

As Introduced

136th General Assembly

Regular Session

2025-2026

H. B. No. 624

Representative McNally

Cosponsor: Representative Piccolantonio

A BILL

To amend sections 4111.03 and 4111.14 and to enact 1
section 4111.20 of the Revised Code regarding 2
the distinction between employees and 3
independent contractors under Ohio's overtime 4
and minimum wage laws. 5

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

Section 1. That sections 4111.03 and 4111.14 be amended 6
and section 4111.20 of the Revised Code be enacted to read as 7
follows: 8

Sec. 4111.03. (A) Except as provided in section 4111.031 9
of the Revised Code, an employer shall pay an employee for 10
overtime at a wage rate of one and one-half times the employee's 11
wage rate for hours worked in excess of forty hours in one 12
workweek, in the manner and methods provided in and subject to 13
the exemptions of section 7 and section 13 of the "Fair Labor 14
Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as 15
amended, and, effective beginning on ~~the effective date of this~~ 16
~~amendment~~ July 6, 2022, sections 2 and 4 of the "Portal to 17
Portal Act of 1947," 29 U.S.C. 252 and 254. 18

Any employee employed in agriculture shall not be covered 19
by the overtime provision of this section. 20

A motor carrier may elect to apply the overtime provision 21
of this section to an individual who is excluded from the 22
provision under division (D) (3) (i) of this section. 23

(B) If a county employee or township employee elects to 24
take compensatory time off in lieu of overtime pay, for any 25
overtime worked, compensatory time may be granted by the 26
employee's administrative superior, on a time and one-half 27
basis, at a time mutually convenient to the employee and the 28
administrative superior within one hundred eighty days after the 29
overtime is worked. 30

(C) A township appointing authority or a county appointing 31
authority with the exception of the county department of job and 32
family services may, by rule or resolution as is appropriate, 33
indicate the authority's intention not to be bound by division 34
(B) of this section, and to adopt a different policy for the 35
calculation and payment of overtime than that established by 36
that division. Upon adoption, the alternative overtime policy 37
prevails. Prior to the adoption of an alternative overtime 38
policy, a township appointing authority or a county appointing 39
authority with the exception of the county department of job and 40
family services shall give a written notice of the alternative 41
policy to each employee at least ten days prior to its effective 42
date. 43

(D) As used in this section and section 4111.031 of the 44
Revised Code: 45

(1) "Employ" means to suffer or to permit to work. 46

(2) "Employer" means the state of Ohio, its 47

instrumentalities, and its political subdivisions and their instrumentalities, any individual, partnership, association, corporation, business trust, or any person or group of persons, acting in the interest of an employer in relation to an employee, but does not include either of the following:	48 49 50 51 52
(a) An employer whose annual gross volume of sales made for business done is less than one hundred fifty thousand dollars, exclusive of excise taxes at the retail level which are separately stated;	53 54 55 56
(b) A franchisor with respect to the franchisor's relationship with a franchisee or an employee of a franchisee, unless the franchisor agrees to assume that role in writing or a court of competent jurisdiction determines that the franchisor exercises a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademark, brand, or both. For purposes of this division, "franchisor" and "franchisee" have the same meanings as in 16 C.F.R. 436.1.	57 58 59 60 61 62 63 64 65 66
(3) "Employee" means any individual employed by an employer <u>as determined in accordance with the standards</u> <u>established in section 4111.20 of the Revised Code</u> , but does not include:	67 68 69 70
(a) Any individual employed by the United States;	71
(b) Any individual employed as a baby-sitter in the employer's home, or a live-in companion to a sick, convalescing, or elderly person whose principal duties do not include housekeeping;	72 73 74 75
(c) Any individual engaged in the delivery of newspapers	76

to the consumer;	77
(d) Any individual employed as an outside salesperson compensated by commissions or employed in a bona fide executive, administrative, or professional capacity as such terms are defined by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 201, as amended;	78 79 80 81 82
(e) Any individual who works or provides personal services of a charitable nature in a hospital or health institution for which compensation is not sought or contemplated;	83 84 85
(f) A member of a police or fire protection agency or student employed on a part-time or seasonal basis by a political subdivision of this state;	86 87 88
(g) Any individual in the employ of a camp or recreational area for children under eighteen years of age and owned and operated by a nonprofit organization or group of organizations described in Section 501(c)(3) of the "Internal Revenue Code of 1954," and exempt from income tax under Section 501(a) of that code;	89 90 91 92 93 94
(h) Any individual employed directly by the house of representatives or directly by the senate;	95 96
(i) An individual who operates a vehicle or vessel in the performance of services for or on behalf of a motor carrier transporting property and to whom all of the following factors apply:	97 98 99 100
(i) The individual owns the vehicle or vessel that is used in performing the services for or on behalf of the carrier, or the individual leases the vehicle or vessel under a bona fide lease agreement that is not a temporary replacement lease agreement. For purposes of this division, a bona fide lease	101 102 103 104 105

agreement does not include an agreement between the individual and the motor carrier transporting property for which, or on whose behalf, the individual provides services.	106 107 108
(ii) The individual is responsible for supplying the necessary personal services to operate the vehicle or vessel used to provide the service.	109 110 111
(iii) The compensation paid to the individual is based on factors related to work performed, including on a mileage-based rate or a percentage of any schedule of rates, and not solely on the basis of the hours or time expended.	112 113 114 115
(iv) The individual substantially controls the means and manner of performing the services, in conformance with regulatory requirements and specifications of the shipper.	116 117 118
(v) The individual enters into a written contract with the carrier for whom the individual is performing the services that describes the relationship between the individual and the carrier to be that of an independent contractor and not that of an employee.	119 120 121 122 123
(vi) The individual is responsible for substantially all of the principal operating costs of the vehicle or vessel and equipment used to provide the services, including maintenance, fuel, repairs, supplies, vehicle or vessel insurance, and personal expenses, except that the individual may be paid by the carrier the carrier's fuel surcharge and incidental costs, including tolls, permits, and lumper fees.	124 125 126 127 128 129 130
(vii) The individual is responsible for any economic loss or economic gain from the arrangement with the carrier.	131 132
(4) "Motor carrier" has the same meaning as in section 4923.01 of the Revised Code.	133 134

Sec. 4111.14. (A) Pursuant to the general assembly's authority to establish a minimum wage under Section 34 of Article II, Ohio Constitution, this section is in implementation of Section 34a of Article II, Ohio Constitution. In implementing Section 34a of Article II, Ohio Constitution, the general assembly hereby finds that the purpose of Section 34a of Article II, Ohio Constitution, is to:	135
(1) Ensure that Ohio employees, as defined in division (B) (1) of this section, are paid the wage rate required by Section 34a of Article II, Ohio Constitution;	142
(2) Ensure that covered Ohio employers maintain certain records that are directly related to the enforcement of the wage rate requirements in Section 34a of Article II, Ohio Constitution;	145
(3) Ensure that Ohio employees who are paid the wage rate required by Section 34a of Article II, Ohio Constitution, may enforce their right to receive that wage rate in the manner set forth in Section 34a of Article II, Ohio Constitution; and	149
(4) Protect the privacy of Ohio employees' pay and personal information specified in Section 34a of Article II, Ohio Constitution, by restricting an employee's access, and access by a person acting on behalf of that employee, to the employee's own pay and personal information.	153
(B) In accordance with Section 34a of Article II, Ohio Constitution, the terms "employer," "employee," "employ," <u>and</u> "person," and "independent contractor" have the same meanings as in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 203, as amended. In construing the meaning of these terms, due consideration and great weight shall be given to the	158

United States department of labor's and federal courts' interpretations of those terms under the Fair Labor Standards Act and its regulations. As used in division (B) of this section:	164 165 166 167
(1) "Employee" means individuals employed in Ohio, but does not mean individuals who are excluded from the definition of "employee" under 29 U.S.C. 203(e) or individuals who are exempted from the minimum wage requirements in 29 U.S.C. 213 and from the definition of "employee" in this chapter.	168 169 170 171 172
(2) "Employ" and "employee" do not include any person acting as a volunteer. In construing who is a volunteer, "volunteer" shall have the same meaning as in sections 553.101 to 553.106 of Title 29 of the Code of Federal Regulations, as amended, and due consideration and great weight shall be given to the United States department of labor's and federal courts' interpretations of the term "volunteer" under the Fair Labor Standards Act and its regulations.	173 174 175 176 177 178 179 180
(3) <u>"Employee" does not include any person acting as an independent contractor as determined in accordance with the standards established in section 4111.20 of the Revised Code.</u>	181 182 183
(4) <u>"Employer" does not include a franchisor with respect to the franchisor's relationship with a franchisee or an employee of a franchisee, unless the franchisor agrees to assume that role in writing or a court of competent jurisdiction determines that the franchisor exercises a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademark, brand, or both. For purposes of this division, "franchisor" and "franchisee" have the same meanings as in 16 C.F.R. 436.1.</u>	184 185 186 187 188 189 190 191 192 193

(4)—(5) Subject to division (B)(5)(B)(6) of this section, 194
"employee" does not include an individual who operates a vehicle 195
or vessel in the performance of services for or on behalf of a 196
motor carrier transporting property and to whom all of the 197
following factors apply: 198

(a) The individual owns the vehicle or vessel that is used 199
in performing the services for or on behalf of the carrier, or 200
the individual leases the vehicle or vessel under a bona fide 201
lease agreement that is not a temporary replacement lease 202
agreement. For purposes of this division, a bona fide lease 203
agreement does not include an agreement between the individual 204
and the motor carrier transporting property for which, or on 205
whose behalf, the individual provides services. 206

(b) The individual is responsible for supplying the 207
necessary personal services to operate the vehicle or vessel 208
used to provide the service. 209

(c) The compensation paid to the individual is based on 210
factors related to work performed, including on a mileage-based 211
rate or a percentage of any schedule of rates, and not solely on 212
the basis of the hours or time expended. 213

(d) The individual substantially controls the means and 214
manner of performing the services, in conformance with 215
regulatory requirements and specifications of the shipper. 216

(e) The individual enters into a written contract with the 217
carrier for whom the individual is performing the services that 218
describes the relationship between the individual and the 219
carrier to be that of an independent contractor and not that of 220
an employee. 221

(f) The individual is responsible for substantially all of 222

the principal operating costs of the vehicle or vessel and equipment used to provide the services, including maintenance, fuel, repairs, supplies, vehicle or vessel insurance, and personal expenses, except that the individual may be paid by the carrier the carrier's fuel surcharge and incidental costs, including tolls, permits, and lumper fees.	223 224 225 226 227 228
(g) The individual is responsible for any economic loss or economic gain from the arrangement with the carrier.	229 230
(5) A motor carrier may elect to consider an individual described in division (B)(4) of this section as an employee for purposes of this section.	231 232 233
(6) "Motor carrier" has the same meaning as in section 4923.01 of the Revised Code.	234 235
(C) In accordance with Section 34a of Article II, Ohio Constitution, the state may issue licenses to employers authorizing payment of a wage below that required by Section 34a of Article II, Ohio Constitution, to individuals with mental or physical disabilities that may otherwise adversely affect their opportunity for employment. In issuing such licenses, the state shall abide by the rules adopted pursuant to section 4111.06 of the Revised Code.	236 237 238 239 240 241 242 243
(D) (1) In accordance with Section 34a of Article II, Ohio Constitution, individuals employed in or about the property of an employer or an individual's residence on a casual basis are not included within the coverage of Section 34a of Article II, Ohio Constitution. As used in division (D) of this section:	244 245 246 247 248
(a) "Casual basis" means employment that is irregular or intermittent and that is not performed by an individual whose vocation is to be employed in or about the property of the	249 250 251

employer or individual's residence. In construing who is
employed on a "casual basis," due consideration and great weight
shall be given to the United States department of labor's and
federal courts' interpretations of the term "casual basis" under
the Fair Labor Standards Act and its regulations. 252
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(b) "An individual employed in or about the property of an
employer or individual's residence" means an individual employed
on a casual basis or an individual employed in or about a
residence on a casual basis, respectively. 257
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(2) In accordance with Section 34a of Article II, Ohio
Constitution, employees of a solely family-owned and operated
business who are family members of an owner are not included
within the coverage of Section 34a of Article II, Ohio
Constitution. As used in division (D)(2) of this section,
"family member" means a parent, spouse, child, stepchild,
sibling, grandparent, grandchild, or other member of an owner's
immediate family. 261
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(E) In accordance with Section 34a of Article II, Ohio
Constitution, an employer shall at the time of hire provide an
employee with the employer's name, address, telephone number,
and other contact information and update such information when
it changes. As used in division (E) of this section: 269
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(1) "Other contact information" may include, where
applicable, the address of the employer's internet site on the
world wide web, the employer's electronic mail address, fax
number, or the name, address, and telephone number of the
employer's statutory agent. "Other contact information" does not
include the name, address, telephone number, fax number,
internet site address, or electronic mail address of any
employee, shareholder, officer, director, supervisor, manager, 274
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or other individual employed by or associated with an employer.	282
(2) "When it changes" means that the employer shall	283
provide its employees with the change in its name, address,	284
telephone number, or other contact information within sixty	285
business days after the change occurs. The employer shall	286
provide the changed information by using any of its usual	287
methods of communicating with its employees, including, but not	288
limited to, listing the change on the employer's internet site	289
on the world wide web, internal computer network, or a bulletin	290
board where it commonly posts employee communications or by	291
insertion or inclusion with employees' paychecks or pay stubs.	292
(F) In accordance with Section 34a of Article II, Ohio	293
Constitution, an employer shall maintain a record of the name,	294
address, occupation, pay rate, hours worked for each day worked,	295
and each amount paid an employee for a period of not less than	296
three years following the last date the employee was employed by	297
that employer. As used in division (F) of this section:	298
(1) "Address" means an employee's home address as	299
maintained in the employer's personnel file or personnel	300
database for that employee.	301
(2) (a) With respect to employees who are not exempt from	302
the overtime pay requirements of the Fair Labor Standards Act or	303
this chapter, "pay rate" means an employee's base rate of pay.	304
(b) With respect to employees who are exempt from the	305
overtime pay requirements of the Fair Labor Standards Act or	306
this chapter, "pay rate" means an employee's annual base salary	307
or other rate of pay by which the particular employee qualifies	308
for that exemption under the Fair Labor Standards Act or this	309
chapter, but does not include bonuses, stock options,	310

incentives, deferred compensation, or any other similar form of
compensation. 311
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(3) "Record" means the name, address, occupation, pay
rate, hours worked for each day worked, and each amount paid an
employee in one or more documents, databases, or other paper or
electronic forms of record-keeping maintained by an employer. No
one particular method or form of maintaining such a record or
records is required under this division. An employer is not
required to create or maintain a single record containing only
the employee's name, address, occupation, pay rate, hours worked
for each day worked, and each amount paid an employee. An
employer shall maintain a record or records from which the
employee or person acting on behalf of that employee could
reasonably review the information requested by the employee or
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An employer is not required to maintain the records
specified in division (F) (3) of this section for any period
before January 1, 2007. On and after January 1, 2007, the
employer shall maintain the records required by division (F) (3)
of this section for three years from the date the hours were
worked by the employee and for three years after the date the
employee's employment ends. 326
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(4) (a) Except for individuals specified in division (F) (4)
(b) of this section, "hours worked for each day worked" means
the total amount of time worked by an employee in whatever
increments the employer uses for its payroll purposes during a
day worked by the employee. An employer is not required to keep
a record of the time of day an employee begins and ends work on
any given day. As used in division (F) (4) of this section, "day"
means a fixed period of twenty-four consecutive hours during
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which an employee performs work for an employer.	341
(b) An employer is not required to keep records of "hours worked for each day worked" for individuals for whom the employer is not required to keep those records under the Fair Labor Standards Act and its regulations or individuals who are not subject to the overtime pay requirements specified in section 4111.03 of the Revised Code.	342 343 344 345 346 347
(5) "Each amount paid an employee" means the total gross wages paid to an employee for each pay period. As used in division (F)(5) of this section, "pay period" means the period of time designated by an employer to pay an employee the employee's gross wages in accordance with the employer's payroll practices under section 4113.15 of the Revised Code.	348 349 350 351 352 353
(G) In accordance with Section 34a of Article II, Ohio Constitution, an employer must provide such information without charge to an employee or person acting on behalf of an employee upon request. As used in division (G) of this section:	354 355 356 357
(1) "Such information" means the name, address, occupation, pay rate, hours worked for each day worked, and each amount paid for the specific employee who has requested that specific employee's own information and does not include the name, address, occupation, pay rate, hours worked for each day worked, or each amount paid of any other employee of the employer. "Such information" does not include hours worked for each day worked by individuals for whom an employer is not required to keep that information under the Fair Labor Standards Act and its regulations or individuals who are not subject to the overtime pay requirements specified in section 4111.03 of the Revised Code.	358 359 360 361 362 363 364 365 366 367 368 369

(2) "Acting on behalf of an employee" means a person acting on behalf of an employee as any of the following:	370 371
(a) The certified or legally recognized collective bargaining representative for that employee under the applicable federal law or Chapter 4117. of the Revised Code;	372 373 374
(b) The employee's attorney;	375
(c) The employee's parent, guardian, or legal custodian.	376
A person "acting on behalf of an employee" must be specifically authorized by an employee in order to make a request for that employee's own name, address, occupation, pay rate, hours worked for each day worked, and each amount paid to that employee.	377 378 379 380 381
(3) "Provide" means that an employer shall provide the requested information within thirty business days after the date the employer receives the request, unless either of the following occurs:	382 383 384 385
(a) The employer and the employee or person acting on behalf of the employee agree to some alternative time period for providing the information.	386 387 388
(b) The thirty-day period would cause a hardship on the employer under the circumstances, in which case the employer must provide the requested information as soon as practicable.	389 390 391
(4) A "request" made by an employee or a person acting on behalf of an employee means a request by an employee or a person acting on behalf of an employee for the employee's own information. The employer may require that the employee provide the employer with a written request that has been signed by the employee and notarized and that reasonably specifies the	392 393 394 395 396 397

particular information being requested. The employer may require 398
that the person acting on behalf of an employee provide the 399
employer with a written request that has been signed by the 400
employee whose information is being requested and notarized and 401
that reasonably specifies the particular information being 402
requested. 403

(H) In accordance with Section 34a of Article II, Ohio 404
Constitution, an employee, person acting on behalf of one or 405
more employees, and any other interested party may file a 406
complaint with the state for a violation of any provision of 407
Section 34a of Article II, Ohio Constitution, or any law or 408
regulation implementing its provisions. Such complaint shall be 409
promptly investigated and resolved by the state. The employee's 410
name shall be kept confidential unless disclosure is necessary 411
to resolution of a complaint and the employee consents to 412
disclosure. As used in division (H) of this section: 413

(1) "Complaint" means a complaint of an alleged violation 414
pertaining to harm suffered by the employee filing the 415
complaint, by a person acting on behalf of one or more 416
employees, or by an interested party. 417

(2) "Acting on behalf of one or more employees" has the 418
same meaning as "acting on behalf of an employee" in division 419
(G) (2) of this section. Each employee must provide a separate 420
written and notarized authorization before the person acting on 421
that employee's or those employees' behalf may request the name, 422
address, occupation, pay rate, hours worked for each day worked, 423
and each amount paid for the particular employee. 424

(3) "Interested party" means a party who alleges to be 425
injured by the alleged violation and who has standing to file a 426
complaint under common law principles of standing. 427

(4) "Resolved by the state" means that the complaint has	428
been resolved to the satisfaction of the state.	429
(5) "Shall be kept confidential" means that the state	430
shall keep the name of the employee confidential as required by	431
division (H) of this section.	432
(I) In accordance with Section 34a of Article II, Ohio	433
Constitution, the state may on its own initiative investigate an	434
employer's compliance with Section 34a of Article II, Ohio	435
Constitution, and any law or regulation implementing Section 34a	436
of Article II, Ohio Constitution. The employer shall make	437
available to the state any records related to such investigation	438
and other information required for enforcement of Section 34a of	439
Article II, Ohio Constitution or any law or regulation	440
implementing Section 34a of Article II, Ohio Constitution. The	441
state shall investigate an employer's compliance with this	442
section in accordance with the procedures described in section	443
4111.04 of the Revised Code. All records and information related	444
to investigations by the state are confidential and are not a	445
public record subject to section 149.43 of the Revised Code.	446
This division does not prevent the state from releasing to or	447
exchanging with other state and federal wage and hour regulatory	448
authorities information related to investigations.	449
(J) In accordance with Section 34a of Article II, Ohio	450
Constitution, damages shall be calculated as an additional two	451
times the amount of the back wages and in the case of a	452
violation of an anti-retaliation provision an amount set by the	453
state or court sufficient to compensate the employee and deter	454
future violations, but not less than one hundred fifty dollars	455
for each day that the violation continued. The "not less than	456
one hundred fifty dollar" penalty specified in division (J) of	457

this section shall be imposed only for violations of the anti- 458
retaliation provision in Section 34a of Article II, Ohio 459
Constitution. 460

(K) In accordance with Section 34a of Article II, Ohio 461
Constitution, an action for equitable and monetary relief may be 462
brought against an employer by the attorney general and/or an 463
employee or person acting on behalf of an employee or all 464
similarly situated employees in any court of competent 465
jurisdiction, including the court of common pleas of an 466
employee's county of residence, for any violation of Section 34a 467
of Article II, Ohio Constitution, or any law or regulation 468
implementing its provisions within three years of the violation 469
or of when the violation ceased if it was of a continuing 470
nature, or within one year after notification to the employee of 471
final disposition by the state of a complaint for the same 472
violation, whichever is later. 473

(1) As used in division (K) of this section, 474
"notification" means the date on which the notice was sent to 475
the employee by the state. 476

(2) No employee shall join as a party plaintiff in any 477
civil action that is brought under division (K) of this section 478
by an employee, person acting on behalf of an employee, or 479
person acting on behalf of all similarly situated employees 480
unless that employee first gives written consent to become such 481
a party plaintiff and that consent is filed with the court in 482
which the action is brought. 483

(3) A civil action regarding an alleged violation of this 484
section shall be maintained only under division (K) of this 485
section. This division does not preclude the joinder in a single 486
civil action of an action under this division and an action 487

under section 4111.10 of the Revised Code.	488
(4) Any agreement between an employee and employer to work for less than the wage rate specified in Section 34a of Article II, Ohio Constitution, is no defense to an action under this section.	489 490 491 492
(L) In accordance with Section 34a of Article II, Ohio Constitution, there shall be no exhaustion requirement, no procedural, pleading, or burden of proof requirements beyond those that apply generally to civil suits in order to maintain such action and no liability for costs or attorney's fees on an employee except upon a finding that such action was frivolous in accordance with the same standards that apply generally in civil suits. Nothing in division (L) of this section affects the right of an employer and employee to agree to submit a dispute under this section to alternative dispute resolution, including, but not limited to, arbitration, in lieu of maintaining the civil suit specified in division (K) of this section. Nothing in this division limits the state's ability to investigate or enforce this section.	493 494 495 496 497 498 499 500 501 502 503 504 505 506
(M) An employer who provides such information specified in Section 34a of Article II, Ohio Constitution, shall be immune from any civil liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of providing that information to an employee or person acting on behalf of an employee in response to a request by the employee or person, and the employer shall not be subject to the provisions of Chapters 1347. and 1349. of the Revised Code to the extent that such provisions would otherwise apply. As used in division (M) of this section, "such information," "acting on behalf of an employee," and "request" have the same meanings as	507 508 509 510 511 512 513 514 515 516 517

in division (G) of this section.	518
(N) As used in this section, "the state" means the director of commerce.	519
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<u>Sec. 4111.20. (A) For purposes of Ohio Constitution, Article II, Section 34a and sections 4111.02 and 4111.03 of the Revised Code, an individual is an independent contractor if the individual is, as a matter of economic reality, in business for the individual's self and is not economically dependent on a potential employer. Economic dependence shall be determined in accordance with the standards in division (B) of this section. The amount of income an individual earns and the individual's other sources of income shall not be considered.</u>	521
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<u>(B) In determining whether an individual is an employee or an independent contractor, all of the following factors shall be considered:</u>	530
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<u>(1) Whether the individual has opportunities for profit or loss based on managerial skill, including initiative or business acumen or judgment, affecting the individual's economic success or failure in performing the work;</u>	533
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<u>(2) Whether any investments by the individual are capital or entrepreneurial in nature;</u>	537
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<u>(3) Whether the work relationship is indefinite in duration, continuous, or exclusive of work for other employers;</u>	539
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<u>(4) Whether the potential employer retains or reserves control over the performance of the work and the economic aspects of the working relationship;</u>	541
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<u>(5) Whether the individual's work is critical, necessary, or central to the potential employer's principal business, which</u>	544
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<u>does not depend on whether any individual in particular is an integral part of the business, but rather whether the function the individual performs is an integral part of the business;</u>	546 547 548
<u>(6) Whether the individual uses specialized skills to perform the work and whether those skills contribute to the individual's business-like initiative;</u>	549 550 551
<u>(7) Whether there are other factors indicating the individual is in business for the individual's self as opposed to being economically dependent on the potential employer for work.</u>	552 553 554 555
<u>(C) (1) For purposes of division (B) (1) of this section, factors relevant to an individual's opportunities for profit or loss affecting the individual's economic success or failure include all of the following:</u>	556 557 558 559
<u>(a) Whether the individual determines or can meaningfully negotiate the amount paid for the work the individual performs;</u>	560 561
<u>(b) Whether the individual accepts or declines jobs or chooses the order or time in which the jobs are performed;</u>	562 563
<u>(c) Whether the individual engages in marketing, advertising, or other efforts to expand the individual's business or secure additional work;</u>	564 565 566
<u>(d) Whether the individual makes decisions to hire others, purchase materials and equipment, or rent space.</u>	567 568
<u>(2) For purposes of division (B) (2) of this section, investments that are capital or entrepreneurial in nature include investments that increase the individual's ability to do more or different types of work, reduce the individual's costs, or extend the individual's market reach. Costs to an individual</u>	569 570 571 572 573

for tools and equipment to perform a specific job and costs the potential employer imposes unilaterally on the individual are not evidence of capital or entrepreneurial investment. 574
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(3) For purposes of division (B) (3) of this section, work of a seasonal or temporary nature is not, by itself, indicative of independent contractor status, unless the individual is exercising the individual's own independent business initiative. 577
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(4) For purposes of division (B) (4) of this section, actions taken by the potential employer for the sole purpose of complying with specific, applicable federal or state laws or local ordinances are not indicative of control. Factors relevant to whether an employer retains or reserves control over the performance of an individual's work and the economic aspects of the working relationship include: 581
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(a) Whether the potential employer sets the individual's schedule, supervises the performance of the work, or explicitly limits the individual's ability to work for others; 588
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(b) Whether the potential employer uses technological means to supervise the performance of the work, reserves the right to supervise or discipline, restricts the individual's ability to work for others, or limits the individual's ability to work at times chosen by the individual; 591
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(c) Whether the potential employer controls the economic aspects of the working relationship, including controlling prices, rates, and marketing for the individual's services or products. 596
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(D) No single factor listed in division (B) of this section is dispositive. The weight given each factor varies depending on the facts and circumstances of each particular 600
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relationship. 603

Section 2. That existing sections 4111.03 and 4111.14 of 604
the Revised Code are hereby repealed. 605