

As Reported by the Senate Insurance Committee

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Sub. S. B. No. 27

Senator Patton

**Cosponsors: Senators LaRose, Skindell, Hughes, Schiavoni, Tavares, Hottinger,
Beagle, Jones, Brown**

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

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
<u>(b) A member of the fund who is a member of a fire</u>	138
<u>department, has been assigned to at least three years of</u>	139
<u>hazardous duty as a member of a fire department, and is disabled</u>	140
<u>as a result of any of the following types of cancer, is presumed</u>	141
<u>to have incurred the cancer while performing the member's</u>	142
<u>official duties:</u>	143
<u>(i) Cancer of the lung, brain, kidney, bladder, rectum,</u>	144
<u>stomach, skin, prostate, breast, cervix, or uterus;</u>	145
<u>(ii) Non-Hodgkins lymphoma;</u>	146
<u>(iii) Leukemia;</u>	147
<u>(iv) Multiple myeloma;</u>	148
<u>(v) Testicular or colorectal cancer.</u>	149
<u>(c) The presumption described in division (D) (3) (b) of</u>	150
<u>this section does not apply in any of the following situations:</u>	151
<u>(i) If competent evidence to the contrary of the</u>	152
<u>presumption is shown or if the cancer that resulted in the</u>	153
<u>member's disability, or any evidence of that cancer, was</u>	154
<u>revealed by the physical examination passed by the member on</u>	155
<u>entry into the department;</u>	156
<u>(ii) If competent evidence is shown that the member was a</u>	157
<u>substantial and consistent user of cigarettes or other tobacco</u>	158
<u>products within the ten years immediately preceding the date of</u>	159
<u>diagnosis of the cancer, and that this use was a significant</u>	160
<u>factor in the cause, aggravation, or progression of the cancer;</u>	161
<u>(iii) The member is seventy-five years of age or older.</u>	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

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

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

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
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(B) Glanders: Care of any equine animal suffering from glanders; handling carcass of such animal.	556
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(C) Lead poisoning: Any industrial process involving the use of lead or its preparations or compounds.	558
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(D) Mercury poisoning: Any industrial process involving the use of mercury or its preparations or compounds.	560
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(E) Phosphorous poisoning: Any industrial process involving the use of phosphorous or its preparations or compounds.	562
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(F) Arsenic poisoning: Any industrial process involving the use of arsenic or its preparations or compounds.	565
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(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
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(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
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(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.	576
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(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.	579 580
(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.	581 582 583 584 585 586
(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.	587 588 589 590
(M) Compressed air illness: Any industrial process carried on in compressed air.	591 592
(N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide.	593 594
(O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.	595 596 597
(P) Manganese dioxide poisoning: Any process involving the grinding or milling of manganese dioxide or the escape of manganese dioxide dust.	598 599 600
(Q) Radium poisoning: Any industrial process involving the use of radium and other radioactive substances in luminous paint.	601 602 603
(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	604 605 606

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