

**As Passed by the Senate**

**131st General Assembly**

**Regular Session**

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**Sub. S. B. No. 27**

**Senator Patton**

**Cosponsors: Senators LaRose, Skindell, Hughes, Schiavoni, Tavares, Hottinger, Beagle, Jones, Brown, Bacon, Balderson, Burke, Cafaro, Eklund, Faber, Gentile, Hite, Lehner, Manning, Obhof, Oelslager, Sawyer, Thomas, Williams, Yuko**

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**A BILL**

To amend sections 742.38, 4123.57, and 4123.68 of  
the Revised Code to provide that a firefighter  
who is disabled as a result of specified types  
of cancer is presumed for purposes of the laws  
governing workers' compensation and the Ohio  
Police and Fire Pension Fund to have incurred  
the cancer while performing official duties as a  
firefighter.

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

**Section 1.** That sections 742.38, 4123.57, and 4123.68 of  
the Revised Code be amended to read as follows:

**Sec. 742.38.** (A) (1) The board of trustees of the Ohio  
police and fire pension fund shall adopt rules establishing  
minimum medical testing and diagnostic standards or procedures  
to be incorporated into physical examinations administered by  
physicians to prospective members of the fund. The standards or  
procedures shall include diagnosis and evaluation of the  
existence of any heart disease, cardiovascular disease, or

respiratory disease. The rules shall specify the form of the 18  
physician's report and the information to be included in it. 19

The board shall notify all employers of the establishment 20  
of the minimum standards or procedures and shall include with 21  
the notice a copy of the standards or procedures. The board 22  
shall notify all employers of any changes made to the standards 23  
or procedures. Once the standards or procedures take effect, 24  
employers shall cause each prospective member of the fund to 25  
submit to a physical examination that incorporates the standards 26  
or procedures. 27

(2) Division (A)(2) of this section applies to an employee 28  
who becomes a member of the fund on or after the date the 29  
minimum standards or procedures described in division (A)(1) of 30  
this section take effect. For each employee described in 31  
division (A)(2) of this section, the employer shall forward to 32  
the board a copy of the physician's report of a physical 33  
examination that incorporates the standards or procedures 34  
described in division (A)(1) of this section. If an employer 35  
fails to forward the report in the form required by the board on 36  
or before the date that is sixty days after the employee becomes 37  
a member of the fund, the board shall assess against the 38  
employer a penalty determined under section 742.353 of the 39  
Revised Code. 40

(B) Application for a disability benefit may be made by a 41  
member of the fund or, if the member is incapacitated as defined 42  
in rules adopted by the board, by a person acting on the 43  
member's behalf. Not later than fourteen days after receiving an 44  
application for a disability benefit from a member or a person 45  
acting on behalf of a member, the board shall notify the 46  
member's employer that an application has been filed. The notice 47

shall state the member's position or rank. Not later than 48  
twenty-eight days after receiving the notice or filing an 49  
application on behalf of a member, the employer shall forward to 50  
the board a statement certifying the member's job description 51  
and any other information required by the board to process the 52  
application. 53

If the member applying for a disability benefit becomes a 54  
member of the fund prior to the date the minimum standards or 55  
procedures described in division (A) (1) of this section take 56  
effect, the board may request from the member's employer a copy 57  
of the physician's report of the member's physical examination 58  
taken on entry into the police or fire department or, if the 59  
employer does not have a copy of the report, a written statement 60  
certifying that the employer does not have a copy of the report. 61  
If an employer fails to forward the report or statement in the 62  
form required by the board on or before the date that is twenty- 63  
eight days after the date of the request, the board shall assess 64  
against the employer a penalty determined under section 742.353 65  
of the Revised Code. The board shall maintain the information 66  
submitted under this division and division (A) (2) of this 67  
section in the member's file. 68

(C) For purposes of determining under division (D) of this 69  
section whether a member of the fund is disabled, the board 70  
shall adopt rules establishing objective criteria under which 71  
the board shall make the determination. The rules shall include 72  
standards that provide for all of the following: 73

(1) Evaluating a member's illness or injury on which an 74  
application for disability benefits is based; 75

(2) Defining the occupational duties of a police officer 76  
or firefighter; 77

(3) Providing for the board to assign competent and 78  
disinterested physicians and vocational evaluators to conduct 79  
examinations of a member; 80

(4) Requiring a written report for each disability 81  
application that includes a summary of findings, medical 82  
opinions, including an opinion on whether the illness or injury 83  
upon which the member's application for disability benefits is 84  
based was caused or induced by the actual performance of the 85  
member's official duties, and any recommendations or comments 86  
based on the medical opinions; 87

(5) Providing for the board to consider the member's 88  
potential for retraining or reemployment. 89

(D) This division does not apply to members of the fund 90  
who have elected to receive benefits and pensions in accordance 91  
with division (A) or (B) of section 742.37 of the Revised Code 92  
or from a police relief and pension fund or a firemen's relief 93  
and pension fund in accordance with the rules of that fund in 94  
force on April 1, 1947. 95

As used in this division: 96

"Totally disabled" means a member of the fund is unable to 97  
perform the duties of any gainful occupation for which the 98  
member is reasonably fitted by training, experience, and 99  
accomplishments. Absolute helplessness is not a prerequisite of 100  
being totally disabled. 101

"Permanently disabled" means a condition of disability 102  
from which there is no present indication of recovery. 103

"Hazardous duty" has the same meaning as in 5 C.F.R. 104  
550.902, as amended. 105

(1) A member of the fund who is permanently and totally disabled as the result of the performance of the member's official duties as a member of a police or fire department shall be paid annual disability benefits in accordance with division (A) of section 742.39 of the Revised Code. In determining whether a member of the fund is permanently and totally disabled, the board shall consider standards adopted under division (C) of this section applicable to the determination.

(2) A member of the fund who is permanently and partially disabled as the result of the performance of the member's official duties as a member of a police or fire department shall, if the disability prevents the member from performing those duties and impairs the member's earning capacity, receive annual disability benefits in accordance with division (B) of section 742.39 of the Revised Code. In determining whether a member of the fund is permanently and partially disabled, the board shall consider standards adopted under division (C) of this section applicable to the determination.

(3) (a) A member of the fund who is permanently disabled as a result of heart disease or any cardiovascular or respiratory disease of a chronic nature, which disease or any evidence of which disease was not revealed by the physical examination passed by the member on entry into the department or another examination specified in rules the board adopts under section 742.10 of the Revised Code, is presumed to have incurred the disease while performing the member's official duties, unless the contrary is shown by competent evidence. The board may waive the requirement that the absence of disease be evidenced by a physical examination if competent medical evidence of a type specified in rules adopted under section 742.10 of the Revised Code is submitted documenting that the disease was not evident

prior to or at the time of entry into the department. 137

(b) A member of the fund who is a member of a fire department, has been assigned to at least three years of hazardous duty as a member of a fire department, and is disabled as a result of any of the following types of cancer, is presumed to have incurred the cancer while performing the member's official duties: 138  
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(i) Cancer of the lung, brain, kidney, bladder, rectum, stomach, skin, prostate, breast, cervix, or uterus; 144  
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(ii) Non-Hodgkins lymphoma; 146

(iii) Leukemia; 147

(iv) Multiple myeloma; 148

(v) Testicular or colorectal cancer. 149

(c) The presumption described in division (D) (3) (b) of this section does not apply in any of the following situations: 150  
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(i) If competent evidence to the contrary of the presumption is shown or if the cancer that resulted in the member's disability, or any evidence of that cancer, was revealed by the physical examination passed by the member on entry into the department; 152  
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(ii) If competent evidence is shown that the member was a substantial and consistent user of cigarettes or other tobacco products within the ten years immediately preceding the date of diagnosis of the cancer, and that this use was a significant factor in the cause, aggravation, or progression of the cancer; 157  
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(iii) The member is seventy-five years of age or older. 162

(4) A member of the fund who has five or more years of 163

service credit and has incurred a permanent disability not 164  
caused or induced by the actual performance of the member's 165  
official duties as a member of the department, or by the 166  
member's own negligence, shall if the disability prevents the 167  
member from performing those duties and impairs the member's 168  
earning capacity, receive annual disability benefits in 169  
accordance with division (C) of section 742.39 of the Revised 170  
Code. In determining whether a member of the fund is permanently 171  
disabled, the board shall consider standards adopted under 172  
division (C) of this section applicable to the determination. 173

(5) The board shall notify a member of its final action 174  
awarding a disability benefit to the member within thirty days 175  
of the final action. The notice shall be sent by certified mail, 176  
return receipt requested. Not later than ninety days after 177  
receipt of notice from the board, the member shall elect, on a 178  
form provided by the board, either to accept or waive the 179  
disability benefit award. If the member elects to waive the 180  
disability benefit award or fails to make an election within the 181  
time period, the award is rescinded. A member who later seeks a 182  
disability benefit award shall be required to make a new 183  
application, which shall be dealt with in accordance with the 184  
procedures used for original disability benefit applications. 185

A person is not eligible to apply for or receive 186  
disability benefits under this division, section 742.39 of the 187  
Revised Code, or division (C) (2), (3), (4), or (5) of former 188  
section 742.37 of the Revised Code unless the person is a member 189  
of the fund on the date on which the application for disability 190  
benefits is submitted to the fund. 191

With the exception of persons who may make application for 192  
increased benefits as provided in division (D) (2) or (4) of this 193

section or division (C) (3) or (5) of former section 742.37 of 194  
the Revised Code on or after July 24, 1986, or persons who may 195  
make application for benefits as provided in section 742.26 of 196  
the Revised Code, no person receiving a pension or benefit under 197  
this section or division (C) of former section 742.37 of the 198  
Revised Code may apply for any new, changed, or different 199  
benefit. 200

**Sec. 4123.57.** Partial disability compensation shall be 201  
paid as follows. 202

Except as provided in this section, not earlier than 203  
twenty-six weeks after the date of termination of the latest 204  
period of payments under section 4123.56 of the Revised Code, or 205  
not earlier than twenty-six weeks after the date of the injury 206  
or contraction of an occupational disease in the absence of 207  
payments under section 4123.56 of the Revised Code, the employee 208  
may file an application with the bureau of workers' compensation 209  
for the determination of the percentage of the employee's 210  
permanent partial disability resulting from an injury or 211  
occupational disease. 212

Whenever the application is filed, the bureau shall send a 213  
copy of the application to the employee's employer or the 214  
employer's representative and shall schedule the employee for a 215  
medical examination by the bureau medical section. The bureau 216  
shall send a copy of the report of the medical examination to 217  
the employee, the employer, and their representatives. 218  
Thereafter, the administrator of workers' compensation shall 219  
review the employee's claim file and make a tentative order as 220  
the evidence before the administrator at the time of the making 221  
of the order warrants. If the administrator determines that 222  
there is a conflict of evidence, the administrator shall send 223



the application, along with the claimant's file, to the district 224  
hearing officer who shall set the application for a hearing. 225

The administrator shall notify the employee, the employer, 226  
and their representatives, in writing, of the tentative order 227  
and of the parties' right to request a hearing. Unless the 228  
employee, the employer, or their representative notifies the 229  
administrator, in writing, of an objection to the tentative 230  
order within twenty days after receipt of the notice thereof, 231  
the tentative order shall go into effect and the employee shall 232  
receive the compensation provided in the order. In no event 233  
shall there be a reconsideration of a tentative order issued 234  
under this division. 235

If the employee, the employer, or their representatives 236  
timely notify the administrator of an objection to the tentative 237  
order, the matter shall be referred to a district hearing 238  
officer who shall set the application for hearing with written 239  
notices to all interested persons. Upon referral to a district 240  
hearing officer, the employer may obtain a medical examination 241  
of the employee, pursuant to rules of the industrial commission. 242

(A) The district hearing officer, upon the application, 243  
shall determine the percentage of the employee's permanent 244  
disability, except as is subject to division (B) of this 245  
section, based upon that condition of the employee resulting 246  
from the injury or occupational disease and causing permanent 247  
impairment evidenced by medical or clinical findings reasonably 248  
demonstrable. The employee shall receive sixty-six and two- 249  
thirds per cent of the employee's average weekly wage, but not 250  
more than a maximum of thirty-three and one-third per cent of 251  
the statewide average weekly wage as defined in division (C) of 252  
section 4123.62 of the Revised Code, per week regardless of the 253

average weekly wage, for the number of weeks which equals the 254  
percentage of two hundred weeks. Except on application for 255  
reconsideration, review, or modification, which is filed within 256  
ten days after the date of receipt of the decision of the 257  
district hearing officer, in no instance shall the former award 258  
be modified unless it is found from medical or clinical findings 259  
that the condition of the claimant resulting from the injury has 260  
so progressed as to have increased the percentage of permanent 261  
partial disability. A staff hearing officer shall hear an 262  
application for reconsideration filed and the staff hearing 263  
officer's decision is final. An employee may file an application 264  
for a subsequent determination of the percentage of the 265  
employee's permanent disability. If such an application is 266  
filed, the bureau shall send a copy of the application to the 267  
employer or the employer's representative. No sooner than sixty 268  
days from the date of the mailing of the application to the 269  
employer or the employer's representative, the administrator 270  
shall review the application. The administrator may require a 271  
medical examination or medical review of the employee. The 272  
administrator shall issue a tentative order based upon the 273  
evidence before the administrator, provided that if the 274  
administrator requires a medical examination or medical review, 275  
the administrator shall not issue the tentative order until the 276  
completion of the examination or review. 277

The employer may obtain a medical examination of the 278  
employee and may submit medical evidence at any stage of the 279  
process up to a hearing before the district hearing officer, 280  
pursuant to rules of the commission. The administrator shall 281  
notify the employee, the employer, and their representatives, in 282  
writing, of the nature and amount of any tentative order issued 283  
on an application requesting a subsequent determination of the 284

percentage of an employee's permanent disability. An employee, 285  
employer, or their representatives may object to the tentative 286  
order within twenty days after the receipt of the notice 287  
thereof. If no timely objection is made, the tentative order 288  
shall go into effect. In no event shall there be a 289  
reconsideration of a tentative order issued under this division. 290  
If an objection is timely made, the application for a subsequent 291  
determination shall be referred to a district hearing officer 292  
who shall set the application for a hearing with written notice 293  
to all interested persons. No application for subsequent 294  
percentage determinations on the same claim for injury or 295  
occupational disease shall be accepted for review by the 296  
district hearing officer unless supported by substantial 297  
evidence of new and changed circumstances developing since the 298  
time of the hearing on the original or last determination. 299

No award shall be made under this division based upon a 300  
percentage of disability which, when taken with all other 301  
percentages of permanent disability, exceeds one hundred per 302  
cent. If the percentage of the permanent disability of the 303  
employee equals or exceeds ninety per cent, compensation for 304  
permanent partial disability shall be paid for two hundred 305  
weeks. 306

Compensation payable under this division accrues and is 307  
payable to the employee from the date of last payment of 308  
compensation, or, in cases where no previous compensation has 309  
been paid, from the date of the injury or the date of the 310  
diagnosis of the occupational disease. 311

When an award under this division has been made prior to 312  
the death of an employee, all unpaid installments accrued or to 313  
accrue under the provisions of the award are payable to the 314

surviving spouse, or if there is no surviving spouse, to the 315  
dependent children of the employee, and if there are no children 316  
surviving, then to other dependents as the administrator 317  
determines. 318

(B) For purposes of this division, "payable per week" 319  
means the seven-consecutive-day period in which compensation is 320  
paid in installments according to the schedule associated with 321  
the applicable injury as set forth in this division. 322

Compensation paid in weekly installments according to the 323  
schedule described in this division may only be commuted to one 324  
or more lump sum payments pursuant to the procedure set forth in 325  
section 4123.64 of the Revised Code. 326

In cases included in the following schedule the 327  
compensation payable per week to the employee is the statewide 328  
average weekly wage as defined in division (C) of section 329  
4123.62 of the Revised Code per week and shall be paid in 330  
installments according to the following schedule: 331

For the loss of a first finger, commonly known as a thumb, 332  
sixty weeks. 333

For the loss of a second finger, commonly called index 334  
finger, thirty-five weeks. 335

For the loss of a third finger, thirty weeks. 336

For the loss of a fourth finger, twenty weeks. 337

For the loss of a fifth finger, commonly known as the 338  
little finger, fifteen weeks. 339

The loss of a second, or distal, phalange of the thumb is 340  
considered equal to the loss of one half of such thumb; the loss 341  
of more than one half of such thumb is considered equal to the 342

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| loss of the whole thumb.                                         | 343 |
| The loss of the third, or distal, phalange of any finger         | 344 |
| is considered equal to the loss of one-third of the finger.      | 345 |
| The loss of the middle, or second, phalange of any finger        | 346 |
| is considered equal to the loss of two-thirds of the finger.     | 347 |
| The loss of more than the middle and distal phalanges of         | 348 |
| any finger is considered equal to the loss of the whole finger.  | 349 |
| In no case shall the amount received for more than one finger    | 350 |
| exceed the amount provided in this schedule for the loss of a    | 351 |
| hand.                                                            | 352 |
| For the loss of the metacarpal bone (bones of the palm)          | 353 |
| for the corresponding thumb, or fingers, add ten weeks to the    | 354 |
| number of weeks under this division.                             | 355 |
| For ankylosis (total stiffness of) or contractures (due to       | 356 |
| scars or injuries) which makes any of the fingers, thumbs, or    | 357 |
| parts of either useless, the same number of weeks apply to the   | 358 |
| members or parts thereof as given for the loss thereof.          | 359 |
| If the claimant has suffered the loss of two or more             | 360 |
| fingers by amputation or ankylosis and the nature of the         | 361 |
| claimant's employment in the course of which the claimant was    | 362 |
| working at the time of the injury or occupational disease is     | 363 |
| such that the handicap or disability resulting from the loss of  | 364 |
| fingers, or loss of use of fingers, exceeds the normal handicap  | 365 |
| or disability resulting from the loss of fingers, or loss of use | 366 |
| of fingers, the administrator may take that fact into            | 367 |
| consideration and increase the award of compensation             | 368 |
| accordingly, but the award made shall not exceed the amount of   | 369 |
| compensation for loss of a hand.                                 | 370 |
| For the loss of a hand, one hundred seventy-five weeks.          | 371 |

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|
| For the loss of an arm, two hundred twenty-five weeks.                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 372                                                  |
| For the loss of a great toe, thirty weeks.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 373                                                  |
| For the loss of one of the toes other than the great toe,<br>ten weeks.                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 374<br>375                                           |
| The loss of more than two-thirds of any toe is considered<br>equal to the loss of the whole toe.                                                                                                                                                                                                                                                                                                                                                                                                                             | 376<br>377                                           |
| The loss of less than two-thirds of any toe is considered<br>no loss, except as to the great toe; the loss of the great toe<br>up to the interphalangeal joint is co-equal to the loss of one-<br>half of the great toe; the loss of the great toe beyond the<br>interphalangeal joint is considered equal to the loss of the<br>whole great toe.                                                                                                                                                                            | 378<br>379<br>380<br>381<br>382<br>383               |
| For the loss of a foot, one hundred fifty weeks.                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 384                                                  |
| For the loss of a leg, two hundred weeks.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 385                                                  |
| For the loss of the sight of an eye, one hundred twenty-<br>five weeks.                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 386<br>387                                           |
| For the permanent partial loss of sight of an eye, the<br>portion of one hundred twenty-five weeks as the administrator in<br>each case determines, based upon the percentage of vision<br>actually lost as a result of the injury or occupational disease,<br>but, in no case shall an award of compensation be made for less<br>than twenty-five per cent loss of uncorrected vision. "Loss of<br>uncorrected vision" means the percentage of vision actually lost<br>as the result of the injury or occupational disease. | 388<br>389<br>390<br>391<br>392<br>393<br>394<br>395 |
| For the permanent and total loss of hearing of one ear,<br>twenty-five weeks; but in no case shall an award of compensation<br>be made for less than permanent and total loss of hearing of one<br>ear.                                                                                                                                                                                                                                                                                                                      | 396<br>397<br>398<br>399                             |

For the permanent and total loss of hearing, one hundred 400  
twenty-five weeks; but, except pursuant to the next preceding 401  
paragraph, in no case shall an award of compensation be made for 402  
less than permanent and total loss of hearing. 403

In case an injury or occupational disease results in 404  
serious facial or head disfigurement which either impairs or may 405  
in the future impair the opportunities to secure or retain 406  
employment, the administrator shall make an award of 407  
compensation as it deems proper and equitable, in view of the 408  
nature of the disfigurement, and not to exceed the sum of ten 409  
thousand dollars. For the purpose of making the award, it is not 410  
material whether the employee is gainfully employed in any 411  
occupation or trade at the time of the administrator's 412  
determination. 413

When an award under this division has been made prior to 414  
the death of an employee all unpaid installments accrued or to 415  
accrue under the provisions of the award shall be payable to the 416  
surviving spouse, or if there is no surviving spouse, to the 417  
dependent children of the employee and if there are no such 418  
children, then to such dependents as the administrator 419  
determines. 420

When an employee has sustained the loss of a member by 421  
severance, but no award has been made on account thereof prior 422  
to the employee's death, the administrator shall make an award 423  
in accordance with this division for the loss which shall be 424  
payable to the surviving spouse, or if there is no surviving 425  
spouse, to the dependent children of the employee and if there 426  
are no such children, then to such dependents as the 427  
administrator determines. 428

(C) Compensation for partial impairment under divisions 429

(A) and (B) of this section is in addition to the compensation 430  
paid the employee pursuant to section 4123.56 of the Revised 431  
Code. A claimant may receive compensation under divisions (A) 432  
and (B) of this section. 433

In all cases arising under division (B) of this section, 434  
if it is determined by any one of the following: (1) the amputee 435  
clinic at University hospital, Ohio state university; (2) the 436  
opportunities for Ohioans with disabilities agency; (3) an 437  
amputee clinic or prescribing physician approved by the 438  
administrator or the administrator's designee, that an injured 439  
or disabled employee is in need of an artificial appliance, or 440  
in need of a repair thereof, regardless of whether the appliance 441  
or its repair will be serviceable in the vocational 442  
rehabilitation of the injured employee, and regardless of 443  
whether the employee has returned to or can ever again return to 444  
any gainful employment, the bureau shall pay the cost of the 445  
artificial appliance or its repair out of the surplus created by 446  
division (B) of section 4123.34 of the Revised Code. 447

In those cases where an opportunities for Ohioans with 448  
disabilities ~~agency~~agency's recommendation that an injured or 449  
disabled employee is in need of an artificial appliance would 450  
conflict with their state plan, adopted pursuant to the 451  
"Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 701, the 452  
administrator or the administrator's designee or the bureau may 453  
obtain a recommendation from an amputee clinic or prescribing 454  
physician that they determine appropriate. 455

(D) If an employee of a state fund employer makes 456  
application for a finding and the administrator finds that the 457  
employee has contracted silicosis as defined in division ~~(X)~~(Y), 458  
or coal miners' pneumoconiosis as defined in division ~~(Y)~~(Z), or 459



asbestosis as defined in division ~~(AA)~~(BB) of section 4123.68 of 460  
the Revised Code, and that a change of such employee's 461  
occupation is medically advisable in order to decrease 462  
substantially further exposure to silica dust, asbestos, or coal 463  
dust and if the employee, after the finding, has changed or 464  
shall change the employee's occupation to an occupation in which 465  
the exposure to silica dust, asbestos, or coal dust is 466  
substantially decreased, the administrator shall allow to the 467  
employee an amount equal to fifty per cent of the statewide 468  
average weekly wage per week for a period of thirty weeks, 469  
commencing as of the date of the discontinuance or change, and 470  
for a period of one hundred weeks immediately following the 471  
expiration of the period of thirty weeks, the employee shall 472  
receive sixty-six and two-thirds per cent of the loss of wages 473  
resulting directly and solely from the change of occupation but 474  
not to exceed a maximum of an amount equal to fifty per cent of 475  
the statewide average weekly wage per week. No such employee is 476  
entitled to receive more than one allowance on account of 477  
discontinuance of employment or change of occupation and 478  
benefits shall cease for any period during which the employee is 479  
employed in an occupation in which the exposure to silica dust, 480  
asbestos, or coal dust is not substantially less than the 481  
exposure in the occupation in which the employee was formerly 482  
employed or for any period during which the employee may be 483  
entitled to receive compensation or benefits under section 484  
4123.68 of the Revised Code on account of disability from 485  
silicosis, asbestosis, or coal miners' pneumoconiosis. An award 486  
for change of occupation for a coal miner who has contracted 487  
coal miners' pneumoconiosis may be granted under this division 488  
even though the coal miner continues employment with the same 489  
employer, so long as the coal miner's employment subsequent to 490  
the change is such that the coal miner's exposure to coal dust 491

is substantially decreased and a change of occupation is 492  
certified by the claimant as permanent. The administrator may 493  
accord to the employee medical and other benefits in accordance 494  
with section 4123.66 of the Revised Code. 495

(E) If a firefighter or police officer makes application 496  
for a finding and the administrator finds that the firefighter 497  
or police officer has contracted a cardiovascular and pulmonary 498  
disease as defined in division (W) of section 4123.68 of the 499  
Revised Code, and that a change of the firefighter's or police 500  
officer's occupation is medically advisable in order to decrease 501  
substantially further exposure to smoke, toxic gases, chemical 502  
fumes, and other toxic vapors, and if the firefighter, or police 503  
officer, after the finding, has changed or changes occupation to 504  
an occupation in which the exposure to smoke, toxic gases, 505  
chemical fumes, and other toxic vapors is substantially 506  
decreased, the administrator shall allow to the firefighter or 507  
police officer an amount equal to fifty per cent of the 508  
statewide average weekly wage per week for a period of thirty 509  
weeks, commencing as of the date of the discontinuance or 510  
change, and for a period of seventy-five weeks immediately 511  
following the expiration of the period of thirty weeks the 512  
administrator shall allow the firefighter or police officer 513  
sixty-six and two-thirds per cent of the loss of wages resulting 514  
directly and solely from the change of occupation but not to 515  
exceed a maximum of an amount equal to fifty per cent of the 516  
statewide average weekly wage per week. No such firefighter or 517  
police officer is entitled to receive more than one allowance on 518  
account of discontinuance of employment or change of occupation 519  
and benefits shall cease for any period during which the 520  
firefighter or police officer is employed in an occupation in 521  
which the exposure to smoke, toxic gases, chemical fumes, and 522

other toxic vapors is not substantially less than the exposure 523  
in the occupation in which the firefighter or police officer was 524  
formerly employed or for any period during which the firefighter 525  
or police officer may be entitled to receive compensation or 526  
benefits under section 4123.68 of the Revised Code on account of 527  
disability from a cardiovascular and pulmonary disease. The 528  
administrator may accord to the firefighter or police officer 529  
medical and other benefits in accordance with section 4123.66 of 530  
the Revised Code. 531

(F) An order issued under this section is appealable 532  
pursuant to section 4123.511 of the Revised Code but is not 533  
appealable to court under section 4123.512 of the Revised Code. 534

**Sec. 4123.68.** Every employee who is disabled because of 535  
the contraction of an occupational disease or the dependent of 536  
an employee whose death is caused by an occupational disease, is 537  
entitled to the compensation provided by sections 4123.55 to 538  
4123.59 and 4123.66 of the Revised Code subject to the 539  
modifications relating to occupational diseases contained in 540  
this chapter. An order of the administrator issued under this 541  
section is appealable pursuant to sections 4123.511 and 4123.512 542  
of the Revised Code. 543

The following diseases are occupational diseases and 544  
compensable as such when contracted by an employee in the course 545  
of the employment in which such employee was engaged and due to 546  
the nature of any process described in this section. A disease 547  
which meets the definition of an occupational disease is 548  
compensable pursuant to this chapter though it is not 549  
specifically listed in this section. 550

SCHEDULE 551

|                                                                                                                                                                                                                                                                |     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Description of disease or injury and description of process:                                                                                                                                                                                                   | 552 |
|                                                                                                                                                                                                                                                                | 553 |
| (A) Anthrax: Handling of wool, hair, bristles, hides, and skins.                                                                                                                                                                                               | 554 |
|                                                                                                                                                                                                                                                                | 555 |
| (B) Glanders: Care of any equine animal suffering from glanders; handling carcass of such animal.                                                                                                                                                              | 556 |
|                                                                                                                                                                                                                                                                | 557 |
| (C) Lead poisoning: Any industrial process involving the use of lead or its preparations or compounds.                                                                                                                                                         | 558 |
|                                                                                                                                                                                                                                                                | 559 |
| (D) Mercury poisoning: Any industrial process involving the use of mercury or its preparations or compounds.                                                                                                                                                   | 560 |
|                                                                                                                                                                                                                                                                | 561 |
| (E) Phosphorous poisoning: Any industrial process involving the use of phosphorous or its preparations or compounds.                                                                                                                                           | 562 |
|                                                                                                                                                                                                                                                                | 563 |
|                                                                                                                                                                                                                                                                | 564 |
| (F) Arsenic poisoning: Any industrial process involving the use of arsenic or its preparations or compounds.                                                                                                                                                   | 565 |
|                                                                                                                                                                                                                                                                | 566 |
| (G) Poisoning by benzol or by nitro-derivatives and amido-derivatives of benzol (dinitro-benzol, anilin, and others): Any industrial process involving the use of benzol or nitro-derivatives or amido-derivatives of benzol or its preparations or compounds. | 567 |
|                                                                                                                                                                                                                                                                | 568 |
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|                                                                                                                                                                                                                                                                | 571 |
| (H) Poisoning by gasoline, benzine, naphtha, or other volatile petroleum products: Any industrial process involving the use of gasoline, benzine, naphtha, or other volatile petroleum products.                                                               | 572 |
|                                                                                                                                                                                                                                                                | 573 |
|                                                                                                                                                                                                                                                                | 574 |
|                                                                                                                                                                                                                                                                | 575 |
| (I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.                                                                                                                            | 576 |
|                                                                                                                                                                                                                                                                | 577 |
|                                                                                                                                                                                                                                                                | 578 |

|                                                                                                                                                                                                                                                                                                                      |                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| (J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.                                                                                                                                                                                                         | 579<br>580                             |
| (K) Infection or inflammation of the skin on contact surfaces due to oils, cutting compounds or lubricants, dust, liquids, fumes, gases, or vapors: Any industrial process involving the handling or use of oils, cutting compounds or lubricants, or involving contact with dust, liquids, fumes, gases, or vapors. | 581<br>582<br>583<br>584<br>585<br>586 |
| (L) Epithelion cancer or ulceration of the skin or of the corneal surface of the eye due to carbon, pitch, tar, or tarry compounds: Handling or industrial use of carbon, pitch, or tarry compounds.                                                                                                                 | 587<br>588<br>589<br>590               |
| (M) Compressed air illness: Any industrial process carried on in compressed air.                                                                                                                                                                                                                                     | 591<br>592                             |
| (N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide.                                                                                                                                                                                                      | 593<br>594                             |
| (O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.                                                                                                                                                                               | 595<br>596<br>597                      |
| (P) Manganese dioxide poisoning: Any process involving the grinding or milling of manganese dioxide or the escape of manganese dioxide dust.                                                                                                                                                                         | 598<br>599<br>600                      |
| (Q) Radium poisoning: Any industrial process involving the use of radium and other radioactive substances in luminous paint.                                                                                                                                                                                         | 601<br>602<br>603                      |
| (R) Tenosynovitis and prepatellar bursitis: Primary tenosynovitis characterized by a passive effusion or crepitus into the tendon sheath of the flexor or extensor muscles of the                                                                                                                                    | 604<br>605<br>606                      |

hand, due to frequently repetitive motions or vibrations, or 607  
prepatellar bursitis due to continued pressure. 608

(S) Chrome ulceration of the skin or nasal passages: Any 609  
industrial process involving the use of or direct contact with 610  
chromic acid or bichromates of ammonium, potassium, or sodium or 611  
their preparations. 612

(T) Potassium cyanide poisoning: Any industrial process 613  
involving the use of or direct contact with potassium cyanide. 614

(U) Sulphur dioxide poisoning: Any industrial process in 615  
which sulphur dioxide gas is evolved by the expansion of liquid 616  
sulphur dioxide. 617

(V) Berylliosis: Berylliosis means a disease of the lungs 618  
caused by breathing beryllium in the form of dust or fumes, 619  
producing characteristic changes in the lungs and demonstrated 620  
by x-ray examination, by biopsy or by autopsy. 621

This chapter does not entitle an employee or ~~his~~the 622  
employee's dependents to compensation, medical treatment, or 623  
payment of funeral expenses for disability or death from 624  
berylliosis unless the employee has been subjected to injurious 625  
exposure to beryllium dust or fumes in ~~his~~the employee's 626  
employment in this state preceding ~~his~~the employee's disablement 627  
and only in the event of such disability or death resulting 628  
within eight years after the last injurious exposure; provided 629  
that such eight-year limitation does not apply to disability or 630  
death from exposure occurring after January 1, 1976. In the 631  
event of death following continuous total disability commencing 632  
within eight years after the last injurious exposure, the 633  
requirement of death within eight years after the last injurious 634  
exposure does not apply. 635

Before awarding compensation for partial or total 636  
disability or death due to berylliosis, the administrator of 637  
workers' compensation shall refer the claim to a qualified 638  
medical specialist for examination and recommendation with 639  
regard to the diagnosis, the extent of the disability, the 640  
nature of the disability, whether permanent or temporary, the 641  
cause of death, and other medical questions connected with the 642  
claim. An employee shall submit to such examinations, including 643  
clinical and x-ray examinations, as the administrator requires. 644  
In the event that an employee refuses to submit to examinations, 645  
including clinical and x-ray examinations, after notice from the 646  
administrator, or in the event that a claimant for compensation 647  
for death due to berylliosis fails to produce necessary consents 648  
and permits, after notice from the administrator, so that such 649  
autopsy examination and tests may be performed, then all rights 650  
for compensation are forfeited. The reasonable compensation of 651  
such specialist and the expenses of examinations and tests shall 652  
be paid, if the claim is allowed, as part of the expenses of the 653  
claim, otherwise they shall be paid from the surplus fund. 654

(W) Cardiovascular, pulmonary, or respiratory diseases 655  
incurred by ~~fire fighters~~firefighters or police officers 656  
following exposure to heat, smoke, toxic gases, chemical fumes 657  
and other toxic substances: Any cardiovascular, pulmonary, or 658  
respiratory disease of a ~~fire fighter~~firefighter or police 659  
officer caused or induced by the cumulative effect of exposure 660  
to heat, the inhalation of smoke, toxic gases, chemical fumes 661  
and other toxic substances in the performance of ~~his~~the 662  
firefighter's or police officer's duty constitutes a 663  
presumption, which may be refuted by affirmative evidence, that 664  
such occurred in the course of and arising out of ~~his~~the 665  
firefighter's or police officer's employment. For the purpose of 666

this section, "~~fire fighter~~firefighter" means any regular member 667  
of a lawfully constituted fire department of a municipal 668  
corporation or township, whether paid or volunteer, and "police 669  
officer" means any regular member of a lawfully constituted 670  
police department of a municipal corporation, township or 671  
county, whether paid or volunteer. 672

This chapter does not entitle a ~~fire fighter~~firefighter, 673  
or police officer, or ~~his~~the firefighter's or police officer's 674  
dependents to compensation, medical treatment, or payment of 675  
funeral expenses for disability or death from a cardiovascular, 676  
pulmonary, or respiratory disease, unless the ~~fire-~~ 677  
~~fighter~~firefighter or police officer has been subject to 678  
injurious exposure to heat, smoke, toxic gases, chemical fumes, 679  
and other toxic substances in ~~his~~the firefighter's or police 680  
officer's employment in this state preceding ~~his~~the 681  
firefighter's or police officer's disablement, some portion of 682  
which has been after January 1, 1967, except as provided in 683  
division (E) of section 4123.57 of the Revised Code. 684

Compensation on account of cardiovascular, pulmonary, or 685  
respiratory diseases of ~~fire fighters~~firefighters and police 686  
officers is payable only in the event of temporary total 687  
disability, permanent total disability, or death, in accordance 688  
with section 4123.56, 4123.58, or 4123.59 of the Revised Code. 689  
Medical, hospital, and nursing expenses are payable in 690  
accordance with this chapter. Compensation, medical, hospital, 691  
and nursing expenses are payable only in the event of such 692  
disability or death resulting within eight years after the last 693  
injurious exposure; provided that such eight-year limitation 694  
does not apply to disability or death from exposure occurring 695  
after January 1, 1976. In the event of death following 696  
continuous total disability commencing within eight years after 697



the last injurious exposure, the requirement of death within 698  
eight years after the last injurious exposure does not apply. 699

This chapter does not entitle a ~~fire fighter~~firefighter or 700  
police officer, or ~~his~~the firefighter's or police officer's 701  
dependents, to compensation, medical, hospital, and nursing 702  
expenses, or payment of funeral expenses for disability or death 703  
due to a cardiovascular, pulmonary, or respiratory disease in 704  
the event of failure or omission on the part of the ~~fire fighter~~ 705  
firefighter or police officer truthfully to state, when seeking 706  
employment, the place, duration, and nature of previous 707  
employment in answer to an inquiry made by the employer. 708

Before awarding compensation for disability or death under 709  
this division, the administrator shall refer the claim to a 710  
qualified medical specialist for examination and recommendation 711  
with regard to the diagnosis, the extent of disability, the 712  
cause of death, and other medical questions connected with the 713  
claim. A ~~fire fighter~~firefighter or police officer shall submit 714  
to such examinations, including clinical and x-ray examinations, 715  
as the administrator requires. In the event that a ~~fire~~ 716  
~~fighter~~firefighter or police officer refuses to submit to 717  
examinations, including clinical and x-ray examinations, after 718  
notice from the administrator, or in the event that a claimant 719  
for compensation for death under this division fails to produce 720  
necessary consents and permits, after notice from the 721  
administrator, so that such autopsy examination and tests may be 722  
performed, then all rights for compensation are forfeited. The 723  
reasonable compensation of such specialists and the expenses of 724  
examination and tests shall be paid, if the claim is allowed, as 725  
part of the expenses of the claim, otherwise they shall be paid 726  
from the surplus fund. 727

(X) (1) Cancer contracted by a firefighter: Any of the following types of cancer contracted by a firefighter who has been assigned to at least three years of hazardous duty as a firefighter, constitutes a presumption, which may be refuted by affirmative evidence, that the cancer was contracted in the course of and arising out of the firefighter's employment: 728  
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730  
731  
732  
733

(a) Cancer of the lung, brain, kidney, bladder, rectum, stomach, skin, prostate, breast, cervix, or uterus; 734  
735

(b) Non-Hodgkins lymphoma; 736

(c) Leukemia; 737

(d) Multiple myeloma; 738

(e) Testicular or colorectal cancer. 739

(2) The presumption described in division (X) (1) of this section does not apply in either of the following situations: 740  
741

(a) If competent evidence is shown that the firefighter was a substantial and consistent user of cigarettes or other tobacco products within the ten years immediately preceding the date of diagnosis of the cancer, and that this use was a significant factor in the cause, aggravation, or progression of the cancer; 742  
743  
744  
745  
746  
747

(b) The firefighter is seventy-five years of age or older. 748

(3) As used in ~~this~~ division (X) of this section, 749  
"hazardous duty" has the same meaning as in 5 C.F.R. 550.902, as amended. 750  
751

(Y) Silicosis: Silicosis means a disease of the lungs caused by breathing silica dust (silicon dioxide) producing fibrous nodules distributed through the lungs and demonstrated 752  
753  
754

by x-ray examination, by biopsy or by autopsy. 755

~~(Y)~~ (Z) Coal miners' pneumoconiosis: Coal miners' 756  
pneumoconiosis, commonly referred to as "black lung disease," 757  
resulting from working in the coal mine industry and due to 758  
exposure to the breathing of coal dust, and demonstrated by x- 759  
ray examination, biopsy, autopsy or other medical or clinical 760  
tests. 761

This chapter does not entitle an employee or ~~his~~the 762  
employee's dependents to compensation, medical treatment, or 763  
payment of funeral expenses for disability or death from 764  
silicosis, asbestosis, or coal miners' pneumoconiosis unless the 765  
employee has been subject to injurious exposure to silica dust 766  
(silicon dioxide), asbestos, or coal dust in ~~his~~the employee's 767  
employment in this state preceding ~~his~~the employee's 768  
disablement, some portion of which has been after October 12, 769  
1945, except as provided in division (E) of section 4123.57 of 770  
the Revised Code. 771

Compensation on account of silicosis, asbestosis, or coal 772  
miners' pneumoconiosis are payable only in the event of 773  
temporary total disability, permanent total disability, or 774  
death, in accordance with sections 4123.56, 4123.58, and 4123.59 775  
of the Revised Code. Medical, hospital, and nursing expenses are 776  
payable in accordance with this chapter. Compensation, medical, 777  
hospital, and nursing expenses are payable only in the event of 778  
such disability or death resulting within eight years after the 779  
last injurious exposure; provided that such eight-year 780  
limitation does not apply to disability or death occurring after 781  
January 1, 1976, and further provided that such eight-year 782  
limitation does not apply to any asbestosis cases. In the event 783  
of death following continuous total disability commencing within 784

eight years after the last injurious exposure, the requirement 785  
of death within eight years after the last injurious exposure 786  
does not apply. 787

This chapter does not entitle an employee or ~~his~~the 788  
employee's dependents to compensation, medical, hospital and 789  
nursing expenses, or payment of funeral expenses for disability 790  
or death due to silicosis, asbestosis, or coal miners' 791  
pneumoconiosis in the event of the failure or omission on the 792  
part of the employee truthfully to state, when seeking 793  
employment, the place, duration, and nature of previous 794  
employment in answer to an inquiry made by the employer. 795

Before awarding compensation for disability or death due 796  
to silicosis, asbestosis, or coal miners' pneumoconiosis, the 797  
administrator shall refer the claim to a qualified medical 798  
specialist for examination and recommendation with regard to the 799  
diagnosis, the extent of disability, the cause of death, and 800  
other medical questions connected with the claim. An employee 801  
shall submit to such examinations, including clinical and x-ray 802  
examinations, as the administrator requires. In the event that 803  
an employee refuses to submit to examinations, including 804  
clinical and x-ray examinations, after notice from the 805  
administrator, or in the event that a claimant for compensation 806  
for death due to silicosis, asbestosis, or coal miners' 807  
pneumoconiosis fails to produce necessary consents and permits, 808  
after notice from the commission, so that such autopsy 809  
examination and tests may be performed, then all rights for 810  
compensation are forfeited. The reasonable compensation of such 811  
specialist and the expenses of examinations and tests shall be 812  
paid, if the claim is allowed, as a part of the expenses of the 813  
claim, otherwise they shall be paid from the surplus fund. 814

~~(Z)~~ (AA) Radiation illness: Any industrial process 815  
involving the use of radioactive materials. 816

Claims for compensation and benefits due to radiation 817  
illness are payable only in the event death or disability 818  
occurred within eight years after the last injurious exposure 819  
provided that such eight-year limitation does not apply to 820  
disability or death from exposure occurring after January 1, 821  
1976. In the event of death following continuous disability 822  
which commenced within eight years of the last injurious 823  
exposure the requirement of death within eight years after the 824  
last injurious exposure does not apply. 825

~~(AA)~~ (BB) Asbestosis: Asbestosis means a disease caused by 826  
inhalation or ingestion of asbestos, demonstrated by x-ray 827  
examination, biopsy, autopsy, or other objective medical or 828  
clinical tests. 829

All conditions, restrictions, limitations, and other 830  
provisions of this section, with reference to the payment of 831  
compensation or benefits on account of silicosis or coal miners' 832  
pneumoconiosis apply to the payment of compensation or benefits 833  
on account of any other occupational disease of the respiratory 834  
tract resulting from injurious exposures to dust. 835

The refusal to produce the necessary consents and permits 836  
for autopsy examination and testing shall not result in 837  
forfeiture of compensation provided the administrator finds that 838  
such refusal was the result of bona fide religious convictions 839  
or teachings to which the claimant for compensation adhered 840  
prior to the death of the decedent. 841

**Section 2.** That existing sections 742.38, 4123.57, and 842  
4123.68 of the Revised Code are hereby repealed. 843

**Section 3.** The amendment made by this act to section 844  
742.38 of the Revised Code applies only to an application for a 845  
disability benefit that is filed on or after the effective date 846  
of this act. 847

**Section 4.** The amendments made by this act to sections 848  
4123.57 and 4123.68 of the Revised Code apply only to claims 849  
pursuant to Chapters 4121. and 4123. of the Revised Code arising 850  
on or after the effective date of this act. 851