

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
section 4111.20 of the Revised Code regarding
the distinction between employees and
independent contractors under Ohio's overtime
and minimum wage laws.

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

Section 1. That sections 4111.03 and 4111.14 be amended
and section 4111.20 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 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 48
instrumentalities, any individual, partnership, association, 49
corporation, business trust, or any person or group of persons, 50
acting in the interest of an employer in relation to an 51
employee, but does not include either of the following: 52

(a) An employer whose annual gross volume of sales made 53
for business done is less than one hundred fifty thousand 54
dollars, exclusive of excise taxes at the retail level which are 55
separately stated; 56

(b) A franchisor with respect to the franchisor's 57
relationship with a franchisee or an employee of a franchisee, 58
unless the franchisor agrees to assume that role in writing or a 59
court of competent jurisdiction determines that the franchisor 60
exercises a type or degree of control over the franchisee or the 61
franchisee's employees that is not customarily exercised by a 62
franchisor for the purpose of protecting the franchisor's 63
trademark, brand, or both. For purposes of this division, 64
"franchisor" and "franchisee" have the same meanings as in 16 65
C.F.R. 436.1. 66

(3) "Employee" means any individual employed by an 67
employer as determined in accordance with the standards 68
established in section 4111.20 of the Revised Code, but does not 69
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 lump sum fees. 130

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

(4) "Motor carrier" has the same meaning as in section 133
4923.01 of the Revised Code. 134

Sec. 4111.14. (A) Pursuant to the general assembly's 135
authority to establish a minimum wage under Section 34 of 136
Article II, Ohio Constitution, this section is in implementation 137
of Section 34a of Article II, Ohio Constitution. In implementing 138
Section 34a of Article II, Ohio Constitution, the general 139
assembly hereby finds that the purpose of Section 34a of Article 140
II, Ohio Constitution, is to: 141

(1) Ensure that Ohio employees, as defined in division (B) 142
(1) of this section, are paid the wage rate required by Section 143
34a of Article II, Ohio Constitution; 144

(2) Ensure that covered Ohio employers maintain certain 145
records that are directly related to the enforcement of the wage 146
rate requirements in Section 34a of Article II, Ohio 147
Constitution; 148

(3) Ensure that Ohio employees who are paid the wage rate 149
required by Section 34a of Article II, Ohio Constitution, may 150
enforce their right to receive that wage rate in the manner set 151
forth in Section 34a of Article II, Ohio Constitution; and 152

(4) Protect the privacy of Ohio employees' pay and 153
personal information specified in Section 34a of Article II, 154
Ohio Constitution, by restricting an employee's access, and 155
access by a person acting on behalf of that employee, to the 156
employee's own pay and personal information. 157

(B) In accordance with Section 34a of Article II, Ohio 158
Constitution, the terms "employer," "employee," "employ," and 159
"person," ~~and "independent contractor"~~ have the same meanings as 160
in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 161
U.S.C. 203, as amended. In construing the meaning of these 162
terms, due consideration and great weight shall be given to the 163

United States department of labor's and federal courts' 164
interpretations of those terms under the Fair Labor Standards 165
Act and its regulations. As used in division (B) of this 166
section: 167

(1) "Employee" means individuals employed in Ohio, but 168
does not mean individuals who are excluded from the definition 169
of "employee" under 29 U.S.C. 203(e) or individuals who are 170
exempted from the minimum wage requirements in 29 U.S.C. 213 and 171
from the definition of "employee" in this chapter. 172

(2) "Employ" and "employee" do not include any person 173
acting as a volunteer. In construing who is a volunteer, 174
"volunteer" shall have the same meaning as in sections 553.101 175
to 553.106 of Title 29 of the Code of Federal Regulations, as 176
amended, and due consideration and great weight shall be given 177
to the United States department of labor's and federal courts' 178
interpretations of the term "volunteer" under the Fair Labor 179
Standards Act and its regulations. 180

(3) "Employee" does not include any person acting as an 181
independent contractor as determined in accordance with the 182
standards established in section 4111.20 of the Revised Code. 183

(4) "Employer" does not include a franchisor with respect 184
to the franchisor's relationship with a franchisee or an 185
employee of a franchisee, unless the franchisor agrees to assume 186
that role in writing or a court of competent jurisdiction 187
determines that the franchisor exercises a type or degree of 188
control over the franchisee or the franchisee's employees that 189
is not customarily exercised by a franchisor for the purpose of 190
protecting the franchisor's trademark, brand, or both. For 191
purposes of this division, "franchisor" and "franchisee" have 192
the same meanings as in 16 C.F.R. 436.1. 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 223
equipment used to provide the services, including maintenance, 224
fuel, repairs, supplies, vehicle or vessel insurance, and 225
personal expenses, except that the individual may be paid by the 226
carrier the carrier's fuel surcharge and incidental costs, 227
including tolls, permits, and lump sum fees. 228

(g) The individual is responsible for any economic loss or 229
economic gain from the arrangement with the carrier. 230

~~(5)~~ (6) A motor carrier may elect to consider an 231
individual described in division ~~(B) (4)~~ (B) (5) of this section 232
as an employee for purposes of this section. 233

~~(6)~~ (7) "Motor carrier" has the same meaning as in section 234
4923.01 of the Revised Code. 235

(C) In accordance with Section 34a of Article II, Ohio 236
Constitution, the state may issue licenses to employers 237
authorizing payment of a wage below that required by Section 34a 238
of Article II, Ohio Constitution, to individuals with mental or 239
physical disabilities that may otherwise adversely affect their 240
opportunity for employment. In issuing such licenses, the state 241
shall abide by the rules adopted pursuant to section 4111.06 of 242
the Revised Code. 243

(D) (1) In accordance with Section 34a of Article II, Ohio 244
Constitution, individuals employed in or about the property of 245
an employer or an individual's residence on a casual basis are 246
not included within the coverage of Section 34a of Article II, 247
Ohio Constitution. As used in division (D) of this section: 248

(a) "Casual basis" means employment that is irregular or 249
intermittent and that is not performed by an individual whose 250
vocation is to be employed in or about the property of the 251

employer or individual's residence. In construing who is 252
employed on a "casual basis," due consideration and great weight 253
shall be given to the United States department of labor's and 254
federal courts' interpretations of the term "casual basis" under 255
the Fair Labor Standards Act and its regulations. 256

(b) "An individual employed in or about the property of an 257
employer or individual's residence" means an individual employed 258
on a casual basis or an individual employed in or about a 259
residence on a casual basis, respectively. 260

(2) In accordance with Section 34a of Article II, Ohio 261
Constitution, employees of a solely family-owned and operated 262
business who are family members of an owner are not included 263
within the coverage of Section 34a of Article II, Ohio 264
Constitution. As used in division (D) (2) of this section, 265
"family member" means a parent, spouse, child, stepchild, 266
sibling, grandparent, grandchild, or other member of an owner's 267
immediate family. 268

(E) In accordance with Section 34a of Article II, Ohio 269
Constitution, an employer shall at the time of hire provide an 270
employee with the employer's name, address, telephone number, 271
and other contact information and update such information when 272
it changes. As used in division (E) of this section: 273

(1) "Other contact information" may include, where 274
applicable, the address of the employer's internet site on the 275
world wide web, the employer's electronic mail address, fax 276
number, or the name, address, and telephone number of the 277
employer's statutory agent. "Other contact information" does not 278
include the name, address, telephone number, fax number, 279
internet site address, or electronic mail address of any 280
employee, shareholder, officer, director, supervisor, manager, 281

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 311
compensation. 312

(3) "Record" means the name, address, occupation, pay 313
rate, hours worked for each day worked, and each amount paid an 314
employee in one or more documents, databases, or other paper or 315
electronic forms of record-keeping maintained by an employer. No 316
one particular method or form of maintaining such a record or 317
records is required under this division. An employer is not 318
required to create or maintain a single record containing only 319
the employee's name, address, occupation, pay rate, hours worked 320
for each day worked, and each amount paid an employee. An 321
employer shall maintain a record or records from which the 322
employee or person acting on behalf of that employee could 323
reasonably review the information requested by the employee or 324
person. 325

An employer is not required to maintain the records 326
specified in division (F) (3) of this section for any period 327
before January 1, 2007. On and after January 1, 2007, the 328
employer shall maintain the records required by division (F) (3) 329
of this section for three years from the date the hours were 330
worked by the employee and for three years after the date the 331
employee's employment ends. 332

(4) (a) Except for individuals specified in division (F) (4) 333
(b) of this section, "hours worked for each day worked" means 334
the total amount of time worked by an employee in whatever 335
increments the employer uses for its payroll purposes during a 336
day worked by the employee. An employer is not required to keep 337
a record of the time of day an employee begins and ends work on 338
any given day. As used in division (F) (4) of this section, "day" 339
means a fixed period of twenty-four consecutive hours during 340

which an employee performs work for an employer. 341

(b) An employer is not required to keep records of "hours 342
worked for each day worked" for individuals for whom the 343
employer is not required to keep those records under the Fair 344
Labor Standards Act and its regulations or individuals who are 345
not subject to the overtime pay requirements specified in 346
section 4111.03 of the Revised Code. 347

(5) "Each amount paid an employee" means the total gross 348
wages paid to an employee for each pay period. As used in 349
division (F) (5) of this section, "pay period" means the period 350
of time designated by an employer to pay an employee the 351
employee's gross wages in accordance with the employer's payroll 352
practices under section 4113.15 of the Revised Code. 353

(G) In accordance with Section 34a of Article II, Ohio 354
Constitution, an employer must provide such information without 355
charge to an employee or person acting on behalf of an employee 356
upon request. As used in division (G) of this section: 357

(1) "Such information" means the name, address, 358
occupation, pay rate, hours worked for each day worked, and each 359
amount paid for the specific employee who has requested that 360
specific employee's own information and does not include the 361
name, address, occupation, pay rate, hours worked for each day 362
worked, or each amount paid of any other employee of the 363
employer. "Such information" does not include hours worked for 364
each day worked by individuals for whom an employer is not 365
required to keep that information under the Fair Labor Standards 366
Act and its regulations or individuals who are not subject to 367
the overtime pay requirements specified in section 4111.03 of 368
the Revised Code. 369

(2) "Acting on behalf of an employee" means a person 370
acting on behalf of an employee as any of the following: 371

(a) The certified or legally recognized collective 372
bargaining representative for that employee under the applicable 373
federal law or Chapter 4117. of the Revised Code; 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 377
specifically authorized by an employee in order to make a 378
request for that employee's own name, address, occupation, pay 379
rate, hours worked for each day worked, and each amount paid to 380
that employee. 381

(3) "Provide" means that an employer shall provide the 382
requested information within thirty business days after the date 383
the employer receives the request, unless either of the 384
following occurs: 385

(a) The employer and the employee or person acting on 386
behalf of the employee agree to some alternative time period for 387
providing the information. 388

(b) The thirty-day period would cause a hardship on the 389
employer under the circumstances, in which case the employer 390
must provide the requested information as soon as practicable. 391

(4) A "request" made by an employee or a person acting on 392
behalf of an employee means a request by an employee or a person 393
acting on behalf of an employee for the employee's own 394
information. The employer may require that the employee provide 395
the employer with a written request that has been signed by the 396
employee and notarized and that reasonably specifies the 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 489
for less than the wage rate specified in Section 34a of Article 490
II, Ohio Constitution, is no defense to an action under this 491
section. 492

(L) In accordance with Section 34a of Article II, Ohio 493
Constitution, there shall be no exhaustion requirement, no 494
procedural, pleading, or burden of proof requirements beyond 495
those that apply generally to civil suits in order to maintain 496
such action and no liability for costs or attorney's fees on an 497
employee except upon a finding that such action was frivolous in 498
accordance with the same standards that apply generally in civil 499
suits. Nothing in division (L) of this section affects the right 500
of an employer and employee to agree to submit a dispute under 501
this section to alternative dispute resolution, including, but 502
not limited to, arbitration, in lieu of maintaining the civil 503
suit specified in division (K) of this section. Nothing in this 504
division limits the state's ability to investigate or enforce 505
this section. 506

(M) An employer who provides such information specified in 507
Section 34a of Article II, Ohio Constitution, shall be immune 508
from any civil liability for injury, death, or loss to person or 509
property that otherwise might be incurred or imposed as a result 510
of providing that information to an employee or person acting on 511
behalf of an employee in response to a request by the employee 512
or person, and the employer shall not be subject to the 513
provisions of Chapters 1347. and 1349. of the Revised Code to 514
the extent that such provisions would otherwise apply. As used 515
in division (M) of this section, "such information," "acting on 516
behalf of an employee," and "request" have the same meanings as 517

in division (G) of this section. 518

(N) As used in this section, "the state" means the 519
director of commerce. 520

Sec. 4111.20. (A) For purposes of Ohio Constitution, 521
Article II, Section 34a and sections 4111.02 and 4111.03 of the 522
Revised Code, an individual is an independent contractor if the 523
individual is, as a matter of economic reality, in business for 524
the individual's self and is not economically dependent on a 525
potential employer. Economic dependence shall be determined in 526
accordance with the standards in division (B) of this section. 527
The amount of income an individual earns and the individual's 528
other sources of income shall not be considered. 529

(B) In determining whether an individual is an employee or 530
an independent contractor, all of the following factors shall be 531
considered: 532

(1) Whether the individual has opportunities for profit or 533
loss based on managerial skill, including initiative or business 534
acumen or judgment, affecting the individual's economic success 535
or failure in performing the work; 536

(2) Whether any investments by the individual are capital 537
or entrepreneurial in nature; 538

(3) Whether the work relationship is indefinite in 539
duration, continuous, or exclusive of work for other employers; 540

(4) Whether the potential employer retains or reserves 541
control over the performance of the work and the economic 542
aspects of the working relationship; 543

(5) Whether the individual's work is critical, necessary, 544
or central to the potential employer's principal business, which 545

does not depend on whether any individual in particular is an 546
integral part of the business, but rather whether the function 547
the individual performs is an integral part of the business; 548

(6) Whether the individual uses specialized skills to 549
perform the work and whether those skills contribute to the 550
individual's business-like initiative; 551

(7) Whether there are other factors indicating the 552
individual is in business for the individual's self as opposed 553
to being economically dependent on the potential employer for 554
work. 555

(C) (1) For purposes of division (B) (1) of this section, 556
factors relevant to an individual's opportunities for profit or 557
loss affecting the individual's economic success or failure 558
include all of the following: 559

(a) Whether the individual determines or can meaningfully 560
negotiate the amount paid for the work the individual performs; 561

(b) Whether the individual accepts or declines jobs or 562
chooses the order or time in which the jobs are performed; 563

(c) Whether the individual engages in marketing, 564
advertising, or other efforts to expand the individual's 565
business or secure additional work; 566

(d) Whether the individual makes decisions to hire others, 567
purchase materials and equipment, or rent space. 568

(2) For purposes of division (B) (2) of this section, 569
investments that are capital or entrepreneurial in nature 570
include investments that increase the individual's ability to do 571
more or different types of work, reduce the individual's costs, 572
or extend the individual's market reach. Costs to an individual 573

for tools and equipment to perform a specific job and costs the 574
potential employer imposes unilaterally on the individual are 575
not evidence of capital or entrepreneurial investment. 576

(3) For purposes of division (B)(3) of this section, work 577
of a seasonal or temporary nature is not, by itself, indicative 578
of independent contractor status, unless the individual is 579
exercising the individual's own independent business initiative. 580

(4) For purposes of division (B)(4) of this section, 581
actions taken by the potential employer for the sole purpose of 582
complying with specific, applicable federal or state laws or 583
local ordinances are not indicative of control. Factors relevant 584
to whether an employer retains or reserves control over the 585
performance of an individual's work and the economic aspects of 586
the working relationship include: 587

(a) Whether the potential employer sets the individual's 588
schedule, supervises the performance of the work, or explicitly 589
limits the individual's ability to work for others; 590

(b) Whether the potential employer uses technological 591
means to supervise the performance of the work, reserves the 592
right to supervise or discipline, restricts the individual's 593
ability to work for others, or limits the individual's ability 594
to work at times chosen by the individual; 595

(c) Whether the potential employer controls the economic 596
aspects of the working relationship, including controlling 597
prices, rates, and marketing for the individual's services or 598
products. 599

(D) No single factor listed in division (B) of this 600
section is dispositive. The weight given each factor varies 601
depending on the facts and circumstances of each particular 602

relationship.

603

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

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