

As Introduced

136th General Assembly

Regular Session

2025-2026

S. B. No. 347

Senator Johnson

Cosponsor: Senator Brenner

To amend section 153.03 and to enact sections
4123.221, 4123.346, and 4123.347 of the Revised
Code regarding the Bureau of Workers'
Compensation drug free workplace program.

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

Section 1. That section 153.03 be amended and sections
4123.221, 4123.346, and 4123.347 of the Revised Code be enacted
to read as follows:

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Sec. 153.03. (A) As used in this section:

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(1) "Contracting authority" means any state agency or
other state instrumentality that is authorized to award a public
improvement contract.

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(2) "Bidder" means a person who submits a bid to a
contracting authority to perform work under a public improvement
contract.

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(3) "Contractor" means any person with whom a contracting
authority has entered into a public improvement contract to
provide labor for a public improvement and includes a
construction manager at risk and a design-build firm.

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(4) "Subcontractor" means any person who undertakes to provide any part of the labor on the site of a public improvement under a contract with any person other than the contracting authority, including all such persons in any tier.	19 20 21 22
(5) "Construction manager" has the same meaning as in section 9.33 of the Revised Code.	23 24
(6) "Construction manager at risk" has the same meaning as in section 9.33 of the Revised Code.	25 26
(7) "Design-build firm" has the same meaning as in section 153.65 of the Revised Code.	27 28
(8) "Labor" means any activity performed by a person that contributes to the direct installation of a product, component, or system, or that contributes to the direct removal of a product, component, or system.	29 30 31 32
(9) "Public improvement contract" means any contract that is financed in whole or in part with money appropriated by the general assembly, or that is financed in any manner by a contracting authority, and that is awarded by a contracting authority for the construction, alteration, or repair of any public building, public highway, or other public improvement.	33 34 35 36 37 38
(10) "State agency" means every organized body, office, or agency established by the laws of this state for the exercise of any function of state government.	39 40 41
(B) A contracting authority shall not award a public improvement contract to a bidder, and a construction manager at risk or design-build firm shall not award a subcontract, unless the contract or subcontract contains both of the following:	42 43 44 45
(1) The statements described in division (E) of this	46

section;	47
(2) Terms that require the contractor or subcontractor to be enrolled in and be in good standing in the drug-free workplace program of the bureau of workers' compensation or a comparable program approved by the bureau that requires an employer to do all of the following:	48
(a) Develop, implement, and provide to all employees a written substance use policy that conveys full and fair disclosure of the employer's expectations that no employee be at work with alcohol or drugs in the employee's system, and specifies the consequences for violating the policy.	53
(b) Conduct drug and alcohol tests on employees in accordance with division (B) (2) (c) of this section and under the following conditions:	58
(i) Prior to an individual's employment or during <u>after</u> an employee's probationary period for employment, which shall not exceed one hundred twenty <u>thirty</u> days after the probationary period begins <u>sends</u> ;	61
(ii) At random intervals while an employee provides labor or on-site supervision of labor for a public improvement contract. The employer shall use the neutral selection procedures required by the United States department of transportation to determine which employees to test and when to test those employees. <u>When testing employees under this division, the employer shall test not less than ten per cent of the total number of the employer's employees who are providing labor or on-site supervision of labor for a public improvement contract.</u>	65
(iii) After an accident at the site where labor is being	75

performed pursuant to a public improvement contract. For	76
purposes of this division, "accident" has the meaning	77
established in rules the administrator of workers' compensation	78
adopts pursuant to Chapters 4121. and 4123. of the Revised Code	79
for the bureau's drug-free workplace program, as those rules	80
exist on March 30, 2007.	81
(iv) When the employer, construction manager, construction	82
manager at risk, or design-build firm has reasonable suspicion	83
that prior to an accident an employee may be in violation of the	84
employer's written substance use policy. For purposes of this	85
division, "reasonable suspicion" has the meaning established in	86
rules the administrator adopts pursuant to Chapters 4121. and	87
4123. of the Revised Code for the bureau's drug-free workplace	88
program, as those rules exist on March 30, 2007.	89
(v) Prior to an employee returning to a work site to	90
provide labor for a public improvement contract after the	91
employee tested positive for drugs or alcohol, and again after	92
the employee returns to that site to provide labor under that	93
contract, as required by either the employer, construction	94
manager, construction manager at risk, design-build firm, or	95
conditions in the contract.	96
(c) Use the following types of tests when conducting a	97
test on an employee under the conditions described in division	98
(B) (2) (b) of this section:	99
(i) Drug and alcohol testing that uses the federal testing	100
model that the administrator has incorporated into the bureau's	101
drug-free workplace program;	102
(ii) Testing to determine whether the concentration of	103
alcohol on an employee's breath is equal to or in excess of the	104

level specified in division (A)(1)(d) or (h) of section 4511.19 105
of the Revised Code, which is obtained through an evidentiary 106
breath test conducted by a breath alcohol technician using 107
breath testing equipment that meets standards established by the 108
United States department of transportation, or, if such 109
technician and equipment are unavailable, a blood test may be 110
used to determine whether the concentration of alcohol in an 111
employee's blood is equal to or in excess of the level specified 112
in division (A)(1)(b) or (f) of section 4511.19 of the Revised 113
Code. 114

(d) Require all employees to receive at least one hour of 115
training that increases awareness of and attempts to deter 116
substance ~~abuse—use~~ and supplies information about employee 117
assistance to deal with substance ~~abuse—use~~ problems, and 118
require all supervisors to receive one additional hour of 119
training in skill building to teach a supervisor how to observe 120
and document employee behavior and intervene when reasonable 121
suspicion exists of substance use; 122

(e) Require all supervisors and employees to receive the 123
training described in division (B)(2)(d) of this section before 124
work for a public improvement contract commences or during the 125
term of a public improvement contract; 126

(f) Require that the training described in division (B)(2) 127
(d) of this section be provided using material prepared by an 128
individual who has credentials or experience in substance ~~abuse—~~ 129
use training; 130

(g) Assist employees by providing, at a minimum, a list of 131
community resources from which an employee may obtain help with 132
substance ~~abuse—use~~ problems, except that this requirement does 133
not preclude an employer from having a policy that allows an 134

employer to terminate an employee's employment the first time	135
the employee tests positive for drugs or alcohol or if an	136
employee refuses to be tested for drugs, alcohol, or both.	137
(C) Any time the United States department of health and	138
human services changes the federal testing model that the	139
administrator has incorporated into the bureau's drug-free	140
workplace program in a manner that allows additional or new	141
products, protocols, procedures, and standards in the model, the	142
administrator may adopt rules establishing standards to allow	143
employers to use those additional or new products, protocols,	144
procedures, or standards to satisfy the requirements of division	145
(B) (2) (c) of this section, and the bureau may approve an	146
employer's drug-free workplace program that meets the	147
administrator's standards and the other requirements specified	148
in division (B) (2) of this section.	149
(D) A contracting authority shall ensure that money	150
appropriated by the general assembly for the contracting	151
authority's public improvement contract or, in the case of a	152
state institution of higher education, the institution's	153
financing for the public improvement contract, is not expended	154
unless the contractor for that contract is enrolled in and in	155
good standing in a drug-free workplace program described in	156
division (B) of this section. Prior to awarding a contract to a	157
bidder, a contracting authority shall verify that the bidder is	158
enrolled in and in good standing in such a program.	159
(E) A contracting authority shall include all of the	160
following statements in the public improvement contract entered	161
into between the contracting authority and a contractor for the	162
public improvement:	163
(1) "Each contractor shall require all subcontractors with	164

whom the contractor is in contract for the public improvement to 165
be enrolled in and be in good standing in the Bureau of Workers' 166
Compensation's Drug-Free Workplace Program or a comparable 167
program approved by the Bureau that meets the requirements 168
specified in section 153.03 of the Revised Code prior to a 169
subcontractor providing labor at the project site of the public 170
improvement." 171

(2) "Each subcontractor shall require all lower-tier 172
subcontractors with whom the subcontractor is in contract for 173
the public improvement to be enrolled in and be in good standing 174
in the Bureau of Workers' Compensation's Drug-Free Workplace 175
Program or a comparable program approved by the Bureau that 176
meets the requirements specified in section 153.03 of the 177
Revised Code prior to a lower-tier subcontractor providing labor 178
at the project site of the public improvement." 179

(3) "Failure of a contractor to require a subcontractor to 180
be enrolled in and be in good standing in the Bureau of Workers' 181
Compensation's Drug-Free Workplace Program or a comparable 182
program approved by the Bureau that meets the requirements 183
specified in section 153.03 of the Revised Code prior to the 184
time that the subcontractor provides labor at the project site 185
will result in the contractor being found in breach of the 186
contract and that breach shall be used in the responsibility 187
analysis of that contractor or the subcontractor who was not 188
enrolled in a program for future contracts with the state for 189
five years after the date of the breach." 190

(4) "Failure of a subcontractor to require a lower-tier 191
subcontractor to be enrolled in and be in good standing in the 192
Bureau of Workers' Compensation's Drug-Free Workplace Program or 193
a comparable program approved by the Bureau that meets the 194

requirements specified in section 153.03 of the Revised Code 195
prior to the time that the lower-tier subcontractor provides 196
labor at the project site will result in the subcontractor being 197
found in breach of the contract and that breach shall be used in 198
the responsibility analysis of that subcontractor or the lower- 199
tier subcontractor who was not enrolled in a program for future 200
contracts with the state for five years after the date of the 201
breach." 202

(F) In the event a construction manager, construction 203
manager at risk, or design-build firm intends and is authorized 204
to provide labor for a public improvement contract, a 205
contracting authority shall verify, prior to awarding a contract 206
for construction management services or design-build services, 207
that the construction manager, construction manager at risk, or 208
design-build firm was enrolled in and in good standing in a 209
drug-free workplace program described in division (B) of this 210
section prior to entering into the public improvement contract. 211
The contracting authority shall not award a contract for 212
construction manager services or design-build services if the 213
construction manager, construction manager at risk, or design- 214
build firm is not enrolled in or in good standing in such a 215
program. 216

Sec. 4123.221. With respect to the bureau of workers' 217
compensation drug free workplace program established under 218
section 4123.346 of the Revised Code, the administrator shall do 219
all of the following: 220

(A) Prepare a report that includes information regarding 221
the program; 222

(B) Submit the report to the general assembly not later 223
than the first day of June of each year; 224

<u>(C) Include in the report all of the following information</u>	225
<u>regarding the program:</u>	226
<u>(1) The number of employers that participated in the</u>	227
<u>program during the preceding year;</u>	228
<u>(2) The per cent change in the number of employers that</u>	229
<u>participated in the program from year to year during the</u>	230
<u>preceding biennium;</u>	231
<u>(3) The number of drug tests on which employees tested</u>	232
<u>positive that were reported to the administrator by employers</u>	233
<u>that participated in the program during the preceding year;</u>	234
<u>(4) The per cent change in the number of reports of</u>	235
<u>positive drug tests from year to year during the preceding</u>	236
<u>biennium;</u>	237
<u>(5) Information regarding each type of substance detected</u>	238
<u>by positive drug tests reported to the administrator during the</u>	239
<u>preceding year;</u>	240
<u>(6) The amount of each substance detected represented as a</u>	241
<u>percentage of the total number of positive drug tests reported</u>	242
<u>to the administrator during the preceding year;</u>	243
<u>(7) Information regarding the expenses incurred by the</u>	244
<u>administrator in administering the program during the preceding</u>	245
<u>year.</u>	246
<u>Sec. 4123.346. (A) As used in this section:</u>	247
<u>(1) "Advanced program level" means a component of the</u>	248
<u>bureau of workers' compensation drug free workplace program</u>	249
<u>that, in addition to including all of the requirements of a</u>	250
<u>basic program level, requires a participating employer to do all</u>	251
<u>of the following:</u>	252

<u>(a) Conduct random drug testing of at least fifteen per</u>	253
<u>cent of the employer's employees each program period;</u>	254
<u>(b) Ensure its written policy required under division (A)</u>	255
<u>(2) (a) of this section addresses random drug testing and</u>	256
<u>employee assistance;</u>	257
<u>(c) Provide and pay the cost for substance assessments for</u>	258
<u>the employer's employees, as needed;</u>	259
<u>(d) Agree not to discharge from employment an employee who</u>	260
<u>tests positive on a drug test for the first time, who indicates</u>	261
<u>the employee has a substance use problem, or who is referred by</u>	262
<u>a supervisor for a substance assessment and who agrees to</u>	263
<u>participate in the assessment.</u>	264
<u>(2) "Basic program level" means a component of the bureau</u>	265
<u>of workers' compensation drug free workplace program that</u>	266
<u>requires a participating employer to do all of the following:</u>	267
<u>(a) Adopt a written policy described under division (B) (2)</u>	268
<u>of section 4123.347 of the Revised Code;</u>	269
<u>(b) Require the employer's employees to complete the</u>	270
<u>annual employee training described under division (B) (3) of</u>	271
<u>section 4123.347 of the Revised Code;</u>	272
<u>(c) Require the employer's supervisors to complete the</u>	273
<u>annual supervisor skill-building training described under</u>	274
<u>division (B) (4) of section 4123.347 the Revised Code;</u>	275
<u>(d) Implement an employee assistance plan;</u>	276
<u>(e) Conduct employee drug and alcohol testing that occurs</u>	277
<u>before employment, after an accident, after reasonable</u>	278
<u>suspicion, and on return to duty.</u>	279

<u>(3) "Comparable program"</u> means a program described in	280
<u>section 153.03 of the Revised Code.</u>	281
<u>(B) The administrator of workers' compensation shall do</u>	282
<u>all of the following:</u>	283
<u>(1) Not later than one hundred eighty days after the</u>	284
<u>effective date of this section, establish a bureau of workers'</u>	285
<u>compensation drug free workplace program that offers a discount</u>	286
<u>on premium rates for an employer that participates in and</u>	287
<u>complies with the requirements of a basic program level,</u>	288
<u>advanced program level, or comparable program;</u>	289
<u>(2) Name the program the bureau of workers' compensation</u>	290
<u>drug free workplace program;</u>	291
<u>(3) Calculate the discount using a multiplier listed under</u>	292
<u>division (C) of this section.</u>	293
<u>(C) For purposes of calculating a premium discount under</u>	294
<u>division (B) of this section, the administrator shall use the</u>	295
<u>following multipliers for the calculation:</u>	296
<u>(1) For an employer participating in a comparable program,</u>	297
<u>five per cent;</u>	298
<u>(2) For an employer participating in a basic program</u>	299
<u>level, ten per cent;</u>	300
<u>(3) For an employer participating in an advanced program</u>	301
<u>level, fifteen per cent.</u>	302
Sec. 4123.347. (A) Other than the bureau of workers'	303
<u>compensation drug free workplace program established under</u>	304
<u>section 4123.346 of the Revised Code, the administrator of</u>	305
<u>workers' compensation shall not establish any other drug free</u>	306
<u>workplace program that incentivizes a participating employer to</u>	307

<u>create a drug free workplace.</u>	308
<u>(B) With respect to each employer participating in the</u>	309
<u>bureau of workers' compensation drug free workplace program</u>	310
<u>established under section 4123.346 of the Revised Code, the</u>	311
<u>administrator shall do all of the following:</u>	312
<u>(1) Permit the employer to combine a discount the employer</u>	313
<u>receives on premium rates by participating in the program with a</u>	314
<u>discount available under any other loss prevention or workplace</u>	315
<u>safety program established by the administrator;</u>	316
<u>(2) Require the employer to adopt a written substance use</u>	317
<u>policy that specifies the employer's expectation that no</u>	318
<u>employee be at work with alcohol or any drug in the employee's</u>	319
<u>system and the consequences for violating the policy;</u>	320
<u>(3) Require the employer to require its employees to</u>	321
<u>complete at least one hour of annual training to deter substance</u>	322
<u>use and to provide information regarding employee assistance for</u>	323
<u>substance use problems;</u>	324
<u>(4) Require the employer to require its supervisors to</u>	325
<u>complete an annual two-hour supervisor skill-building training</u>	326
<u>to educate them on how to enforce the employer's written</u>	327
<u>substance use policy and how to observe and document employee</u>	328
<u>behavior and intervene if reasonable suspicion exists of</u>	329
<u>substance use;</u>	330
<u>(5) Permit a supervisor to conduct the supervisor skill-</u>	331
<u>building training if the supervisor completes a training program</u>	332
<u>developed by the administrator that educates the supervisor on</u>	333
<u>how to conduct the supervisor skill-building training;</u>	334
<u>(6) Require each vendor contracted with the administrator</u>	335
<u>to develop the education and training materials used in</u>	336

<u>connection with the training described under divisions (B) (3) to</u>	337
<u>(5) of this section to update the materials annually.</u>	338
<u>(C) The education and training materials described under</u>	339
<u>division (B) (6) of this section shall be updated to reflect the</u>	340
<u>best practices that exist at the time they are updated in</u>	341
<u>preventing workplace accidents and injuries attributed to the</u>	342
<u>use of alcohol and drugs. If the administrator develops the</u>	343
<u>materials, the administrator shall update the materials annually</u>	344
<u>in accordance with this division.</u>	345
Section 2. That existing section 153.03 of the Revised	346
Code is hereby repealed.	347