

As Introduced

136th General Assembly

Regular Session

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H. B. No. 277

Representatives Craig, Deeter

Cosponsors: Representatives Lorenz, Gross, Lampton, Daniels

To amend sections 4111.03, 4111.14, 4113.15,
4121.01, 4123.01, 4141.01, and 5747.01 and to
enact section 4113.87 of the Revised Code to
specify that a health care worker is not the
employee of a health care worker platform or
health care facility for purposes of specified
laws under certain circumstances.

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

Section 1. That sections 4111.03, 4111.14, 4113.15,
4121.01, 4123.01, 4141.01, and 5747.01 be amended and section
4113.87 of the Revised Code be enacted to read as follows:

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Sec. 4111.03. (A) Except as provided in section 4111.031
of the Revised Code, an employer shall pay an employee for
overtime at a wage rate of one and one-half times the employee's
wage rate for hours worked in excess of forty hours in one
workweek, in the manner and methods provided in and subject to
the exemptions of section 7 and section 13 of the "Fair Labor
Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as
amended, and, effective beginning on ~~the effective date of this~~
~~amendment~~ July 6, 2022, sections 2 and 4 of the "Portal to
Portal Act of 1947," 29 U.S.C. 252 and 254.

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Any employee employed in agriculture shall not be covered 21
by the overtime provision of this section. 22

A motor carrier may elect to apply the overtime provision 23
of this section to an individual who is excluded from the 24
provision under division (D) (3) (i) of this section. 25

(B) If a county employee or township employee elects to 26
take compensatory time off in lieu of overtime pay, for any 27
overtime worked, compensatory time may be granted by the 28
employee's administrative superior, on a time and one-half 29
basis, at a time mutually convenient to the employee and the 30
administrative superior within one hundred eighty days after the 31
overtime is worked. 32

(C) A township appointing authority or a county appointing 33
authority with the exception of the county department of job and 34
family services may, by rule or resolution as is appropriate, 35
indicate the authority's intention not to be bound by division 36
(B) of this section, and to adopt a different policy for the 37
calculation and payment of overtime than that established by 38
that division. Upon adoption, the alternative overtime policy 39
prevails. Prior to the adoption of an alternative overtime 40
policy, a township appointing authority or a county appointing 41
authority with the exception of the county department of job and 42
family services shall give a written notice of the alternative 43
policy to each employee at least ten days prior to its effective 44
date. 45

(D) As used in this section and section 4111.031 of the 46
Revised Code: 47

(1) "Employ" means to suffer or to permit to work. 48

(2) "Employer" means the state of Ohio, its 49

instrumentalities, and its political subdivisions and their 50
instrumentalities, any individual, partnership, association, 51
corporation, business trust, or any person or group of persons, 52
acting in the interest of an employer in relation to an 53
employee, but does not include either of the following: 54

(a) An employer whose annual gross volume of sales made 55
for business done is less than one hundred fifty thousand 56
dollars, exclusive of excise taxes at the retail level which are 57
separately stated; 58

(b) A franchisor with respect to the franchisor's 59
relationship with a franchisee or an employee of a franchisee, 60
unless the franchisor agrees to assume that role in writing or a 61
court of competent jurisdiction determines that the franchisor 62
exercises a type or degree of control over the franchisee or the 63
franchisee's employees that is not customarily exercised by a 64
franchisor for the purpose of protecting the franchisor's 65
trademark, brand, or both. For purposes of this division, 66
"franchisor" and "franchisee" have the same meanings as in 16 67
C.F.R. 436.1. 68

(3) "Employee" means any individual employed by an 69
employer but does not include: 70

(a) Any individual employed by the United States; 71

(b) Any individual employed as a baby-sitter in the 72
employer's home, or a live-in companion to a sick, convalescing, 73
or elderly person whose principal duties do not include 74
housekeeping; 75

(c) Any individual engaged in the delivery of newspapers 76
to the consumer; 77

(d) Any individual employed as an outside salesperson 78

compensated by commissions or employed in a bona fide executive, 79
administrative, or professional capacity as such terms are 80
defined by the "Fair Labor Standards Act of 1938," 52 Stat. 81
1060, 29 U.S.C.A. 201, as amended; 82

(e) Any individual who works or provides personal services 83
of a charitable nature in a hospital or health institution for 84
which compensation is not sought or contemplated; 85

(f) A member of a police or fire protection agency or 86
student employed on a part-time or seasonal basis by a political 87
subdivision of this state; 88

(g) Any individual in the employ of a camp or recreational 89
area for children under eighteen years of age and owned and 90
operated by a nonprofit organization or group of organizations 91
described in Section 501(c)(3) of the "Internal Revenue Code of 92
1954," and exempt from income tax under Section 501(a) of that 93
code; 94

(h) Any individual employed directly by the house of 95
representatives or directly by the senate; 96

(i) An individual who operates a vehicle or vessel in the 97
performance of services for or on behalf of a motor carrier 98
transporting property and to whom all of the following factors 99
apply: 100

(i) The individual owns the vehicle or vessel that is used 101
in performing the services for or on behalf of the carrier, or 102
the individual leases the vehicle or vessel under a bona fide 103
lease agreement that is not a temporary replacement lease 104
agreement. For purposes of this division, a bona fide lease 105
agreement does not include an agreement between the individual 106
and the motor carrier transporting property for which, or on 107

whose behalf, the individual provides services. 108

(ii) The individual is responsible for supplying the 109
necessary personal services to operate the vehicle or vessel 110
used to provide the service. 111

(iii) The compensation paid to the individual is based on 112
factors related to work performed, including on a mileage-based 113
rate or a percentage of any schedule of rates, and not solely on 114
the basis of the hours or time expended. 115

(iv) The individual substantially controls the means and 116
manner of performing the services, in conformance with 117
regulatory requirements and specifications of the shipper. 118

(v) The individual enters into a written contract with the 119
carrier for whom the individual is performing the services that 120
describes the relationship between the individual and the 121
carrier to be that of an independent contractor and not that of 122
an employee. 123

(vi) The individual is responsible for substantially all 124
of the principal operating costs of the vehicle or vessel and 125
equipment used to provide the services, including maintenance, 126
fuel, repairs, supplies, vehicle or vessel insurance, and 127
personal expenses, except that the individual may be paid by the 128
carrier the carrier's fuel surcharge and incidental costs, 129
including tolls, permits, and lumpers fees. 130

(vii) The individual is responsible for any economic loss 131
or economic gain from the arrangement with the carrier. 132

(j) A health care worker, with respect to a health care 133
worker platform or health care facility for work booked through 134
a health care worker platform, in accordance with section 135
4113.87 of the Revised Code. 136

(4) "Motor carrier" has the same meaning as in section 137
4923.01 of the Revised Code. 138

Sec. 4111.14. (A) Pursuant to the general assembly's 139
authority to establish a minimum wage under Section 34 of 140
Article II, Ohio Constitution, this section is in implementation 141
of Section 34a of Article II, Ohio Constitution. In implementing 142
Section 34a of Article II, Ohio Constitution, the general 143
assembly hereby finds that the purpose of Section 34a of Article 144
II, Ohio Constitution, is to: 145

(1) Ensure that Ohio employees, as defined in division (B) 146
(1) of this section, are paid the wage rate required by Section 147
34a of Article II, Ohio Constitution; 148

(2) Ensure that covered Ohio employers maintain certain 149
records that are directly related to the enforcement of the wage 150
rate requirements in Section 34a of Article II, Ohio 151
Constitution; 152

(3) Ensure that Ohio employees who are paid the wage rate 153
required by Section 34a of Article II, Ohio Constitution, may 154
enforce their right to receive that wage rate in the manner set 155
forth in Section 34a of Article II, Ohio Constitution; and 156

(4) Protect the privacy of Ohio employees' pay and 157
personal information specified in Section 34a of Article II, 158
Ohio Constitution, by restricting an employee's access, and 159
access by a person acting on behalf of that employee, to the 160
employee's own pay and personal information. 161

(B) In accordance with Section 34a of Article II, Ohio 162
Constitution, the terms "employer," "employee," "employ," 163
"person," and "independent contractor" have the same meanings as 164
in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 165

U.S.C. 203, as amended. In construing the meaning of these 166
terms, due consideration and great weight shall be given to the 167
United States department of labor's and federal courts' 168
interpretations of those terms under the Fair Labor Standards 169
Act and its regulations. As used in division (B) of this 170
section: 171

(1) "Employee" means individuals employed in Ohio, but 172
does not mean individuals who are excluded from the definition 173
of "employee" under 29 U.S.C. 203(e) or individuals who are 174
exempted from the minimum wage requirements in 29 U.S.C. 213 and 175
from the definition of "employee" in this chapter. 176

(2) "Employ" and "employee" do not include ~~any~~ either of 177
the following: 178

(a) Any person acting as a volunteer. In construing who is 179
a volunteer, "volunteer" shall have the same meaning as in 180
sections 553.101 to 553.106 of Title 29 of the Code of Federal 181
Regulations, as amended, and due consideration and great weight 182
shall be given to the United States department of labor's and 183
federal courts' interpretations of the term "volunteer" under 184
the Fair Labor Standards Act and its regulations. 185

(b) A health care worker, with respect to a health care 186
worker platform or health care facility for work booked through 187
a health care worker platform, in accordance with section 188
4113.87 of the Revised Code. 189

(3) "Employer" does not include a franchisor with respect 190
to the franchisor's relationship with a franchisee or an 191
employee of a franchisee, unless the franchisor agrees to assume 192
that role in writing or a court of competent jurisdiction 193
determines that the franchisor exercises a type or degree of 194

control over the franchisee or the franchisee's employees that 195
is not customarily exercised by a franchisor for the purpose of 196
protecting the franchisor's trademark, brand, or both. For 197
purposes of this division, "franchisor" and "franchisee" have 198
the same meanings as in 16 C.F.R. 436.1. 199

(4) Subject to division (B) (5) of this section, "employee" 200
does not include an individual who operates a vehicle or vessel 201
in the performance of services for or on behalf of a motor 202
carrier transporting property and to whom all of the following 203
factors apply: 204

(a) The individual owns the vehicle or vessel that is used 205
in performing the services for or on behalf of the carrier, or 206
the individual leases the vehicle or vessel under a bona fide 207
lease agreement that is not a temporary replacement lease 208
agreement. For purposes of this division, a bona fide lease 209
agreement does not include an agreement between the individual 210
and the motor carrier transporting property for which, or on 211
whose behalf, the individual provides services. 212

(b) The individual is responsible for supplying the 213
necessary personal services to operate the vehicle or vessel 214
used to provide the service. 215

(c) The compensation paid to the individual is based on 216
factors related to work performed, including on a mileage-based 217
rate or a percentage of any schedule of rates, and not solely on 218
the basis of the hours or time expended. 219

(d) The individual substantially controls the means and 220
manner of performing the services, in conformance with 221
regulatory requirements and specifications of the shipper. 222

(e) The individual enters into a written contract with the 223

carrier for whom the individual is performing the services that 224
describes the relationship between the individual and the 225
carrier to be that of an independent contractor and not that of 226
an employee. 227

(f) The individual is responsible for substantially all of 228
the principal operating costs of the vehicle or vessel and 229
equipment used to provide the services, including maintenance, 230
fuel, repairs, supplies, vehicle or vessel insurance, and 231
personal expenses, except that the individual may be paid by the 232
carrier the carrier's fuel surcharge and incidental costs, 233
including tolls, permits, and lump sum fees. 234

(g) The individual is responsible for any economic loss or 235
economic gain from the arrangement with the carrier. 236

(5) A motor carrier may elect to consider an individual 237
described in division (B) (4) of this section as an employee for 238
purposes of this section. 239

(6) "Motor carrier" has the same meaning as in section 240
4923.01 of the Revised Code. 241

(C) In accordance with Section 34a of Article II, Ohio 242
Constitution, the state may issue licenses to employers 243
authorizing payment of a wage below that required by Section 34a 244
of Article II, Ohio Constitution, to individuals with mental or 245
physical disabilities that may otherwise adversely affect their 246
opportunity for employment. In issuing such licenses, the state 247
shall abide by the rules adopted pursuant to section 4111.06 of 248
the Revised Code. 249

(D) (1) In accordance with Section 34a of Article II, Ohio 250
Constitution, individuals employed in or about the property of 251
an employer or an individual's residence on a casual basis are 252

not included within the coverage of Section 34a of Article II, 253
Ohio Constitution. As used in division (D) of this section: 254

(a) "Casual basis" means employment that is irregular or 255
intermittent and that is not performed by an individual whose 256
vocation is to be employed in or about the property of the 257
employer or individual's residence. In construing who is 258
employed on a "casual basis," due consideration and great weight 259
shall be given to the United States department of labor's and 260
federal courts' interpretations of the term "casual basis" under 261
the Fair Labor Standards Act and its regulations. 262

(b) "An individual employed in or about the property of an 263
employer or individual's residence" means an individual employed 264
on a casual basis or an individual employed in or about a 265
residence on a casual basis, respectively. 266

(2) In accordance with Section 34a of Article II, Ohio 267
Constitution, employees of a solely family-owned and operated 268
business who are family members of an owner are not included 269
within the coverage of Section 34a of Article II, Ohio 270
Constitution. As used in division (D)(2) of this section, 271
"family member" means a parent, spouse, child, stepchild, 272
sibling, grandparent, grandchild, or other member of an owner's 273
immediate family. 274

(E) In accordance with Section 34a of Article II, Ohio 275
Constitution, an employer shall at the time of hire provide an 276
employee with the employer's name, address, telephone number, 277
and other contact information and update such information when 278
it changes. As used in division (E) of this section: 279

(1) "Other contact information" may include, where 280
applicable, the address of the employer's internet site on the 281

world wide web, the employer's electronic mail address, fax 282
number, or the name, address, and telephone number of the 283
employer's statutory agent. "Other contact information" does not 284
include the name, address, telephone number, fax number, 285
internet site address, or electronic mail address of any 286
employee, shareholder, officer, director, supervisor, manager, 287
or other individual employed by or associated with an employer. 288

(2) "When it changes" means that the employer shall 289
provide its employees with the change in its name, address, 290
telephone number, or other contact information within sixty 291
business days after the change occurs. The employer shall 292
provide the changed information by using any of its usual 293
methods of communicating with its employees, including, but not 294
limited to, listing the change on the employer's internet site 295
on the world wide web, internal computer network, or a bulletin 296
board where it commonly posts employee communications or by 297
insertion or inclusion with employees' paychecks or pay stubs. 298

(F) In accordance with Section 34a of Article II, Ohio 299
Constitution, an employer shall maintain a record of the name, 300
address, occupation, pay rate, hours worked for each day worked, 301
and each amount paid an employee for a period of not less than 302
three years following the last date the employee was employed by 303
that employer. As used in division (F) of this section: 304

(1) "Address" means an employee's home address as 305
maintained in the employer's personnel file or personnel 306
database for that employee. 307

(2) (a) With respect to employees who are not exempt from 308
the overtime pay requirements of the Fair Labor Standards Act or 309
this chapter, "pay rate" means an employee's base rate of pay. 310

(b) With respect to employees who are exempt from the 311
overtime pay requirements of the Fair Labor Standards Act or 312
this chapter, "pay rate" means an employee's annual base salary 313
or other rate of pay by which the particular employee qualifies 314
for that exemption under the Fair Labor Standards Act or this 315
chapter, but does not include bonuses, stock options, 316
incentives, deferred compensation, or any other similar form of 317
compensation. 318

(3) "Record" means the name, address, occupation, pay 319
rate, hours worked for each day worked, and each amount paid an 320
employee in one or more documents, databases, or other paper or 321
electronic forms of record-keeping maintained by an employer. No 322
one particular method or form of maintaining such a record or 323
records is required under this division. An employer is not 324
required to create or maintain a single record containing only 325
the employee's name, address, occupation, pay rate, hours worked 326
for each day worked, and each amount paid an employee. An 327
employer shall maintain a record or records from which the 328
employee or person acting on behalf of that employee could 329
reasonably review the information requested by the employee or 330
person. 331

An employer is not required to maintain the records 332
specified in division (F) (3) of this section for any period 333
before January 1, 2007. On and after January 1, 2007, the 334
employer shall maintain the records required by division (F) (3) 335
of this section for three years from the date the hours were 336
worked by the employee and for three years after the date the 337
employee's employment ends. 338

(4) (a) Except for individuals specified in division (F) (4) 339
(b) of this section, "hours worked for each day worked" means 340

the total amount of time worked by an employee in whatever 341
increments the employer uses for its payroll purposes during a 342
day worked by the employee. An employer is not required to keep 343
a record of the time of day an employee begins and ends work on 344
any given day. As used in division (F) (4) of this section, "day" 345
means a fixed period of twenty-four consecutive hours during 346
which an employee performs work for an employer. 347

(b) An employer is not required to keep records of "hours 348
worked for each day worked" for individuals for whom the 349
employer is not required to keep those records under the Fair 350
Labor Standards Act and its regulations or individuals who are 351
not subject to the overtime pay requirements specified in 352
section 4111.03 of the Revised Code. 353

(5) "Each amount paid an employee" means the total gross 354
wages paid to an employee for each pay period. As used in 355
division (F) (5) of this section, "pay period" means the period 356
of time designated by an employer to pay an employee the 357
employee's gross wages in accordance with the employer's payroll 358
practices under section 4113.15 of the Revised Code. 359

(G) In accordance with Section 34a of Article II, Ohio 360
Constitution, an employer must provide such information without 361
charge to an employee or person acting on behalf of an employee 362
upon request. As used in division (G) of this section: 363

(1) "Such information" means the name, address, 364
occupation, pay rate, hours worked for each day worked, and each 365
amount paid for the specific employee who has requested that 366
specific employee's own information and does not include the 367
name, address, occupation, pay rate, hours worked for each day 368
worked, or each amount paid of any other employee of the 369
employer. "Such information" does not include hours worked for 370

each day worked by individuals for whom an employer is not 371
required to keep that information under the Fair Labor Standards 372
Act and its regulations or individuals who are not subject to 373
the overtime pay requirements specified in section 4111.03 of 374
the Revised Code. 375

(2) "Acting on behalf of an employee" means a person 376
acting on behalf of an employee as any of the following: 377

(a) The certified or legally recognized collective 378
bargaining representative for that employee under the applicable 379
federal law or Chapter 4117. of the Revised Code; 380

(b) The employee's attorney; 381

(c) The employee's parent, guardian, or legal custodian. 382

A person "acting on behalf of an employee" must be 383
specifically authorized by an employee in order to make a 384
request for that employee's own name, address, occupation, pay 385
rate, hours worked for each day worked, and each amount paid to 386
that employee. 387

(3) "Provide" means that an employer shall provide the 388
requested information within thirty business days after the date 389
the employer receives the request, unless either of the 390
following occurs: 391

(a) The employer and the employee or person acting on 392
behalf of the employee agree to some alternative time period for 393
providing the information. 394

(b) The thirty-day period would cause a hardship on the 395
employer under the circumstances, in which case the employer 396
must provide the requested information as soon as practicable. 397

(4) A "request" made by an employee or a person acting on 398

behalf of an employee means a request by an employee or a person 399
acting on behalf of an employee for the employee's own 400
information. The employer may require that the employee provide 401
the employer with a written request that has been signed by the 402
employee and notarized and that reasonably specifies the 403
particular information being requested. The employer may require 404
that the person acting on behalf of an employee provide the 405
employer with a written request that has been signed by the 406
employee whose information is being requested and notarized and 407
that reasonably specifies the particular information being 408
requested. 409

(H) In accordance with Section 34a of Article II, Ohio 410
Constitution, an employee, person acting on behalf of one or 411
more employees, and any other interested party may file a 412
complaint with the state for a violation of any provision of 413
Section 34a of Article II, Ohio Constitution, or any law or 414
regulation implementing its provisions. Such complaint shall be 415
promptly investigated and resolved by the state. The employee's 416
name shall be kept confidential unless disclosure is necessary 417
to resolution of a complaint and the employee consents to 418
disclosure. As used in division (H) of this section: 419

(1) "Complaint" means a complaint of an alleged violation 420
pertaining to harm suffered by the employee filing the 421
complaint, by a person acting on behalf of one or more 422
employees, or by an interested party. 423

(2) "Acting on behalf of one or more employees" has the 424
same meaning as "acting on behalf of an employee" in division 425
(G) (2) of this section. Each employee must provide a separate 426
written and notarized authorization before the person acting on 427
that employee's or those employees' behalf may request the name, 428

address, occupation, pay rate, hours worked for each day worked, 429
and each amount paid for the particular employee. 430

(3) "Interested party" means a party who alleges to be 431
injured by the alleged violation and who has standing to file a 432
complaint under common law principles of standing. 433

(4) "Resolved by the state" means that the complaint has 434
been resolved to the satisfaction of the state. 435

(5) "Shall be kept confidential" means that the state 436
shall keep the name of the employee confidential as required by 437
division (H) of this section. 438

(I) In accordance with Section 34a of Article II, Ohio 439
Constitution, the state may on its own initiative investigate an 440
employer's compliance with Section 34a of Article II, Ohio 441
Constitution, and any law or regulation implementing Section 34a 442
of Article II, Ohio Constitution. The employer shall make 443
available to the state any records related to such investigation 444
and other information required for enforcement of Section 34a of 445
Article II, Ohio Constitution or any law or regulation 446
implementing Section 34a of Article II, Ohio Constitution. The 447
state shall investigate an employer's compliance with this 448
section in accordance with the procedures described in section 449
4111.04 of the Revised Code. All records and information related 450
to investigations by the state are confidential and are not a 451
public record subject to section 149.43 of the Revised Code. 452
This division does not prevent the state from releasing to or 453
exchanging with other state and federal wage and hour regulatory 454
authorities information related to investigations. 455

(J) In accordance with Section 34a of Article II, Ohio 456
Constitution, damages shall be calculated as an additional two 457

times the amount of the back wages and in the case of a 458
violation of an anti-retaliation provision an amount set by the 459
state or court sufficient to compensate the employee and deter 460
future violations, but not less than one hundred fifty dollars 461
for each day that the violation continued. The "not less than 462
one hundred fifty dollar" penalty specified in division (J) of 463
this section shall be imposed only for violations of the anti- 464
retaliation provision in Section 34a of Article II, Ohio 465
Constitution. 466

(K) In accordance with Section 34a of Article II, Ohio 467
Constitution, an action for equitable and monetary relief may be 468
brought against an employer by the attorney general and/or an 469
employee or person acting on behalf of an employee or all 470
similarly situated employees in any court of competent 471
jurisdiction, including the court of common pleas of an 472
employee's county of residence, for any violation of Section 34a 473
of Article II, Ohio Constitution, or any law or regulation 474
implementing its provisions within three years of the violation 475
or of when the violation ceased if it was of a continuing 476
nature, or within one year after notification to the employee of 477
final disposition by the state of a complaint for the same 478
violation, whichever is later. 479

(1) As used in division (K) of this section, 480
"notification" means the date on which the notice was sent to 481
the employee by the state. 482

(2) No employee shall join as a party plaintiff in any 483
civil action that is brought under division (K) of this section 484
by an employee, person acting on behalf of an employee, or 485
person acting on behalf of all similarly situated employees 486
unless that employee first gives written consent to become such 487

a party plaintiff and that consent is filed with the court in 488
which the action is brought. 489

(3) A civil action regarding an alleged violation of this 490
section shall be maintained only under division (K) of this 491
section. This division does not preclude the joinder in a single 492
civil action of an action under this division and an action 493
under section 4111.10 of the Revised Code. 494

(4) Any agreement between an employee and employer to work 495
for less than the wage rate specified in Section 34a of Article 496
II, Ohio Constitution, is no defense to an action under this 497
section. 498

(L) In accordance with Section 34a of Article II, Ohio 499
Constitution, there shall be no exhaustion requirement, no 500
procedural, pleading, or burden of proof requirements beyond 501
those that apply generally to civil suits in order to maintain 502
such action and no liability for costs or attorney's fees on an 503
employee except upon a finding that such action was frivolous in 504
accordance with the same standards that apply generally in civil 505
suits. Nothing in division (L) of this section affects the right 506
of an employer and employee to agree to submit a dispute under 507
this section to alternative dispute resolution, including, but 508
not limited to, arbitration, in lieu of maintaining the civil 509
suit specified in division (K) of this section. Nothing in this 510
division limits the state's ability to investigate or enforce 511
this section. 512

(M) An employer who provides such information specified in 513
Section 34a of Article II, Ohio Constitution, shall be immune 514
from any civil liability for injury, death, or loss to person or 515
property that otherwise might be incurred or imposed as a result 516
of providing that information to an employee or person acting on 517

behalf of an employee in response to a request by the employee 518
or person, and the employer shall not be subject to the 519
provisions of Chapters 1347. and 1349. of the Revised Code to 520
the extent that such provisions would otherwise apply. As used 521
in division (M) of this section, "such information," "acting on 522
behalf of an employee," and "request" have the same meanings as 523
in division (G) of this section. 524

(N) As used in this section, "the state" means the 525
director of commerce. 526

Sec. 4113.15. (A) Every employer doing business in this 527
state shall, on or before the first day of each month, pay all 528
its employees the wages earned by them during the first half of 529
the preceding month ending with the fifteenth day thereof, and 530
shall, on or before the fifteenth day of each month, pay such 531
employees the wages earned by them during the last half of the 532
preceding calendar month. If at any time of payment an employee 533
is absent from the employee's regular place of labor and does 534
not receive payment of wages through an authorized 535
representative, such person shall be entitled to said payment at 536
any time thereafter upon demand upon the proper paymaster at the 537
place where such wages are usually paid and where such pay is 538
due. This section does not prohibit the daily or weekly payment 539
of wages. The use of a longer time lapse that is customary to a 540
given trade, profession or occupation, or establishment of a 541
different time lapse by written contract or by operation of law. 542

(B) Where wages remain unpaid for thirty days beyond the 543
regularly scheduled payday or, in the case where no regularly 544
scheduled payday is applicable, for sixty days beyond the filing 545
by the employee of a claim or for sixty days beyond the date of 546
the agreement, award, or other act making wages payable and no 547

contest court order or dispute of any wage claim including the 548
assertion of a counterclaim exists accounting for nonpayment, 549
the employer, in addition, as liquidated damages, is liable to 550
the employee in an amount equal to six per cent of the amount of 551
the claim still unpaid and not in contest or disputed or two 552
hundred dollars, whichever is greater. 553

(C) In the absence of a contest, court order or dispute, 554
an employer who is party to an agreement to pay or provide 555
fringe benefits to an employee or to make any employee 556
authorized deduction becomes a trustee of any funds required by 557
such agreement to be paid to any person, organization, or 558
governmental agency from the time that the duty to make such 559
payment arises. No person shall, without reasonable 560
justification or excuse for such failure, knowingly fail or 561
refuse to pay to the appropriate person, organization, or 562
governmental agency the amount necessary to provide the benefits 563
or accomplish the purpose of any employee authorized deduction, 564
within thirty days after the close of the pay period during 565
which the employee earned or had deducted the amount of money 566
necessary to pay for the fringe benefit or make any employee 567
authorized deduction. A failure or refusal to pay, regardless of 568
the number of employee pay accounts involved, constitutes one 569
offense for the first delinquency of thirty days and a separate 570
offense for each successive delinquency of thirty days. 571

(D) As used in this section and section 4113.16 of the 572
Revised Code: 573

(1) "Wage" means the net amount of money payable to an 574
employee, including any guaranteed pay or reimbursement for 575
expenses, less any federal, state, or local taxes withheld; any 576
deductions made pursuant to a written agreement for the purpose 577

of providing the employee with any fringe benefits; and any 578
employee authorized deduction. 579

(2) "Fringe benefits" includes but is not limited to 580
health, welfare, or retirement benefits, whether paid for 581
entirely by the employer or on the basis of a joint employer- 582
employee contribution, or vacation, separation, or holiday pay. 583

(3) "Employee authorized deduction" includes but is not 584
limited to deductions for the purpose of any of the following: 585

(a) Purchase of United States savings bonds or corporate 586
stocks or bonds; 587

(b) A charitable contribution; 588

(c) Credit union savings or other regular savings program; 589

(d) Repayment of a loan or other obligation. 590

(4) "Employer" means an individual, firm, partnership, 591
association, or corporation, but does not include a franchisor 592
with respect to the franchisor's relationship with a franchisee 593
or an employee of a franchisee, unless either of the following 594
applies: 595

(a) The franchisor agrees to assume that role in writing. 596

(b) A court of competent jurisdiction determines that the 597
franchisor exercises a type or degree of control over the 598
franchisee or the franchisee's employees that is not customarily 599
exercised by a franchisor for the purpose of protecting the 600
franchisor's trademark, brand, or both. 601

(5) "Franchisor" and "franchisee" have the same meanings 602
as in 16 C.F.R. 436.1. 603

(6) "Employee" does not include a health care worker, with 604

respect to a health care worker platform or health care facility 605
for work booked through a health care worker platform, in 606
accordance with section 4113.87 of the Revised Code. 607

Sec. 4113.87. (A) As used in this section: 608

(1) "Health care worker" means any health care 609
professional or worker who provides health care or directly 610
related services to patients through a health care worker 611
platform, including professionals or workers who are providing a 612
service to patients that does not require a license. 613

(2) "Health care worker platform" means any person that 614
operates or offers an electronic platform, system, or 615
application through which health care workers can accept one or 616
more shifts to perform health care related services at a health 617
care facility. 618

(3) "Health care facility" means any facility used to 619
provide health care or related services. 620

(B) A health care worker is not the employee of a health 621
care worker platform or health care facility for work booked 622
through a health care worker platform for purposes of sections 623
4111.03, 4111.14, 4113.15, 4121.01, 4123.01, 4141.01, and 624
5747.01 of the Revised Code if all of the following apply: 625

(1) The health care worker platform and health care worker 626
agree in writing or electronically that the health care worker 627
is an independent contractor for all work booked through the 628
platform. 629

(2) The health care worker platform allows each health 630
care worker to decide whether to accept a shift at a health care 631
facility without any requirement that a health care worker 632
accepts a minimum number of shifts. 633

(3) The health care platform allows each health care 634
worker to agree in writing or electronically to the hourly rates 635
offered or set by the health care facility or the health care 636
worker platform. 637

(4) The health care worker may accept or reject work 638
shifts with any health care facility without being penalized by 639
the health care worker platform. 640

(5) The health care worker platform does not require the 641
health care worker to be available to accept or fulfill any 642
particular work shifts during specific hours or on specific 643
days. 644

(6) The health care worker platform does not restrict the 645
health care worker from engaging in any other occupation or 646
business, including health care work or health care related 647
work. 648

(7) The health care worker platform does not require the 649
health care worker to use specific equipment, tools, or other 650
supplies. 651

(8) The health care worker platform does not prescribe or 652
control the means and methods for the services performed by a 653
health care worker at a health care facility. 654

(9) The contract or other agreement between the health 655
care worker and the health care worker platform may be 656
terminated by either party with or without cause. 657

(10) The health care worker is responsible for the payment 658
of all federal, state, and local taxes on the health care 659
worker's earnings derived from all services performed for health 660
care facilities booked through the platform. 661

(11) The health care worker platform does not require a 662
health care worker to enter into a noncompete agreement with the 663
platform. 664

(12) The health care worker platform does not require a 665
health care worker or health care facility to pay any fee or 666
compensation to the platform if a health care worker accepts an 667
offer of employment from a health care facility. 668

(13) The health care worker platform does not restrict a 669
health care worker from accepting shifts through another 670
platform or from a health care facility that does not offer 671
shifts on the platform, except that a health care worker 672
platform may remove from the platform a health care worker who 673
accepts simultaneous shifts on two different health care worker 674
platforms. 675

(C) A health care worker platform may advertise to the 676
public that the platform is seeking health care workers to use 677
the platform. 678

Sec. 4121.01. (A) As used in sections 4121.01 to 4121.29 679
of the Revised Code: 680

(1) "Place of employment" means every place, whether 681
indoors or out, or underground, and the premises appurtenant 682
thereto, where either temporarily or permanently any industry, 683
trade, or business is carried on, or where any process or 684
operation, directly or indirectly related to any industry, 685
trade, or business, is carried on and where any person is 686
directly or indirectly employed by another for direct or 687
indirect gain or profit, but does not include any place where 688
persons are employed in private domestic service or agricultural 689
pursuits which do not involve the use of mechanical power. 690

(2) "Employment" means any trade, occupation, or process 691
of manufacture or any method of carrying on such trade, 692
occupation, or process of manufacture in which any person may be 693
engaged, except in such private domestic service or agricultural 694
pursuits as do not involve the use of mechanical power. 695

(3) "Employer" means every person, firm, corporation, 696
agent, manager, representative, or other person having control 697
or custody of any employment, place of employment, or employee. 698
"Employer" does not include a franchisor with respect to the 699
franchisor's relationship with a franchisee or an employee of a 700
franchisee, unless the franchisor agrees to assume that role in 701
writing or a court of competent jurisdiction determines that the 702
franchisor exercises a type or degree of control over the 703
franchisee or the franchisee's employees that is not customarily 704
exercised by a franchisor for the purpose of protecting the 705
franchisor's trademark, brand, or both. For purposes of this 706
division, "franchisor" and "franchisee" have the same meanings 707
as in 16 C.F.R. 436.1. 708

~~(4)~~ (4) "Employee" means a person who may be required or 709
directed by any employer, in consideration of direct or indirect 710
gain or profit, to engage in any employment, or to go, or work, 711
or be at any time in any place of employment, including a person 712
described in division (A) (4) (b) of this section if a motor 713
carrier elects to consider the person to be an employee. 714

~~(b)~~ "Employee" does not include ~~a~~ either of the following: 715

(a) A health care worker, with respect to a health care 716
worker platform or health care facility for work booked through 717
a health care worker platform, in accordance with section 718
4113.87 of the Revised Code. 719

(b) A person who operates a vehicle or vessel in the 720
performance of services for or on behalf of a motor carrier 721
transporting property and to whom all of the following factors 722
apply: 723

(i) The person owns the vehicle or vessel that is used in 724
performing the services for or on behalf of the carrier, or the 725
person leases the vehicle or vessel under a bona fide lease 726
agreement that is not a temporary replacement lease agreement. 727
For purposes of this division, a bona fide lease agreement does 728
not include an agreement between the person and the motor 729
carrier transporting property for which, or on whose behalf, the 730
person provides services. 731

(ii) The person is responsible for supplying the necessary 732
personal services to operate the vehicle or vessel used to 733
provide the service. 734

(iii) The compensation paid to the person is based on 735
factors related to work performed, including on a mileage-based 736
rate or a percentage of any schedule of rates, and not solely on 737
the basis of the hours or time expended. 738

(iv) The person substantially controls the means and 739
manner of performing the services, in conformance with 740
regulatory requirements and specifications of the shipper. 741

(v) The person enters into a written contract with the 742
carrier for whom the person is performing the services that 743
describes the relationship between the person and the carrier to 744
be that of an independent contractor and not that of an 745
employee. 746

(vi) The person is responsible for substantially all of 747
the principal operating costs of the vehicle or vessel and 748

equipment used to provide the services, including maintenance, 749
fuel, repairs, supplies, vehicle or vessel insurance, and 750
personal expenses, except that the person may be paid by the 751
carrier the carrier's fuel surcharge and incidental costs, 752
including tolls, permits, and lump sum fees. 753

(vii) The person is responsible for any economic loss or 754
economic gain from the arrangement with the carrier. 755

(5) "Frequent traveler" means every person, other than an 756
employee, who may go in or be in a place of employment under 757
circumstances which render the person other than a trespasser. 758

(6) "Deputy" means any person employed by the industrial 759
commission or the bureau of workers' compensation, designated as 760
a deputy by the commission or the administrator of workers' 761
compensation, who possesses special, technical, scientific, 762
managerial, professional, or personal abilities or qualities in 763
matters within the jurisdiction of the commission or the bureau, 764
and who may be engaged in the performance of duties under the 765
direction of the commission or the bureau calling for the 766
exercise of such abilities or qualities. 767

(7) "Order" means any decision, rule, regulation, 768
direction, requirement, or standard, or any other determination 769
or decision that the bureau is empowered to and does make. 770

(8) "General order" means an order that applies generally 771
throughout the state to all persons, employments, or places of 772
employment, or all persons, employments, or places of employment 773
of a class under the jurisdiction of the bureau. All other 774
orders shall be considered special orders. 775

(9) "Local order" means any ordinance, order, rule, or 776
determination of the legislative authority of any municipal 777

corporation, or any trustees, or board or officers of any 778
municipal corporation upon any matter over which the bureau has 779
jurisdiction. 780

(10) "Welfare" means comfort, decency, and moral well- 781
being. 782

(11) "Safe" or "safety," as applied to any employment or a 783
place of employment, means such freedom from danger to the life, 784
health, safety, or welfare of employees or frequenters as the 785
nature of the employment will reasonably permit, including 786
requirements as to the hours of labor with relation to the 787
health and welfare of employees. 788

(12) "Employee organization" means any labor or bona fide 789
organization in which employees participate and that exists for 790
the purpose, in whole or in part, of dealing with employers 791
concerning grievances, labor disputes, wages, hours, terms, and 792
other conditions of employment. 793

(13) "Motor carrier" has the same meaning as in section 794
4923.01 of the Revised Code. 795

(B) As used in the Revised Code: 796

(1) "Industrial commission" means the chairperson of the 797
three-member industrial commission created pursuant to section 798
4121.02 of the Revised Code when the context refers to the 799
authority vested in the chairperson as the chief executive 800
officer of the three-member industrial commission pursuant to 801
divisions (A), (B), (C), and (D) of section 4121.03 of the 802
Revised Code. 803

(2) "Industrial commission" means the three-member 804
industrial commission created pursuant to section 4121.02 of the 805
Revised Code when the context refers to the authority vested in 806

the three-member industrial commission pursuant to division (E) 807
of section 4121.03 of the Revised Code. 808

(3) "Industrial commission" means the industrial 809
commission as a state agency when the context refers to the 810
authority vested in the industrial commission as a state agency. 811

Sec. 4123.01. As used in this chapter: 812

(A) (1) "Employee" means: 813

(a) Every person in the service of the state, or of any 814
county, municipal corporation, township, or school district 815
therein, including regular members of lawfully constituted 816
police and fire departments of municipal corporations and 817
townships, whether paid or volunteer, and wherever serving 818
within the state or on temporary assignment outside thereof, and 819
executive officers of boards of education, under any appointment 820
or contract of hire, express or implied, oral or written, 821
including any elected official of the state, or of any county, 822
municipal corporation, or township, or members of boards of 823
education. 824

As used in division (A) (1) (a) of this section, the term 825
"employee" includes the following persons when responding to an 826
inherently dangerous situation that calls for an immediate 827
response on the part of the person, regardless of whether the 828
person is within the limits of the jurisdiction of the person's 829
regular employment or voluntary service when responding, on the 830
condition that the person responds to the situation as the 831
person otherwise would if the person were on duty in the 832
person's jurisdiction: 833

(i) Off-duty peace officers. As used in division (A) (1) (a) 834
(i) of this section, "peace officer" has the same meaning as in 835

section 2935.01 of the Revised Code. 836

(ii) Off-duty firefighters, whether paid or volunteer, of 837
a lawfully constituted fire department. 838

(iii) Off-duty first responders, emergency medical 839
technicians-basic, emergency medical technicians-intermediate, 840
or emergency medical technicians-paramedic, whether paid or 841
volunteer, of an ambulance service organization or emergency 842
medical service organization pursuant to Chapter 4765. of the 843
Revised Code. 844

(b) Every person in the service of any person, firm, or 845
private corporation, including any public service corporation, 846
that (i) employs one or more persons regularly in the same 847
business or in or about the same establishment under any 848
contract of hire, express or implied, oral or written, including 849
aliens and minors, household workers who earn one hundred sixty 850
dollars or more in cash in any calendar quarter from a single 851
household and casual workers who earn one hundred sixty dollars 852
or more in cash in any calendar quarter from a single employer, 853
or (ii) is bound by any such contract of hire or by any other 854
written contract, to pay into the state insurance fund the 855
premiums provided by this chapter. 856

(c) Every person who performs labor or provides services 857
pursuant to a construction contract, as defined in section 858
4123.79 of the Revised Code, if at least ten of the following 859
criteria apply: 860

(i) The person is required to comply with instructions 861
from the other contracting party regarding the manner or method 862
of performing services; 863

(ii) The person is required by the other contracting party 864

to have particular training; 865

(iii) The person's services are integrated into the 866
regular functioning of the other contracting party; 867

(iv) The person is required to perform the work 868
personally; 869

(v) The person is hired, supervised, or paid by the other 870
contracting party; 871

(vi) A continuing relationship exists between the person 872
and the other contracting party that contemplates continuing or 873
recurring work even if the work is not full time; 874

(vii) The person's hours of work are established by the 875
other contracting party; 876

(viii) The person is required to devote full time to the 877
business of the other contracting party; 878

(ix) The person is required to perform the work on the 879
premises of the other contracting party; 880

(x) The person is required to follow the order of work set 881
by the other contracting party; 882

(xi) The person is required to make oral or written 883
reports of progress to the other contracting party; 884

(xii) The person is paid for services on a regular basis 885
such as hourly, weekly, or monthly; 886

(xiii) The person's expenses are paid for by the other 887
contracting party; 888

(xiv) The person's tools and materials are furnished by 889
the other contracting party; 890

(xv) The person is provided with the facilities used to 891
perform services; 892

(xvi) The person does not realize a profit or suffer a 893
loss as a result of the services provided; 894

(xvii) The person is not performing services for a number 895
of employers at the same time; 896

(xviii) The person does not make the same services 897
available to the general public; 898

(xix) The other contracting party has a right to discharge 899
the person; 900

(xx) The person has the right to end the relationship with 901
the other contracting party without incurring liability pursuant 902
to an employment contract or agreement. 903

Every person in the service of any independent contractor 904
or subcontractor who has failed to pay into the state insurance 905
fund the amount of premium determined and fixed by the 906
administrator of workers' compensation for the person's 907
employment or occupation or who is a self-insuring employer and 908
who has failed to pay compensation and benefits directly to the 909
employer's injured and to the dependents of the employer's 910
killed employees as required by section 4123.35 of the Revised 911
Code, shall be considered as the employee of the person who has 912
entered into a contract, whether written or verbal, with such 913
independent contractor unless such employees or their legal 914
representatives or beneficiaries elect, after injury or death, 915
to regard such independent contractor as the employer. 916

(d) Every person who operates a vehicle or vessel in the 917
performance of services for or on behalf of a motor carrier 918
transporting property, unless all of the following factors apply 919

to the person: 920

(i) The person owns the vehicle or vessel that is used in 921
performing the services for or on behalf of the carrier, or the 922
person leases the vehicle or vessel under a bona fide lease 923
agreement that is not a temporary replacement lease agreement. 924
For purposes of this division, a bona fide lease agreement does 925
not include an agreement between the person and the motor 926
carrier transporting property for which, or on whose behalf, the 927
person provides services. 928

(ii) The person is responsible for supplying the necessary 929
personal services to operate the vehicle or vessel used to 930
provide the service. 931

(iii) The compensation paid to the person is based on 932
factors related to work performed, including on a mileage-based 933
rate or a percentage of any schedule of rates, and not solely on 934
the basis of the hours or time expended. 935

(iv) The person substantially controls the means and 936
manner of performing the services, in conformance with 937
regulatory requirements and specifications of the shipper. 938

(v) The person enters into a written contract with the 939
carrier for whom the person is performing the services that 940
describes the relationship between the person and the carrier to 941
be that of an independent contractor and not that of an 942
employee. 943

(vi) The person is responsible for substantially all of 944
the principal operating costs of the vehicle or vessel and 945
equipment used to provide the services, including maintenance, 946
fuel, repairs, supplies, vehicle or vessel insurance, and 947
personal expenses, except that the person may be paid by the 948

carrier the carrier's fuel surcharge and incidental costs, 949
including tolls, permits, and lumper fees. 950

(vii) The person is responsible for any economic loss or 951
economic gain from the arrangement with the carrier. 952

(2) "Employee" does not mean any of the following: 953

(a) A duly ordained, commissioned, or licensed minister or 954
assistant or associate minister of a church in the exercise of 955
ministry; 956

(b) Any officer of a family farm corporation; 957

(c) An individual incorporated as a corporation; 958

(d) An officer of a nonprofit corporation, as defined in 959
section 1702.01 of the Revised Code, who volunteers the person's 960
services as an officer; 961

(e) An individual who otherwise is an employee of an 962
employer but who signs the waiver and affidavit specified in 963
section 4123.15 of the Revised Code on the condition that the 964
administrator has granted a waiver and exception to the 965
individual's employer under section 4123.15 of the Revised Code; 966

(f) (i) A qualifying employee described in division (A) (14) 967
(a) of section 5703.94 of the Revised Code when the qualifying 968
employee is performing disaster work in this state during a 969
disaster response period pursuant to a qualifying solicitation 970
received by the employee's employer; 971

(ii) A qualifying employee described in division (A) (14) 972
(b) of section 5703.94 of the Revised Code when the qualifying 973
employee is performing disaster work in this state during a 974
disaster response period on critical infrastructure owned or 975
used by the employee's employer; 976

(iii) As used in division (A) (2) (f) of this section, 977
"critical infrastructure," "disaster response period," "disaster 978
work," and "qualifying employee" have the same meanings as in 979
section 5703.94 of the Revised Code. 980

(g) A health care worker, with respect to a health care 981
worker platform or health care facility for work booked through 982
a health care worker platform, in accordance with section 983
4113.87 of the Revised Code. 984

Any employer may elect to include as an "employee" within 985
this chapter, any person excluded from the definition of 986
"employee" pursuant to division (A) (1) (d) or (A) (2) (a), (b), 987
(c), or (e) of this section in accordance with rules adopted by 988
the administrator, with the advice and consent of the bureau of 989
workers' compensation board of directors. If an employer is a 990
partnership, sole proprietorship, individual incorporated as a 991
corporation, or family farm corporation, such employer may elect 992
to include as an "employee" within this chapter, any member of 993
such partnership, the owner of the sole proprietorship, the 994
individual incorporated as a corporation, or the officers of the 995
family farm corporation. Nothing in this section shall prohibit 996
a partner, sole proprietor, or any person excluded from the 997
definition of "employee" pursuant to division (A) (2) (a), (b), 998
(c), or (e) of this section from electing to be included as an 999
"employee" under this chapter in accordance with rules adopted 1000
by the administrator, with the advice and consent of the board. 1001

In the event of an election, the employer or person 1002
electing coverage shall serve upon the bureau of workers' 1003
compensation written notice naming the person to be covered and 1004
include the person's remuneration for premium purposes in all 1005
future payroll reports. No partner, sole proprietor, or person 1006

excluded from the definition of "employee" pursuant to division 1007
(A) (1) (d) or (A) (2) (a), (b), (c), or (e) of this section, shall 1008
receive benefits or compensation under this chapter until the 1009
bureau receives written notice of the election permitted by this 1010
section. 1011

For informational purposes only, the bureau shall 1012
prescribe such language as it considers appropriate, on such of 1013
its forms as it considers appropriate, to advise employers of 1014
their right to elect to include as an "employee" within this 1015
chapter a sole proprietor, any member of a partnership, or a 1016
person excluded from the definition of "employee" under division 1017
(A) (1) (d) or (A) (2) (a), (b), (c), or (e) of this section, that 1018
they should check any health and disability insurance policy, or 1019
other form of health and disability plan or contract, presently 1020
covering them, or the purchase of which they may be considering, 1021
to determine whether such policy, plan, or contract excludes 1022
benefits for illness or injury that they might have elected to 1023
have covered by workers' compensation. 1024

(B) (1) "Employer" means: 1025

(a) The state, including state hospitals, each county, 1026
municipal corporation, township, school district, and hospital 1027
owned by a political subdivision or subdivisions other than the 1028
state; 1029

(b) Every person, firm, professional employer 1030
organization, alternate employer organization, and private 1031
corporation, including any public service corporation, that (i) 1032
has in service one or more employees or shared employees 1033
regularly in the same business or in or about the same 1034
establishment under any contract of hire, express or implied, 1035
oral or written, or (ii) is bound by any such contract of hire 1036

or by any other written contract, to pay into the insurance fund 1037
the premiums provided by this chapter. 1038

All such employers are subject to this chapter. Any member 1039
of a firm or association, who regularly performs manual labor in 1040
or about a mine, factory, or other establishment, including a 1041
household establishment, shall be considered an employee in 1042
determining whether such person, firm, or private corporation, 1043
or public service corporation, has in its service, one or more 1044
employees and the employer shall report the income derived from 1045
such labor to the bureau as part of the payroll of such 1046
employer, and such member shall thereupon be entitled to all the 1047
benefits of an employee. 1048

(2) "Employer" does not include a franchisor with respect 1049
to the franchisor's relationship with a franchisee or an 1050
employee of a franchisee, unless the franchisor agrees to assume 1051
that role in writing or a court of competent jurisdiction 1052
determines that the franchisor exercises a type or degree of 1053
control over the franchisee or the franchisee's employees that 1054
is not customarily exercised by a franchisor for the purpose of 1055
protecting the franchisor's trademark, brand, or both. For 1056
purposes of this division, "franchisor" and "franchisee" have 1057
the same meanings as in 16 C.F.R. 436.1. 1058

(C) "Injury" includes any injury, whether caused by 1059
external accidental means or accidental in character and result, 1060
received in the course of, and arising out of, the injured 1061
employee's employment. "Injury" does not include: 1062

(1) Psychiatric conditions except where the claimant's 1063
psychiatric conditions have arisen from an injury or 1064
occupational disease sustained by that claimant or where the 1065
claimant's psychiatric conditions have arisen from sexual 1066

conduct in which the claimant was forced by threat of physical 1067
harm to engage or participate; 1068

(2) Injury or disability caused primarily by the natural 1069
deterioration of tissue, an organ, or part of the body; 1070

(3) Injury or disability incurred in voluntary 1071
participation in an employer-sponsored recreation or fitness 1072
activity if the employee signs a waiver of the employee's right 1073
to compensation or benefits under this chapter prior to engaging 1074
in the recreation or fitness activity; 1075

(4) Injury or disability sustained by an employee who 1076
performs the employee's duties in a work area that is located 1077
within the employee's home and that is separate and distinct 1078
from the location of the employer, unless all of the following 1079
apply: 1080

(a) The employee's injury or disability arises out of the 1081
employee's employment. 1082

(b) The employee's injury or disability was caused by a 1083
special hazard of the employee's employment activity. 1084

(c) The employee's injury or disability is sustained in 1085
the course of an activity undertaken by the employee for the 1086
exclusive benefit of the employer. 1087

(5) A condition that pre-existed an injury unless that 1088
pre-existing condition is substantially aggravated by the 1089
injury. Such a substantial aggravation must be documented by 1090
objective diagnostic findings, objective clinical findings, or 1091
objective test results. Subjective complaints may be evidence of 1092
such a substantial aggravation. However, subjective complaints 1093
without objective diagnostic findings, objective clinical 1094
findings, or objective test results are insufficient to 1095

substantiate a substantial aggravation. 1096

(D) "Child" includes a posthumous child and a child 1097
legally adopted prior to the injury. 1098

(E) "Family farm corporation" means a corporation founded 1099
for the purpose of farming agricultural land in which the 1100
majority of the voting stock is held by and the majority of the 1101
stockholders are persons or the spouse of persons related to 1102
each other within the fourth degree of kinship, according to the 1103
rules of the civil law, and at least one of the related persons 1104
is residing on or actively operating the farm, and none of whose 1105
stockholders are a corporation. A family farm corporation does 1106
not cease to qualify under this division where, by reason of any 1107
devise, bequest, or the operation of the laws of descent or 1108
distribution, the ownership of shares of voting stock is 1109
transferred to another person, as long as that person is within 1110
the degree of kinship stipulated in this division. 1111

(F) "Occupational disease" means a disease contracted in 1112
the course of employment, which by its causes and the 1113
characteristics of its manifestation or the condition of the 1114
employment results in a hazard which distinguishes the 1115
employment in character from employment generally, and the 1116
employment creates a risk of contracting the disease in greater 1117
degree and in a different manner from the public in general. 1118

(G) "Self-insuring employer" means an employer who is 1119
granted the privilege of paying compensation and benefits 1120
directly under section 4123.35 of the Revised Code, including a 1121
board of county commissioners for the sole purpose of 1122
constructing a sports facility as defined in section 307.696 of 1123
the Revised Code, provided that the electors of the county in 1124
which the sports facility is to be built have approved 1125

construction of a sports facility by ballot election no later 1126
than November 6, 1997. 1127

(H) "Private employer" means an employer as defined in 1128
division (B) (1) (b) of this section. 1129

(I) "Professional employer organization" has the same 1130
meaning as in section 4125.01 of the Revised Code. 1131

(J) "Public employer" means an employer as defined in 1132
division (B) (1) (a) of this section. 1133

(K) "Sexual conduct" means vaginal intercourse between a 1134
male and female; anal intercourse, fellatio, and cunnilingus 1135
between persons regardless of gender; and, without privilege to 1136
do so, the insertion, however slight, of any part of the body or 1137
any instrument, apparatus, or other object into the vaginal or 1138
anal cavity of another. Penetration, however slight, is 1139
sufficient to complete vaginal or anal intercourse. 1140

(L) "Other-states' insurer" means an insurance company 1141
that is authorized to provide workers' compensation insurance 1142
coverage in any of the states that permit employers to obtain 1143
insurance for workers' compensation claims through insurance 1144
companies. 1145

(M) "Other-states' coverage" means both of the following: 1146

(1) Insurance coverage secured by an eligible employer for 1147
workers' compensation claims of employees who are in employment 1148
relationships localized in a state other than this state or 1149
those employees' dependents; 1150

(2) Insurance coverage secured by an eligible employer for 1151
workers' compensation claims that arise in a state other than 1152
this state where an employer elects to obtain coverage through 1153

either the administrator or an other-states' insurer. 1154

(N) "Limited other-states coverage" means insurance 1155
coverage provided by the administrator to an eligible employer 1156
for workers' compensation claims of employees who are in an 1157
employment relationship localized in this state but are 1158
temporarily working in a state other than this state, or those 1159
employees' dependents. 1160

(O) "Motor carrier" has the same meaning as in section 1161
4923.01 of the Revised Code. 1162

(P) "Alternate employer organization" has the same meaning 1163
as in section 4133.01 of the Revised Code. 1164

Sec. 4141.01. As used in this chapter, unless the context 1165
otherwise requires: 1166

(A) (1) "Employer" means the state, its instrumentalities, 1167
its political subdivisions and their instrumentalities, Indian 1168
tribes, and any individual or type of organization including any 1169
partnership, limited liability company, association, trust, 1170
estate, joint-stock company, insurance company, or corporation, 1171
whether domestic or foreign, or the receiver, trustee in 1172
bankruptcy, trustee, or the successor thereof, or the legal 1173
representative of a deceased person who subsequent to December 1174
31, 1971, or in the case of political subdivisions or their 1175
instrumentalities, subsequent to December 31, 1973: 1176

(a) Had in employment at least one individual, or in the 1177
case of a nonprofit organization, subsequent to December 31, 1178
1973, had not less than four individuals in employment for some 1179
portion of a day in each of twenty different calendar weeks, in 1180
either the current or the preceding calendar year whether or not 1181
the same individual was in employment in each such day; or 1182

(b) Except for a nonprofit organization, had paid for 1183
service in employment wages of fifteen hundred dollars or more 1184
in any calendar quarter in either the current or preceding 1185
calendar year; or 1186

(c) Had paid, subsequent to December 31, 1977, for 1187
employment in domestic service in a local college club, or local 1188
chapter of a college fraternity or sorority, cash remuneration 1189
of one thousand dollars or more in any calendar quarter in the 1190
current calendar year or the preceding calendar year, or had 1191
paid subsequent to December 31, 1977, for employment in domestic 1192
service in a private home cash remuneration of one thousand 1193
dollars in any calendar quarter in the current calendar year or 1194
the preceding calendar year: 1195

(i) For the purposes of divisions (A) (1) (a) and (b) of 1196
this section, there shall not be taken into account any wages 1197
paid to, or employment of, an individual performing domestic 1198
service as described in this division. 1199

(ii) An employer under this division shall not be an 1200
employer with respect to wages paid for any services other than 1201
domestic service unless the employer is also found to be an 1202
employer under division (A) (1) (a), (b), or (d) of this section. 1203

(d) As a farm operator or a crew leader subsequent to 1204
December 31, 1977, had in employment individuals in agricultural 1205
labor; and 1206

(i) During any calendar quarter in the current calendar 1207
year or the preceding calendar year, paid cash remuneration of 1208
twenty thousand dollars or more for the agricultural labor; or 1209

(ii) Had at least ten individuals in employment in 1210
agricultural labor, not including agricultural workers who are 1211

aliens admitted to the United States to perform agricultural 1212
labor pursuant to sections 1184(c) and 1101(a)(15)(H) of the 1213
"Immigration and Nationality Act," 66 Stat. 163, 189, 8 U.S.C.A. 1214
1101(a)(15)(H)(ii)(a), 1184(c), for some portion of a day in 1215
each of the twenty different calendar weeks, in either the 1216
current or preceding calendar year whether or not the same 1217
individual was in employment in each day; or 1218

(e) Is not otherwise an employer as defined under division 1219
(A)(1)(a) or (b) of this section; and 1220

(i) For which, within either the current or preceding 1221
calendar year, service, except for domestic service in a private 1222
home not covered under division (A)(1)(c) of this section, is or 1223
was performed with respect to which such employer is liable for 1224
any federal tax against which credit may be taken for 1225
contributions required to be paid into a state unemployment 1226
fund; 1227

(ii) Which, as a condition for approval of this chapter 1228
for full tax credit against the tax imposed by the "Federal 1229
Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, 1230
is required, pursuant to such act to be an employer under this 1231
chapter; or 1232

(iii) Who became an employer by election under division 1233
(A)(4) or (5) of this section and for the duration of such 1234
election; or 1235

(f) In the case of the state, its instrumentalities, its 1236
political subdivisions, and their instrumentalities, and Indian 1237
tribes, had in employment, as defined in divisions (B)(2)(a) and 1238
(B)(2)(1) of this section, at least one individual; 1239

(g) For the purposes of division (A)(1)(a) of this 1240

section, if any week includes both the thirty-first day of 1241
December and the first day of January, the days of that week 1242
before the first day of January shall be considered one calendar 1243
week and the days beginning the first day of January another 1244
week. 1245

(2) Each individual employed to perform or to assist in 1246
performing the work of any agent or employee of an employer is 1247
employed by such employer for all the purposes of this chapter, 1248
whether such individual was hired or paid directly by such 1249
employer or by such agent or employee, provided the employer had 1250
actual or constructive knowledge of the work. All individuals 1251
performing services for an employer of any person in this state 1252
who maintains two or more establishments within this state are 1253
employed by a single employer for the purposes of this chapter. 1254

(3) An employer subject to this chapter within any 1255
calendar year is subject to this chapter during the whole of 1256
such year and during the next succeeding calendar year. 1257

(4) An employer not otherwise subject to this chapter who 1258
files with the director of job and family services a written 1259
election to become an employer subject to this chapter for not 1260
less than two calendar years shall, with the written approval of 1261
such election by the director, become an employer subject to 1262
this chapter to the same extent as all other employers as of the 1263
date stated in such approval, and shall cease to be subject to 1264
this chapter as of the first day of January of any calendar year 1265
subsequent to such two calendar years only if at least thirty 1266
days prior to such first day of January the employer has filed 1267
with the director a written notice to that effect. 1268

(5) Any employer for whom services that do not constitute 1269
employment are performed may file with the director a written 1270

election that all such services performed by individuals in the 1271
employer's employ in one or more distinct establishments or 1272
places of business shall be deemed to constitute employment for 1273
all the purposes of this chapter, for not less than two calendar 1274
years. Upon written approval of the election by the director, 1275
such services shall be deemed to constitute employment subject 1276
to this chapter from and after the date stated in such approval. 1277
Such services shall cease to be employment subject to this 1278
chapter as of the first day of January of any calendar year 1279
subsequent to such two calendar years only if at least thirty 1280
days prior to such first day of January such employer has filed 1281
with the director a written notice to that effect. 1282

(6) "Employer" does not include a franchisor with respect 1283
to the franchisor's relationship with a franchisee or an 1284
employee of a franchisee, unless the franchisor agrees to assume 1285
that role in writing or a court of competent jurisdiction 1286
determines that the franchisor exercises a type or degree of 1287
control over the franchisee or the franchisee's employees that 1288
is not customarily exercised by a franchisor for the purpose of 1289
protecting the franchisor's trademark, brand, or both. For 1290
purposes of this division, "franchisor" and "franchisee" have 1291
the same meanings as in 16 C.F.R. 436.1. 1292

(B) (1) "Employment" means service performed by an 1293
individual for remuneration under any contract of hire, written 1294
or oral, express or implied, including service performed in 1295
interstate commerce and service performed by an officer of a 1296
corporation, without regard to whether such service is 1297
executive, managerial, or manual in nature, and without regard 1298
to whether such officer is a stockholder or a member of the 1299
board of directors of the corporation, unless it is shown to the 1300
satisfaction of the director that such individual has been and 1301

will continue to be free from direction or control over the 1302
performance of such service, both under a contract of service 1303
and in fact. The director shall adopt rules to define "direction 1304
or control." 1305

(2) "Employment" includes: 1306

(a) Service performed after December 31, 1977, by an 1307
individual in the employ of the state or any of its 1308
instrumentalities, or any political subdivision thereof or any 1309
of its instrumentalities or any instrumentality of more than one 1310
of the foregoing or any instrumentality of any of the foregoing 1311
and one or more other states or political subdivisions and 1312
without regard to divisions (A) (1) (a) and (b) of this section, 1313
provided that such service is excluded from employment as 1314
defined in the "Federal Unemployment Tax Act," 53 Stat. 183, 26 1315
U.S.C.A. 3301, 3306(c) (7) and is not excluded under division (B) 1316
(3) of this section; or the services of employees covered by 1317
voluntary election, as provided under divisions (A) (4) and (5) 1318
of this section; 1319

(b) Service performed after December 31, 1971, by an 1320
individual in the employ of a religious, charitable, 1321
educational, or other organization which is excluded from the 1322
term "employment" as defined in the "Federal Unemployment Tax 1323
Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, solely by reason 1324
of section 26 U.S.C.A. 3306(c) (8) of that act and is not 1325
excluded under division (B) (3) of this section; 1326

(c) Domestic service performed after December 31, 1977, 1327
for an employer, as provided in division (A) (1) (c) of this 1328
section; 1329

(d) Agricultural labor performed after December 31, 1977, 1330

for a farm operator or a crew leader, as provided in division 1331
(A) (1) (d) of this section; 1332

(e) Subject to division (B) (2) (m) of this section, service 1333
not covered under division (B) (1) of this section which is 1334
performed after December 31, 1971: 1335

(i) As an agent-driver or commission-driver engaged in 1336
distributing meat products, vegetable products, fruit products, 1337
bakery products, beverages other than milk, laundry, or dry- 1338
cleaning services, for the individual's employer or principal; 1339

(ii) As a traveling or city salesperson, other than as an 1340
agent-driver or commission-driver, engaged on a full-time basis 1341
in the solicitation on behalf of and in the transmission to the 1342
salesperson's employer or principal except for sideline sales 1343
activities on behalf of some other person of orders from 1344
wholesalers, retailers, contractors, or operators of hotels, 1345
restaurants, or other similar establishments for merchandise for 1346
resale, or supplies for use in their business operations, 1347
provided that for the purposes of division (B) (2) (e) (ii) of this 1348
section, the services shall be deemed employment if the contract 1349
of service contemplates that substantially all of the services 1350
are to be performed personally by the individual and that the 1351
individual does not have a substantial investment in facilities 1352
used in connection with the performance of the services other 1353
than in facilities for transportation, and the services are not 1354
in the nature of a single transaction that is not a part of a 1355
continuing relationship with the person for whom the services 1356
are performed. 1357

(f) An individual's entire service performed within or 1358
both within and without the state if: 1359

(i) The service is localized in this state. 1360

(ii) The service is not localized in any state, but some 1361
of the service is performed in this state and either the base of 1362
operations, or if there is no base of operations then the place 1363
from which such service is directed or controlled, is in this 1364
state or the base of operations or place from which such service 1365
is directed or controlled is not in any state in which some part 1366
of the service is performed but the individual's residence is in 1367
this state. 1368

(g) Service not covered under division (B)(2)(f)(ii) of 1369
this section and performed entirely without this state, with 1370
respect to no part of which contributions are required and paid 1371
under an unemployment compensation law of any other state, the 1372
Virgin Islands, Canada, or of the United States, if the 1373
individual performing such service is a resident of this state 1374
and the director approves the election of the employer for whom 1375
such services are performed; or, if the individual is not a 1376
resident of this state but the place from which the service is 1377
directed or controlled is in this state, the entire services of 1378
such individual shall be deemed to be employment subject to this 1379
chapter, provided service is deemed to be localized within this 1380
state if the service is performed entirely within this state or 1381
if the service is performed both within and without this state 1382
but the service performed without this state is incidental to 1383
the individual's service within the state, for example, is 1384
temporary or transitory in nature or consists of isolated 1385
transactions; 1386

(h) Service of an individual who is a citizen of the 1387
United States, performed outside the United States except in 1388
Canada after December 31, 1971, or the Virgin Islands, after 1389

December 31, 1971, and before the first day of January of the 1390
year following that in which the United States secretary of 1391
labor approves the Virgin Islands law for the first time, in the 1392
employ of an American employer, other than service which is 1393
"employment" under divisions (B) (2) (f) and (g) of this section 1394
or similar provisions of another state's law, if: 1395

(i) The employer's principal place of business in the 1396
United States is located in this state; 1397

(ii) The employer has no place of business in the United 1398
States, but the employer is an individual who is a resident of 1399
this state; or the employer is a corporation which is organized 1400
under the laws of this state, or the employer is a partnership 1401
or a trust and the number of partners or trustees who are 1402
residents of this state is greater than the number who are 1403
residents of any other state; or 1404

(iii) None of the criteria of divisions (B) (2) (f) (i) and 1405
(ii) of this section is met but the employer has elected 1406
coverage in this state or the employer having failed to elect 1407
coverage in any state, the individual has filed a claim for 1408
benefits, based on such service, under this chapter. 1409

(i) For the purposes of division (B) (2) (h) of this 1410
section, the term "American employer" means an employer who is 1411
an individual who is a resident of the United States; or a 1412
partnership, if two-thirds or more of the partners are residents 1413
of the United States; or a trust, if all of the trustees are 1414
residents of the United States; or a corporation organized under 1415
the laws of the United States or of any state, provided the term 1416
"United States" includes the states, the District of Columbia, 1417
the Commonwealth of Puerto Rico, and the Virgin Islands. 1418

(j) Notwithstanding any other provisions of divisions (B) 1419
(1) and (2) of this section, service, except for domestic 1420
service in a private home not covered under division (A) (1) (c) 1421
of this section, with respect to which a tax is required to be 1422
paid under any federal law imposing a tax against which credit 1423
may be taken for contributions required to be paid into a state 1424
unemployment fund, or service, except for domestic service in a 1425
private home not covered under division (A) (1) (c) of this 1426
section, which, as a condition for full tax credit against the 1427
tax imposed by the "Federal Unemployment Tax Act," 84 Stat. 713, 1428
26 U.S.C.A. 3301 to 3311, is required to be covered under this 1429
chapter. 1430

(k) Construction services performed by any individual 1431
under a construction contract, as defined in section 4141.39 of 1432
the Revised Code, if the director determines that the employer 1433
for whom services are performed has the right to direct or 1434
control the performance of the services and that the individuals 1435
who perform the services receive remuneration for the services 1436
performed. The director shall presume that the employer for whom 1437
services are performed has the right to direct or control the 1438
performance of the services if ten or more of the following 1439
criteria apply: 1440

(i) The employer directs or controls the manner or method 1441
by which instructions are given to the individual performing 1442
services; 1443

(ii) The employer requires particular training for the 1444
individual performing services; 1445

(iii) Services performed by the individual are integrated 1446
into the regular functioning of the employer; 1447

- (iv) The employer requires that services be provided by a particular individual; 1448
1449
- (v) The employer hires, supervises, or pays the wages of the individual performing services; 1450
1451
- (vi) A continuing relationship between the employer and the individual performing services exists which contemplates continuing or recurring work, even if not full-time work; 1452
1453
1454
- (vii) The employer requires the individual to perform services during established hours; 1455
1456
- (viii) The employer requires that the individual performing services be devoted on a full-time basis to the business of the employer; 1457
1458
1459
- (ix) The employer requires the individual to perform services on the employer's premises; 1460
1461
- (x) The employer requires the individual performing services to follow the order of work established by the employer; 1462
1463
1464
- (xi) The employer requires the individual performing services to make oral or written reports of progress; 1465
1466
- (xii) The employer makes payment to the individual for services on a regular basis, such as hourly, weekly, or monthly; 1467
1468
- (xiii) The employer pays expenses for the individual performing services; 1469
1470
- (xiv) The employer furnishes the tools and materials for use by the individual to perform services; 1471
1472
- (xv) The individual performing services has not invested in the facilities used to perform services; 1473
1474

(xvi) The individual performing services does not realize 1475
a profit or suffer a loss as a result of the performance of the 1476
services; 1477

(xvii) The individual performing services is not 1478
performing services for more than two employers simultaneously; 1479

(xviii) The individual performing services does not make 1480
the services available to the general public; 1481

(xix) The employer has a right to discharge the individual 1482
performing services; 1483

(xx) The individual performing services has the right to 1484
end the individual's relationship with the employer without 1485
incurring liability pursuant to an employment contract or 1486
agreement. 1487

(l) Service performed by an individual in the employ of an 1488
Indian tribe as defined by section 4(e) of the "Indian Self- 1489
Determination and Education Assistance Act," 88 Stat. 2204 1490
(1975), 25 U.S.C.A. 450b(e), including any subdivision, 1491
subsidiary, or business enterprise wholly owned by an Indian 1492
tribe provided that the service is excluded from employment as 1493
defined in the "Federal Unemployment Tax Act," 53 Stat. 183 1494
(1939), 26 U.S.C.A. 3301 and 3306(c)(7) and is not excluded 1495
under division (B)(3) of this section. 1496

(m) Service performed by an individual for or on behalf of 1497
a motor carrier transporting property as an operator of a 1498
vehicle or vessel, unless all of the following factors apply to 1499
the individual and the motor carrier has not elected to consider 1500
the individual's service as employment: 1501

(i) The individual owns the vehicle or vessel that is used 1502
in performing the services for or on behalf of the carrier, or 1503

the individual leases the vehicle or vessel under a bona fide 1504
lease agreement that is not a temporary replacement lease 1505
agreement. For purposes of this division, a bona fide lease 1506
agreement does not include an agreement between the individual 1507
and the motor carrier transporting property for which, or on 1508
whose behalf, the individual provides services. 1509

(ii) The individual is responsible for supplying the 1510
necessary personal services to operate the vehicle or vessel 1511
used to provide the service. 1512

(iii) The compensation paid to the individual is based on 1513
factors related to work performed, including on a mileage-based 1514
rate or a percentage of any schedule of rates, and not solely on 1515
the basis of the hours or time expended. 1516

(iv) The individual substantially controls the means and 1517
manner of performing the services, in conformance with 1518
regulatory requirements and specifications of the shipper. 1519

(v) The individual enters into a written contract with the 1520
carrier for whom the individual is performing the services that 1521
describes the relationship between the individual and the 1522
carrier to be that of an independent contractor and not that of 1523
an employee. 1524

(vi) The individual is responsible for substantially all 1525
of the principal operating costs of the vehicle or vessel and 1526
equipment used to provide the services, including maintenance, 1527
fuel, repairs, supplies, vehicle or vessel insurance, and 1528
personal expenses, except that the individual may be paid by the 1529
carrier the carrier's fuel surcharge and incidental costs, 1530
including tolls, permits, and lump sum fees. 1531

(vii) The individual is responsible for any economic loss 1532

or economic gain from the arrangement with the carrier. 1533

(viii) The individual is not performing services described 1534
in 26 U.S.C. 3306(c) (7) or (8). 1535

(3) "Employment" does not include the following services 1536
if they are found not subject to the "Federal Unemployment Tax 1537
Act," 84 Stat. 713 (1970), 26 U.S.C.A. 3301 to 3311, and if the 1538
services are not required to be included under division (B) (2) 1539
(j) of this section: 1540

(a) Service performed after December 31, 1977, in 1541
agricultural labor, except as provided in division (A) (1) (d) of 1542
this section; 1543

(b) Domestic service performed after December 31, 1977, in 1544
a private home, local college club, or local chapter of a 1545
college fraternity or sorority except as provided in division 1546
(A) (1) (c) of this section; 1547

(c) Service performed after December 31, 1977, for this 1548
state or a political subdivision as described in division (B) (2) 1549
(a) of this section when performed: 1550

(i) As a publicly elected official; 1551

(ii) As a member of a legislative body, or a member of the 1552
judiciary; 1553

(iii) As a military member of the Ohio national guard; 1554

(iv) As an employee, not in the classified service as 1555
defined in section 124.11 of the Revised Code, serving on a 1556
temporary basis in case of fire, storm, snow, earthquake, flood, 1557
or similar emergency; 1558

(v) In a position which, under or pursuant to law, is 1559

designated as a major nontenured policymaking or advisory 1560
position, not in the classified service of the state, or a 1561
policymaking or advisory position the performance of the duties 1562
of which ordinarily does not require more than eight hours per 1563
week. 1564

(d) In the employ of any governmental unit or 1565
instrumentality of the United States; 1566

(e) Service performed after December 31, 1971: 1567

(i) Service in the employ of an educational institution or 1568
institution of higher education, including those operated by the 1569
state or a political subdivision, if such service is performed 1570
by a student who is enrolled and is regularly attending classes 1571
at the educational institution or institution of higher 1572
education; or 1573

(ii) By an individual who is enrolled at a nonprofit or 1574
public educational institution which normally maintains a 1575
regular faculty and curriculum and normally has a regularly 1576
organized body of students in attendance at the place where its 1577
educational activities are carried on as a student in a full- 1578
time program, taken for credit at the institution, which 1579
combines academic instruction with work experience, if the 1580
service is an integral part of the program, and the institution 1581
has so certified to the employer, provided that this subdivision 1582
shall not apply to service performed in a program established 1583
for or on behalf of an employer or group of employers. 1584

(f) Service performed by an individual in the employ of 1585
the individual's son, daughter, or spouse and service performed 1586
by a child under the age of eighteen in the employ of the 1587
child's father or mother; 1588

(g) Service performed for one or more principals by an 1589
individual who is compensated on a commission basis, who in the 1590
performance of the work is master of the individual's own time 1591
and efforts, and whose remuneration is wholly dependent on the 1592
amount of effort the individual chooses to expend, and which 1593
service is not subject to the "Federal Unemployment Tax Act," 53 1594
Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. Service performed 1595
after December 31, 1971: 1596

(i) By an individual for an employer as an insurance agent 1597
or as an insurance solicitor, if all this service is performed 1598
for remuneration solely by way of commission; 1599

(ii) As a home worker performing work, according to 1600
specifications furnished by the employer for whom the services 1601
are performed, on materials or goods furnished by such employer 1602
which are required to be returned to the employer or to a person 1603
designated for that purpose. 1604

(h) Service performed after December 31, 1971: 1605

(i) In the employ of a church or convention or association 1606
of churches, or in an organization which is operated primarily 1607
for religious purposes and which is operated, supervised, 1608
controlled, or principally supported by a church or convention 1609
or association of churches; 1610

(ii) By a duly ordained, commissioned, or licensed 1611
minister of a church in the exercise of the individual's 1612
ministry or by a member of a religious order in the exercise of 1613
duties required by such order; or 1614

(iii) In a facility conducted for the purpose of carrying 1615
out a program of rehabilitation for individuals whose earning 1616
capacity is impaired by age or physical or mental disability or 1617

injury, or providing remunerative work for individuals who 1618
because of their impaired physical or mental capacity cannot be 1619
readily absorbed in the competitive labor market, by an 1620
individual receiving such rehabilitation or remunerative work. 1621

(i) Service performed after June 30, 1939, with respect to 1622
which unemployment compensation is payable under the "Railroad 1623
Unemployment Insurance Act," 52 Stat. 1094 (1938), 45 U.S.C. 1624
351; 1625

(j) Service performed by an individual in the employ of 1626
any organization exempt from income tax under section 501 of the 1627
"Internal Revenue Code of 1954," if the remuneration for such 1628
service does not exceed fifty dollars in any calendar quarter, 1629
or if such service is in connection with the collection of dues 1630
or premiums for a fraternal beneficial society, order, or 1631
association and is performed away from the home office or is 1632
ritualistic service in connection with any such society, order, 1633
or association; 1634

(k) Casual labor not in the course of an employer's trade 1635
or business; incidental service performed by an officer, 1636
appraiser, or member of a finance committee of a bank, building 1637
and loan association, savings and loan association, or savings 1638
association when the remuneration for such incidental service 1639
exclusive of the amount paid or allotted for directors' fees 1640
does not exceed sixty dollars per calendar quarter is casual 1641
labor; 1642

(l) Service performed in the employ of a voluntary 1643
employees' beneficial association providing for the payment of 1644
life, sickness, accident, or other benefits to the members of 1645
such association or their dependents or their designated 1646
beneficiaries, if admission to a membership in such association 1647

is limited to individuals who are officers or employees of a 1648
municipal or public corporation, of a political subdivision of 1649
the state, or of the United States and no part of the net 1650
earnings of such association inures, other than through such 1651
payments, to the benefit of any private shareholder or 1652
individual; 1653

(m) Service performed by an individual in the employ of a 1654
foreign government, including service as a consular or other 1655
officer or employee or of a nondiplomatic representative; 1656

(n) Service performed in the employ of an instrumentality 1657
wholly owned by a foreign government if the service is of a 1658
character similar to that performed in foreign countries by 1659
employees of the United States or of an instrumentality thereof 1660
and if the director finds that the secretary of state of the 1661
United States has certified to the secretary of the treasury of 1662
the United States that the foreign government, with respect to 1663
whose instrumentality exemption is claimed, grants an equivalent 1664
exemption with respect to similar service performed in the 1665
foreign country by employees of the United States and of 1666
instrumentalities thereof; 1667

(o) Service with respect to which unemployment 1668
compensation is payable under an unemployment compensation 1669
system established by an act of congress; 1670

(p) Service performed as a student nurse in the employ of 1671
a hospital or a nurses' training school by an individual who is 1672
enrolled and is regularly attending classes in a nurses' 1673
training school chartered or approved pursuant to state law, and 1674
service performed as an intern in the employ of a hospital by an 1675
individual who has completed a four years' course in a medical 1676
school chartered or approved pursuant to state law; 1677

(q) Service performed by an individual under the age of 1678
eighteen in the delivery or distribution of newspapers or 1679
shopping news, not including delivery or distribution to any 1680
point for subsequent delivery or distribution; 1681

(r) Service performed in the employ of the United States 1682
or an instrumentality of the United States immune under the 1683
Constitution of the United States from the contributions imposed 1684
by this chapter, except that to the extent that congress permits 1685
states to require any instrumentalities of the United States to 1686
make payments into an unemployment fund under a state 1687
unemployment compensation act, this chapter shall be applicable 1688
to such instrumentalities and to services performed for such 1689
instrumentalities in the same manner, to the same extent, and on 1690
the same terms as to all other employers, individuals, and 1691
services, provided that if this state is not certified for any 1692
year by the proper agency of the United States under section 1693
3304 of the "Internal Revenue Code of 1954," the payments 1694
required of such instrumentalities with respect to such year 1695
shall be refunded by the director from the fund in the same 1696
manner and within the same period as is provided in division (E) 1697
of section 4141.09 of the Revised Code with respect to 1698
contributions erroneously collected; 1699

(s) Service performed by an individual as a member of a 1700
band or orchestra, provided such service does not represent the 1701
principal occupation of such individual, and which service is 1702
not subject to or required to be covered for full tax credit 1703
against the tax imposed by the "Federal Unemployment Tax Act," 1704
53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. 1705

(t) Service performed in the employ of a day camp whose 1706
camping season does not exceed twelve weeks in any calendar 1707

year, and which service is not subject to the "Federal 1708
Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 1709
3311. Service performed after December 31, 1971: 1710

(i) In the employ of a hospital, if the service is 1711
performed by a patient of the hospital, as defined in division 1712
(W) of this section; 1713

(ii) For a prison or other correctional institution by an 1714
inmate of the prison or correctional institution; 1715

(iii) Service performed after December 31, 1977, by an 1716
inmate of a custodial institution operated by the state, a 1717
political subdivision, or a nonprofit organization. 1718

(u) Service that is performed by a nonresident alien 1719
individual for the period the individual temporarily is present 1720
in the United States as a nonimmigrant under division (F), (J), 1721
(M), or (Q) of section 101(a)(15) of the "Immigration and 1722
Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101, as amended, 1723
that is excluded under section 3306(c)(19) of the "Federal 1724
Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 1725
3311. 1726

(v) Notwithstanding any other provisions of division (B) 1727
(3) of this section, services that are excluded under divisions 1728
(B)(3)(g), (j), (k), and (l) of this section shall not be 1729
excluded from employment when performed for a nonprofit 1730
organization, as defined in division (X) of this section, or for 1731
this state or its instrumentalities, or for a political 1732
subdivision or its instrumentalities or for Indian tribes; 1733

(w) Service that is performed by an individual working as 1734
an election official or election worker if the amount of 1735
remuneration received by the individual during the calendar year 1736

for services as an election official or election worker is less 1737
than one thousand dollars; 1738

(x) Service performed for an elementary or secondary 1739
school that is operated primarily for religious purposes, that 1740
is described in subsection 501(c)(3) and exempt from federal 1741
income taxation under subsection 501(a) of the Internal Revenue 1742
Code, 26 U.S.C.A. 501; 1743

(y) Service performed by a person committed to a penal 1744
institution. 1745

(z) Service performed for an Indian tribe as described in 1746
division (B)(2)(1) of this section when performed in any of the 1747
following manners: 1748

(i) As a publicly elected official; 1749

(ii) As a member of an Indian tribal council; 1750

(iii) As a member of a legislative or judiciary body; 1751

(iv) In a position which, pursuant to Indian tribal law, 1752
is designated as a major nontenured policymaking or advisory 1753
position, or a policymaking or advisory position where the 1754
performance of the duties ordinarily does not require more than 1755
eight hours of time per week; 1756

(v) As an employee serving on a temporary basis in the 1757
case of a fire, storm, snow, earthquake, flood, or similar 1758
emergency. 1759

(aa) Service performed after December 31, 1971, for a 1760
nonprofit organization, this state or its instrumentalities, a 1761
political subdivision or its instrumentalities, or an Indian 1762
tribe as part of an unemployment work-relief or work-training 1763
program assisted or financed in whole or in part by any federal 1764

agency or an agency of a state or political subdivision, 1765
thereof, by an individual receiving the work-relief or work- 1766
training. 1767

(bb) Participation in a learn to earn program as defined 1768
in section 4141.293 of the Revised Code. 1769

(4) If the services performed during one half or more of 1770
any pay period by an employee for the person employing that 1771
employee constitute employment, all the services of such 1772
employee for such period shall be deemed to be employment; but 1773
if the services performed during more than one half of any such 1774
pay period by an employee for the person employing that employee 1775
do not constitute employment, then none of the services of such 1776
employee for such period shall be deemed to be employment. As 1777
used in division (B) (4) of this section, "pay period" means a 1778
period, of not more than thirty-one consecutive days, for which 1779
payment of remuneration is ordinarily made to the employee by 1780
the person employing that employee. Division (B) (4) of this 1781
section does not apply to services performed in a pay period by 1782
an employee for the person employing that employee, if any of 1783
such service is excepted by division (B) (3) (o) of this section. 1784

(5) "Employment" does not include service performed by a 1785
health care worker, with respect to a health care worker 1786
platform or health care facility for work booked through a 1787
health care worker platform, in accordance with section 4113.87 1788
of the Revised Code. 1789

(C) "Benefits" means money payments payable to an 1790
individual who has established benefit rights, as provided in 1791
this chapter, for loss of remuneration due to the individual's 1792
unemployment. 1793

(D) "Benefit rights" means the weekly benefit amount and 1794
the maximum benefit amount that may become payable to an 1795
individual within the individual's benefit year as determined by 1796
the director. 1797

(E) "Claim for benefits" means a claim for waiting period 1798
or benefits for a designated week. 1799

(F) "Additional claim" means the first claim for benefits 1800
filed following any separation from employment during a benefit 1801
year; "continued claim" means any claim other than the first 1802
claim for benefits and other than an additional claim. 1803

(G) "Wages" means remuneration paid to an employee by each 1804
of the employee's employers with respect to employment; except 1805
that wages shall not include that part of remuneration paid 1806
during any calendar year to an individual by an employer or such 1807
employer's predecessor in interest in the same business or 1808
enterprise, which in any calendar year is in excess of nine 1809
thousand dollars on and after January 1, 1995; nine thousand 1810
five hundred dollars on and after January 1, 2018; and nine 1811
thousand dollars on and after January 1, 2020. Remuneration in 1812
excess of such amounts shall be deemed wages subject to 1813
contribution to the same extent that such remuneration is 1814
defined as wages under the "Federal Unemployment Tax Act," 84 1815
Stat. 714 (1970), 26 U.S.C.A. 3301 to 3311, as amended. The 1816
remuneration paid an employee by an employer with respect to 1817
employment in another state, upon which contributions were 1818
required and paid by such employer under the unemployment 1819
compensation act of such other state, shall be included as a 1820
part of remuneration in computing the amount specified in this 1821
division. 1822

(H) (1) "Remuneration" means all compensation for personal 1823

services, including commissions and bonuses and the cash value 1824
of all compensation in any medium other than cash, except that 1825
in the case of agricultural or domestic service, "remuneration" 1826
includes only cash remuneration. Gratuities customarily received 1827
by an individual in the course of the individual's employment 1828
from persons other than the individual's employer and which are 1829
accounted for by such individual to the individual's employer 1830
are taxable wages. 1831

The reasonable cash value of compensation paid in any 1832
medium other than cash shall be estimated and determined in 1833
accordance with rules prescribed by the director, provided that 1834
"remuneration" does not include: 1835

(a) Payments as provided in divisions (b)(2) to (b)(20) of 1836
section 3306 of the "Federal Unemployment Tax Act," 84 Stat. 1837
713, 26 U.S.C.A. 3301 to 3311, as amended; 1838

(b) The payment by an employer, without deduction from the 1839
remuneration of the individual in the employer's employ, of the 1840
tax imposed upon an individual in the employer's employ under 1841
section 3101 of the "Internal Revenue Code of 1954," with 1842
respect to services performed after October 1, 1941. 1843

(2) "Cash remuneration" means all remuneration paid in 1844
cash, including commissions and bonuses, but not including the 1845
cash value of all compensation in any medium other than cash. 1846

(I) "Interested party" means the director and any party to 1847
whom notice of a determination of an application for benefit 1848
rights or a claim for benefits is required to be given under 1849
section 4141.28 of the Revised Code. 1850

(J) "Annual payroll" means the total amount of wages 1851
subject to contributions during a twelve-month period ending 1852

with the last day of the second calendar quarter of any calendar 1853
year. 1854

(K) "Average annual payroll" means the average of the last 1855
three annual payrolls of an employer, provided that if, as of 1856
any computation date, the employer has had less than three 1857
annual payrolls in such three-year period, such average shall be 1858
based on the annual payrolls which the employer has had as of 1859
such date. 1860

(L) (1) "Contributions" means the money payments to the 1861
state unemployment compensation fund required of employers by 1862
section 4141.25 of the Revised Code and of the state and any of 1863
its political subdivisions electing to pay contributions under 1864
section 4141.242 of the Revised Code. Employers paying 1865
contributions shall be described as "contributory employers." 1866

(2) "Payments in lieu of contributions" means the money 1867
payments to the state unemployment compensation fund required of 1868
reimbursing employers under sections 4141.241 and 4141.242 of 1869
the Revised Code. 1870

(M) An individual is "totally unemployed" in any week 1871
during which the individual performs no services and with 1872
respect to such week no remuneration is payable to the 1873
individual. 1874

(N) An individual is "partially unemployed" in any week 1875
if, due to involuntary loss of work, the total remuneration 1876
payable to the individual for such week is less than the 1877
individual's weekly benefit amount. 1878

(O) "Week" means the calendar week ending at midnight 1879
Saturday unless an equivalent week of seven consecutive calendar 1880
days is prescribed by the director. 1881

(1) "Qualifying week" means any calendar week in an 1882
individual's base period with respect to which the individual 1883
earns or is paid remuneration in employment subject to this 1884
chapter. A calendar week with respect to which an individual 1885
earns remuneration but for which payment was not made within the 1886
base period, when necessary to qualify for benefit rights, may 1887
be considered to be a qualifying week. The number of qualifying 1888
weeks which may be established in a calendar quarter shall not 1889
exceed the number of calendar weeks in the quarter. 1890

(2) "Average weekly wage" means the amount obtained by 1891
dividing an individual's total remuneration for all qualifying 1892
weeks during the base period by the number of such qualifying 1893
weeks, provided that if the computation results in an amount 1894
that is not a multiple of one dollar, such amount shall be 1895
rounded to the next lower multiple of one dollar. 1896

(P) "Weekly benefit amount" means the amount of benefits 1897
an individual would be entitled to receive for one week of total 1898
unemployment. 1899

(Q) (1) "Base period" means the first four of the last five 1900
completed calendar quarters immediately preceding the first day 1901
of an individual's benefit year, except as provided in division 1902
(Q) (2) of this section. 1903

(2) If an individual does not have sufficient qualifying 1904
weeks and wages in the base period to qualify for benefit 1905
rights, the individual's base period shall be the four most 1906
recently completed calendar quarters preceding the first day of 1907
the individual's benefit year. Such base period shall be known 1908
as the "alternate base period." If information as to weeks and 1909
wages for the most recent quarter of the alternate base period 1910
is not available to the director from the regular quarterly 1911

reports of wage information, which are systematically 1912
accessible, the director may, consistent with the provisions of 1913
section 4141.28 of the Revised Code, base the determination of 1914
eligibility for benefits on the affidavit of the claimant with 1915
respect to weeks and wages for that calendar quarter. The 1916
claimant shall furnish payroll documentation, where available, 1917
in support of the affidavit. The determination based upon the 1918
alternate base period as it relates to the claimant's benefit 1919
rights, shall be amended when the quarterly report of wage 1920
information from the employer is timely received and that 1921
information causes a change in the determination. As provided in 1922
division (B) of section 4141.28 of the Revised Code, any 1923
benefits paid and charged to an employer's account, based upon a 1924
claimant's affidavit, shall be adjusted effective as of the 1925
beginning of the claimant's benefit year. No calendar quarter in 1926
a base period or alternate base period shall be used to 1927
establish a subsequent benefit year. 1928

(3) The "base period" of a combined wage claim, as 1929
described in division (H) of section 4141.43 of the Revised 1930
Code, shall be the base period prescribed by the law of the 1931
state in which the claim is allowed. 1932

(4) For purposes of determining the weeks that comprise a 1933
completed calendar quarter under this division, only those weeks 1934
ending at midnight Saturday within the calendar quarter shall be 1935
utilized. 1936

(R) (1) "Benefit year" with respect to an individual means 1937
the fifty-two week period beginning with the first day of that 1938
week with respect to which the individual first files a valid 1939
application for determination of benefit rights, and thereafter 1940
the fifty-two week period beginning with the first day of that 1941

week with respect to which the individual next files a valid 1942
application for determination of benefit rights after the 1943
termination of the individual's last preceding benefit year, 1944
except that the application shall not be considered valid unless 1945
the individual has had employment in six weeks that is subject 1946
to this chapter or the unemployment compensation act of another 1947
state, or the United States, and has, since the beginning of the 1948
individual's previous benefit year, in the employment earned 1949
three times the average weekly wage determined for the previous 1950
benefit year. The "benefit year" of a combined wage claim, as 1951
described in division (H) of section 4141.43 of the Revised 1952
Code, shall be the benefit year prescribed by the law of the 1953
state in which the claim is allowed. Any application for 1954
determination of benefit rights made in accordance with section 1955
4141.28 of the Revised Code is valid if the individual filing 1956
such application is unemployed, has been employed by an employer 1957
or employers subject to this chapter in at least twenty 1958
qualifying weeks within the individual's base period, and has 1959
earned or been paid remuneration at an average weekly wage of 1960
not less than twenty-seven and one-half per cent of the 1961
statewide average weekly wage for such weeks. For purposes of 1962
determining whether an individual has had sufficient employment 1963
since the beginning of the individual's previous benefit year to 1964
file a valid application, "employment" means the performance of 1965
services for which remuneration is payable. 1966

(2) Effective for benefit years beginning on and after 1967
December 26, 2004, but before July 1, 2022, any application for 1968
determination of benefit rights made in accordance with section 1969
4141.28 of the Revised Code is valid if the individual satisfies 1970
the criteria described in division (R)(1) of this section, and 1971
if the reason for the individual's separation from employment is 1972

not disqualifying pursuant to division (D)(2) of section 4141.29 1973
or section 4141.291 of the Revised Code. A disqualification 1974
imposed pursuant to division (D)(2) of section 4141.29 or 1975
section 4141.291 of the Revised Code must be removed as provided 1976
in those sections as a requirement of establishing a valid 1977
application for benefit years beginning on and after December 1978
26, 2004, but before July 1, 2022. Effective for benefit years 1979
beginning on and after July 1, 2022, any application for 1980
determination of benefit rights made in accordance with section 1981
4141.28 of the Revised Code is valid if the individual satisfies 1982
the criteria described in division (R)(1) of this section. A 1983
disqualification imposed pursuant to division (D)(2) of section 1984
4141.29 or section 4141.291 of the Revised Code does not affect 1985
the validity of an application. 1986

(3) The statewide average weekly wage shall be calculated 1987
by the director once a year based on the twelve-month period 1988
ending the thirtieth day of June, as set forth in division (B) 1989
(3) of section 4141.30 of the Revised Code, rounded down to the 1990
nearest dollar. Increases or decreases in the amount of 1991
remuneration required to have been earned or paid in order for 1992
individuals to have filed valid applications shall become 1993
effective on Sunday of the calendar week in which the first day 1994
of January occurs that follows the twelve-month period ending 1995
the thirtieth day of June upon which the calculation of the 1996
statewide average weekly wage was based. 1997

(4) As used in this division, an individual is 1998
"unemployed" if, with respect to the calendar week in which such 1999
application is filed, the individual is "partially unemployed" 2000
or "totally unemployed" as defined in this section or if, prior 2001
to filing the application, the individual was separated from the 2002
individual's most recent work for any reason which terminated 2003

the individual's employee-employer relationship, or was laid off 2004
indefinitely or for a definite period of seven or more days. 2005

(S) "Calendar quarter" means the period of three 2006
consecutive calendar months ending on the thirty-first day of 2007
March, the thirtieth day of June, the thirtieth day of 2008
September, and the thirty-first day of December, or the 2009
equivalent thereof as the director prescribes by rule. 2010

(T) "Computation date" means the first day of the third 2011
calendar quarter of any calendar year. 2012

(U) "Contribution period" means the calendar year 2013
beginning on the first day of January of any year. 2014

(V) "Agricultural labor," for the purpose of this 2015
division, means any service performed prior to January 1, 1972, 2016
which was agricultural labor as defined in this division prior 2017
to that date, and service performed after December 31, 1971: 2018

(1) On a farm, in the employ of any person, in connection 2019
with cultivating the soil, or in connection with raising or 2020
harvesting any agricultural or horticultural commodity, 2021
including the raising, shearing, feeding, caring for, training, 2022
and management of livestock, bees, poultry, and fur-bearing 2023
animals and wildlife; 2024

(2) In the employ of the owner or tenant or other operator 2025
of a farm in connection with the operation, management, 2026
conservation, improvement, or maintenance of such farm and its 2027
tools and equipment, or in salvaging timber or clearing land of 2028
brush and other debris left by hurricane, if the major part of 2029
such service is performed on a farm; 2030

(3) In connection with the production or harvesting of any 2031
commodity defined as an agricultural commodity in section 15 (g) 2032

of the "Agricultural Marketing Act," 46 Stat. 1550 (1931), 12 2033
U.S.C. 1141j, as amended, or in connection with the ginning of 2034
cotton, or in connection with the operation or maintenance of 2035
ditches, canals, reservoirs, or waterways, not owned or operated 2036
for profit, used exclusively for supplying and storing water for 2037
farming purposes; 2038

(4) In the employ of the operator of a farm in handling, 2039
planting, drying, packing, packaging, processing, freezing, 2040
grading, storing, or delivering to storage or to market or to a 2041
carrier for transportation to market, in its unmanufactured 2042
state, any agricultural or horticultural commodity, but only if 2043
the operator produced more than one half of the commodity with 2044
respect to which such service is performed; 2045

(5) In the employ of a group of operators of farms, or a 2046
cooperative organization of which the operators are members, in 2047
the performance of service described in division (V) (4) of this 2048
section, but only if the operators produced more than one-half 2049
of the commodity with respect to which the service is performed; 2050

(6) Divisions (V) (4) and (5) of this section shall not be 2051
deemed to be applicable with respect to service performed: 2052

(a) In connection with commercial canning or commercial 2053
freezing or in connection with any agricultural or horticultural 2054
commodity after its delivery to a terminal market for 2055
distribution for consumption; or 2056

(b) On a farm operated for profit if the service is not in 2057
the course of the employer's trade or business. 2058

As used in division (V) of this section, "farm" includes 2059
stock, dairy, poultry, fruit, fur-bearing animal, and truck 2060
farms, plantations, ranches, nurseries, ranges, greenhouses, or 2061

other similar structures used primarily for the raising of 2062
agricultural or horticultural commodities and orchards. 2063

(W) "Hospital" means an institution which has been 2064
registered or licensed by the Ohio department of health as a 2065
hospital. 2066

(X) "Nonprofit organization" means an organization, or 2067
group of organizations, described in section 501(c)(3) of the 2068
"Internal Revenue Code of 1954," and exempt from income tax 2069
under section 501(a) of that code. 2070

(Y) "Institution of higher education" means a public or 2071
nonprofit educational institution, including an educational 2072
institution operated by an Indian tribe, which: 2073

(1) Admits as regular students only individuals having a 2074
certificate of graduation from a high school, or the recognized 2075
equivalent; 2076

(2) Is legally authorized in this state or by the Indian 2077
tribe to provide a program of education beyond high school; and 2078

(3) Provides an educational program for which it awards a 2079
bachelor's or higher degree, or provides a program which is 2080
acceptable for full credit toward such a degree, a program of 2081
post-graduate or post-doctoral studies, or a program of training 2082
to prepare students for gainful employment in a recognized 2083
occupation. 2084

For the purposes of this division, all colleges and 2085
universities in this state are institutions of higher education. 2086

(Z) For the purposes of this chapter, "states" includes 2087
the District of Columbia, the Commonwealth of Puerto Rico, and 2088
the Virgin Islands. 2089

(AA) "Alien" means, for the purposes of division (A) (1) (d) 2090
of this section, an individual who is an alien admitted to the 2091
United States to perform service in agricultural labor pursuant 2092
to sections 214 (c) and 101 (a) (15) (H) of the "Immigration and 2093
Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101. 2094

(BB) (1) "Crew leader" means an individual who furnishes 2095
individuals to perform agricultural labor for any other employer 2096
or farm operator, and: 2097

(a) Pays, either on the individual's own behalf or on 2098
behalf of the other employer or farm operator, the individuals 2099
so furnished by the individual for the service in agricultural 2100
labor performed by them; 2101

(b) Has not entered into a written agreement with the 2102
other employer or farm operator under which the agricultural 2103
worker is designated as in the employ of the other employer or 2104
farm operator. 2105

(2) For the purposes of this chapter, any individual who 2106
is a member of a crew furnished by a crew leader to perform 2107
service in agricultural labor for any other employer or farm 2108
operator shall be treated as an employee of the crew leader if: 2109

(a) The crew leader holds a valid certificate of 2110
registration under the "Farm Labor Contractor Registration Act 2111
of 1963," 90 Stat. 2668, 7 U.S.C. 2041; or 2112

(b) Substantially all the members of the crew operate or 2113
maintain tractors, mechanized harvesting or crop-dusting 2114
equipment, or any other mechanized equipment, which is provided 2115
by the crew leader; and 2116

(c) If the individual is not in the employment of the 2117
other employer or farm operator within the meaning of division 2118

(B) (1) of this section. 2119

(3) For the purposes of this division, any individual who 2120
is furnished by a crew leader to perform service in agricultural 2121
labor for any other employer or farm operator and who is not 2122
treated as in the employment of the crew leader under division 2123
(BB) (2) of this section shall be treated as the employee of the 2124
other employer or farm operator and not of the crew leader. The 2125
other employer or farm operator shall be treated as having paid 2126
cash remuneration to the individual in an amount equal to the 2127
amount of cash remuneration paid to the individual by the crew 2128
leader, either on the crew leader's own behalf or on behalf of 2129
the other employer or farm operator, for the service in 2130
agricultural labor performed for the other employer or farm 2131
operator. 2132

(CC) "Educational institution" means an institution other 2133
than an institution of higher education as defined in division 2134
(Y) of this section, including an educational institution 2135
operated by an Indian tribe, which: 2136

(1) Offers participants, trainees, or students an 2137
organized course of study or training designed to transfer to 2138
them knowledge, skills, information, doctrines, attitudes, or 2139
abilities from, by, or under the guidance of an instructor or 2140
teacher; and 2141

(2) Is approved, chartered, or issued a permit to operate 2142
as a school by the director of education and workforce, other 2143
government agency, or Indian tribe that is authorized within the 2144
state to approve, charter, or issue a permit for the operation 2145
of a school. 2146

For the purposes of this division, the courses of study or 2147

training which the institution offers may be academic, 2148
technical, trade, or preparation for gainful employment in a 2149
recognized occupation. 2150

(DD) "Cost savings day" means any unpaid day off from work 2151
in which employees continue to accrue employee benefits which 2152
have a determinable value including, but not limited to, 2153
vacation, pension contribution, sick time, and life and health 2154
insurance. 2155

(EE) "Motor carrier" has the same meaning as in section 2156
4923.01 of the Revised Code. 2157

Sec. 5747.01. Except as otherwise expressly provided or 2158
clearly appearing from the context, any term used in this 2159
chapter that is not otherwise defined in this section has the 2160
same meaning as when used in a comparable context in the laws of 2161
the United States relating to federal income taxes or if not 2162
used in a comparable context in those laws, has the same meaning 2163
as in section 5733.40 of the Revised Code. Any reference in this 2164
chapter to the Internal Revenue Code includes other laws of the 2165
United States relating to federal income taxes. 2166

As used in this chapter: 2167

(A) "Adjusted gross income" or "Ohio adjusted gross 2168
income" means federal adjusted gross income, as defined and used 2169
in the Internal Revenue Code, adjusted as provided in this 2170
section: 2171

(1) Add interest or dividends on obligations or securities 2172
of any state or of any political subdivision or authority of any 2173
state, other than this state and its subdivisions and 2174
authorities. 2175

(2) Add interest or dividends on obligations of any 2176

authority, commission, instrumentality, territory, or possession 2177
of the United States to the extent that the interest or 2178
dividends are exempt from federal income taxes but not from 2179
state income taxes. 2180

(3) Deduct interest or dividends on obligations of the 2181
United States and its territories and possessions or of any 2182
authority, commission, or instrumentality of the United States 2183
to the extent that the interest or dividends are included in 2184
federal adjusted gross income but exempt from state income taxes 2185
under the laws of the United States. 2186

(4) Deduct disability and survivor's benefits to the 2187
extent included in federal adjusted gross income. 2188

(5) Deduct the following, to the extent not otherwise 2189
deducted or excluded in computing federal or Ohio adjusted gross 2190
income: 2191

(a) Benefits under Title II of the Social Security Act and 2192
tier 1 railroad retirement; 2193

(b) Railroad retirement benefits, other than tier 1 2194
railroad retirement benefits, to the extent such amounts are 2195
exempt from state taxation under federal law. 2196

(6) Deduct the amount of wages and salaries, if any, not 2197
otherwise allowable as a deduction but that would have been 2198
allowable as a deduction in computing federal adjusted gross 2199
income for the taxable year, had the work opportunity tax credit 2200
allowed and determined under sections 38, 51, and 52 of the 2201
Internal Revenue Code not been in effect. 2202

(7) Deduct any interest or interest equivalent on public 2203
obligations and purchase obligations to the extent that the 2204
interest or interest equivalent is included in federal adjusted 2205

gross income. 2206

(8) Add any loss or deduct any gain resulting from the 2207
sale, exchange, or other disposition of public obligations to 2208
the extent that the loss has been deducted or the gain has been 2209
included in computing federal adjusted gross income. 2210

(9) Deduct or add amounts, as provided under section 2211
5747.70 of the Revised Code, related to contributions made to or 2212
tuition units purchased under a qualified tuition program 2213
established pursuant to section 529 of the Internal Revenue 2214
Code. 2215

(10) (a) Deduct, to the extent not otherwise allowable as a 2216
deduction or exclusion in computing federal or Ohio adjusted 2217
gross income for the taxable year, the amount the taxpayer paid 2218
during the taxable year for medical care insurance and qualified 2219
long-term care insurance for the taxpayer, the taxpayer's 2220
spouse, and dependents. No deduction for medical care insurance 2221
under division (A) (10) (a) of this section shall be allowed 2222
either to any taxpayer who is eligible to participate in any 2223
subsidized health plan maintained by any employer of the 2224
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 2225
entitled to, or on application would be entitled to, benefits 2226
under part A of Title XVIII of the "Social Security Act," 49 2227
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 2228
division (A) (10) (a) of this section, "subsidized health plan" 2229
means a health plan for which the employer pays any portion of 2230
the plan's cost. The deduction allowed under division (A) (10) (a) 2231
of this section shall be the net of any related premium refunds, 2232
related premium reimbursements, or related insurance premium 2233
dividends received during the taxable year. 2234

(b) Deduct, to the extent not otherwise deducted or 2235

excluded in computing federal or Ohio adjusted gross income 2236
during the taxable year, the amount the taxpayer paid during the 2237
taxable year, not compensated for by any insurance or otherwise, 2238
for medical care of the taxpayer, the taxpayer's spouse, and 2239
dependents, to the extent the expenses exceed seven and one-half 2240
per cent of the taxpayer's federal adjusted gross income. 2241

(c) For purposes of division (A)(10) of this section, 2242
"medical care" has the meaning given in section 213 of the 2243
Internal Revenue Code, subject to the special rules, 2244
limitations, and exclusions set forth therein, and "qualified 2245
long-term care" has the same meaning given in section 7702B(c) 2246
of the Internal Revenue Code. Solely for purposes of division 2247
(A)(10)(a) of this section, "dependent" includes a person who 2248
otherwise would be a "qualifying relative" and thus a 2249
"dependent" under section 152 of the Internal Revenue Code but 2250
for the fact that the person fails to meet the income and 2251
support limitations under section 152(d)(1)(B) and (C) of the 2252
Internal Revenue Code. 2253

(11)(a) Deduct any amount included in federal adjusted 2254
gross income solely because the amount represents a 2255
reimbursement or refund of expenses that in any year the 2256
taxpayer had deducted as an itemized deduction pursuant to 2257
section 63 of the Internal Revenue Code and applicable United 2258
States department of the treasury regulations. The deduction 2259
otherwise allowed under division (A)(11)(a) of this section 2260
shall be reduced to the extent the reimbursement is attributable 2261
to an amount the taxpayer deducted under this section in any 2262
taxable year. 2263

(b) Add any amount not otherwise included in Ohio adjusted 2264
gross income for any taxable year to the extent that the amount 2265

is attributable to the recovery during the taxable year of any 2266
amount deducted or excluded in computing federal or Ohio 2267
adjusted gross income in any taxable year. 2268

(12) Deduct any portion of the deduction described in 2269
section 1341(a)(2) of the Internal Revenue Code, for repaying 2270
previously reported income received under a claim of right, that 2271
meets both of the following requirements: 2272

(a) It is allowable for repayment of an item that was 2273
included in the taxpayer's adjusted gross income for a prior 2274
taxable year and did not qualify for a credit under division (A) 2275
or (B) of section 5747.05 of the Revised Code for that year; 2276

(b) It does not otherwise reduce the taxpayer's adjusted 2277
gross income for the current or any other taxable year. 2278

(13) Deduct an amount equal to the deposits made to, and 2279
net investment earnings of, a medical savings account during the 2280
taxable year, in accordance with section 3924.66 of the Revised 2281
Code. The deduction allowed by division (A)(13) of this section 2282
does not apply to medical savings account deposits and earnings 2283
otherwise deducted or excluded for the current or any other 2284
taxable year from the taxpayer's federal adjusted gross income. 2285

(14)(a) Add an amount equal to the funds withdrawn from a 2286
medical savings account during the taxable year, and the net 2287
investment earnings on those funds, when the funds withdrawn 2288
were used for any purpose other than to reimburse an account 2289
holder for, or to pay, eligible medical expenses, in accordance 2290
with section 3924.66 of the Revised Code; 2291

(b) Add the amounts distributed from a medical savings 2292
account under division (A)(2) of section 3924.68 of the Revised 2293
Code during the taxable year. 2294

(15) Add any amount claimed as a credit under section 2295
5747.059 of the Revised Code to the extent that such amount 2296
satisfies either of the following: 2297

(a) The amount was deducted or excluded from the 2298
computation of the taxpayer's federal adjusted gross income as 2299
required to be reported for the taxpayer's taxable year under 2300
the Internal Revenue Code; 2301

(b) The amount resulted in a reduction of the taxpayer's 2302
federal adjusted gross income as required to be reported for any 2303
of the taxpayer's taxable years under the Internal Revenue Code. 2304

(16) Deduct the amount contributed by the taxpayer to an 2305
individual development account program established by a county 2306
department of job and family services pursuant to sections 2307
329.11 to 329.14 of the Revised Code for the purpose of matching 2308
funds deposited by program participants. On request of the tax 2309
commissioner, the taxpayer shall provide any information that, 2310
in the tax commissioner's opinion, is necessary to establish the 2311
amount deducted under division (A)(16) of this section. 2312

(17)(a)(i) Subject to divisions (A)(17)(a)(iii), (iv), and 2313
(v) of this section, add five-sixths of the amount of 2314
depreciation expense allowed by subsection (k) of section 168 of 2315
the Internal Revenue Code, including the taxpayer's 2316
proportionate or distributive share of the amount of 2317
depreciation expense allowed by that subsection to a pass- 2318
through entity in which the taxpayer has a direct or indirect 2319
ownership interest. 2320

(ii) Subject to divisions (A)(17)(a)(iii), (iv), and (v) 2321
of this section, add five-sixths of the amount of qualifying 2322
section 179 depreciation expense, including the taxpayer's 2323

proportionate or distributive share of the amount of qualifying 2324
section 179 depreciation expense allowed to any pass-through 2325
entity in which the taxpayer has a direct or indirect ownership 2326
interest. 2327

(iii) Subject to division (A) (17) (a) (v) of this section, 2328
for taxable years beginning in 2012 or thereafter, if the 2329
increase in income taxes withheld by the taxpayer is equal to or 2330
greater than ten per cent of income taxes withheld by the 2331
taxpayer during the taxpayer's immediately preceding taxable 2332
year, "two-thirds" shall be substituted for "five-sixths" for 2333
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 2334

(iv) Subject to division (A) (17) (a) (v) of this section, 2335
for taxable years beginning in 2012 or thereafter, a taxpayer is 2336
not required to add an amount under division (A) (17) of this 2337
section if the increase in income taxes withheld by the taxpayer 2338
and by any pass-through entity in which the taxpayer has a 2339
direct or indirect ownership interest is equal to or greater 2340
than the sum of (I) the amount of qualifying section 179 2341
depreciation expense and (II) the amount of depreciation expense 2342
allowed to the taxpayer by subsection (k) of section 168 of the 2343
Internal Revenue Code, and including the taxpayer's 2344
proportionate or distributive shares of such amounts allowed to 2345
any such pass-through entities. 2346

(v) If a taxpayer directly or indirectly incurs a net 2347
operating loss for the taxable year for federal income tax 2348
purposes, to the extent such loss resulted from depreciation 2349
expense allowed by subsection (k) of section 168 of the Internal 2350
Revenue Code and by qualifying section 179 depreciation expense, 2351
"the entire" shall be substituted for "five-sixths of the" for 2352
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 2353

The tax commissioner, under procedures established by the 2354
commissioner, may waive the add-backs related to a pass-through 2355
entity if the taxpayer owns, directly or indirectly, less than 2356
five per cent of the pass-through entity. 2357

(b) Nothing in division (A) (17) of this section shall be 2358
construed to adjust or modify the adjusted basis of any asset. 2359

(c) To the extent the add-back required under division (A) 2360
(17) (a) of this section is attributable to property generating 2361
nonbusiness income or loss allocated under section 5747.20 of 2362
the Revised Code, the add-back shall be situated to the same 2363
location as the nonbusiness income or loss generated by the 2364
property for the purpose of determining the credit under 2365
division (A) of section 5747.05 of the Revised Code. Otherwise, 2366
the add-back shall be apportioned, subject to one or more of the 2367
four alternative methods of apportionment enumerated in section 2368
5747.21 of the Revised Code. 2369

(d) For the purposes of division (A) (17) (a) (v) of this 2370
section, net operating loss carryback and carryforward shall not 2371
include the allowance of any net operating loss deduction 2372
carryback or carryforward to the taxable year to the extent such 2373
loss resulted from depreciation allowed by section 168(k) of the 2374
Internal Revenue Code and by the qualifying section 179 2375
depreciation expense amount. 2376

(e) For the purposes of divisions (A) (17) and (18) of this 2377
section: 2378

(i) "Income taxes withheld" means the total amount 2379
withheld and remitted under sections 5747.06 and 5747.07 of the 2380
Revised Code by an employer during the employer's taxable year. 2381

(ii) "Increase in income taxes withheld" means the amount 2382

by which the amount of income taxes withheld by an employer 2383
during the employer's current taxable year exceeds the amount of 2384
income taxes withheld by that employer during the employer's 2385
immediately preceding taxable year. 2386

(iii) "Qualifying section 179 depreciation expense" means 2387
the difference between (I) the amount of depreciation expense 2388
directly or indirectly allowed to a taxpayer under section 179 2389
of the Internal Revised Code, and (II) the amount of 2390
depreciation expense directly or indirectly allowed to the 2391
taxpayer under section 179 of the Internal Revenue Code as that 2392
section existed on December 31, 2002. 2393

(18) (a) If the taxpayer was required to add an amount 2394
under division (A) (17) (a) of this section for a taxable year, 2395
deduct one of the following: 2396

(i) One-fifth of the amount so added for each of the five 2397
succeeding taxable years if the amount so added was five-sixths 2398
of qualifying section 179 depreciation expense or depreciation 2399
expense allowed by subsection (k) of section 168 of the Internal 2400
Revenue Code; 2401

(ii) One-half of the amount so added for each of the two 2402
succeeding taxable years if the amount so added was two-thirds 2403
of such depreciation expense; 2404

(iii) One-sixth of the amount so added for each of the six 2405
succeeding taxable years if the entire amount of such 2406
depreciation expense was so added. 2407

(b) If the amount deducted under division (A) (18) (a) of 2408
this section is attributable to an add-back allocated under 2409
division (A) (17) (c) of this section, the amount deducted shall 2410
be situated to the same location. Otherwise, the add-back shall 2411

be apportioned using the apportionment factors for the taxable 2412
year in which the deduction is taken, subject to one or more of 2413
the four alternative methods of apportionment enumerated in 2414
section 5747.21 of the Revised Code. 2415

(c) No deduction is available under division (A) (18) (a) of 2416
this section with regard to any depreciation allowed by section 2417
168(k) of the Internal Revenue Code and by the qualifying 2418
section 179 depreciation expense amount to the extent that such 2419
depreciation results in or increases a federal net operating 2420
loss carryback or carryforward. If no such deduction is 2421
available for a taxable year, the taxpayer may carry forward the 2422
amount not deducted in such taxable year to the next taxable 2423
year and add that amount to any deduction otherwise available 2424
under division (A) (18) (a) of this section for that next taxable 2425
year. The carryforward of amounts not so deducted shall continue 2426
until the entire addition required by division (A) (17) (a) of 2427
this section has been deducted. 2428

(19) Deduct, to the extent not otherwise deducted or 2429
excluded in computing federal or Ohio adjusted gross income for 2430
the taxable year, the amount the taxpayer received during the 2431
taxable year as reimbursement for life insurance premiums under 2432
section 5919.31 of the Revised Code. 2433

(20) Deduct, to the extent not otherwise deducted or 2434
excluded in computing federal or Ohio adjusted gross income for 2435
the taxable year, the amount the taxpayer received during the 2436
taxable year as a death benefit paid by the adjutant general 2437
under section 5919.33 of the Revised Code. 2438

(21) Deduct, to the extent included in federal adjusted 2439
gross income and not otherwise allowable as a deduction or 2440
exclusion in computing federal or Ohio adjusted gross income for 2441

the taxable year, military pay and allowances received by the 2442
taxpayer during the taxable year for active duty service in the 2443
United States army, air force, navy, marine corps, or coast 2444
guard or reserve components thereof or the national guard. The 2445
deduction may not be claimed for military pay and allowances 2446
received by the taxpayer while the taxpayer is stationed in this 2447
state. 2448

(22) Deduct, to the extent not otherwise allowable as a 2449
deduction or exclusion in computing federal or Ohio adjusted 2450
gross income for the taxable year and not otherwise compensated 2451
for by any other source, the amount of qualified organ donation 2452
expenses incurred by the taxpayer during the taxable year, not 2453
to exceed ten thousand dollars. A taxpayer may deduct qualified 2454
organ donation expenses only once for all taxable years 2455
beginning with taxable years beginning in 2007. 2456

For the purposes of division (A) (22) of this section: 2457

(a) "Human organ" means all or any portion of a human 2458
liver, pancreas, kidney, intestine, or lung, and any portion of 2459
human bone marrow. 2460

(b) "Qualified organ donation expenses" means travel 2461
expenses, lodging expenses, and wages and salary forgone by a 2462
taxpayer in connection with the taxpayer's donation, while 2463
living, of one or more of the taxpayer's human organs to another 2464
human being. 2465

(23) Deduct, to the extent not otherwise deducted or 2466
excluded in computing federal or Ohio adjusted gross income for 2467
the taxable year, amounts received by the taxpayer as retired 2468
personnel pay for service in the uniformed services or reserve 2469
components thereof, or the national guard, or received by the 2470

surviving spouse or former spouse of such a taxpayer under the 2471
survivor benefit plan on account of such a taxpayer's death. If 2472
the taxpayer receives income on account of retirement paid under 2473
the federal civil service retirement system or federal employees 2474
retirement system, or under any successor retirement program 2475
enacted by the congress of the United States that is established 2476
and maintained for retired employees of the United States 2477
government, and such retirement income is based, in whole or in 2478
part, on credit for the taxpayer's uniformed service, the 2479
deduction allowed under this division shall include only that 2480
portion of such retirement income that is attributable to the 2481
taxpayer's uniformed service, to the extent that portion of such 2482
retirement income is otherwise included in federal adjusted 2483
gross income and is not otherwise deducted under this section. 2484
Any amount deducted under division (A) (23) of this section is 2485
not included in a taxpayer's adjusted gross income for the 2486
purposes of section 5747.055 of the Revised Code. No amount may 2487
be deducted under division (A) (23) of this section on the basis 2488
of which a credit was claimed under section 5747.055 of the 2489
Revised Code. 2490

(24) Deduct, to the extent not otherwise deducted or 2491
excluded in computing federal or Ohio adjusted gross income for 2492
the taxable year, the amount the taxpayer received during the 2493
taxable year from the military injury relief fund created in 2494
section 5902.05 of the Revised Code. 2495

(25) Deduct, to the extent not otherwise deducted or 2496
excluded in computing federal or Ohio adjusted gross income for 2497
the taxable year, the amount the taxpayer received as a veterans 2498
bonus during the taxable year from the Ohio department of 2499
veterans services as authorized by Section 2r of Article VIII, 2500
Ohio Constitution. 2501

(26) Deduct, to the extent not otherwise deducted or 2502
excluded in computing federal or Ohio adjusted gross income for 2503
the taxable year, any income derived from a transfer agreement 2504
or from the enterprise transferred under that agreement under 2505
section 4313.02 of the Revised Code. 2506

(27) Deduct, to the extent not otherwise deducted or 2507
excluded in computing federal or Ohio adjusted gross income for 2508
the taxable year, Ohio college opportunity or federal Pell grant 2509
amounts received by the taxpayer or the taxpayer's spouse or 2510
dependent pursuant to section 3333.122 of the Revised Code or 20 2511
U.S.C. 1070a, et seq., and used to pay room or board furnished 2512
by the educational institution for which the grant was awarded 2513
at the institution's facilities, including meal plans 2514
administered by the institution. For the purposes of this 2515
division, receipt of a grant includes the distribution of a 2516
grant directly to an educational institution and the crediting 2517
of the grant to the enrollee's account with the institution. 2518

(28) Deduct from the portion of an individual's federal 2519
adjusted gross income that is business income, to the extent not 2520
otherwise deducted or excluded in computing federal adjusted 2521
gross income for the taxable year, one hundred twenty-five 2522
thousand dollars for each spouse if spouses file separate 2523
returns under section 5747.08 of the Revised Code or two hundred 2524
fifty thousand dollars for all other individuals. 2525

(29) Deduct, as provided under section 5747.78 of the 2526
Revised Code, contributions to ABLE savings accounts made in 2527
accordance with sections 113.50 to 113.56 of the Revised Code. 2528

(30) (a) Deduct, to the extent not otherwise deducted or 2529
excluded in computing federal or Ohio adjusted gross income 2530
during the taxable year, all of the following: 2531

(i) Compensation paid to a qualifying employee described 2532
in division (A) (14) (a) of section 5703.94 of the Revised Code to 2533
the extent such compensation is for disaster work conducted in 2534
this state during a disaster response period pursuant to a 2535
qualifying solicitation received by the employee's employer; 2536

(ii) Compensation paid to a qualifying employee described 2537
in division (A) (14) (b) of section 5703.94 of the Revised Code to 2538
the extent such compensation is for disaster work conducted in 2539
this state by the employee during the disaster response period 2540
on critical infrastructure owned or used by the employee's 2541
employer; 2542

(iii) Income received by an out-of-state disaster business 2543
for disaster work conducted in this state during a disaster 2544
response period, or, if the out-of-state disaster business is a 2545
pass-through entity, a taxpayer's distributive share of the 2546
pass-through entity's income from the business conducting 2547
disaster work in this state during a disaster response period, 2548
if, in either case, the disaster work is conducted pursuant to a 2549
qualifying solicitation received by the business. 2550

(b) All terms used in division (A) (30) of this section 2551
have the same meanings as in section 5703.94 of the Revised 2552
Code. 2553

(31) For a taxpayer who is a qualifying Ohio educator, 2554
deduct, to the extent not otherwise deducted or excluded in 2555
computing federal or Ohio adjusted gross income for the taxable 2556
year, the lesser of two hundred fifty dollars or the amount of 2557
expenses described in subsections (a) (2) (D) (i) and (ii) of 2558
section 62 of the Internal Revenue Code paid or incurred by the 2559
taxpayer during the taxpayer's taxable year in excess of the 2560
amount the taxpayer is authorized to deduct for that taxable 2561

year under subsection (a) (2) (D) of that section. 2562

(32) Deduct, to the extent not otherwise deducted or 2563
excluded in computing federal or Ohio adjusted gross income for 2564
the taxable year, amounts received by the taxpayer as a 2565
disability severance payment, computed under 10 U.S.C. 1212, 2566
following discharge or release under honorable conditions from 2567
the armed forces of the United States, as defined in section 2568
5907.01 of the Revised Code. 2569

(33) Deduct, to the extent not otherwise deducted or 2570
excluded in computing federal adjusted gross income or Ohio 2571
adjusted gross income, amounts not subject to tax due to an 2572
agreement entered into under division (A) (2) of section 5747.05 2573
of the Revised Code. 2574

(34) Deduct amounts as provided under section 5747.79 of 2575
the Revised Code related to the taxpayer's qualifying capital 2576
gains and deductible payroll. 2577

To the extent a qualifying capital gain described under 2578
division (A) (34) of this section is business income, the 2579
taxpayer shall deduct those gains under this division before 2580
deducting any such gains under division (A) (28) of this section. 2581

(35) (a) For taxable years beginning in or after 2026, 2582
deduct, to the extent not otherwise deducted or excluded in 2583
computing federal or Ohio adjusted gross income for the taxable 2584
year: 2585

(i) One hundred per cent of the capital gain received by 2586
the taxpayer in the taxable year from a qualifying interest in 2587
an Ohio venture capital operating company attributable to the 2588
company's investments in Ohio businesses during the period for 2589
which the company was an Ohio venture operating company; and 2590

(ii) Fifty per cent of the capital gain received by the 2591
taxpayer in the taxable year from a qualifying interest in an 2592
Ohio venture capital operating company attributable to the 2593
company's investments in all other businesses during the period 2594
for which the company was an Ohio venture operating company. 2595

(b) Add amounts previously deducted by the taxpayer under 2596
division (A) (35) (a) of this section if the director of 2597
development certifies to the tax commissioner that the 2598
requirements for the deduction were not met. 2599

(c) All terms used in division (A) (35) of this section 2600
have the same meanings as in section 122.851 of the Revised 2601
Code. 2602

(d) To the extent a capital gain described in division (A) 2603
(35) (a) of this section is business income, the taxpayer shall 2604
apply that division before applying division (A) (28) of this 2605
section. 2606

(36) Add, to the extent not otherwise included in 2607
computing federal or Ohio adjusted gross income for any taxable 2608
year, the taxpayer's proportionate share of the amount of the 2609
tax levied under section 5747.38 of the Revised Code and paid by 2610
an electing pass-through entity for the taxable year. 2611

Notwithstanding any provision of the Revised Code to the 2612
contrary, the portion of the addition required by division (A) 2613
(36) of this section related to the apportioned business income 2614
of the pass-through entity shall be considered business income 2615
under division (B) of this section. Such addition is eligible 2616
for the deduction in division (A) (28) of this section, subject 2617
to the applicable dollar limitations, and the tax rate 2618
prescribed by division (A) (4) (a) of section 5747.02 of the 2619

Revised Code. The taxpayer shall provide, upon request of the 2620
tax commissioner, any documentation necessary to verify the 2621
portion of the addition that is business income under this 2622
division. 2623

(37) Deduct, to the extent not otherwise deducted or 2624
excluded in computing federal or Ohio adjusted gross income for 2625
the taxable year, amounts delivered to a qualifying institution 2626
pursuant to section 3333.128 of the Revised Code for the benefit 2627
of the taxpayer or the taxpayer's spouse or dependent. 2628

(38) Deduct, to the extent not otherwise deducted or 2629
excluded in computing federal or Ohio adjusted gross income for 2630
the taxable year, amounts received under the Ohio adoption grant 2631
program pursuant to section 5101.191 of the Revised Code. 2632

(39) Deduct, to the extent included in federal adjusted 2633
gross income, income attributable to amounts provided to a 2634
taxpayer for any of the purposes for which an exclusion would 2635
have been authorized under section 139 of the Internal Revenue 2636
Code if the train derailment near the city of East Palestine on 2637
February 3, 2023, had been a qualified disaster pursuant to that 2638
section, or to compensate for lost business resulting from that 2639
derailment, if such amounts are provided by any of the 2640
following: 2641

(a) A federal, state, or local government agency; 2642

(b) A railroad company, as that term is defined in section 2643
5727.01 of the Revised Code; 2644

(c) Any subsidiary, insurer, or agent of a railroad 2645
company or any related person. 2646

Notwithstanding any provision to the contrary, the 2647
derailment is not required to meet the definition of a 2648

"qualified disaster" pursuant to section 139 of the Internal 2649
Revenue Code to qualify for the deduction under this section. 2650

(40) Deduct, to the extent included in federal adjusted 2651
gross income, income attributable to loan repayments on behalf 2652
of the taxpayer under the rural practice incentive program under 2653
section 3333.135 of the Revised Code. 2654

(41) Add any income taxes deducted in computing federal or 2655
Ohio adjusted gross income to the extent the income taxes were 2656
derived from income subject to a tax levied in another state or 2657
the District of Columbia when such tax was enacted for purposes 2658
of complying with internal revenue service notice 2020-75. 2659

Notwithstanding any provision of the Revised Code to the 2660
contrary, the portion of the addition required by division (A) 2661
(41) of this section related to the apportioned business income 2662
of the pass-through entity shall be considered business income 2663
under division (B) of this section. Such addition is eligible 2664
for the deduction in division (A) (28) of this section, subject 2665
to the applicable dollar limitations, and the tax rate 2666
prescribed by division (A) (4) (a) of section 5747.02 of the 2667
Revised Code. The taxpayer shall provide, upon request of the 2668
tax commissioner, any documentation necessary to verify the 2669
portion of the addition that is business income under this 2670
division. 2671

(42) Deduct amounts contributed to a homeownership savings 2672
account and calculated pursuant to divisions (B) and (C) of 2673
section 5747.85 of the Revised Code. 2674

(43) If the taxpayer is the account owner, add the amount 2675
of funds withdrawn from a homeownership savings account not used 2676
for eligible expenses, regardless of who deposited those funds. 2677

As used in division (A) (43) of this section, "homeownership 2678
savings account," "account owner," and "eligible expenses" have 2679
the same meanings as in section 5747.85 of the Revised Code. 2680

(B) "Business income" means income, including gain or 2681
loss, arising from transactions, activities, and sources in the 2682
regular course of a trade or business and includes income, gain, 2683
or loss from real property, tangible property, and intangible 2684
property if the acquisition, rental, management, and disposition 2685
of the property constitute integral parts of the regular course 2686
of a trade or business operation. "Business income" includes 2687
income, including gain or loss, from a partial or complete 2688
liquidation of a business, including, but not limited to, gain 2689
or loss from the sale or other disposition of goodwill or the 2690
sale of an equity or ownership interest in a business. 2691

As used in this division, the "sale of an equity or 2692
ownership interest in a business" means sales to which either or 2693
both of the following apply: 2694

(1) The sale is treated for federal income tax purposes as 2695
the sale of assets. 2696

(2) The seller materially participated, as described in 2697
C.F.R. 1.469-5T, in the activities of the business during the 2698
taxable year in which the sale occurs or during any of the five 2699
preceding taxable years. 2700

(C) "Nonbusiness income" means all income other than 2701
business income and may include, but is not limited to, 2702
compensation, rents and royalties from real or tangible personal 2703
property, capital gains, interest, dividends and distributions, 2704
patent or copyright royalties, or lottery winnings, prizes, and 2705
awards. 2706

(D) "Compensation" means any form of remuneration paid to 2707
an employee for personal services. 2708

(E) "Fiduciary" means a guardian, trustee, executor, 2709
administrator, receiver, conservator, or any other person acting 2710
in any fiduciary capacity for any individual, trust, or estate. 2711

(F) "Fiscal year" means an accounting period of twelve 2712
months ending on the last day of any month other than December. 2713

(G) "Individual" means any natural person. 2714

(H) "Internal Revenue Code" means the "Internal Revenue 2715
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 2716

(I) "Resident" means any of the following: 2717

(1) An individual who is domiciled in this state, subject 2718
to section 5747.24 of the Revised Code; 2719

(2) The estate of a decedent who at the time of death was 2720
domiciled in this state. The domicile tests of section 5747.24 2721
of the Revised Code are not controlling for purposes of division 2722
(I) (2) of this section. 2723

(3) A trust that, in whole or part, resides in this state. 2724
If only part of a trust resides in this state, the trust is a 2725
resident only with respect to that part. 2726

For the purposes of division (I) (3) of this section: 2727

(a) A trust resides in this state for the trust's current 2728
taxable year to the extent, as described in division (I) (3) (d) 2729
of this section, that the trust consists directly or indirectly, 2730
in whole or in part, of assets, net of any related liabilities, 2731
that were transferred, or caused to be transferred, directly or 2732
indirectly, to the trust by any of the following: 2733

(i) A person, a court, or a governmental entity or 2734
instrumentality on account of the death of a decedent, but only 2735
if the trust is described in division (I)(3)(e)(i) or (ii) of 2736
this section; 2737

(ii) A person who was domiciled in this state for the 2738
purposes of this chapter when the person directly or indirectly 2739
transferred assets to an irrevocable trust, but only if at least 2740
one of the trust's qualifying beneficiaries is domiciled in this 2741
state for the purposes of this chapter during all or some 2742
portion of the trust's current taxable year; 2743

(iii) A person who was domiciled in this state for the 2744
purposes of this chapter when the trust document or instrument 2745
or part of the trust document or instrument became irrevocable, 2746
but only if at least one of the trust's qualifying beneficiaries 2747
is a resident domiciled in this state for the purposes of this 2748
chapter during all or some portion of the trust's current 2749
taxable year. If a trust document or instrument became 2750
irrevocable upon the death of a person who at the time of death 2751
was domiciled in this state for purposes of this chapter, that 2752
person is a person described in division (I)(3)(a)(iii) of this 2753
section. 2754

(b) A trust is irrevocable to the extent that the 2755
transferor is not considered to be the owner of the net assets 2756
of the trust under sections 671 to 678 of the Internal Revenue 2757
Code. 2758

(c) With respect to a trust other than a charitable lead 2759
trust, "qualifying beneficiary" has the same meaning as 2760
"potential current beneficiary" as defined in section 1361(e)(2) 2761
of the Internal Revenue Code, and with respect to a charitable 2762
lead trust "qualifying beneficiary" is any current, future, or 2763

contingent beneficiary, but with respect to any trust 2764
"qualifying beneficiary" excludes a person or a governmental 2765
entity or instrumentality to any of which a contribution would 2766
qualify for the charitable deduction under section 170 of the 2767
Internal Revenue Code. 2768

(d) For the purposes of division (I)(3)(a) of this 2769
section, the extent to which a trust consists directly or 2770
indirectly, in whole or in part, of assets, net of any related 2771
liabilities, that were transferred directly or indirectly, in 2772
whole or part, to the trust by any of the sources enumerated in 2773
that division shall be ascertained by multiplying the fair 2774
market value of the trust's assets, net of related liabilities, 2775
by the qualifying ratio, which shall be computed as follows: 2776

(i) The first time the trust receives assets, the 2777
numerator of the qualifying ratio is the fair market value of 2778
those assets at that time, net of any related liabilities, from 2779
sources enumerated in division (I)(3)(a) of this section. The 2780
denominator of the qualifying ratio is the fair market value of 2781
all the trust's assets at that time, net of any related 2782
liabilities. 2783

(ii) Each subsequent time the trust receives assets, a 2784
revised qualifying ratio shall be computed. The numerator of the 2785
revised qualifying ratio is the sum of (1) the fair market value 2786
of the trust's assets immediately prior to the subsequent 2787
transfer, net of any related liabilities, multiplied by the 2788
qualifying ratio last computed without regard to the subsequent 2789
transfer, and (2) the fair market value of the subsequently 2790
transferred assets at the time transferred, net of any related 2791
liabilities, from sources enumerated in division (I)(3)(a) of 2792
this section. The denominator of the revised qualifying ratio is 2793

the fair market value of all the trust's assets immediately 2794
after the subsequent transfer, net of any related liabilities. 2795

(iii) Whether a transfer to the trust is by or from any of 2796
the sources enumerated in division (I) (3) (a) of this section 2797
shall be ascertained without regard to the domicile of the 2798
trust's beneficiaries. 2799

(e) For the purposes of division (I) (3) (a) (i) of this 2800
section: 2801

(i) A trust is described in division (I) (3) (e) (i) of this 2802
section if the trust is a testamentary trust and the testator of 2803
that testamentary trust was domiciled in this state at the time 2804
of the testator's death for purposes of the taxes levied under 2805
Chapter 5731. of the Revised Code. 2806

(ii) A trust is described in division (I) (3) (e) (ii) of 2807
this section if the transfer is a qualifying transfer described 2808
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 2809
trust is an irrevocable inter vivos trust, and at least one of 2810
the trust's qualifying beneficiaries is domiciled in this state 2811
for purposes of this chapter during all or some portion of the 2812
trust's current taxable year. 2813

(f) For the purposes of division (I) (3) (e) (ii) of this 2814
section, a "qualifying transfer" is a transfer of assets, net of 2815
any related liabilities, directly or indirectly to a trust, if 2816
the transfer is described in any of the following: 2817

(i) The transfer is made to a trust, created by the 2818
decedent before the decedent's death and while the decedent was 2819
domiciled in this state for the purposes of this chapter, and, 2820
prior to the death of the decedent, the trust became irrevocable 2821
while the decedent was domiciled in this state for the purposes 2822

of this chapter. 2823

(ii) The transfer is made to a trust to which the 2824
decedent, prior to the decedent's death, had directly or 2825
indirectly transferred assets, net of any related liabilities, 2826
while the decedent was domiciled in this state for the purposes 2827
of this chapter, and prior to the death of the decedent the 2828
trust became irrevocable while the decedent was domiciled in 2829
this state for the purposes of this chapter. 2830

(iii) The transfer is made on account of a contractual 2831
relationship existing directly or indirectly between the 2832
transferor and either the decedent or the estate of the decedent 2833
at any time prior to the date of the decedent's death, and the 2834
decedent was domiciled in this state at the time of death for 2835
purposes of the taxes levied under Chapter 5731. of the Revised 2836
Code. 2837

(iv) The transfer is made to a trust on account of a 2838
contractual relationship existing directly or indirectly between 2839
the transferor and another person who at the time of the 2840
decedent's death was domiciled in this state for purposes of 2841
this chapter. 2842

(v) The transfer is made to a trust on account of the will 2843
of a testator who was domiciled in this state at the time of the 2844
testator's death for purposes of the taxes levied under Chapter 2845
5731. of the Revised Code. 2846

(vi) The transfer is made to a trust created by or caused 2847
to be created by a court, and the trust was directly or 2848
indirectly created in connection with or as a result of the 2849
death of an individual who, for purposes of the taxes levied 2850
under Chapter 5731. of the Revised Code, was domiciled in this 2851

state at the time of the individual's death. 2852

(g) The tax commissioner may adopt rules to ascertain the 2853
part of a trust residing in this state. 2854

(J) "Nonresident" means an individual or estate that is 2855
not a resident. An individual who is a resident for only part of 2856
a taxable year is a nonresident for the remainder of that 2857
taxable year. 2858

(K) "Pass-through entity" has the same meaning as in 2859
section 5733.04 of the Revised Code. 2860

(L) "Return" means the notifications and reports required 2861
to be filed pursuant to this chapter for the purpose of 2862
reporting the tax due and includes declarations of estimated tax 2863
when so required. 2864

(M) "Taxable year" means the calendar year or the 2865
taxpayer's fiscal year ending during the calendar year, or 2866
fractional part thereof, upon which the adjusted gross income is 2867
calculated pursuant to this chapter. 2868

(N) "Taxpayer" means any person subject to the tax imposed 2869
by section 5747.02 of the Revised Code or any pass-through 2870
entity that makes the election under division (D) of section 2871
5747.08 of the Revised Code. 2872

(O) "Dependents" means one of the following: 2873

(1) For taxable years beginning on or after January 1, 2874
2018, and before January 1, 2026, dependents as defined in the 2875
Internal Revenue Code; 2876

(2) For all other taxable years, dependents as defined in 2877
the Internal Revenue Code and as claimed in the taxpayer's 2878
federal income tax return for the taxable year or which the 2879

taxpayer would have been permitted to claim had the taxpayer 2880
filed a federal income tax return. 2881

(P) "Principal county of employment" means, in the case of 2882
a nonresident, the county within the state in which a taxpayer 2883
performs services for an employer or, if those services are 2884
performed in more than one county, the county in which the major 2885
portion of the services are performed. 2886

(Q) As used in sections 5747.50 to 5747.55 of the Revised 2887
Code: 2888

(1) "Subdivision" means any county, municipal corporation, 2889
park district, or township. 2890

(2) "Essential local government purposes" includes all 2891
functions that any subdivision is required by general law to 2892
exercise, including like functions that are exercised under a 2893
charter adopted pursuant to the Ohio Constitution. 2894

(R) "Overpayment" means any amount already paid that 2895
exceeds the figure determined to be the correct amount of the 2896
tax. 2897

(S) "Taxable income" or "Ohio taxable income" applies only 2898
to estates and trusts, and means federal taxable income, as 2899
defined and used in the Internal Revenue Code, adjusted as 2900
follows: 2901

(1) Add interest or dividends, net of ordinary, necessary, 2902
and reasonable expenses not deducted in computing federal 2903
taxable income, on obligations or securities of any state or of 2904
any political subdivision or authority of any state, other than 2905
this state and its subdivisions and authorities, but only to the 2906
extent that such net amount is not otherwise includible in Ohio 2907
taxable income and is described in either division (S) (1) (a) or 2908

(b) of this section: 2909

(a) The net amount is not attributable to the S portion of 2910
an electing small business trust and has not been distributed to 2911
beneficiaries for the taxable year; 2912

(b) The net amount is attributable to the S portion of an 2913
electing small business trust for the taxable year. 2914

(2) Add interest or dividends, net of ordinary, necessary, 2915
and reasonable expenses not deducted in computing federal 2916
taxable income, on obligations of any authority, commission, 2917
instrumentality, territory, or possession of the United States 2918
to the extent that the interest or dividends are exempt from 2919
federal income taxes but not from state income taxes, but only 2920
to the extent that such net amount is not otherwise includible 2921
in Ohio taxable income and is described in either division (S) 2922
(1) (a) or (b) of this section; 2923

(3) Add the amount of personal exemption allowed to the 2924
estate pursuant to section 642(b) of the Internal Revenue Code; 2925

(4) Deduct interest or dividends, net of related expenses 2926
deducted in computing federal taxable income, on obligations of 2927
the United States and its territories and possessions or of any 2928
authority, commission, or instrumentality of the United States 2929
to the extent that the interest or dividends are exempt from 2930
state taxes under the laws of the United States, but only to the 2931
extent that such amount is included in federal taxable income 2932
and is described in either division (S) (1) (a) or (b) of this 2933
section; 2934

(5) Deduct the amount of wages and salaries, if any, not 2935
otherwise allowable as a deduction but that would have been 2936
allowable as a deduction in computing federal taxable income for 2937

the taxable year, had the work opportunity tax credit allowed 2938
under sections 38, 51, and 52 of the Internal Revenue Code not 2939
been in effect, but only to the extent such amount relates 2940
either to income included in federal taxable income for the 2941
taxable year or to income of the S portion of an electing small 2942
business trust for the taxable year; 2943

(6) Deduct any interest or interest equivalent, net of 2944
related expenses deducted in computing federal taxable income, 2945
on public obligations and purchase obligations, but only to the 2946
extent that such net amount relates either to income included in 2947
federal taxable income for the taxable year or to income of the 2948
S portion of an electing small business trust for the taxable 2949
year; 2950

(7) Add any loss or deduct any gain resulting from sale, 2951
exchange, or other disposition of public obligations to the 2952
extent that such loss has been deducted or such gain has been 2953
included in computing either federal taxable income or income of 2954
the S portion of an electing small business trust for the 2955
taxable year; 2956

(8) Except in the case of the final return of an estate, 2957
add any amount deducted by the taxpayer on both its Ohio estate 2958
tax return pursuant to section 5731.14 of the Revised Code, and 2959
on its federal income tax return in determining federal taxable 2960
income; 2961

(9) (a) Deduct any amount included in federal taxable 2962
income solely because the amount represents a reimbursement or 2963
refund of expenses that in a previous year the decedent had 2964
deducted as an itemized deduction pursuant to section 63 of the 2965
Internal Revenue Code and applicable treasury regulations. The 2966
deduction otherwise allowed under division (S) (9) (a) of this 2967

section shall be reduced to the extent the reimbursement is 2968
attributable to an amount the taxpayer or decedent deducted 2969
under this section in any taxable year. 2970

(b) Add any amount not otherwise included in Ohio taxable 2971
income for any taxable year to the extent that the amount is 2972
attributable to the recovery during the taxable year of any 2973
amount deducted or excluded in computing federal or Ohio taxable 2974
income in any taxable year, but only to the extent such amount 2975
has not been distributed to beneficiaries for the taxable year. 2976

(10) Deduct any portion of the deduction described in 2977
section 1341(a)(2) of the Internal Revenue Code, for repaying 2978
previously reported income received under a claim of right, that 2979
meets both of the following requirements: 2980

(a) It is allowable for repayment of an item that was 2981
included in the taxpayer's taxable income or the decedent's 2982
adjusted gross income for a prior taxable year and did not 2983
qualify for a credit under division (A) or (B) of section 2984
5747.05 of the Revised Code for that year. 2985

(b) It does not otherwise reduce the taxpayer's taxable 2986
income or the decedent's adjusted gross income for the current 2987
or any other taxable year. 2988

(11) Add any amount claimed as a credit under section 2989
5747.059 of the Revised Code to the extent that the amount 2990
satisfies either of the following: 2991

(a) The amount was deducted or excluded from the 2992
computation of the taxpayer's federal taxable income as required 2993
to be reported for the taxpayer's taxable year under the 2994
Internal Revenue Code; 2995

(b) The amount resulted in a reduction in the taxpayer's 2996

federal taxable income as required to be reported for any of the 2997
taxpayer's taxable years under the Internal Revenue Code. 2998

(12) Deduct any amount, net of related expenses deducted 2999
in computing federal taxable income, that a trust is required to 3000
report as farm income on its federal income tax return, but only 3001
if the assets of the trust include at least ten acres of land 3002
satisfying the definition of "land devoted exclusively to 3003
agricultural use" under section 5713.30 of the Revised Code, 3004
regardless of whether the land is valued for tax purposes as 3005
such land under sections 5713.30 to 5713.38 of the Revised Code. 3006
If the trust is a pass-through entity investor, section 5747.231 3007
of the Revised Code applies in ascertaining if the trust is 3008
eligible to claim the deduction provided by division (S)(12) of 3009
this section in connection with the pass-through entity's farm 3010
income. 3011

Except for farm income attributable to the S portion of an 3012
electing small business trust, the deduction provided by 3013
division (S)(12) of this section is allowed only to the extent 3014
that the trust has not distributed such farm income. 3015

(13) Add the net amount of income described in section 3016
641(c) of the Internal Revenue Code to the extent that amount is 3017
not included in federal taxable income. 3018

(14) Deduct the amount the taxpayer would be required to 3019
deduct under division (A)(18) of this section if the taxpayer's 3020
Ohio taxable income ~~were~~was computed in the same manner as an 3021
individual's Ohio adjusted gross income is computed under this 3022
section. 3023

(15) Add, to the extent not otherwise included in 3024
computing taxable income or Ohio taxable income for any taxable 3025

year, the taxpayer's proportionate share of the amount of the 3026
tax levied under section 5747.38 of the Revised Code and paid by 3027
an electing pass-through entity for the taxable year. 3028

(16) Add any income taxes deducted in computing federal 3029
taxable income or Ohio taxable income to the extent the income 3030
taxes were derived from income subject to a tax levied in 3031
another state or the District of Columbia when such tax was 3032
enacted for purposes of complying with internal revenue service 3033
notice 2020-75. 3034

(T) "School district income" and "school district income 3035
tax" have the same meanings as in section 5748.01 of the Revised 3036
Code. 3037

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 3038
(7) of this section, "public obligations," "purchase 3039
obligations," and "interest or interest equivalent" have the 3040
same meanings as in section 5709.76 of the Revised Code. 3041

(V) "Limited liability company" means any limited 3042
liability company formed under former Chapter 1705. of the 3043
Revised Code as that chapter existed prior to February 11, 2022, 3044
Chapter 1706. of the Revised Code, or the laws of any other 3045
state. 3046

(W) "Pass-through entity investor" means any person who, 3047
during any portion of a taxable year of a pass-through entity, 3048
is a partner, member, shareholder, or equity investor in that 3049
pass-through entity. 3050

(X) "Banking day" has the same meaning as in section 3051
1304.01 of the Revised Code. 3052

(Y) "Month" means a calendar month. 3053

(Z) "Quarter" means the first three months, the second 3054
three months, the third three months, or the last three months 3055
of the taxpayer's taxable year. 3056

(AA)(1) "Modified business income" means the business 3057
income included in a trust's Ohio taxable income after such 3058
taxable income is first reduced by the qualifying trust amount, 3059
if any. 3060

(2) "Qualifying trust amount" of a trust means capital 3061
gains and losses from the sale, exchange, or other disposition 3062
of equity or ownership interests in, or debt obligations of, a 3063
qualifying investee to the extent included in the trust's Ohio 3064
taxable income, but only if the following requirements are 3065
satisfied: 3066

(a) The book value of the qualifying investee's physical 3067
assets in this state and everywhere, as of the last day of the 3068
qualifying investee's fiscal or calendar year ending immediately 3069
prior to the date on which the trust recognizes the gain or 3070
loss, is available to the trust. 3071

(b) The requirements of section 5747.011 of the Revised 3072
Code are satisfied for the trust's taxable year in which the 3073
trust recognizes the gain or loss. 3074

Any gain or loss that is not a qualifying trust amount is 3075
modified business income, qualifying investment income, or 3076
modified nonbusiness income, as the case may be. 3077

(3) "Modified nonbusiness income" means a trust's Ohio 3078
taxable income other than modified business income, other than 3079
the qualifying trust amount, and other than qualifying 3080
investment income, as defined in section 5747.012 of the Revised 3081
Code, to the extent such qualifying investment income is not 3082

otherwise part of modified business income. 3083

(4) "Modified Ohio taxable income" applies only to trusts, 3084
and means the sum of the amounts described in divisions (AA) (4) 3085
(a) to (c) of this section: 3086

(a) The fraction, calculated under section 5747.013, and 3087
applying section 5747.231 of the Revised Code, multiplied by the 3088
sum of the following amounts: 3089

(i) The trust's modified business income; 3090

(ii) The trust's qualifying investment income, as defined 3091
in section 5747.012 of the Revised Code, but only to the extent 3092
the qualifying investment income does not otherwise constitute 3093
modified business income and does not otherwise constitute a 3094
qualifying trust amount. 3095

(b) The qualifying trust amount multiplied by a fraction, 3096
the numerator of which is the sum of the book value of the 3097
qualifying investee's physical assets in this state on the last 3098
day of the qualifying investee's fiscal or calendar year ending 3099
immediately prior to the day on which the trust recognizes the 3100
qualifying trust amount, and the denominator of which is the sum 3101
of the book value of the qualifying investee's total physical 3102
assets everywhere on the last day of the qualifying investee's 3103
fiscal or calendar year ending immediately prior to the day on 3104
which the trust recognizes the qualifying trust amount. If, for 3105
a taxable year, the trust recognizes a qualifying trust amount 3106
with respect to more than one qualifying investee, the amount 3107
described in division (AA) (4) (b) of this section shall equal the 3108
sum of the products so computed for each such qualifying 3109
investee. 3110

(c) (i) With respect to a trust or portion of a trust that 3111

is a resident as ascertained in accordance with division (I) (3) 3112
(d) of this section, its modified nonbusiness income. 3113

(ii) With respect to a trust or portion of a trust that is 3114
not a resident as ascertained in accordance with division (I) (3) 3115
(d) of this section, the amount of its modified nonbusiness 3116
income satisfying the descriptions in divisions (B) (2) to (5) of 3117
section 5747.20 of the Revised Code, except as otherwise 3118
provided in division (AA) (4) (c) (ii) of this section. With 3119
respect to a trust or portion of a trust that is not a resident 3120
as ascertained in accordance with division (I) (3) (d) of this 3121
section, the trust's portion of modified nonbusiness income 3122
recognized from the sale, exchange, or other disposition of a 3123
debt interest in or equity interest in a section 5747.212 3124
entity, as defined in section 5747.212 of the Revised Code, 3125
without regard to division (A) of that section, shall not be 3126
allocated to this state in accordance with section 5747.20 of 3127
the Revised Code but shall be apportioned to this state in 3128
accordance with division (B) of section 5747.212 of the Revised 3129
Code without regard to division (A) of that section. 3130

If the allocation and apportionment of a trust's income 3131
under divisions (AA) (4) (a) and (c) of this section do not fairly 3132
represent the modified Ohio taxable income of the trust in this 3133
state, the alternative methods described in division (C) of 3134
section 5747.21 of the Revised Code may be applied in the manner 3135
and to the same extent provided in that section. 3136

(5) (a) Except as set forth in division (AA) (5) (b) of this 3137
section, "qualifying investee" means a person in which a trust 3138
has an equity or ownership interest, or a person or unit of 3139
government the debt obligations of either of which are owned by 3140
a trust. For the purposes of division (AA) (2) (a) of this section 3141

and for the purpose of computing the fraction described in 3142
division (AA) (4) (b) of this section, all of the following apply: 3143

(i) If the qualifying investee is a member of a qualifying 3144
controlled group on the last day of the qualifying investee's 3145
fiscal or calendar year ending immediately prior to the date on 3146
which the trust recognizes the gain or loss, then "qualifying 3147
investee" includes all persons in the qualifying controlled 3148
group on such last day. 3149

(ii) If the qualifying investee, or if the qualifying 3150
investee and any members of the qualifying controlled group of 3151
which the qualifying investee is a member on the last day of the 3152
qualifying investee's fiscal or calendar year ending immediately 3153
prior to the date on which the trust recognizes the gain or 3154
loss, separately or cumulatively own, directly or indirectly, on 3155
the last day of the qualifying investee's fiscal or calendar 3156
year ending immediately prior to the date on which the trust 3157
recognizes the qualifying trust amount, more than fifty per cent 3158
of the equity of a pass-through entity, then the qualifying 3159
investee and the other members are deemed to own the 3160
proportionate share of the pass-through entity's physical assets 3161
which the pass-through entity directly or indirectly owns on the 3162
last day of the pass-through entity's calendar or fiscal year 3163
ending within or with the last day of the qualifying investee's 3164
fiscal or calendar year ending immediately prior to the date on 3165
which the trust recognizes the qualifying trust amount. 3166

(iii) For the purposes of division (AA) (5) (a) (iii) of this 3167
section, "upper level pass-through entity" means a pass-through 3168
entity directly or indirectly owning any equity of another pass- 3169
through entity, and "lower level pass-through entity" means that 3170
other pass-through entity. 3171

An upper level pass-through entity, whether or not it is 3172
also a qualifying investee, is deemed to own, on the last day of 3173
the upper level pass-through entity's calendar or fiscal year, 3174
the proportionate share of the lower level pass-through entity's 3175
physical assets that the lower level pass-through entity 3176
directly or indirectly owns on the last day of the lower level 3177
pass-through entity's calendar or fiscal year ending within or 3178
with the last day of the upper level pass-through entity's 3179
fiscal or calendar year. If the upper level pass-through entity 3180
directly and indirectly owns less than fifty per cent of the 3181
equity of the lower level pass-through entity on each day of the 3182
upper level pass-through entity's calendar or fiscal year in 3183
which or with which ends the calendar or fiscal year of the 3184
lower level pass-through entity and if, based upon clear and 3185
convincing evidence, complete information about the location and 3186
cost of the physical assets of the lower pass-through entity is 3187
not available to the upper level pass-through entity, then 3188
solely for purposes of ascertaining if a gain or loss 3189
constitutes a qualifying trust amount, the upper level pass- 3190
through entity shall be deemed as owning no equity of the lower 3191
level pass-through entity for each day during the upper level 3192
pass-through entity's calendar or fiscal year in which or with 3193
which ends the lower level pass-through entity's calendar or 3194
fiscal year. Nothing in division (AA)(5)(a)(iii) of this section 3195
shall be construed to provide for any deduction or exclusion in 3196
computing any trust's Ohio taxable income. 3197

(b) With respect to a trust that is not a resident for the 3198
taxable year and with respect to a part of a trust that is not a 3199
resident for the taxable year, "qualifying investee" for that 3200
taxable year does not include a C corporation if both of the 3201
following apply: 3202

(i) During the taxable year the trust or part of the trust 3203
recognizes a gain or loss from the sale, exchange, or other 3204
disposition of equity or ownership interests in, or debt 3205
obligations of, the C corporation. 3206

(ii) Such gain or loss constitutes nonbusiness income. 3207

(6) "Available" means information is such that a person is 3208
able to learn of the information by the due date plus 3209
extensions, if any, for filing the return for the taxable year 3210
in which the trust recognizes the gain or loss. 3211

(BB) "Qualifying controlled group" has the same meaning as 3212
in section 5733.04 of the Revised Code. 3213

(CC) "Related member" has the same meaning as in section 3214
5733.042 of the Revised Code. 3215

(DD) (1) For the purposes of division (DD) of this section: 3216

(a) "Qualifying person" means any person other than a 3217
qualifying corporation. 3218

(b) "Qualifying corporation" means any person classified 3219
for federal income tax purposes as an association taxable as a 3220
corporation, except either of the following: 3221

(i) A corporation that has made an election under 3222
subchapter S, chapter one, subtitle A, of the Internal Revenue 3223
Code for its taxable year ending within, or on the last day of, 3224
the investor's taxable year; 3225

(ii) A subsidiary that is wholly owned by any corporation 3226
that has made an election under subchapter S, chapter one, 3227
subtitle A of the Internal Revenue Code for its taxable year 3228
ending within, or on the last day of, the investor's taxable 3229
year. 3230

(2) For the purposes of this chapter, unless expressly 3231
stated otherwise, no qualifying person indirectly owns any asset 3232
directly or indirectly owned by any qualifying corporation. 3233

(EE) For purposes of this chapter and Chapter 5751. of the 3234
Revised Code: 3235

(1) "Trust" does not include a qualified pre-income tax 3236
trust. 3237

(2) A "qualified pre-income tax trust" is any pre-income 3238
tax trust that makes a qualifying pre-income tax trust election 3239
as described in division (EE) (3) of this section. 3240

(3) A "qualifying pre-income tax trust election" is an 3241
election by a pre-income tax trust to subject to the tax imposed 3242
by section 5751.02 of the Revised Code the pre-income tax trust 3243
and all pass-through entities of which the trust owns or 3244
controls, directly, indirectly, or constructively through 3245
related interests, five per cent or more of the ownership or 3246
equity interests. The trustee shall notify the tax commissioner 3247
in writing of the election on or before April 15, 2006. The 3248
election, if timely made, shall be effective on and after 3249
January 1, 2006, and shall apply for all tax periods and tax 3250
years until revoked by the trustee of the trust. 3251

(4) A "pre-income tax trust" is a trust that satisfies all 3252
of the following requirements: 3253

(a) The document or instrument creating the trust was 3254
executed by the grantor before January 1, 1972; 3255

(b) The trust became irrevocable upon the creation of the 3256
trust; and 3257

(c) The grantor was domiciled in this state at the time 3258

the trust was created. 3259

(FF) "Uniformed services" means all of the following: 3260

(1) "Armed forces of the United States" as defined in 3261
section 5907.01 of the Revised Code; 3262

(2) The commissioned corps of the national oceanic and 3263
atmospheric administration; 3264

(3) The commissioned corps of the public health service. 3265

(GG) "Taxable business income" means the amount by which 3266
an individual's business income that is included in federal 3267
adjusted gross income exceeds the amount of business income the 3268
individual is authorized to deduct under division (A) (28) of 3269
this section for the taxable year. 3270

(HH) "Employer" does not include a franchisor with respect 3271
to the franchisor's relationship with a franchisee or an 3272
employee of a franchisee, unless the franchisor agrees to assume 3273
that role in writing or a court of competent jurisdiction 3274
determines that the franchisor exercises a type or degree of 3275
control over the franchisee or the franchisee's employees that 3276
is not customarily exercised by a franchisor for the purpose of 3277
protecting the franchisor's trademark, brand, or both. For 3278
purposes of this division, "franchisor" and "franchisee" have 3279
the same meanings as in 16 C.F.R. 436.1. 3280

(II) "Modified adjusted gross income" means Ohio adjusted 3281
gross income plus any amount deducted under divisions (A) (28) 3282
and (34) of this section for the taxable year. 3283

(JJ) "Qualifying Ohio educator" means an individual who, 3284
for a taxable year, qualifies as an eligible educator, as that 3285
term is defined in section 62 of the Internal Revenue Code, and 3286

who holds a certificate, license, or permit described in Chapter 3287
3319. or section 3301.071 of the Revised Code. 3288

(KK) "Employee" does not include a health care worker, 3289
with respect to a health care worker platform or health care 3290
facility for work booked through a health care worker platform, 3291
in accordance with section 4113.87 of the Revised Code. 3292

Section 2. That existing sections 4111.03, 4111.14, 3293
4113.15, 4121.01, 4123.01, 4141.01, and 5747.01 of the Revised 3294
Code are hereby repealed. 3295

Section 3. Section 5747.01 of the Revised Code is 3296
presented in this act as a composite of the section as amended 3297
by both H.B. 101 and S.B. 154 of the 135th General Assembly. The 3298
General Assembly, applying the principle stated in division (B) 3299
of section 1.52 of the Revised Code that amendments are to be 3300
harmonized if reasonably capable of simultaneous operation, 3301
finds that the composite is the resulting version of the section 3302
in effect prior to the effective date of the section as 3303
presented in this act. 3304