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Am. H. B. No. 447

Representative Lampton

Cosponsors: Representatives Merrin, Cross, Riedel, Carfagna, Baldrige, Bird, Carruthers, Crossman, Cutrona, Edwards, Fowler Arthur, Fraizer, Galonski, Ghanbari, Grendell, Hillyer, Jarrells, Jones, Lanese, LaRe, Loychik, McClain, Miller, A., Miller, J., Miranda, O'Brien, Patton, Pavliga, Richardson, Roemer, Russo, Schmidt, Seitz, Stephens, Troy, West

A BILL

To amend sections 4123.01, 4123.56, and 4123.64 of
the Revised Code regarding workers' compensation
for employees who work from home and other
changes to the Workers' Compensation Law.

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

Section 1. That sections 4123.01, 4123.56, and 4123.64 of
the Revised Code be amended to read as follows:

Sec. 4123.01. As used in this chapter:

(A) (1) "Employee" means:

(a) Every person in the service of the state, or of any
county, municipal corporation, township, or school district
therein, including regular members of lawfully constituted
police and fire departments of municipal corporations and
townships, whether paid or volunteer, and wherever serving
within the state or on temporary assignment outside thereof, and
executive officers of boards of education, under any appointment

or contract of hire, express or implied, oral or written, 16
including any elected official of the state, or of any county, 17
municipal corporation, or township, or members of boards of 18
education. 19

As used in division (A) (1) (a) of this section, the term 20
"employee" includes the following persons when responding to an 21
inherently dangerous situation that calls for an immediate 22
response on the part of the person, regardless of whether the 23
person is within the limits of the jurisdiction of the person's 24
regular employment or voluntary service when responding, on the 25
condition that the person responds to the situation as the 26
person otherwise would if the person were on duty in the 27
person's jurisdiction: 28

(i) Off-duty peace officers. As used in division (A) (1) (a) 29
(i) of this section, "peace officer" has the same meaning as in 30
section 2935.01 of the Revised Code. 31

(ii) Off-duty firefighters, whether paid or volunteer, of 32
a lawfully constituted fire department. 33

(iii) Off-duty first responders, emergency medical 34
technicians-basic, emergency medical technicians-intermediate, 35
or emergency medical technicians-paramedic, whether paid or 36
volunteer, of an ambulance service organization or emergency 37
medical service organization pursuant to Chapter 4765. of the 38
Revised Code. 39

(b) Every person in the service of any person, firm, or 40
private corporation, including any public service corporation, 41
that (i) employs one or more persons regularly in the same 42
business or in or about the same establishment under any 43
contract of hire, express or implied, oral or written, including 44

aliens and minors, household workers who earn one hundred sixty 45
dollars or more in cash in any calendar quarter from a single 46
household and casual workers who earn one hundred sixty dollars 47
or more in cash in any calendar quarter from a single employer, 48
or (ii) is bound by any such contract of hire or by any other 49
written contract, to pay into the state insurance fund the 50
premiums provided by this chapter. 51

(c) Every person who performs labor or provides services 52
pursuant to a construction contract, as defined in section 53
4123.79 of the Revised Code, if at least ten of the following 54
criteria apply: 55

(i) The person is required to comply with instructions 56
from the other contracting party regarding the manner or method 57
of performing services; 58

(ii) The person is required by the other contracting party 59
to have particular training; 60

(iii) The person's services are integrated into the 61
regular functioning of the other contracting party; 62

(iv) The person is required to perform the work 63
personally; 64

(v) The person is hired, supervised, or paid by the other 65
contracting party; 66

(vi) A continuing relationship exists between the person 67
and the other contracting party that contemplates continuing or 68
recurring work even if the work is not full time; 69

(vii) The person's hours of work are established by the 70
other contracting party; 71

(viii) The person is required to devote full time to the 72

business of the other contracting party;	73
(ix) The person is required to perform the work on the premises of the other contracting party;	74 75
(x) The person is required to follow the order of work set by the other contracting party;	76 77
(xi) The person is required to make oral or written reports of progress to the other contracting party;	78 79
(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;	80 81
(xiii) The person's expenses are paid for by the other contracting party;	82 83
(xiv) The person's tools and materials are furnished by the other contracting party;	84 85
(xv) The person is provided with the facilities used to perform services;	86 87
(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;	88 89
(xvii) The person is not performing services for a number of employers at the same time;	90 91
(xviii) The person does not make the same services available to the general public;	92 93
(xix) The other contracting party has a right to discharge the person;	94 95
(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.	96 97 98

Every person in the service of any independent contractor 99
or subcontractor who has failed to pay into the state insurance 100
fund the amount of premium determined and fixed by the 101
administrator of workers' compensation for the person's 102
employment or occupation or who is a self-insuring employer and 103
who has failed to pay compensation and benefits directly to the 104
employer's injured and to the dependents of the employer's 105
killed employees as required by section 4123.35 of the Revised 106
Code, shall be considered as the employee of the person who has 107
entered into a contract, whether written or verbal, with such 108
independent contractor unless such employees or their legal 109
representatives or beneficiaries elect, after injury or death, 110
to regard such independent contractor as the employer. 111

(d) Every person who operates a vehicle or vessel in the 112
performance of services for or on behalf of a motor carrier 113
transporting property, unless all of the following factors apply 114
to the person: 115

(i) The person owns the vehicle or vessel that is used in 116
performing the services for or on behalf of the carrier, or the 117
person leases the vehicle or vessel under a bona fide lease 118
agreement that is not a temporary replacement lease agreement. 119
For purposes of this division, a bona fide lease agreement does 120
not include an agreement between the person and the motor 121
carrier transporting property for which, or on whose behalf, the 122
person provides services. 123

(ii) The person is responsible for supplying the necessary 124
personal services to operate the vehicle or vessel used to 125
provide the service. 126

(iii) The compensation paid to the person is based on 127
factors related to work performed, including on a mileage-based 128

rate or a percentage of any schedule of rates, and not solely on	129
the basis of the hours or time expended.	130
(iv) The person substantially controls the means and	131
manner of performing the services, in conformance with	132
regulatory requirements and specifications of the shipper.	133
(v) The person enters into a written contract with the	134
carrier for whom the person is performing the services that	135
describes the relationship between the person and the carrier to	136
be that of an independent contractor and not that of an	137
employee.	138
(vi) The person is responsible for substantially all of	139
the principal operating costs of the vehicle or vessel and	140
equipment used to provide the services, including maintenance,	141
fuel, repairs, supplies, vehicle or vessel insurance, and	142
personal expenses, except that the person may be paid by the	143
carrier the carrier's fuel surcharge and incidental costs,	144
including tolls, permits, and lumper fees.	145
(vii) The person is responsible for any economic loss or	146
economic gain from the arrangement with the carrier.	147
(2) "Employee" does not mean any of the following:	148
(a) A duly ordained, commissioned, or licensed minister or	149
assistant or associate minister of a church in the exercise of	150
ministry;	151
(b) Any officer of a family farm corporation;	152
(c) An individual incorporated as a corporation;	153
(d) An officer of a nonprofit corporation, as defined in	154
section 1702.01 of the Revised Code, who volunteers the person's	155
services as an officer;	156

(e) An individual who otherwise is an employee of an 157
employer but who signs the waiver and affidavit specified in 158
section 4123.15 of the Revised Code on the condition that the 159
administrator has granted a waiver and exception to the 160
individual's employer under section 4123.15 of the Revised Code; 161

(f) (i) A qualifying employee described in division (A) (14) 162
(a) of section 5703.94 of the Revised Code when the qualifying 163
employee is performing disaster work in this state during a 164
disaster response period pursuant to a qualifying solicitation 165
received by the employee's employer; 166

(ii) A qualifying employee described in division (A) (14) 167
(b) of section 5703.94 of the Revised Code when the qualifying 168
employee is performing disaster work in this state during a 169
disaster response period on critical infrastructure owned or 170
used by the employee's employer; 171

(iii) As used in division (A) (2) (f) of this section, 172
"critical infrastructure," "disaster response period," "disaster 173
work," and "qualifying employee" have the same meanings as in 174
section 5703.94 of the Revised Code. 175

Any employer may elect to include as an "employee" within 176
this chapter, any person excluded from the definition of 177
"employee" pursuant to division (A) (1) (d) or (A) (2) (a), (b), 178
(c), or (e) of this section in accordance with rules adopted by 179
the administrator, with the advice and consent of the bureau of 180
workers' compensation board of directors. If an employer is a 181
partnership, sole proprietorship, individual incorporated as a 182
corporation, or family farm corporation, such employer may elect 183
to include as an "employee" within this chapter, any member of 184
such partnership, the owner of the sole proprietorship, the 185
individual incorporated as a corporation, or the officers of the 186

family farm corporation. Nothing in this section shall prohibit 187
a partner, sole proprietor, or any person excluded from the 188
definition of "employee" pursuant to division (A)(2)(a), (b), 189
(c), or (e) of this section from electing to be included as an 190
"employee" under this chapter in accordance with rules adopted 191
by the administrator, with the advice and consent of the board. 192

In the event of an election, the employer or person 193
electing coverage shall serve upon the bureau of workers' 194
compensation written notice naming the person to be covered and 195
include the person's remuneration for premium purposes in all 196
future payroll reports. No partner, sole proprietor, or person 197
excluded from the definition of "employee" pursuant to division 198
(A)(1)(d) or (A)(2)(a), (b), (c), or (e) of this section, shall 199
receive benefits or compensation under this chapter until the 200
bureau receives written notice of the election permitted by this 201
section. 202

For informational purposes only, the bureau shall 203
prescribe such language as it considers appropriate, on such of 204
its forms as it considers appropriate, to advise employers of 205
their right to elect to include as an "employee" within this 206
chapter a sole proprietor, any member of a partnership, or a 207
person excluded from the definition of "employee" under division 208
(A)(1)(d) or (A)(2)(a), (b), (c), or (e) of this section, that 209
they should check any health and disability insurance policy, or 210
other form of health and disability plan or contract, presently 211
covering them, or the purchase of which they may be considering, 212
to determine whether such policy, plan, or contract excludes 213
benefits for illness or injury that they might have elected to 214
have covered by workers' compensation. 215

(B)(1) "Employer" means: 216

(a) The state, including state hospitals, each county, 217
municipal corporation, township, school district, and hospital 218
owned by a political subdivision or subdivisions other than the 219
state; 220

(b) Every person, firm, professional employer 221
organization, alternate employer organization, and private 222
corporation, including any public service corporation, that (i) 223
has in service one or more employees or shared employees 224
regularly in the same business or in or about the same 225
establishment under any contract of hire, express or implied, 226
oral or written, or (ii) is bound by any such contract of hire 227
or by any other written contract, to pay into the insurance fund 228
the premiums provided by this chapter. 229

All such employers are subject to this chapter. Any member 230
of a firm or association, who regularly performs manual labor in 231
or about a mine, factory, or other establishment, including a 232
household establishment, shall be considered an employee in 233
determining whether such person, firm, or private corporation, 234
or public service corporation, has in its service, one or more 235
employees and the employer shall report the income derived from 236
such labor to the bureau as part of the payroll of such 237
employer, and such member shall thereupon be entitled to all the 238
benefits of an employee. 239

(2) "Employer" does not include a franchisor with respect 240
to the franchisor's relationship with a franchisee or an 241
employee of a franchisee, unless the franchisor agrees to assume 242
that role in writing or a court of competent jurisdiction 243
determines that the franchisor exercises a type or degree of 244
control over the franchisee or the franchisee's employees that 245
is not customarily exercised by a franchisor for the purpose of 246

protecting the franchisor's trademark, brand, or both. For 247
purposes of this division, "franchisor" and "franchisee" have 248
the same meanings as in 16 C.F.R. 436.1. 249

(C) "Injury" includes any injury, whether caused by 250
external accidental means or accidental in character and result, 251
received in the course of, and arising out of, the injured 252
employee's employment. "Injury" does not include: 253

(1) Psychiatric conditions except where the claimant's 254
psychiatric conditions have arisen from an injury or 255
occupational disease sustained by that claimant or where the 256
claimant's psychiatric conditions have arisen from sexual 257
conduct in which the claimant was forced by threat of physical 258
harm to engage or participate; 259

(2) Injury or disability caused primarily by the natural 260
deterioration of tissue, an organ, or part of the body; 261

(3) Injury or disability incurred in voluntary 262
participation in an employer-sponsored recreation or fitness 263
activity if the employee signs a waiver of the employee's right 264
to compensation or benefits under this chapter prior to engaging 265
in the recreation or fitness activity; 266

(4) Injury or disability sustained by an employee who 267
performs the employee's duties in a work area that is located 268
within the employee's home and that is separate and distinct 269
from the location of the employer, unless all of the following 270
apply: 271

(a) The employee's injury or disability arises out of the 272
employee's employment. 273

(b) The employee's injury or disability was caused by a 274
special hazard of the employee's employment activity. 275

(c) The employee's injury or disability is sustained in 276
the course of an activity undertaken by the employee for the 277
exclusive benefit of the employer. 278

(5) A condition that pre-existed an injury unless that 279
pre-existing condition is substantially aggravated by the 280
injury. Such a substantial aggravation must be documented by 281
objective diagnostic findings, objective clinical findings, or 282
objective test results. Subjective complaints may be evidence of 283
such a substantial aggravation. However, subjective complaints 284
without objective diagnostic findings, objective clinical 285
findings, or objective test results are insufficient to 286
substantiate a substantial aggravation. 287

(D) "Child" includes a posthumous child and a child 288
legally adopted prior to the injury. 289

(E) "Family farm corporation" means a corporation founded 290
for the purpose of farming agricultural land in which the 291
majority of the voting stock is held by and the majority of the 292
stockholders are persons or the spouse of persons related to 293
each other within the fourth degree of kinship, according to the 294
rules of the civil law, and at least one of the related persons 295
is residing on or actively operating the farm, and none of whose 296
stockholders are a corporation. A family farm corporation does 297
not cease to qualify under this division where, by reason of any 298
devise, bequest, or the operation of the laws of descent or 299
distribution, the ownership of shares of voting stock is 300
transferred to another person, as long as that person is within 301
the degree of kinship stipulated in this division. 302

(F) "Occupational disease" means a disease contracted in 303
the course of employment, which by its causes and the 304
characteristics of its manifestation or the condition of the 305

employment results in a hazard which distinguishes the 306
employment in character from employment generally, and the 307
employment creates a risk of contracting the disease in greater 308
degree and in a different manner from the public in general. 309

(G) "Self-insuring employer" means an employer who is 310
granted the privilege of paying compensation and benefits 311
directly under section 4123.35 of the Revised Code, including a 312
board of county commissioners for the sole purpose of 313
constructing a sports facility as defined in section 307.696 of 314
the Revised Code, provided that the electors of the county in 315
which the sports facility is to be built have approved 316
construction of a sports facility by ballot election no later 317
than November 6, 1997. 318

(H) "Private employer" means an employer as defined in 319
division (B) (1) (b) of this section. 320

(I) "Professional employer organization" has the same 321
meaning as in section 4125.01 of the Revised Code. 322

(J) "Public employer" means an employer as defined in 323
division (B) (1) (a) of this section. 324

(K) "Sexual conduct" means vaginal intercourse between a 325
male and female; anal intercourse, fellatio, and cunnilingus 326
between persons regardless of gender; and, without privilege to 327
do so, the insertion, however slight, of any part of the body or 328
any instrument, apparatus, or other object into the vaginal or 329
anal cavity of another. Penetration, however slight, is 330
sufficient to complete vaginal or anal intercourse. 331

(L) "Other-states' insurer" means an insurance company 332
that is authorized to provide workers' compensation insurance 333
coverage in any of the states that permit employers to obtain 334

insurance for workers' compensation claims through insurance	335
companies.	336
(M) "Other-states' coverage" means both of the following:	337
(1) Insurance coverage secured by an eligible employer for	338
workers' compensation claims of employees who are in employment	339
relationships localized in a state other than this state or	340
those employees' dependents;	341
(2) Insurance coverage secured by an eligible employer for	342
workers' compensation claims that arise in a state other than	343
this state where an employer elects to obtain coverage through	344
either the administrator or an other-states' insurer.	345
(N) "Limited other-states coverage" means insurance	346
coverage provided by the administrator to an eligible employer	347
for workers' compensation claims of employees who are in an	348
employment relationship localized in this state but are	349
temporarily working in a state other than this state, or those	350
employees' dependents.	351
(O) "Motor carrier" has the same meaning as in section	352
4923.01 of the Revised Code.	353
(P) "Alternate employer organization" has the same meaning	354
as in section 4133.01 of the Revised Code.	355
Sec. 4123.56. (A) Except as provided in division (D) of	356
this section, in the case of temporary disability, an employee	357
shall receive sixty-six and two-thirds per cent of the	358
employee's average weekly wage so long as such disability is	359
total, not to exceed a maximum amount of weekly compensation	360
which is equal to the statewide average weekly wage as defined	361
in division (C) of section 4123.62 of the Revised Code, and not	362
less than a minimum amount of compensation which is equal to	363

thirty-three and one-third per cent of the statewide average 364
weekly wage as defined in division (C) of section 4123.62 of the 365
Revised Code unless the employee's wage is less than thirty- 366
three and one-third per cent of the minimum statewide average 367
weekly wage, in which event the employee shall receive 368
compensation equal to the employee's full wages; provided that 369
for the first twelve weeks of total disability the employee 370
shall receive seventy-two per cent of the employee's full weekly 371
wage, but not to exceed a maximum amount of weekly compensation 372
which is equal to the lesser of the statewide average weekly 373
wage as defined in division (C) of section 4123.62 of the 374
Revised Code or one hundred per cent of the employee's net take- 375
home weekly wage. In the case of a self-insuring employer, 376
payments shall be for a duration based upon the medical reports 377
of the attending physician. If the employer disputes the 378
attending physician's report, payments may be terminated only 379
upon application and hearing by a district hearing officer 380
pursuant to division (C) of section 4123.511 of the Revised 381
Code. Payments shall continue pending the determination of the 382
matter, however payment shall not be made for the period when 383
any employee has returned to work, when an employee's treating 384
physician has made a written statement that the employee is 385
capable of returning to the employee's former position of 386
employment, when work within the physical capabilities of the 387
employee is made available by the employer or another employer, 388
or when the employee has reached the maximum medical 389
improvement. Where the employee is capable of work activity, but 390
the employee's employer is unable to offer the employee any 391
employment, the employee shall register with the director of job 392
and family services, who shall assist the employee in finding 393
suitable employment. The termination of temporary total 394
disability, whether by order or otherwise, does not preclude the 395

commencement of temporary total disability at another point in 396
time if the employee again becomes temporarily totally disabled. 397

After two hundred weeks of temporary total disability 398
benefits, the ~~medical section of the bureau of workers'~~ 399
compensation ~~shall~~ may schedule the claimant for an examination 400
for an evaluation to determine whether or not the temporary 401
disability has become permanent. A self-insuring employer shall 402
notify the bureau immediately after payment of two hundred weeks 403
of temporary total disability ~~and~~. The self-insuring employer 404
may request that the bureau schedule the claimant for ~~such an~~ 405
examination to determine whether the temporary disability has 406
become permanent. 407

When the employee is awarded compensation for temporary 408
total disability for a period for which the employee has 409
received benefits under Chapter 4141. of the Revised Code, the 410
bureau shall pay an amount equal to the amount received from the 411
award to the director of job and family services and the 412
director shall credit the amount to the accounts of the 413
employers to whose accounts the payment of benefits was charged 414
or is chargeable to the extent it was charged or is chargeable. 415

If any compensation under this section has been paid for 416
the same period or periods for which temporary nonoccupational 417
accident and sickness insurance is or has been paid pursuant to 418
an insurance policy or program to which the employer has made 419
the entire contribution or payment for providing insurance or 420
under a nonoccupational accident and sickness program fully 421
funded by the employer, except as otherwise provided in this 422
division compensation paid under this section for the period or 423
periods shall be paid only to the extent by which the payment or 424
payments exceeds the amount of the nonoccupational insurance or 425

program paid or payable. Offset of the compensation shall be 426
made only upon the prior order of the bureau or industrial 427
commission or agreement of the claimant. If an employer provides 428
supplemental sick leave benefits in addition to temporary total 429
disability compensation paid under this section, and if the 430
employer and an employee agree in writing to the payment of the 431
supplemental sick leave benefits, temporary total disability 432
benefits may be paid without an offset for those supplemental 433
sick leave benefits. 434

As used in this division, "net take-home weekly wage" 435
means the amount obtained by dividing an employee's total 436
remuneration, as defined in section 4141.01 of the Revised Code, 437
paid to or earned by the employee during the first four of the 438
last five completed calendar quarters which immediately precede 439
the first day of the employee's entitlement to benefits under 440
this division, by the number of weeks during which the employee 441
was paid or earned remuneration during those four quarters, less 442
the amount of local, state, and federal income taxes deducted 443
for each such week. 444

(B) (1) If an employee in a claim allowed under this 445
chapter suffers a wage loss as a result of returning to 446
employment other than the employee's former position of 447
employment due to an injury or occupational disease, the 448
employee shall receive compensation at sixty-six and two-thirds 449
per cent of the difference between the employee's average weekly 450
wage and the employee's present earnings not to exceed the 451
statewide average weekly wage. The payments may continue for up 452
to a maximum of two hundred weeks, but the payments shall be 453
reduced by the corresponding number of weeks in which the 454
employee receives payments pursuant to division (A) (2) of 455
section 4121.67 of the Revised Code. 456

(2) If an employee in a claim allowed under this chapter 457
suffers a wage loss as a result of being unable to find 458
employment consistent with the employee's disability resulting 459
from the employee's injury or occupational disease, the employee 460
shall receive compensation at sixty-six and two-thirds per cent 461
of the difference between the employee's average weekly wage and 462
the employee's present earnings, not to exceed the statewide 463
average weekly wage. The payments may continue for up to a 464
maximum of fifty-two weeks. The first twenty-six weeks of 465
payments under division (B) (2) of this section shall be in 466
addition to the maximum of two hundred weeks of payments allowed 467
under division (B) (1) of this section. If an employee in a claim 468
allowed under this chapter receives compensation under division 469
(B) (2) of this section in excess of twenty-six weeks, the number 470
of weeks of compensation allowable under division (B) (1) of this 471
section shall be reduced by the corresponding number of weeks in 472
excess of twenty-six, and up to fifty-two, that is allowable 473
under division (B) (1) of this section. 474

(3) The number of weeks of wage loss payable to an 475
employee under divisions (B) (1) and (2) of this section shall 476
not exceed two hundred and twenty-six weeks in the aggregate. 477

(C) In the event an employee of a professional sports 478
franchise domiciled in this state is disabled as the result of 479
an injury or occupational disease, the total amount of payments 480
made under a contract of hire or collective bargaining agreement 481
to the employee during a period of disability is deemed an 482
advanced payment of compensation payable under sections 4123.56 483
to 4123.58 of the Revised Code. The employer shall be reimbursed 484
the total amount of the advanced payments out of any award of 485
compensation made pursuant to sections 4123.56 to 4123.58 of the 486
Revised Code. 487

(D) If an employee receives temporary total disability 488
benefits pursuant to division (A) of this section and social 489
security retirement benefits pursuant to the "Social Security 490
Act," the weekly benefit amount under division (A) of this 491
section shall not exceed sixty-six and two-thirds per cent of 492
the statewide average weekly wage as defined in division (C) of 493
section 4123.62 of the Revised Code. 494

(E) If an employee is eligible for compensation under 495
division (A) of this section, but the employee's full weekly 496
wage has not been determined at the time payments are to 497
commence under division (H) of section 4123.511 of the Revised 498
Code, the employee shall receive thirty-three and one-third per 499
cent of the statewide average weekly wage as defined in division 500
(C) of section 4123.62 of the Revised Code. On determination of 501
the employee's full weekly wage, the compensation an employee 502
receives shall be adjusted pursuant to division (A) of this 503
section. 504

If the amount of compensation an employee receives under 505
this division is greater than the adjusted amount the employee 506
receives under division (A) of this section that is based on the 507
employee's full weekly wage, the excess amount shall be 508
recovered in the manner provided in division (K) of section 509
4123.511 of the Revised Code. If the amount of compensation an 510
employee receives under this division is less than the adjusted 511
amount the employee receives under that division that is based 512
on the employee's full weekly wage, the employee shall receive 513
the difference between those two amounts. 514

(F) If an employee is unable to work or suffers a wage 515
loss as the direct result of an impairment arising from an 516
injury or occupational disease, the employee is entitled to 517

receive compensation under this section, provided the employee 518
is otherwise qualified. If an employee is not working or has 519
suffered a wage loss as the direct result of reasons unrelated 520
to the allowed injury or occupational disease, the employee is 521
not eligible to receive compensation under this section. It is 522
the intent of the general assembly to supersede any previous 523
judicial decision that applied the doctrine of voluntary 524
abandonment to a claim brought under this section. 525

Sec. 4123.64. (A) The administrator of workers' 526
compensation, under special circumstances, and when the same is 527
deemed advisable for the purpose of rendering the injured or 528
disabled employee financial relief or for the purpose of 529
furthering ~~his~~the injured or disabled employee's rehabilitation, 530
may commute payments of compensation or benefits to one or more 531
lump-sum payments. 532

(B) The administrator shall adopt rules which set forth 533
the policy for awarding lump sum payments. The rules shall: 534

(1) Enumerate the allowable purposes for payments and the 535
conditions for making such awards; 536

(2) Enumerate the maximum reduction in compensation 537
allowable; 538

(3) Enumerate the documentation necessary to award a lump- 539
sum payment; 540

(4) Require that all checks include the claimant as a 541
payee, except where the check is for the payment of attorney's 542
fees in accordance with section 4123.06 of the Revised Code, in 543
which case the attorney shall be named as the only payee on the 544
check; 545

(5) Require a fully completed and current application 546

including notary and seal; and	547
(6) Specify procedures to make a claimant aware of the	548
reduction in amount of compensation which will occur.	549
(C) An order of the administrator issued under this	550
section is appealable pursuant to section 4123.511 of the	551
Revised Code but is not appealable to court under section	552
4123.512 of the Revised Code.	553
Section 2. That existing sections 4123.01, 4123.56, and	554
4123.64 of the Revised Code are hereby repealed.	555