



*BEFORE THE SENATE INSURANCE COMMITTEE
PROPONENT TESTIMONY ON HOUSE BILL 447*

Chairman Hackett, Vice Chair Romanchuk, Ranking Member Craig, and members of the Senate Insurance Committee, thank you for the opportunity to provide proponent testimony on House Bill 447 (HB 447). My name is Kevin Shimp and I am the General Counsel and Director of Labor and Legal Affairs for the Ohio Chamber of Commerce.

The Ohio Chamber is the state's leading business advocate, and we represent over 8,000 companies that do business in Ohio. Our mission is to aggressively champion free enterprise, economic competitiveness and growth for the benefit of all Ohioans.

In our efforts to champion economic competitiveness, the Ohio Chamber supports House Bill 447 because it modernizes Ohio's workers' compensation law to reflect the growing number of employees who are working from home following the coronavirus. HB 447 does this by amending the current definition of what is considered an injury under Ohio workers' compensation law to recognize there are risks in a work from home environment that are not present in a traditional work environment.

This change in the law is necessary because employers are unable to remove certain hazards from an employee's home and cannot foresee all potential injuries arising from the employee's home. For these reasons, HB 447 limits compensable workers' compensation injuries to situations where a special hazard of a person's employment activity causes an injury or disability.

Under the legislation, a work from home employee is an employee who performs their duties in the employee's home or dwelling, away from their employer's premises. This definition matches the National Counsel on Compensation Insurance's (NCCI) manual classification code currently used by the Ohio Bureau of Workers' Compensation for clerical telecommuting employees. By borrowing the NCCI's characterization of who is a work from home employee, HB 447 effectively limits who is a work from home employee.

In addition to delineating who is a work from home employee subject to the provisions of HB 447, the legislation also creates a three-prong test to determine when a work from home employee has a compensable workers' compensation claim. The first prong confirms that injuries or disabilities must arise out of the employee's employment.

The second prong will codify that a work from home employees' injury must be a special hazard to their employment. The special hazard exception is a common law doctrine in Ohio workers' compensation law that applies when the risk that caused the injury is distinctive in nature or quantitatively greater than the risk common to the public.

The last prong, requires the injury or disability to occur in the course of an activity undertaken by the employee for the exclusive benefit of the employer. This means the work from home employee's injury would not be compensable under Ohio workers' compensation system when the employee was injured by a personal activity or errand.

Importantly, HB 447 still allows for employees who are working from home to bring workers' compensation claims. One common example of an injury that would be compensable is that of a cut, sprain or other injury to an employee while performing clerical type duties. Under that scenario, the claim is compensable since the risk that caused their injury arose out of their employment, is caused by a special hazard of their employment, and the injury occurred during the course of an activity solely for the employer's benefit.

Another example of a compensable injury would be a slip, trip or fall from a work from home employee who is attempting to reach their desk or phone to answer a phone call, retrieve documents from a printer, or file documents away and the employee trips over their office chair, their phone cord, or other work-related items.

The passage of HB 447 will also bring certainty to Ohio employers and employees alike about what types of injuries are compensable in a work from home environment. This certainty increases efficiencies in our workers' compensation system and can lower operating costs for employers. Likewise, creating a statutory scheme that defines what is a work from home injury will reduce litigation by creating uniformity in the law.

In closing, the Ohio Chamber urges your support for HB 447 because it represents a reasonable approach to reforming our state's workers' compensation law to account for the increase in the number of Ohioans who are working from home.

Thank you for the opportunity to testify and I welcome any questions from the committee.