

I_134_1965-3

134th General Assembly
Regular Session
2021-2022

Sub. H. B. No. 435

A BILL

To amend section 4123.01 and to enact sections 1
3792.05, 3792.06, 3792.07, 3792.08, 4123.87, and 2
4765.60 of the Revised Code to address COVID-19 3
vaccine requirements for employees and students; 4
to extend certain timelines for qualified civil 5
immunity and expand immunity to include hearing 6
aid dealers and hearing aid fitters; to 7
authorize emergency medical technicians to 8
administer COVID-19 tests; to expressly cover 9
COVID-19 vaccine injuries under the workers' 10
compensation system; and to repeal sections 11
3792.05, 3792.06, 3792.07, and 3792.08 of the 12
Revised Code on June 30, 2023. 13

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

Section 1. That section 4123.01 be amended and sections 14
3792.05, 3792.06, 3792.07, 3792.08, 4123.87, and 4765.60 of the 15
Revised Code be enacted to read as follows: 16

Sec. 3792.05. (A) As used in this section: 17



fpgmzphjzgqbonkzjpvgm5

(1) "Children's hospital" has the same meaning as in section 3722.01 of the Revised Code. 18
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(2) "Hospital" has the same meaning as in section 3722.01 of the Revised Code, except that a hospital does not include a children's hospital. 20
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(3) "Private college" has the same meaning as in section 3365.01 of the Revised Code. 23
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(4) "School" means either or both of the following: 25

(a) A chartered nonpublic school as defined in section 3310.01 of the Revised Code; 26
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(b) A public school as defined in section 3792.04 of the Revised Code. 28
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(5) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code. 30
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(B) (1) A school, private college, or state institution of higher education shall not require a student to receive a COVID-19 vaccine for which the United States food and drug administration has not issued a biologics license. 32
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(2) For purposes of this section, a biologics license issued by the United States food and drug administration is not the same as an emergency use authorization granted by the United States food and drug administration. 36
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(C) In the event a school, private college, or state institution of higher education requires a student to receive a COVID-19 vaccine for which the United States food and drug administration has issued a biologics license, both of the following apply: 40
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(1) The student may satisfy the vaccination requirement by 45
doing either of the following: 46

(a) Receiving the vaccine; 47

(b) Receiving a COVID-19 vaccine that is available under 48
an emergency use authorization. 49

(2) Subject to divisions (D) and (E) of this section, the 50
student is exempt from the vaccination requirement for any of 51
the following reasons: 52

(a) Medical contraindications; 53

(b) Natural immunity; 54

(c) Reasons of conscience, including religious 55
convictions. 56

(D) (1) To claim an exemption as described in division (C) 57
(2) (a) of this section, a student shall submit to the school, 58
private college, or state institution of higher education a 59
written statement signed by the student's primary care provider. 60
The student shall not be required to submit any additional 61
information beyond the written statement. 62

(2) To claim an exemption as described in division (C) (2) 63
(b) of this section, a student shall submit written 64
documentation to the school, private college, or state 65
institution of higher education that the student has been tested 66
for the presence of COVID-19 antibodies in a form or manner 67
recognized by the medical community and, at the time of testing, 68
had COVID-19 antibodies in an amount at least equal to or 69
greater than those conferred by a COVID-19 vaccine that has been 70
issued a biologics license. 71

The department of health shall adopt rules establishing 72

the frequency with which a student shall be retested to 73
determine whether the student's COVID-19 antibody presence 74
remains at least equal to or greater than those conferred by a 75
COVID-19 vaccine that has been issued a biologics license. Until 76
the department adopts the rules, the student shall not be 77
required to submit any additional information beyond the initial 78
written documentation. 79

(3) To claim an exemption as described in division (C) (2) 80
(c) of this section, a student shall submit to the school, 81
private college, or state institution of higher education a 82
written statement and shall not be required to submit any 83
additional information beyond the written statement. 84

(E) (1) The exemptions described in division (C) (2) of this 85
section do not apply to a student who, as part of the student's 86
course of study, undergoes instruction or training at either of 87
the following that is owned or operated by, or affiliated with, 88
a private college or state institution of higher education: 89

(a) A children's hospital; 90

(b) An intensive care or critical care unit of a hospital. 91

(2) Nothing in this section shall be construed to limit, 92
diminish, or otherwise affect any provision of federal law 93
relating to employment discrimination. 94

(F) (1) A student who is exempt from COVID-19 vaccination 95
as described in division (C) of this section is not responsible 96
for any costs or fees associated with measures to prevent the 97
spread of COVID-19 required of the student by the school, 98
private college, or state institution of higher education, 99
including testing for active infection and masking. 100

(2) In the case of a student who is exempt from COVID-19 101

vaccination because of natural immunity, the student is 102
responsible for any costs or fees associated with demonstrating 103
natural immunity to the school, private college, or state 104
institution of higher education. 105

(G) A student may commence a mandamus action in accordance 106
with Chapter 2731. of the Revised Code to obtain a judgment 107
ordering a school, private college, or state institution of 108
higher education to comply with this section. The court may 109
award reasonable attorney's fees to the prevailing party. 110

Sec. 3792.06. (A) As used in this section: 111

(1) "Political subdivision" means a county, township, 112
municipal corporation, school district, or other body corporate 113
and politic responsible for governmental activities in a 114
geographic area smaller than that of the state. "Political 115
subdivision" also includes a board of health of a city or 116
general health district. 117

(2) "Proof of COVID-19 vaccination" means a paper document 118
or digital application available on a smartphone, tablet, or 119
other device, that demonstrates that an individual has been 120
vaccinated against COVID-19, including through the use of a 121
scannable code. 122

(3) "State agency" means any organized agency, board, 123
body, commission, department, institution, office, or other 124
entity established by the laws of the state for the exercise of 125
any function of state government. "State agency" does not 126
include a court. 127

(B) A facility owned by a political subdivision or state 128
agency shall not require an individual to show proof of COVID-19 129
vaccination in order for the individual to gain admission to or 130

enter the facility. 131

Sec. 3792.07. (A) As used in this section and section 132
3792.08 of the Revised Code: 133

(1) "Employer" means any person who has one or more 134
employees. "Employer" includes an agent of an employer, the 135
state or any agency or instrumentality of the state, and any 136
municipal corporation, county, township, school district, or 137
other political subdivision or any agency or instrumentality 138
thereof. 139

(2) "Children's hospital" has the same meaning as in 140
section 3722.01 of the Revised Code. 141

(3) "Hospital" has the same meaning as in section 3722.01 142
of the Revised Code, except that a hospital does not include a 143
children's hospital. 144

(B) (1) No employer shall require an employee to receive a 145
vaccine for which the United States food and drug administration 146
has not issued a biologics license. 147

(2) For purposes of this section, a biologics license 148
issued by the United States food and drug administration is not 149
the same as an emergency use authorization granted by the United 150
States food and drug administration. 151

(C) In the event an employer requires an employee to 152
receive a COVID-19 vaccine for which the United States food and 153
drug administration has issued a biologics license, both of the 154
following apply: 155

(1) The employee may satisfy the vaccination requirement 156
by doing either of the following: 157

(a) Receiving the vaccine; 158

(b) Receiving a COVID-19 vaccine that is available under 159
an emergency use authorization. 160

(2) Except as provided in division (F) of this section, 161
and subject to divisions (D) and (E) of this section, an 162
employee who is employed by an employer on or before the 163
effective date of this section is exempt from the vaccination 164
requirement for any of the following reasons: 165

(a) Medical contraindications; 166

(b) Natural immunity; 167

(c) Reasons of conscience, including religious 168
convictions. 169

(D) (1) To claim an exemption as described in division (C) 170
(2) (a) of this section, an employee shall submit to the employer 171
a written statement signed by the employee's primary care 172
provider and shall not be required to submit any additional 173
information beyond the written statement. 174

(2) To claim an exemption described in division (C) (2) (b) 175
of this section, an employee shall submit written documentation 176
to the employer that the employee has been tested for the 177
presence of COVID-19 antibodies in a form or manner recognized 178
by the medical community and at the time of testing, had COVID- 179
19 antibodies in an amount at least equal to or greater than 180
those conferred by a COVID-19 vaccine that has been issued a 181
biologics license. 182

The department of health shall adopt rules establishing 183
the frequency with which an employee shall be retested to 184
determine whether the employee's COVID-19 antibody presence 185
remains at least equal to or greater than those conferred by a 186
COVID-19 vaccine that has been issued a biologics license. Until 187

such time as the department adopts the rules, the employee shall 188
not be required to submit any additional information beyond the 189
initial written documentation. 190

(3) To claim an exemption described under division (C) (2) 191
(c) of this section, an employee shall submit to the employer a 192
written statement and shall not be required to submit any 193
additional information beyond the written statement. 194

(E) An employee who is exempt from COVID-19 vaccination as 195
described in division (C) (2) of this section is not responsible 196
for any costs or fees associated with any measures required of 197
the employee by the employer to prevent the spread of COVID-19, 198
including testing for active infection and masking. 199

(2) In the case of an employee who is exempt from COVID-19 200
vaccination because of natural immunity, the employee is 201
responsible for any costs or fees associated with demonstrating 202
natural immunity to the employer. 203

(F) (1) The exemptions in division (C) (2) of this section 204
do not apply to any of the following: 205

(a) An employee employed in a children's hospital; 206

(b) An employee employed in an intensive care or critical 207
care unit of a hospital; 208

(c) An employee who begins employment after the effective 209
date of this section. 210

(2) This section does not apply to an employer other than 211
a hospital that, as a regular part of its business, conducts 212
research on, develops, handles, administers, transports, or 213
stores infectious organisms. 214

(3) Nothing in this section shall be construed to limit, 215

diminish, or otherwise affect any provision of Chapter 4112. of 216
the Revised Code or any federal law relating to employment 217
discrimination. 218

(F) Nothing in this section impedes or in any way 219
diminishes the right of employees to bargain collectively with 220
their employers through representatives of their own choosing in 221
order to establish terms and other conditions of employment 222
related to COVID-19 vaccines. However, no provision of a 223
collective bargaining agreement entered into before, on, or 224
after the effective date of this section that relates to COVID- 225
19 vaccines applies to a person who is not a party to the 226
agreement. 227

Sec. 3792.08. (A) A violation of section 3792.07 of the 228
Revised Code is an unlawful discriminatory practice relating to 229
employment as defined in section 4112.01 of the Revised Code. 230
Except as provided in division (B) of this section, an employee 231
who is injured by an alleged violation of section 3792.07 of the 232
Revised Code may file a complaint with the Ohio civil rights 233
commission in accordance with the requirements specified in 234
section 4112.051 and 4112.052 of the Revised Code. The 235
commission shall follow the procedures specified in that section 236
for complaints filed for violations of section 3792.07 of the 237
Revised Code regarding that complaint, except, if the commission 238
determines after a hearing described in section 4112.051 of the 239
Revised Code, that a violation has occurred, the commission's 240
order shall be limited to an order that the employer cease and 241
desist from the unlawful discriminatory practice relating to 242
employment and back pay, if applicable. The commission may award 243
reasonable attorney's fees to the prevailing party. 244

(B) An employee of the state or a political subdivision of 245

the state may commence a mandamus action in accordance with 246
Chapter 2731. of the Revised Code to obtain a judgment ordering 247
the employer to comply with section 3792.07 of the Revised Code. 248
The court may award reasonable attorney's fees to the prevailing 249
party. A person is prohibited from bringing an action under this 250
division if the person filed a complaint with the Ohio civil 251
rights commission under division (A) of this section. 252

Sec. 4123.01. As used in this chapter: 253

(A) (1) "Employee" means: 254

(a) Every person in the service of the state, or of any 255
county, municipal corporation, township, or school district 256
therein, including regular members of lawfully constituted 257
police and fire departments of municipal corporations and 258
townships, whether paid or volunteer, and wherever serving 259
within the state or on temporary assignment outside thereof, and 260
executive officers of boards of education, under any appointment 261
or contract of hire, express or implied, oral or written, 262
including any elected official of the state, or of any county, 263
municipal corporation, or township, or members of boards of 264
education. 265

As used in division (A) (1) (a) of this section, the term 266
"employee" includes the following persons when responding to an 267
inherently dangerous situation that calls for an immediate 268
response on the part of the person, regardless of whether the 269
person is within the limits of the jurisdiction of the person's 270
regular employment or voluntary service when responding, on the 271
condition that the person responds to the situation as the 272
person otherwise would if the person were on duty in the 273
person's jurisdiction: 274

(i) Off-duty peace officers. As used in division (A) (1) (a)	275
(i) of this section, "peace officer" has the same meaning as in	276
section 2935.01 of the Revised Code.	277
(ii) Off-duty firefighters, whether paid or volunteer, of	278
a lawfully constituted fire department.	279
(iii) Off-duty first responders, emergency medical	280
technicians-basic, emergency medical technicians-intermediate,	281
or emergency medical technicians-paramedic, whether paid or	282
volunteer, of an ambulance service organization or emergency	283
medical service organization pursuant to Chapter 4765. of the	284
Revised Code.	285
(b) Every person in the service of any person, firm, or	286
private corporation, including any public service corporation,	287
that (i) employs one or more persons regularly in the same	288
business or in or about the same establishment under any	289
contract of hire, express or implied, oral or written, including	290
aliens and minors, household workers who earn one hundred sixty	291
dollars or more in cash in any calendar quarter from a single	292
household and casual workers who earn one hundred sixty dollars	293
or more in cash in any calendar quarter from a single employer,	294
or (ii) is bound by any such contract of hire or by any other	295
written contract, to pay into the state insurance fund the	296
premiums provided by this chapter.	297
(c) Every person who performs labor or provides services	298
pursuant to a construction contract, as defined in section	299
4123.79 of the Revised Code, if at least ten of the following	300
criteria apply:	301
(i) The person is required to comply with instructions	302
from the other contracting party regarding the manner or method	303

of performing services;	304
(ii) The person is required by the other contracting party to have particular training;	305 306
(iii) The person's services are integrated into the regular functioning of the other contracting party;	307 308
(iv) The person is required to perform the work personally;	309 310
(v) The person is hired, supervised, or paid by the other contracting party;	311 312
(vi) A continuing relationship exists between the person and the other contracting party that contemplates continuing or recurring work even if the work is not full time;	313 314 315
(vii) The person's hours of work are established by the other contracting party;	316 317
(viii) The person is required to devote full time to the business of the other contracting party;	318 319
(ix) The person is required to perform the work on the premises of the other contracting party;	320 321
(x) The person is required to follow the order of work set by the other contracting party;	322 323
(xi) The person is required to make oral or written reports of progress to the other contracting party;	324 325
(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;	326 327
(xiii) The person's expenses are paid for by the other contracting party;	328 329

(xiv) The person's tools and materials are furnished by	330
the other contracting party;	331
(xv) The person is provided with the facilities used to	332
perform services;	333
(xvi) The person does not realize a profit or suffer a	334
loss as a result of the services provided;	335
(xvii) The person is not performing services for a number	336
of employers at the same time;	337
(xviii) The person does not make the same services	338
available to the general public;	339
(xix) The other contracting party has a right to discharge	340
the person;	341
(xx) The person has the right to end the relationship with	342
the other contracting party without incurring liability pursuant	343
to an employment contract or agreement.	344
Every person in the service of any independent contractor	345
or subcontractor who has failed to pay into the state insurance	346
fund the amount of premium determined and fixed by the	347
administrator of workers' compensation for the person's	348
employment or occupation or who is a self-insuring employer and	349
who has failed to pay compensation and benefits directly to the	350
employer's injured and to the dependents of the employer's	351
killed employees as required by section 4123.35 of the Revised	352
Code, shall be considered as the employee of the person who has	353
entered into a contract, whether written or verbal, with such	354
independent contractor unless such employees or their legal	355
representatives or beneficiaries elect, after injury or death,	356
to regard such independent contractor as the employer.	357

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

(i) The person owns the vehicle or vessel that is used in performing the services for or on behalf of the carrier, or the person 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 agreement does not include an agreement between the person and the motor carrier transporting property for which, or on whose behalf, the person provides services.

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

(iii) The compensation paid to the person 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.

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

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

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

equipment used to provide the services, including maintenance, 387
fuel, repairs, supplies, vehicle or vessel insurance, and 388
personal expenses, except that the person may be paid by the 389
carrier the carrier's fuel surcharge and incidental costs, 390
including tolls, permits, and lumper fees. 391

(vii) The person is responsible for any economic loss or 392
economic gain from the arrangement with the carrier. 393

(2) "Employee" does not mean any of the following: 394

(a) A duly ordained, commissioned, or licensed minister or 395
assistant or associate minister of a church in the exercise of 396
ministry; 397

(b) Any officer of a family farm corporation; 398

(c) An individual incorporated as a corporation; 399

(d) An officer of a nonprofit corporation, as defined in 400
section 1702.01 of the Revised Code, who volunteers the person's 401
services as an officer; 402

(e) An individual who otherwise is an employee of an 403
employer but who signs the waiver and affidavit specified in 404
section 4123.15 of the Revised Code on the condition that the 405
administrator has granted a waiver and exception to the 406
individual's employer under section 4123.15 of the Revised Code; 407

(f) (i) A qualifying employee described in division (A) (14) 408
(a) of section 5703.94 of the Revised Code when the qualifying 409
employee is performing disaster work in this state during a 410
disaster response period pursuant to a qualifying solicitation 411
received by the employee's employer; 412

(ii) A qualifying employee described in division (A) (14) 413
(b) of section 5703.94 of the Revised Code when the qualifying 414

employee is performing disaster work in this state during a 415
disaster response period on critical infrastructure owned or 416
used by the employee's employer; 417

(iii) As used in division (A)(2)(f) of this section, 418
"critical infrastructure," "disaster response period," "disaster 419
work," and "qualifying employee" have the same meanings as in 420
section 5703.94 of the Revised Code. 421

Any employer may elect to include as an "employee" within 422
this chapter, any person excluded from the definition of 423
"employee" pursuant to division (A)(1)(d) or (A)(2)(a), (b), 424
(c), or (e) of this section in accordance with rules adopted by 425
the administrator, with the advice and consent of the bureau of 426
workers' compensation board of directors. If an employer is a 427
partnership, sole proprietorship, individual incorporated as a 428
corporation, or family farm corporation, such employer may elect 429
to include as an "employee" within this chapter, any member of 430
such partnership, the owner of the sole proprietorship, the 431
individual incorporated as a corporation, or the officers of the 432
family farm corporation. Nothing in this section shall prohibit 433
a partner, sole proprietor, or any person excluded from the 434
definition of "employee" pursuant to division (A)(2)(a), (b), 435
(c), or (e) of this section from electing to be included as an 436
"employee" under this chapter in accordance with rules adopted 437
by the administrator, with the advice and consent of the board. 438

In the event of an election, the employer or person 439
electing coverage shall serve upon the bureau of workers' 440
compensation written notice naming the person to be covered and 441
include the person's remuneration for premium purposes in all 442
future payroll reports. No partner, sole proprietor, or person 443
excluded from the definition of "employee" pursuant to division 444

(A) (1) (d) or (A) (2) (a), (b), (c), or (e) of this section, shall 445
receive benefits or compensation under this chapter until the 446
bureau receives written notice of the election permitted by this 447
section. 448

For informational purposes only, the bureau shall 449
prescribe such language as it considers appropriate, on such of 450
its forms as it considers appropriate, to advise employers of 451
their right to elect to include as an "employee" within this 452
chapter a sole proprietor, any member of a partnership, or a 453
person excluded from the definition of "employee" under division 454
(A) (1) (d) or (A) (2) (a), (b), (c), or (e) of this section, that 455
they should check any health and disability insurance policy, or 456
other form of health and disability plan or contract, presently 457
covering them, or the purchase of which they may be considering, 458
to determine whether such policy, plan, or contract excludes 459
benefits for illness or injury that they might have elected to 460
have covered by workers' compensation. 461

(B) (1) "Employer" means: 462

(a) The state, including state hospitals, each county, 463
municipal corporation, township, school district, and hospital 464
owned by a political subdivision or subdivisions other than the 465
state; 466

(b) Every person, firm, professional employer 467
organization, alternate employer organization, and private 468
corporation, including any public service corporation, that (i) 469
has in service one or more employees or shared employees 470
regularly in the same business or in or about the same 471
establishment under any contract of hire, express or implied, 472
oral or written, or (ii) is bound by any such contract of hire 473
or by any other written contract, to pay into the insurance fund 474

the premiums provided by this chapter. 475

All such employers are subject to this chapter. Any member 476
of a firm or association, who regularly performs manual labor in 477
or about a mine, factory, or other establishment, including a 478
household establishment, shall be considered an employee in 479
determining whether such person, firm, or private corporation, 480
or public service corporation, has in its service, one or more 481
employees and the employer shall report the income derived from 482
such labor to the bureau as part of the payroll of such 483
employer, and such member shall thereupon be entitled to all the 484
benefits of an employee. 485

(2) "Employer" does not include a franchisor with respect 486
to the franchisor's relationship with a franchisee or an 487
employee of a franchisee, unless the franchisor agrees to assume 488
that role in writing or a court of competent jurisdiction 489
determines that the franchisor exercises a type or degree of 490
control over the franchisee or the franchisee's employees that 491
is not customarily exercised by a franchisor for the purpose of 492
protecting the franchisor's trademark, brand, or both. For 493
purposes of this division, "franchisor" and "franchisee" have 494
the same meanings as in 16 C.F.R. 436.1. 495

(C) "Injury" includes any injury, whether caused by 496
external accidental means or accidental in character and result, 497
received in the course of, and arising out of, the injured 498
employee's employment. "Injury" includes an injury or disability 499
caused by a COVID-19 vaccine, if the employer required the 500
employee to receive the vaccine as a condition of employment. 501
"Injury" does not include: 502

(1) Psychiatric conditions except where the claimant's 503
psychiatric conditions have arisen from an injury or 504

occupational disease sustained by that claimant or where the 505
claimant's psychiatric conditions have arisen from sexual 506
conduct in which the claimant was forced by threat of physical 507
harm to engage or participate; 508

(2) Injury or disability caused primarily by the natural 509
deterioration of tissue, an organ, or part of the body; 510

(3) Injury or disability incurred in voluntary 511
participation in an employer-sponsored recreation or fitness 512
activity if the employee signs a waiver of the employee's right 513
to compensation or benefits under this chapter prior to engaging 514
in the recreation or fitness activity; 515

(4) A condition that pre-existed an injury unless that 516
pre-existing condition is substantially aggravated by the 517
injury. Such a substantial aggravation must be documented by 518
objective diagnostic findings, objective clinical findings, or 519
objective test results. Subjective complaints may be evidence of 520
such a substantial aggravation. However, subjective complaints 521
without objective diagnostic findings, objective clinical 522
findings, or objective test results are insufficient to 523
substantiate a substantial aggravation. 524

(D) "Child" includes a posthumous child and a child 525
legally adopted prior to the injury. 526

(E) "Family farm corporation" means a corporation founded 527
for the purpose of farming agricultural land in which the 528
majority of the voting stock is held by and the majority of the 529
stockholders are persons or the spouse of persons related to 530
each other within the fourth degree of kinship, according to the 531
rules of the civil law, and at least one of the related persons 532
is residing on or actively operating the farm, and none of whose 533

stockholders are a corporation. A family farm corporation does 534
not cease to qualify under this division where, by reason of any 535
devise, bequest, or the operation of the laws of descent or 536
distribution, the ownership of shares of voting stock is 537
transferred to another person, as long as that person is within 538
the degree of kinship stipulated in this division. 539

(F) "Occupational disease" means a disease contracted in 540
the course of employment, which by its causes and the 541
characteristics of its manifestation or the condition of the 542
employment results in a hazard which distinguishes the 543
employment in character from employment generally, and the 544
employment creates a risk of contracting the disease in greater 545
degree and in a different manner from the public in general. 546

(G) "Self-insuring employer" means an employer who is 547
granted the privilege of paying compensation and benefits 548
directly under section 4123.35 of the Revised Code, including a 549
board of county commissioners for the sole purpose of 550
constructing a sports facility as defined in section 307.696 of 551
the Revised Code, provided that the electors of the county in 552
which the sports facility is to be built have approved 553
construction of a sports facility by ballot election no later 554
than November 6, 1997. 555

(H) "Private employer" means an employer as defined in 556
division (B) (1) (b) of this section. 557

(I) "Professional employer organization" has the same 558
meaning as in section 4125.01 of the Revised Code. 559

(J) "Public employer" means an employer as defined in 560
division (B) (1) (a) of this section. 561

(K) "Sexual conduct" means vaginal intercourse between a 562

male and female; anal intercourse, fellatio, and cunnilingus 563
between persons regardless of gender; and, without privilege to 564
do so, the insertion, however slight, of any part of the body or 565
any instrument, apparatus, or other object into the vaginal or 566
anal cavity of another. Penetration, however slight, is 567
sufficient to complete vaginal or anal intercourse. 568

(L) "Other-states' insurer" means an insurance company 569
that is authorized to provide workers' compensation insurance 570
coverage in any of the states that permit employers to obtain 571
insurance for workers' compensation claims through insurance 572
companies. 573

(M) "Other-states' coverage" means both of the following: 574

(1) Insurance coverage secured by an eligible employer for 575
workers' compensation claims of employees who are in employment 576
relationships localized in a state other than this state or 577
those employees' dependents; 578

(2) Insurance coverage secured by an eligible employer for 579
workers' compensation claims that arise in a state other than 580
this state where an employer elects to obtain coverage through 581
either the administrator or an other-states' insurer. 582

(N) "Limited other-states coverage" means insurance 583
coverage provided by the administrator to an eligible employer 584
for workers' compensation claims of employees who are in an 585
employment relationship localized in this state but are 586
temporarily working in a state other than this state, or those 587
employees' dependents. 588

(O) "Motor carrier" has the same meaning as in section 589
4923.01 of the Revised Code. 590

(P) "Alternate employer organization" has the same meaning 591

as in section 4133.01 of the Revised Code. 592

Sec. 4123.87. For claims arising during the period 593
beginning on the effective date of this section and ending June 594
30, 2023, both of the following apply: 595

(A) No claimant is entitled to compensation or benefits 596
under this chapter or Chapter 4121., 4127., or 4131. of the 597
Revised Code for an injury caused by a COVID-19 vaccine required 598
by an employer as a condition of employment if the claimant 599
received compensation under the "National Childhood Vaccine 600
Injury Act of 1986," 42 U.S.C. 300aa-1, et seq. or the "The 601
Public Readiness and Emergency Preparedness (PREP) Act," 42 602
U.S.C. 247d-6d. 603

(B) If a claimant receives an award of compensation or 604
benefits under this chapter or Chapter 4121., 4127., or 4131. of 605
the Revised Code for an injury described in division (A) of this 606
section and also received compensation as described in division 607
(A) (2) of this section, the administrator of workers' 608
compensation or any self-insuring employer, by any lawful means, 609
may collect from the claimant any of the following: 610

(1) The amount of compensation or benefits paid to or on 611
behalf of the claimant by the administrator or a self-insuring 612
employer pursuant to this chapter or Chapter 4121., 4127., or 613
4131. of the Revised Code for that award; 614

(2) Any interest, attorney's fees, and costs the 615
administrator or the self-insuring employer incurs in collecting 616
that payment. 617

Sec. 4765.60. Notwithstanding any conflicting provision of 618
the Revised Code, an emergency medical technician-basic, 619
emergency medical technician-intermediate, and emergency medical 620

technician-paramedic who has received proper training may 621
administer a test for COVID-19 and collect and label test 622
specimens. 623

Section 2. That existing section 4123.01 of the Revised 624
Code is hereby repealed. 625

Section 3. That sections 3792.05, 3792.06, 3792.07, and 626
3792.08 of the Revised Code are hereby repealed, effective June 627
30, 2023. 628

Section 4. (A) As used in this section: 629

(1) "Advanced practice registered nurse" means an 630
individual who holds a current, valid license issued under 631
Chapter 4723. of the Revised Code to practice as an advanced 632
practice registered nurse. 633

(2) "Athletic trainer" means an individual licensed under 634
Chapter 4755. of the Revised Code to practice athletic training. 635

(3) "Audiologist" means an individual licensed under 636
Chapter 4753. of the Revised Code to practice audiology. 637

(4) "Behavioral health provider" means a provider of 638
alcohol and drug addiction services, mental health services, or 639
other behavioral health services and includes the following 640
providers: 641

(a) An independent chemical dependency counselor-clinical 642
supervisor, independent chemical dependency counselor, chemical 643
dependency counselor III, and chemical dependency counselor II, 644
licensed under Chapter 4758. of the Revised Code, and a chemical 645
dependency counselor assistant, prevention consultant, 646
prevention specialist, prevention specialist assistant, and 647
registered applicant, certified under that chapter; 648

(b) A licensed professional clinical counselor, licensed 649
professional counselor, independent social worker, social 650
worker, independent marriage and family therapist, or marriage 651
and family therapist who holds a current, valid license issued 652
under Chapter 4757. of the Revised Code; 653

(c) A psychologist. 654

(5) "Board of health" means the board of health of a city 655
or general health district or the authority having the duties of 656
a board of health under section 3709.05 of the Revised Code. 657

(6) "Chiropractor" means an individual who is authorized 658
under Chapter 4734. of the Revised Code to practice 659
chiropractic. 660

(7) "Dental hygienist" means an individual licensed under 661
Chapter 4715. of the Revised Code to practice as a dental 662
hygienist. 663

(8) "Dentist" has the same meaning as in section 2305.231 664
of the Revised Code. 665

(9) "Direct support professional" means an individual 666
employed by an agency to provide direct care to individuals with 667
developmental disabilities. 668

(10) "Disaster" means any occurrence of widespread 669
personal injury or loss of life that results from any natural or 670
technological phenomenon or act of a human, or an epidemic and 671
is declared to be a disaster by the federal government, the 672
state government, or a political subdivision of this state. 673

(11) "Emergency" has the same meaning as in section 674
5502.21 of the Revised Code. 675

(12) "Emergency medical technician" means an EMT-basic, an 676

EMT-I, or a paramedic. 677

(13) "EMT-basic" means an individual who holds a current, 678
valid certificate issued under section 4765.30 of the Revised 679
Code to practice as an emergency medical technician-basic. 680

(14) "EMT-I" means an individual who holds a current, 681
valid certificate issued under section 4765.30 of the Revised 682
Code to practice as an emergency medical technician- 683
intermediate. 684

(15) "Facility" means an institution or setting where 685
health care services are provided, including, without 686
limitation, a hospital, inpatient, ambulatory, surgical, 687
emergency care, urgent care, treatment, laboratory, adult day- 688
care, residential care, residential treatment, long-term care, 689
or intermediate care facility, or a facility for individuals 690
with developmental disabilities; a physician's office; a 691
developmental, diagnostic, or imaging center; a rehabilitation 692
or therapeutic health setting; a federally qualified health 693
center or federally qualified health center look-alike; or any 694
modular field treatment facility or alternative care site 695
designated for temporary use for the purposes of providing 696
health care services in response to a disaster or emergency. 697

(16) "Facility for individuals with developmental 698
disabilities" means a facility that provides services to two or 699
more unrelated individuals with developmental disabilities in a 700
residential setting, such as an institution for mental disease 701
or a residential facility licensed under section 5123.19 of the 702
Revised Code. 703

(17) "Federally qualified health center" and "federally 704
qualified health center look-alike" have the same meanings as in 705

section 3701.047 of the Revised Code. 706

(18) "Gross negligence" means a lack of care so great that 707
it appears to be a conscious indifference to the rights of 708
others. 709

(19) "Health care professional" means an advanced practice 710
registered nurse, a registered nurse, a licensed practical 711
nurse, a pharmacist, a dentist, a dental hygienist, an 712
optometrist, a physician, a physician assistant, a chiropractor, 713
a physical therapist, an occupational therapist, an athletic 714
trainer, a speech-language pathologist, an audiologist, a 715
laboratory worker, a massage therapist, or a respiratory care 716
professional. 717

(20) "Health care provider" means a health care 718
professional, health care worker, direct support professional, 719
behavioral health provider, hearing aid dealer, hearing aid 720
fitter, or emergency medical technician or a home health agency, 721
hospice care program, home and community-based services 722
provider, or facility, including any agent, board member, 723
committee member, employee, employer, officer, or volunteer of 724
the agency, program, provider, or facility acting in the course 725
of the agent's, board member's, committee member's, employee's, 726
employer's, officer's, or volunteer's service or employment. 727

(21) "Health care services" means services rendered by a 728
health care provider for the diagnosis, prevention, treatment, 729
cure, or relief of a health condition, illness, injury, or 730
disease, including the provision of any medication, medical 731
equipment, or other medical product. "Health care services" 732
includes personal care services and experimental treatments. 733

(22) "Health care worker" means a person other than a 734

health care professional or emergency medical technician who 735
provides medical, dental, or other health care services under 736
the direction of a health care professional authorized to direct 737
the individual's activities. "Health care worker" includes a 738
medical technician, medical assistant, dental assistant, 739
occupational therapy assistant, physical therapist assistant, 740
orderly, nurse aide, and any other individual acting in a 741
similar capacity. 742

(23) "Hearing aid dealer" and "hearing aid fitter" have 743
the same meanings as in section 4747.01 of the Revised Code. 744

(24) "Home and community-based services provider" means a 745
provider of services under a home and community-based services 746
medicaid waiver component. 747

(25) "Home health agency" has the same meaning as in 748
section 3701.881 of the Revised Code. 749

(26) "Hospice care program" has the same meaning as in 750
section 3712.01 of the Revised Code. 751

(27) "Hospital" and "medical claim" have the same meanings 752
as in section 2305.113 of the Revised Code. 753

(28) "Licensed practical nurse" means an individual who 754
holds a current, valid license issued under Chapter 4723. of the 755
Revised Code to practice as a licensed practical nurse. 756

(29) "Long-term care facility" has the same meaning as in 757
section 3701.74 of the Revised Code. 758

(30) "Massage therapist" means an individual licensed 759
under section 4731.15 of the Revised Code to practice massage 760
therapy. 761

(31) "Medicaid waiver component" has the same meaning as 762

in section 5166.01 of the Revised Code. 763

(32) "Occupational therapist" means an individual who 764
holds a current license or limited certificate under Chapter 765
4755. of the Revised Code to practice occupational therapy. 766

(33) "Occupational therapy assistant" means an individual 767
who holds a license or limited permit under Chapter 4755. of the 768
Revised Code to practice as an occupational therapy assistant. 769

(34) "Optometrist" means a person who is licensed under 770
Chapter 4725. of the Revised Code to practice optometry. 771

(35) "Paramedic" means an individual who holds a current, 772
valid certificate issued under section 4765.30 of the Revised 773
Code to practice as an emergency medical technician-paramedic. 774

(36) "Personal care services" has the same meaning as in 775
section 3721.01 of the Revised Code. 776

(37) "Pharmacist" means an individual who holds a current, 777
valid license issued under Chapter 4729. of the Revised Code to 778
practice as a pharmacist. 779

(38) "Physical therapist" means an individual licensed 780
under Chapter 4755. of the Revised Code to practice physical 781
therapy. 782

(39) "Physical therapist assistant" means an individual 783
licensed under Chapter 4755. of the Revised Code to practice as 784
a physical therapist assistant. 785

(40) "Physician" means an individual who is authorized 786
under Chapter 4731. of the Revised Code to practice medicine and 787
surgery, osteopathic medicine and surgery, or podiatric medicine 788
and surgery. 789

(41) "Physician assistant" means an individual who is 790
authorized under Chapter 4730. of the Revised Code to practice 791
as a physician assistant. 792

(42) "Psychologist" means an individual who is licensed as 793
a psychologist or school psychologist under Chapter 4732. of the 794
Revised Code. 795

(43) "Reckless disregard" means, as it applies to a given 796
health care provider rendering health care services, emergency 797
medical services, first-aid treatment, or other emergency 798
professional care, conduct by which, with heedless indifference 799
to the consequences, the health care provider disregards a 800
substantial and unjustifiable risk that the health care 801
provider's conduct is likely to cause, at the time those 802
services or that treatment or care were rendered, an 803
unreasonable risk of injury, death, or loss to person or 804
property. 805

(44) "Registered nurse" means an individual who holds a 806
current, valid license issued under Chapter 4723. of the Revised 807
Code to practice as a registered nurse. 808

(45) "Respiratory care professional" has the same meaning 809
as in section 4761.01 of the Revised Code. 810

(46) "Speech-language pathologist" means an individual 811
licensed under Chapter 4753. of the Revised Code to practice 812
speech-language pathology. 813

(47) "Tort action" means a civil action for damages for 814
injury, death, or loss to person or property and includes claims 815
arising under resident or patient bills of rights and 816
contractual claims arising out of statutory or regulatory 817
requirements applicable to health care providers. "Tort action" 818

includes an action on a medical claim. 819

(B) (1) Subject to division (C) (3) of this section, a 820
health care provider that provides health care services, 821
emergency medical services, first-aid treatment, or other 822
emergency professional care, including the provision of any 823
medication or other medical equipment or product, as a result of 824
or in response to a disaster or emergency is not subject to 825
professional disciplinary action and is not liable in damages to 826
any person or government agency in a tort action for injury, 827
death, or loss to person or property that allegedly arises from 828
any of the following: 829

(a) An act or omission of the health care provider in the 830
health care provider's provision, withholding, or withdrawal of 831
those services; 832

(b) Any decision related to the provision, withholding, or 833
withdrawal of those services; 834

(c) Compliance with an executive order or director's order 835
issued during and in response to the disaster or emergency. 836

(2) Division (B) (1) of this section does not apply in a 837
tort action if the health care provider's action, omission, 838
decision, or compliance constitutes a reckless disregard for the 839
consequences so as to affect the life or health of the patient 840
or intentional misconduct or willful or wanton misconduct on the 841
part of the person against whom the action is brought. 842

(3) Division (B) (1) of this section does not apply in a 843
professional disciplinary action if the health care provider's 844
action, omission, decision, or compliance constitutes gross 845
negligence. 846

(4) A health care provider is not subject to professional 847

disciplinary action and is not liable in damages to any person 848
or government agency in a tort action for injury, death, or loss 849
to person or property that allegedly arises because the provider 850
was unable to treat, diagnose, or test the person for any 851
illness, disease, or condition, including the inability to 852
perform any elective procedure, due to an executive or 853
director's order or an order of a board of health of a city or 854
general health district issued in relation to an epidemic or 855
pandemic disease or other public health emergency. 856

(C) (1) This section does not create a new cause of action 857
or substantive legal right against a health care provider. 858

(2) This section does not affect any immunities from civil 859
liability or defenses established by another section of the 860
Revised Code or available at common law to which a health care 861
provider may be entitled in connection with the provision of 862
health care services, emergency medical services, first-aid 863
treatment, or other emergency professional care, including the 864
provision of medication, medical equipment, or other medical 865
product. 866

(3) This section does not grant an immunity from tort or 867
other civil liability or a professional disciplinary action to a 868
health care provider for actions that are outside the skills, 869
education, and training of the health care provider, unless the 870
health care provider undertakes the action in good faith and in 871
response to a lack of resources caused by a disaster or 872
emergency. 873

(4) This section does not affect any legal responsibility 874
of a health care provider to comply with any applicable law of 875
this state or rule of an agency of this state. 876

(5) Division (B) of this section applies only to the 877
provision, withholding, or withdrawal of health care services, 878
emergency medical services, first-aid treatment, or other 879
emergency professional care, including the provision of any 880
medication or other medical equipment or product, decisions 881
related to such services or care, or compliance with an 882
executive order or director's order by a health care provider as 883
a result of or in response to a disaster or emergency and 884
through the duration of the disaster or emergency. 885

(D) If the immunity described in division (B) of this 886
section does not apply, no class action shall be brought against 887
any health care provider alleging liability for damages for 888
injury, death, or loss to person or property on a cause of 889
action specified in that division. 890

(E) This section applies from September 30, 2021, through 891
June 30, 2023, and supersedes section 2305.2311 of the Revised 892
Code during that period. 893

Section 5. (A) No civil action for damages for injury, 894
death, or loss to person or property shall be brought against 895
any person if the cause of action on which the civil action is 896
based, in whole or in part, is that the injury, death, or loss 897
to person or property is caused by the exposure to, or the 898
transmission or contraction of, MERS-CoV, SARS-CoV, or SARS-CoV- 899
2, or any mutation thereof, unless it is established that the 900
exposure to, or the transmission or contraction of, any of those 901
viruses or mutations was by reckless conduct or intentional 902
misconduct or willful or wanton misconduct on the part of the 903
person against whom the action is brought. 904

(B) For purposes of division (A) of this section, a 905
government order, recommendation, or guideline shall neither 906

create nor be construed as creating a duty of care upon any 907
person that may be enforced in a cause of action or that may 908
create a new cause of action or substantive legal right against 909
any person with respect to the matters contained in the 910
government order, recommendation, or guideline. A presumption 911
exists that any such government order, recommendation, or 912
guideline is not admissible as evidence that a duty of care, a 913
new cause of action, or a substantive legal right has been 914
established. 915

(C) If the immunity described in division (A) of this 916
section does not apply, no class action shall be brought against 917
any person alleging liability for damages for injury, death, or 918
loss to person or property on a cause of action specified in 919
that division. 920

(D) As used in this section: 921

(1) "MERS-CoV" means the coronavirus that causes middle 922
east respiratory syndrome. 923

(2) "Person" has the same meaning as in section 1.59 of 924
the Revised Code and includes a school, a for-profit or 925
nonprofit entity, a governmental entity, a religious entity, or 926
a state institution of higher education. 927

(3) "Reckless conduct" means conduct by which, with 928
heedless indifference to the consequences, the person disregards 929
a substantial and unjustifiable risk that the person's conduct 930
is likely to cause an exposure to, or a transmission or 931
contraction of, MERS-CoV, SARS-CoV, or SARS-CoV-2, or any 932
mutation thereof, or is likely to be of a nature that results in 933
an exposure to, or a transmission or contraction of, any of 934
those viruses or mutations. A person is reckless with respect to 935

circumstances in relation to causing an exposure to, or a 936
transmission or contraction of, MERS-CoV, SARS-CoV, or SARS-CoV- 937
2, or any mutation thereof, when, with heedless indifference to 938
the consequences, the person disregards a substantial and 939
unjustifiable risk that such circumstances are likely to exist. 940

(4) "SARS-CoV" means the coronavirus that causes severe 941
acute respiratory syndrome. 942

(5) "SARS-CoV-2" means the novel coronavirus that causes 943
coronavirus disease 2019 (COVID-19). 944

(6) "State institution of higher education" has the same 945
meaning as in section 3345.011 of the Revised Code. 946

(E) This section applies from September 30, 2021, through 947
June 30, 2023. 948

Section 6. Sections 4 and 5 of this act, regarding 949
temporary qualified civil immunities, are remedial in nature and 950
apply retroactively to acts, omissions, conduct, decisions, or 951
compliance from September 30, 2021, through June 30, 2023. 952

Section 7. The items of law contained in this act, and 953
their applications, are severable. If any item of law contained 954
in this act, or if any application of any item of law contained 955
in this act, is held invalid, the invalidity does not affect 956
other items of law contained in this act and their applications 957
that can be given effect without the invalid item of law or 958
application. 959