the expiration date of the 110
individual's authorization to work. 111

(C) (1) " 112

In line 914, delete "(B)" and insert "(D)"; delete "(C)" 113
and insert "(E)"; delete "if a claim is denied" 114

Delete lines 915 through 918 115

In line 919, delete "the individual's" and insert "an"; 116
delete "that" and insert "a" 117

In line 920, delete "suffered by reason of personal injury" 118
sustained or" 119

Delete lines 921 and 922 120

In line 923, delete "employer" and insert "if the" 121
claimant's claim for compensation or benefits under this chapter 122
or Chapter 4121., 4127., or 4131. of the Revised Code is denied 123
for either of the following reasons: 124

(a) The claimant is an unauthorized alien. 125

(b) The claimant is not a United States citizen and is a 126
dependent of an unauthorized alien who died as a result of 127

| | |
|---|---------------------------------|
| <u>suffering an injury or contracting an occupational disease.</u> | 128 |
| <u>(2)"; delete "such a claimant" and insert "any claimant described in division (C) (1) of this section"</u> | 129 130 |
| In line 927, delete " <u>claimant's or deceased employee's</u> " and insert " <u>claimant's or deceased individual's</u> " | 131 132 |
| In line 929, delete " <u>division (B)</u> " and insert " <u>divisions (D) and (E)</u> " | 133 134 |
| In line 930, after " <u>individual</u> " insert " <u>who is the subject of the claim</u> " | 135 136 |
| In line 934, delete " <u>(B)</u> " and insert " <u>(D)</u> "; delete " <u>whose claim is</u> " | 137 138 |
| Delete lines 935 through 936 | 139 |
| In line 937, delete " <u>unauthorized alien</u> " and insert " <u>described in division (C) (1) of this section</u> "; delete " <u>suffered by reason of personal</u> " | 140 141 142 |
| Delete lines 938 through 939 | 143 |
| In line 940, delete " <u>neglect of the employer</u> " | 144 |
| In line 941, delete " <u>employed</u> " and insert " <u>hired</u> " | 145 |
| In line 945, delete " <u>, on the date the claimant or deceased</u> " | 146 147 |
| Delete line 946 | 148 |
| In line 947, delete " <u>disease</u> " and insert " <u>. There is a rebuttable presumption that an employer did not hire a person knowing the person was an illegal alien or unauthorized alien if the employer has complied with the requirements of section 101(a) of the "Immigration Reform and Control Act of 1986," 100</u> | 149 150 151 152 153 |

| | |
|--|---|
| <u>48 Stat. 3360, 8 U.S.C. 1324a"</u> | 154 |
| In line 950, delete " <u>(C)</u> " and insert " <u>(E)</u> " | 155 |
| In line 951, delete " <u>whose claim is denied because the</u> <u>claimant is or the</u> " | 156 157 |
| Delete line 952 | 158 |
| In line 953, delete " <u>unauthorized alien</u> " and insert " <u>described in division</u> "; after "alien" insert " <u>(C) (1) of this</u> <u>section</u> " | 159 160 161 |
| After line 956, insert: | 162 |
| " Sec. 4123.59. In case an injury to or an occupational disease contracted by an employee causes the employee's death, benefits shall be in the amount and to the persons following: | 163 164 165 |
| (A) If there are no dependents, the disbursements from the state insurance fund is limited to the expenses provided for in section 4123.66 of the Revised Code. | 166 167 168 |
| (B) If there are wholly dependent persons at the time of the death, the weekly payment is sixty-six and two-thirds per cent of the average weekly wage, but not to exceed a maximum aggregate amount of weekly compensation which is equal to sixty- six and two-thirds per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code, and not in any event less than a minimum amount of weekly compensation which is equal to fifty per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code, regardless of the average weekly wage; provided however, that if the death is due to injury received or occupational disease first diagnosed after January 1, 1976, the weekly payment is sixty-six and two-thirds per cent | 169 170 171 172 173 174 175 176 177 178 179 180 181 |

of the average weekly wage but not to exceed a maximum aggregate 182
amount of weekly compensation which is equal to the statewide 183
average weekly wage as defined in division (C) of section 184
4123.62 of the Revised Code; provided that when any claimant is 185
receiving total disability compensation at the time of death the 186
wholly dependent person is eligible for the maximum compensation 187
provided for in this section. Where there is more than one 188
person who is wholly dependent at the time of the death of the 189
employee, the administrator of workers' compensation shall 190
promptly apportion the weekly amount of compensation payable 191
under this section among the dependent persons as provided in 192
division (D) of this section. 193

(1) The payment as provided in this section shall continue 194
from the date of death of an injured or disabled employee until 195
the death or remarriage of such dependent spouse. If the 196
dependent spouse remarries, an amount equal to two years of 197
compensation benefits at the weekly amount determined to be 198
applicable to and being paid to the dependent spouse shall be 199
paid in a lump sum to such spouse and no further compensation 200
shall be paid to such spouse. 201

(2) That portion of the payment provided in division (B) 202
of this section applicable to wholly dependent persons other 203
than a spouse shall continue from the date of death of an 204
injured or disabled employee to a dependent as of the date of 205
death, other than a spouse, at the weekly amount determined to 206
be applicable and being paid to such dependent other than a 207
spouse, until the dependent: 208

(a) Reaches eighteen years of age; 209

(b) If pursuing a full time educational program while 210
enrolled in an accredited educational institution and program, 211

| | |
|---|-----|
| reaches twenty-five years of age; | 212 |
| (c) If mentally or physically incapacitated from having | 213 |
| any earnings, is no longer so incapacitated. | 214 |
| (3) (a) Payments under division (B) of this section to a | 215 |
| dependent described in division (B) (2) (c) of this section shall | 216 |
| not be terminated due to the dependent's employment in a | 217 |
| sheltered workshop if the dependent does not receive income, | 218 |
| compensation, or remuneration from that employment in excess of | 219 |
| two thousand dollars in any calendar quarter. | 220 |
| (b) As used in division (B) (3) of this section, "sheltered | 221 |
| workshop" has the same meaning as in section 4123.58 of the | 222 |
| Revised Code. | 223 |
| (C) If there are partly dependent persons at the time of | 224 |
| the death the weekly payment is sixty-six and two-thirds per | 225 |
| cent of the employee's average weekly wage, not to exceed sixty- | 226 |
| six and two-thirds per cent of the statewide average weekly wage | 227 |
| as defined in division (C) of section 4123.62 of the Revised | 228 |
| Code, and shall continue for such time as the administrator in | 229 |
| each case determines. | 230 |
| (D) The following persons are presumed to be wholly | 231 |
| dependent for their support upon a deceased employee: | 232 |
| (1) A surviving spouse who was living with the employee at | 233 |
| the time of death or a surviving spouse who was separated from | 234 |
| the employee at the time of death because of the aggression of | 235 |
| the employee; | 236 |
| (2) A child under the age of eighteen years, or twenty- | 237 |
| five years if pursuing a full-time educational program while | 238 |
| enrolled in an accredited educational institution and program, | 239 |

or over said age if physically or mentally incapacitated from 240
earning, upon only the one parent who is contributing more than 241
one-half of the support for such child and with whom the child 242
is living at the time of the death of such parent, or for whose 243
maintenance such parent was legally liable at the time of the 244
parent's death. 245

It is presumed that there is sufficient dependency to 246
entitle a surviving natural parent or surviving natural parents, 247
share and share alike, with whom the decedent was living at the 248
time of the decedent's death, to a total minimum award of three 249
thousand dollars. 250

The administrator may take into consideration any 251
circumstances which, at the time of the death of the decedent, 252
clearly indicate prospective dependency on the part of the 253
claimant and potential support on the part of the decedent. No 254
person shall be considered a prospective dependent unless such 255
person is a member of the family of the deceased employee and 256
bears to the deceased employee the relation of surviving spouse, 257
lineal descendant, ancestor, or brother or sister. The total 258
award for any or all prospective dependency to all such 259
claimants, except to a natural parent or natural parents of the 260
deceased, shall not exceed three thousand dollars to be 261
apportioned among them as the administrator orders. 262

In all other cases, the question of dependency, in whole 263
or in part, shall be determined in accordance with the facts in 264
each particular case existing at the time of the injury 265
resulting in the death of such employee, but no person shall be 266
considered as dependent unless such person is a member of the 267
family of the deceased employee, or bears to the deceased 268
employee the relation of surviving spouse, lineal descendant, 269

ancestor, or brother or sister. 270

(E) ~~An~~ (1) A United States citizen who is a dependent of 271
an illegal or unauthorized alien may receive benefits under this 272
section if both of the following apply: 273

(a) The illegal or unauthorized alien died as a result of 274
an injury or occupational disease. 275

(b) The illegal or unauthorized alien would have been 276
eligible to receive compensation or benefits under this chapter 277
or Chapter 4121., 4127., or 4131. of the Revised Code, 278
notwithstanding division (A)(2)(f) of section 4123.01 of the 279
Revised Code excluding illegal and unauthorized aliens from the 280
definition of employee under this chapter. 281

(2) If the decedent's employer pays premiums into the 282
state insurance fund, the administrator shall charge the amount 283
of benefits paid pursuant to division (E)(1) of this section to 284
the employer's experience. If the decedent's employer is a self- 285
insuring employer, the self-insuring employer shall include the 286
amount of benefits the self-insuring employer pays pursuant to 287
division (E)(1) of this section in the paid compensation the 288
self-insuring employer reports to the administrator under 289
division (L) of section 4123.35 of the Revised Code. 290

(F) Notwithstanding section 2307.82, division (I) of 291
section 2743.02, and division (A)(1) of section 2744.02 of the 292
Revised Code, an order issued by the administrator under this 293
section is appealable pursuant to sections 4123.511 to 4123.512 294
of the Revised Code." 295

In line 958, after "4123.01," insert "4123.51,"; delete 296
"4123.511" and insert "4123.59" 297

The motion was _____ agreed to.