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Representatives Mathews, A., Hall, T.

Cosponsors: Representatives Abrams, Claggett, Daniels, Deeter, Fischer, Gross, Hiner, Johnson, King, Kishman, LaRe, Newman, Peterson, Plummer, Robb Blasdel, Roemer, Santucci, Williams, Willis

A BILL

To amend sections 4109.08, 4111.09, 4112.07, 4115.07, 4123.54, 4123.83, and 4167.11 of the Revised Code to allow employers to post certain labor law notices on the internet.

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

Section 1. That sections 4109.08, 4111.09, 4112.07, 4115.07, 4123.54, 4123.83, and 4167.11 of the Revised Code be amended to read as follows:

Sec. 4109.08. (A) No minor shall be employed unless the employer ~~keeps on the premises~~ posts a complete list of all minors employed by the employer at a particular establishment and ~~a printed~~ an abstract to be furnished by the director of commerce summarizing the provisions of this chapter.

The list and abstract shall be posted in one of the following ways:

(1) On the premises in plain view in a conspicuous place which is frequented by the largest number of minor employees,

and to which all minor employees have access;

(2) On the internet in a manner that is accessible to the employer's employees.

(B) An enforcement official may require any employer, in or about whose establishment an employee apparently under eighteen years of age is employed and whose age and schooling certificate is not on file with the director of commerce as required by section 3331.01 of the Revised Code, to furnish the enforcement official satisfactory evidence that the employee is in fact eighteen years of age or older. The enforcement official shall require from the employer the same evidence of age of the employee as is required by section 3331.02 of the Revised Code upon the issuance of an age and schooling certificate. No employer shall fail to produce the evidence.

(C) Any employee apparently under eighteen years of age, working in any occupation or establishment with respect to which there are restrictions by rule or law governing the employment of minors, with respect to whom the employer has not furnished satisfactory evidence that the person is at or above the age required for performance of employment with the employer after being requested to do so, and who refuses to give to an enforcement official the employee's name, age, and place of residence may be taken into custody and charged with being an unruly child or other appropriate charge under Chapter 2151. or 2152. of the Revised Code.

(D) No person shall, with the intent to assist a minor to procure employment, make a false statement by any means, including by submitting falsified forms electronically, to any employer or to any person authorized to issue an age and schooling certificate.

Sec. 4111.09. (A) Every employer subject to sections 4111.01 to 4111.17 of the Revised Code, or to any rules issued thereunder, shall keep a summary of the sections, approved by the director of commerce, and copies of any applicable rules issued thereunder, or a summary of the rules, posted in one of the following ways:

(1) In a conspicuous and accessible place in or about the premises wherein any person subject thereto is employed;

(2) On the internet in a manner that is accessible to the employer's employees.

(B) The director of commerce shall make the summary described in this section available on the web site of the department of commerce. The director shall update this summary as necessary, but not less than annually, in order to reflect changes in the minimum wage rate as required under Section 34a of Article II, Ohio Constitution. Employees and employers shall be furnished copies of the summaries and rules by the state, on request, without charge.

Sec. 4112.07. Every person subject to division (A), (B), (C), (D), or (E) of section 4112.02 of the Revised Code shall post in a conspicuous place or places on ~~his~~ the person's premises, or on the internet in a manner that is accessible to the public, a notice to be prepared or approved by the commission that shall set forth excerpts of this chapter and other relevant information that the commission deems necessary to explain this chapter.

Sec. 4115.07. All contractors and subcontractors required by sections 4115.03 to 4115.16 of the Revised Code, and the action of any public authority to pay not less than the

prevailing rate of wages shall make full payment of such wages in legal tender, without any deduction for food, sleeping accommodations, transportation, use of small tools, or any other thing of any kind or description. This section does not apply where the employer and employee enter into an agreement in writing at the beginning of any term of employment covering deductions for food, sleeping accommodations, or other similar item, provided such agreement is submitted by the employer to the public authority fixing the rate of wages and is approved by such public authority as fair and reasonable.

All contractors or subcontractors falling within or affected by sections 4115.03 to 4115.16 of the Revised Code, shall keep full and accurate payroll records with respect to wages paid each employee and the number of hours worked by each employee, covering all disbursements of wages to their employees to whom they are required to pay not less than the prevailing rate of wages. Such payroll records shall be open to inspection by any authorized representative of the contracting public authority, including the prevailing wage coordinator or the director of commerce at any reasonable time and as often as may be necessary, and such records shall not be destroyed or removed from the state for the period of one year following the completion of the public improvement in connection with which the records are made. There shall be posted in a prominent and accessible place on the site of the work<u>, or on the internet in a manner that is accessible to the contractor's or subcontractor's employees,</u> a legible statement of the schedule of wage rates specified in the contract to the various classifications of laborers, workers, and mechanics employed, said statement to remain posted during the life of each contract.

Each contractor or subcontractor shall file with the contracting public authority upon completion of the public improvement and prior to final payment therefor an affidavit stating that the contractor or subcontractor has fully complied with sections 4115.03 to 4115.16 of the Revised Code.

Sec. 4123.54. (A) Except as otherwise provided in this division or divisions (I) and (K) of this section, every employee, who is injured or who contracts an occupational disease, and the dependents of each employee who is killed, or dies as the result of an occupational disease contracted in the course of employment, wherever the injury has occurred or occupational disease has been contracted, is entitled to receive the compensation for loss sustained on account of the injury, occupational disease, or death, and the medical, nurse, and hospital services and medicines, and the amount of funeral expenses in case of death, as are provided by this chapter. The compensation and benefits shall be provided, as applicable, directly from the employee's self-insuring employer as provided in section 4123.35 of the Revised Code or from the state insurance fund. An employee or dependent is not entitled to receive compensation or benefits under this division if the employee's injury or occupational disease is either of the following:

(1) Purposely self-inflicted;

(2) Caused by the employee being intoxicated, under the influence of a controlled substance not prescribed by a physician, or under the influence of marihuana if being intoxicated, under the influence of a controlled substance not prescribed by a physician, or under the influence of marihuana was the proximate cause of the injury.

(B) For the purpose of this section, provided that an employer has posted written notice to employees that the results of, or the employee's refusal to submit to, any chemical test described under this division may affect the employee's eligibility for compensation and benefits pursuant to this chapter and Chapter 4121. of the Revised Code, there is a rebuttable presumption that an employee is intoxicated, under the influence of a controlled substance not prescribed by the employee's physician, or under the influence of marihuana and that being intoxicated, under the influence of a controlled substance not prescribed by the employee's physician, or under the influence of marihuana is the proximate cause of an injury under either of the following conditions:

(1) When any one or more of the following is true:

(a) The employee, through a qualifying chemical test administered within eight hours of an injury, is determined to have an alcohol concentration level equal to or in excess of the levels established in divisions (A)(1)(b) to (i) of section 4511.19 of the Revised Code.

(b) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have a controlled substance not prescribed by the employee's physician or marihuana in the employee's system at a level equal to or in excess of the cutoff concentration level for the particular substance as provided in section 40.87 of Title 49 of the Code of Federal Regulations, 49 C.F.R. 40.87, as amended.

(c) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have barbiturates, benzodiazepines, or methadone in the employee's system that tests above levels established by

laboratories certified by the United States department of health and human services.

(2) When the employee refuses to submit to a requested chemical test, on the condition that that employee is or was given notice that the refusal to submit to any chemical test described in division (B)(1) of this section may affect the employee's eligibility for compensation and benefits under this chapter and Chapter 4121. of the Revised Code.

(C)(1) For purposes of division (B) of this section, a chemical test is a qualifying chemical test if it is administered to an employee after an injury under at least one of the following conditions:

(a) When the employee's employer had reasonable cause to suspect that the employee may be intoxicated, under the influence of a controlled substance not prescribed by the employee's physician, or under the influence of marihuana;

(b) At the request of a police officer pursuant to section 4511.191 of the Revised Code, and not at the request of the employee's employer;

(c) At the request of a licensed physician who is not employed by the employee's employer, and not at the request of the employee's employer.

(2) As used in division (C)(1)(a) of this section, "reasonable cause" means, but is not limited to, evidence that an employee is or was using alcohol, a controlled substance, or marihuana drawn from specific, objective facts and reasonable inferences drawn from these facts in light of experience and training. These facts and inferences may be based on, but are not limited to, any of the following:

(a) Observable phenomena, such as direct observation of use, possession, or distribution of alcohol, a controlled substance, or marihuana, or of the physical symptoms of being under the influence of alcohol, a controlled substance, or marihuana, such as but not limited to slurred speech; dilated pupils; odor of alcohol, a controlled substance, or marihuana; changes in affect; or dynamic mood swings;

(b) A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance such as frequent absenteeism, excessive tardiness, or recurrent accidents, that appears to be related to the use of alcohol, a controlled substance, or marihuana, and does not appear to be attributable to other factors;

(c) The identification of an employee as the focus of a criminal investigation into unauthorized possession, use, or trafficking of a controlled substance or marihuana;

(d) A report of use of alcohol, a controlled substance, or marihuana provided by a reliable and credible source;

(e) Repeated or flagrant violations of the safety or work rules of the employee's employer, that are determined by the employee's supervisor to pose a substantial risk of physical injury or property damage and that appear to be related to the use of alcohol, a controlled substance, or marihuana and that do not appear attributable to other factors.

(D) Nothing in this section shall be construed to affect the rights of an employer to test employees for alcohol or controlled substance abuse.

(E) For the purpose of this section, laboratories certified by the United States department of health and human

services or laboratories that meet or exceed the standards of that department for laboratory certification shall be used for processing the test results of a qualifying chemical test.

(F) The written notice required by division (B) of this section shall be the same size or larger than the proof of workers' compensation coverage furnished by the bureau of workers' compensation and shall be posted by the employer in the same location as the proof of workers' compensation coverage or the certificate of self-insurance. An employer may post the written notice required by division (B) of this section on the internet in a manner that is accessible to the employer's employees.

(G) If a condition that pre-existed an injury is substantially aggravated by the injury, and that substantial aggravation is documented by objective diagnostic findings, objective clinical findings, or objective test results, no compensation or benefits are payable because of the pre-existing condition once that condition has returned to a level that would have existed without the injury.

(H)(1) Whenever, with respect to an employee of an employer who is subject to and has complied with this chapter, there is possibility of conflict with respect to the application of workers' compensation laws because the contract of employment is entered into and all or some portion of the work is or is to be performed in a state or states other than Ohio, the employer and the employee may agree to be bound by the laws of this state or by the laws of some other state in which all or some portion of the work of the employee is to be performed. The agreement shall be in writing and shall be filed with the bureau of workers' compensation within ten days after it is executed and

shall remain in force until terminated or modified by agreement of the parties similarly filed. If the agreement is to be bound by the laws of this state and the employer has complied with this chapter, then the employee is entitled to compensation and benefits regardless of where the injury occurs or the disease is contracted and the rights of the employee and the employee's dependents under the laws of this state are the exclusive remedy against the employer on account of injury, disease, or death in the course of and arising out of the employee's employment. If the agreement is to be bound by the laws of another state and the employer has complied with the laws of that state, the rights of the employee and the employee's dependents under the laws of that state are the exclusive remedy against the employer on account of injury, disease, or death in the course of and arising out of the employee's employment without regard to the place where the injury was sustained or the disease contracted. If an employer and an employee enter into an agreement under this division, the fact that the employer and the employee entered into that agreement shall not be construed to change the status of an employee whose continued employment is subject to the will of the employer or the employee, unless the agreement contains a provision that expressly changes that status.

(2) If an employee or the employee's dependents receive an award of compensation or benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for the same injury, occupational disease, or death for which the employee or the employee's dependents previously pursued or otherwise elected to accept workers' compensation benefits and received a decision on the merits as defined in section 4123.542 of the Revised Code under the laws of another state or recovered damages under the laws of another state, the claim shall be disallowed and the

administrator or any self-insuring employer, by any lawful means, may collect from the employee or the employee's dependents any of the following:

(a) The amount of compensation or benefits paid to or on behalf of the employee or the employee's dependents by the administrator or a self-insuring employer pursuant to this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for that award;

(b) Any interest, attorney's fees, and costs the administrator or the self-insuring employer incurs in collecting that payment.

(3) If an employee or the employee's dependents receive an award of compensation or benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code and subsequently pursue or otherwise elect to accept workers' compensation benefits or damages under the laws of another state for the same injury, occupational disease, or death the claim under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code shall be disallowed. The administrator or a self-insuring employer, by any lawful means, may collect from the employee or the employee's dependents or other-states' insurer any of the following:

(a) The amount of compensation or benefits paid to or on behalf of the employee or the employee's dependents by the administrator or the self-insuring employer pursuant to this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for that award;

(b) Any interest, costs, and attorney's fees the administrator or the self-insuring employer incurs in collecting

that payment;

(c) Any costs incurred by an employer in contesting or responding to any claim filed by the employee or the employee's dependents for the same injury, occupational disease, or death that was filed after the original claim for which the employee or the employee's dependents received a decision on the merits as described in section 4123.542 of the Revised Code.

(4) If the employee's employer pays premiums into the state insurance fund, the administrator shall not charge the amount of compensation or benefits the administrator collects pursuant to division (H)(2) or (3) of this section to the employer's experience. If the administrator collects any costs incurred by an employer in contesting or responding to any claim pursuant to division (H)(2) or (3) of this section, the administrator shall forward the amount collected to that employer. If the employee's employer is a self-insuring employer, the self-insuring employer shall deduct the amount of compensation or benefits the self-insuring employer collects pursuant to this division from the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code.

(5) If an employee is a resident of a state other than this state and is insured under the workers' compensation law or similar laws of a state other than this state, the employee and the employee's dependents are not entitled to receive compensation or benefits under this chapter, on account of injury, disease, or death arising out of or in the course of employment while temporarily within this state, and the rights of the employee and the employee's dependents under the laws of the other state are the exclusive remedy against the employer on

account of the injury, disease, or death.

(6) An employee, or the dependent of an employee, who elects to receive compensation and benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for a claim may not receive compensation and benefits under the workers' compensation laws of any state other than this state for that same claim. For each claim submitted by or on behalf of an employee, the administrator or, if the employee is employed by a self-insuring employer, the self-insuring employer, shall request the employee or the employee's dependent to sign an election that affirms the employee's or employee's dependent's acceptance of electing to receive compensation and benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for that claim that also affirmatively waives and releases the employee's or the employee's dependent's right to file for and receive compensation and benefits under the laws of any state other than this state for that claim. The employee or employee's dependent shall sign the election form within twenty-eight days after the administrator or self-insuring employer submits the request or the administrator or self-insuring employer shall dismiss that claim.

In the event a workers' compensation claim has been filed in another jurisdiction on behalf of an employee or the dependents of an employee, and the employee or dependents subsequently elect to receive compensation, benefits, or both under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code, the employee or dependent shall withdraw or refuse acceptance of the workers' compensation claim filed in the other jurisdiction in order to pursue compensation or benefits under the laws of this state. If the employee or dependents were awarded workers' compensation benefits or had recovered damages

under the laws of the other state, any compensation and benefits awarded under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code shall be paid only to the extent to which those payments exceed the amounts paid under the laws of the other state. If the employee or dependent fails to withdraw or to refuse acceptance of the workers' compensation claim in the other jurisdiction within twenty-eight days after a request made by the administrator or a self-insuring employer, the administrator or self-insuring employer shall dismiss the employee's or employee's dependents' claim made in this state.

(I) If an employee who is covered under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., is injured or contracts an occupational disease or dies as a result of an injury or occupational disease, and if that employee's or that employee's dependents' claim for compensation or benefits for that injury, occupational disease, or death is subject to the jurisdiction of that act, the employee or the employee's dependents are not entitled to apply for and shall not receive compensation or benefits under this chapter and Chapter 4121. of the Revised Code. The rights of such an employee and the employee's dependents under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., are the exclusive remedy against the employer for that injury, occupational disease, or death.

(J) Compensation or benefits are not payable to a claimant or a dependent during the period of confinement of the claimant or dependent in any state or federal correctional institution, or in any county jail in lieu of incarceration in a state or federal correctional institution, whether in this or any other state for conviction of violation of any state or federal

criminal law.

(K) An employer, upon the approval of the administrator, may provide for workers' compensation coverage for the employer's employees who are professional athletes and coaches by submitting to the administrator proof of coverage under a league policy issued under the laws of another state under either of the following circumstances:

(1) The employer administers the payroll and workers' compensation insurance for a professional sports team subject to a collective bargaining agreement, and the collective bargaining agreement provides for the uniform administration of workers' compensation benefits and compensation for professional athletes.

(2) The employer is a professional sports league, or is a member team of a professional sports league, and all of the following apply:

(a) The professional sports league operates as a single entity, whereby all of the players and coaches of the sports league are employees of the sports league and not of the individual member teams.

(b) The professional sports league at all times maintains workers' compensation insurance that provides coverage for the players and coaches of the sports league.

(c) Each individual member team of the professional sports league, pursuant to the organizational or operating documents of the sports league, is obligated to the sports league to pay to the sports league any workers' compensation claims that are not covered by the workers' compensation insurance maintained by the sports league.

If the administrator approves the employer's proof of coverage submitted under division (K) of this section, a professional athlete or coach who is an employee of the employer and the dependents of the professional athlete or coach are not entitled to apply for and shall not receive compensation or benefits under this chapter and Chapter 4121. of the Revised Code. The rights of such an athlete or coach and the dependents of such an athlete or coach under the laws of the state where the policy was issued are the exclusive remedy against the employer for the athlete or coach if the athlete or coach suffers an injury or contracts an occupational disease in the course of employment, or for the dependents of the athlete or the coach if the athlete or coach is killed as a result of an injury or dies as a result of an occupational disease, regardless of the location where the injury was suffered or the occupational disease was contracted.

Sec. 4123.83. Each employer paying premiums into the state insurance fund or electing directly to pay compensation to the employer's injured employees or the dependents of the employer's killed employees as provided in section 4123.35 of the Revised Code, shall post ~~conspicuously in the employer's place or places of employment~~ notices, which shall be furnished at least annually by the bureau of workers' compensation. The employer shall post the notice conspicuously in the employer's place or places of employment or on the internet in a manner that is accessible to the employer's employees. The notice shall state that it is proof of workers' compensation coverage, or that the employer has complied with section 4123.35 of the Revised Code and has been authorized by the administrator of workers' compensation directly to compensate employees or dependents, and the date of the authorization. The notice shall indicate that

coverage is contingent on continued payment of premiums and assessments due. The notice, when posted, constitutes sufficient notice to the employer's employees of the fact that the employer carries workers' compensation coverage or that the employer has complied with the elective provisions of section 4123.35 of the Revised Code.

Sec. 4167.11. (A) In order to further the purposes of this chapter, the administrator of workers' compensation shall develop and maintain, for public employers and public employees, an effective program of collection, compilation, and analysis of employment risk reduction statistics.

(B) To implement and maintain division (A) of this section, the administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules in accordance with Chapter 119. of the Revised Code that extend to all of the following:

(1) Requiring each public employer to make, keep, and preserve, and make available to the administrator, reports and records regarding the public employer's activities, as determined by the rule that are necessary or appropriate for the enforcement of this chapter or for developing information regarding the causes and prevention of occupational accidents and illnesses. The rule shall prescribe which of these reports and records shall or may be furnished to public employees and public employee representatives.

(2) Requiring every public employer, through posting of notices or other appropriate means, to keep their public employees informed of public employees' rights and obligations under this chapter, including the provisions of applicable Ohio employment risk reduction standards~~;~~. The rule shall allow any

required notice to be posted on the internet in a manner that is accessible to the public employer's employees.

(3) Requiring public employers to maintain accurate records of public employee exposure to potentially toxic materials, carcinogenic materials, and harmful physical agents that are required to be monitored or measured under rules adopted under the guidelines of division (C) of section 4167.07 of the Revised Code. The rule shall provide public employees or public employee representatives an opportunity to observe the monitoring or measuring, and to have access on request to the records thereof, and may provide public employees or public employee representatives an opportunity to participate in and to undertake their own monitoring or measuring. The rules also shall permit each current or former public employee to have access to the records that indicate their own exposure to toxic materials, carcinogenic materials, or harmful agents.

(C) The administrator shall obtain any information under division (B) of this section with a minimum burden upon the public employer and shall, to the maximum extent feasible, reduce unnecessary duplication of efforts in obtaining the information.

Section 2. That existing sections 4109.08, 4111.09, 4112.07, 4115.07, 4123.54, 4123.83, and 4167.11 of the Revised Code are hereby repealed.