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Representatives Seitz, Householder
Cosponsors: Representatives Schaffer, Henne, Retherford, Vitale, Thompson, Becker, Merrin, Antani, Lang, Keller, Hood, Riedel, Brenner, Butler, Dean, Ginter, Green, Greenspan, Hagan, McColley, Patton, Perales, Roegner, Romanchuk, Stein, Wiggam, Zeltwanger

A BILL

To amend sections 2743.02, 2744.02, 4123.01, 4123.51, and 4123.59 and to enact sections 2307.82 and 4123.513 of the Revised Code to prohibit illegal and unauthorized aliens from receiving compensation and certain benefits under Ohio's Workers' Compensation Law.

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

Section 1. That sections 2743.02, 2744.02, 4123.01, 4123.51, and 4123.59 be amended and sections 2307.82 and 4123.513 of the Revised Code be enacted to read as follows:

Sec. 2307.82. (A) As used in this section, "employer," "illegal alien," "occupational disease," and "unauthorized alien" have the same meanings as in section 4123.01 of the Revised Code.

(B) Except as provided in division (C) of this section, no court in this state has jurisdiction over a claim brought by or on behalf of an illegal alien or an unauthorized alien for
damages suffered by reason of personal injury sustained or occupational disease contracted by the illegal alien or unauthorized alien in the course of employment caused by the wrongful act or omission or neglect of the employer. Except as provided in division (C) of this section, an illegal alien or unauthorized alien assumes the risk of incurring such injury or contracting an occupational disease, and that assumption is a complete bar to a recovery of damages for such injury or occupational disease.

(C) A court in this state that could otherwise exercise jurisdiction over a claim described in division (B) of this section but for the prohibition described in that division has jurisdiction over such a claim if the person bringing the claim establishes, by clear and convincing evidence, that the employer hired the illegal alien or unauthorized alien knowing that the illegal alien or unauthorized alien was not authorized to work under section 101(a) of the "Immigration Reform and Control Act of 1986," 100 Stat. 3360, 8 U.S.C. 1324a. There is a rebuttable presumption that an employer did not hire a person knowing the person was an illegal alien or unauthorized alien if the employer has complied with the requirements of section 101(a) of the "Immigration Reform and Control Act of 1986," 100 Stat. 3360, 8 U.S.C. 1324a.

Nothing in this section shall be construed to prevent an illegal alien or an unauthorized alien from bringing a claim against an employer in a court of competent jurisdiction for an intentional tort allegedly committed by the employer against the illegal alien or unauthorized alien.

Sec. 2743.02. (A)(1) The state hereby waives its immunity from liability, except as provided for the office of the state.
fire marshal in division (G)(1) of section 9.60 and division (B) 
of section 3737.221 of the Revised Code, except as provided in 
division (I) of this section, and subject to division (H) of 
this section, and consents to be sued, and have its liability 
determined, in the court of claims created in this chapter in 
accordance with the same rules of law applicable to suits 
between private parties, except that the determination of 
liability is subject to the limitations set forth in this 
chapter and, in the case of state universities or colleges, in 
section 3345.40 of the Revised Code, and except as provided in 
division (A)(2) or (3) of this section. To the extent that the 
state has previously consented to be sued, this chapter has no 
applicability.

Except in the case of a civil action filed by the state, 
filing a civil action in the court of claims results in a 
complete waiver of any cause of action, based on the same act or 
omission, that the filing party has against any officer or 
employee, as defined in section 109.36 of the Revised Code. The 
waiver shall be void if the court determines that the act or 
omission was manifestly outside the scope of the officer's or 
employee's office or employment or that the officer or employee 
acted with malicious purpose, in bad faith, or in a wanton or 
reckless manner.

(2) If a claimant proves in the court of claims that an 
officer or employee, as defined in section 109.36 of the Revised 
Code, would have personal liability for the officer's or 
employee's acts or omissions but for the fact that the officer 
or employee has personal immunity under section 9.86 of the 
Revised Code, the state shall be held liable in the court of 
claims in any action that is timely filed pursuant to section 
2743.16 of the Revised Code and that is based upon the acts or
omissions.

(3)(a) Except as provided in division (A)(3)(b) of this section, the state is immune from liability in any civil action or proceeding involving the performance or nonperformance of a public duty, including the performance or nonperformance of a public duty that is owed by the state in relation to any action of an individual who is committed to the custody of the state.

(b) The state immunity provided in division (A)(3)(a) of this section does not apply to any action of the state under circumstances in which a special relationship can be established between the state and an injured party. A special relationship under this division is demonstrated if all of the following elements exist:

   (i) An assumption by the state, by means of promises or actions, of an affirmative duty to act on behalf of the party who was allegedly injured;

   (ii) Knowledge on the part of the state's agents that inaction of the state could lead to harm;

   (iii) Some form of direct contact between the state's agents and the injured party;

   (iv) The injured party's justifiable reliance on the state's affirmative undertaking.

(B) The state hereby waives the immunity from liability of all hospitals owned or operated by one or more political subdivisions and consents for them to be sued, and to have their liability determined, in the court of common pleas, in accordance with the same rules of law applicable to suits between private parties, subject to the limitations set forth in this chapter. This division is also applicable to hospitals.
owned or operated by political subdivisions that have been
determined by the supreme court to be subject to suit prior to

(C) Any hospital, as defined in section 2305.113 of the
Revised Code, may purchase liability insurance covering its
operations and activities and its agents, employees, nurses,
interns, residents, staff, and members of the governing board
and committees, and, whether or not such insurance is purchased,
may, to the extent that its governing board considers
appropriate, indemnify or agree to indemnify and hold harmless
any such person against expense, including attorney's fees,
damage, loss, or other liability arising out of, or claimed to
have arisen out of, the death, disease, or injury of any person
as a result of the negligence, malpractice, or other action or
inaction of the indemnified person while acting within the scope
of the indemnified person's duties or engaged in activities at
the request or direction, or for the benefit, of the hospital.
Any hospital electing to indemnify those persons, or to agree to
so indemnify, shall reserve any funds that are necessary, in the
exercise of sound and prudent actuarial judgment, to cover the
potential expense, fees, damage, loss, or other liability. The
superintendent of insurance may recommend, or, if the hospital
requests the superintendent to do so, the superintendent shall
recommend, a specific amount for any period that, in the
superintendent's opinion, represents such a judgment. This
authority is in addition to any authorization otherwise provided
or permitted by law.

(D) Recoveries against the state shall be reduced by the
aggregate of insurance proceeds, disability award, or other
collateral recovery received by the claimant. This division does
not apply to civil actions in the court of claims against a
state university or college under the circumstances described in section 3345.40 of the Revised Code. The collateral benefits provisions of division (B)(2) of that section apply under those circumstances.

(E) The only defendant in original actions in the court of claims is the state. The state may file a third-party complaint or counterclaim in any civil action, except a civil action for ten thousand dollars or less, that is filed in the court of claims.

(F) A civil action against an officer or employee, as defined in section 109.36 of the Revised Code, that alleges that the officer's or employee's conduct was manifestly outside the scope of the officer's or employee's employment or official responsibilities, or that the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner shall first be filed against the state in the court of claims that has exclusive, original jurisdiction to determine, initially, whether the officer or employee is entitled to personal immunity under section 9.86 of the Revised Code and whether the courts of common pleas have jurisdiction over the civil action. The officer or employee may participate in the immunity determination proceeding before the court of claims to determine whether the officer or employee is entitled to personal immunity under section 9.86 of the Revised Code.

The filing of a claim against an officer or employee under this division tolls the running of the applicable statute of limitations until the court of claims determines whether the officer or employee is entitled to personal immunity under section 9.86 of the Revised Code.

(G) If a claim lies against an officer or employee who is
a member of the Ohio national guard, and the officer or employee 
was, at the time of the act or omission complained of, subject  
2671, et seq., the Federal Tort Claims Act is the exclusive  
remedy of the claimant and the state has no liability under this  
section.

(H) If an inmate of a state correctional institution has a  
claim against the state for the loss of or damage to property  
and the amount claimed does not exceed three hundred dollars,  
before commencing an action against the state in the court of  
claims, the inmate shall file a claim for the loss or damage  
under the rules adopted by the director of rehabilitation and  
correction pursuant to this division. The inmate shall file the  
claim within the time allowed for commencement of a civil action  
under section 2743.16 of the Revised Code. If the state admits  
or compromises the claim, the director shall make payment from a  
fund designated by the director for that purpose. If the state  
denies the claim or does not compromise the claim at least sixty  
days prior to expiration of the time allowed for commencement of  
a civil action based upon the loss or damage under section  
2743.16 of the Revised Code, the inmate may commence an action  
in the court of claims under this chapter to recover damages for  
the loss or damage.

The director of rehabilitation and correction shall adopt  
rules pursuant to Chapter 119. of the Revised Code to implement  
this division.

(I) The state is not liable in any civil action brought by  
or on behalf of an illegal alien or an unauthorized alien for  
damages suffered by reason of personal injury sustained or  
occupational disease contracted in the course of employment.
caused by the wrongful act or omission or neglect of the state acting as an employer unless the person bringing the action establishes, by clear and convincing evidence, that the state hired that illegal alien or unauthorized alien knowing that the illegal alien or unauthorized alien was not authorized to work under section 101(a) of the "Immigration Reform and Control Act of 1986," 100 Stat. 3360, 8 U.S.C. 1324a. There is a rebuttable presumption that the state did not hire a person knowing the person was an illegal alien or unauthorized alien if the state has complied with the requirements of section 101(a) of the "Immigration Reform and Control Act of 1986," 100 Stat. 3360, 8 U.S.C. 1324a.

As used in this division, "illegal alien," "occupational disease," and "unauthorized alien" have the same meanings as in section 4123.01 of the Revised Code.

Sec. 2744.02. (A)(1) For the purposes of this chapter, the functions of political subdivisions are hereby classified as governmental functions and proprietary functions. Except as provided in division (B) of this section, a political subdivision is not liable in damages in a civil action for injury, death, or loss to person or property allegedly caused by any act or omission of the political subdivision or an employee of the political subdivision in connection with a governmental or proprietary function. A political subdivision is not liable in any civil action brought by or on behalf of an illegal alien or an unauthorized alien for damages suffered by reason of personal injury sustained or occupational disease contracted in the course of employment caused by the wrongful act or omission or neglect of the political subdivision acting as an employer unless the person bringing the action establishes, by clear and convincing evidence, that the political subdivision hired that
illegal alien or unauthorized alien knowing that the illegal alien or unauthorized alien was not authorized to work under section 101(a) of the "Immigration Reform and Control Act of 1986," 100 Stat. 3360, 8 U.S.C. 1324a. There is a rebuttable presumption that a political subdivision did not hire a person knowing the person was an illegal alien or unauthorized alien if the political subdivision has complied with the requirements of section 101(a) of the "Immigration Reform and Control Act of 1986," 100 Stat. 3360, 8 U.S.C. 1324a.

As used in this division, "illegal alien," "occupational disease," and "unauthorized alien" have the same meanings as in section 4123.01 of the Revised Code.

(2) The defenses and immunities conferred under this chapter apply in connection with all governmental and proprietary functions performed by a political subdivision and its employees, whether performed on behalf of that political subdivision or on behalf of another political subdivision.

(3) Subject to statutory limitations upon their monetary jurisdiction, the courts of common pleas, the municipal courts, and the county courts have jurisdiction to hear and determine civil actions governed by or brought pursuant to this chapter.

(B) Subject to sections 2744.03 and 2744.05 of the Revised Code, a political subdivision is liable in damages in a civil action for injury, death, or loss to person or property allegedly caused by an act or omission of the political subdivision or of any of its employees in connection with a governmental or proprietary function, as follows:

(1) Except as otherwise provided in this division, political subdivisions are liable for injury, death, or loss to
person or property caused by the negligent operation of any motor vehicle by their employees when the employees are engaged within the scope of their employment and authority. The following are full defenses to that liability:

(a) A member of a municipal corporation police department or any other police agency was operating a motor vehicle while responding to an emergency call and the operation of the vehicle did not constitute willful or wanton misconduct;

(b) A member of a municipal corporation fire department or any other firefighting agency was operating a motor vehicle while engaged in duty at a fire, proceeding toward a place where a fire is in progress or is believed to be in progress, or answering any other emergency alarm and the operation of the vehicle did not constitute willful or wanton misconduct;

(c) A member of an emergency medical service owned or operated by a political subdivision was operating a motor vehicle while responding to or completing a call for emergency medical care or treatment, the member was holding a valid commercial driver's license issued pursuant to Chapter 4506. or a driver's license issued pursuant to Chapter 4507. of the Revised Code, the operation of the vehicle did not constitute willful or wanton misconduct, and the operation complies with the precautions of section 4511.03 of the Revised Code.

(2) Except as otherwise provided in sections 3314.07 and 3746.24 of the Revised Code, political subdivisions are liable for injury, death, or loss to person or property caused by the negligent performance of acts by their employees with respect to proprietary functions of the political subdivisions.

(3) Except as otherwise provided in section 3746.24 of the
Revised Code, political subdivisions are liable for injury, death, or loss to person or property caused by their negligent failure to keep public roads in repair and other negligent failure to remove obstructions from public roads, except that it is a full defense to that liability, when a bridge within a municipal corporation is involved, that the municipal corporation does not have the responsibility for maintaining or inspecting the bridge.

(4) Except as otherwise provided in section 3746.24 of the Revised Code, political subdivisions are liable for injury, death, or loss to person or property that is caused by the negligence of their employees and that occurs within or on the grounds of, and is due to physical defects within or on the grounds of, buildings that are used in connection with the performance of a governmental function, including, but not limited to, office buildings and courthouses, but not including jails, places of juvenile detention, workhouses, or any other detention facility, as defined in section 2921.01 of the Revised Code.

(5) In addition to the circumstances described in divisions (B)(1) to (4) of this section, a political subdivision is liable for injury, death, or loss to person or property when civil liability is expressly imposed upon the political subdivision by a section of the Revised Code, including, but not limited to, sections 2743.02 and 5591.37 of the Revised Code. Civil liability shall not be construed to exist under another section of the Revised Code merely because that section imposes a responsibility or mandatory duty upon a political subdivision, because that section provides for a criminal penalty, because of a general authorization in that section that a political subdivision may sue and be sued, or because that section uses
the term "shall" in a provision pertaining to a political subdivision.

(C) An order that denies a political subdivision or an employee of a political subdivision the benefit of an alleged immunity from liability as provided in this chapter or any other provision of the law is a final order.

Sec. 4123.01. As used in this chapter:

(A)(1) "Employee" means:

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

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

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

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

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

(b) Every person in the service of any person, firm, or private corporation, including any public service corporation, that (i) employs one or more persons regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, including aliens and authorized to work by the United States department of homeland security or its successors; minors; household workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single household; and casual workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single employer or (ii) is bound by any such contract of hire or by any other written contract, to pay into the state insurance fund the premiums provided by this chapter.

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

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

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

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

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

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

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

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

(viii) The person is required to devote full time to the business of the other contracting party;

(ix) The person is required to perform the work on the premises of the other contracting party;

(x) The person is required to follow the order of work set by the other contracting party;

(xi) The person is required to make oral or written reports of progress to the other contracting party;

(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;

(xiii) The person's expenses are paid for by the other contracting party;
(xiv) The person's tools and materials are furnished by the other contracting party;

(xv) The person is provided with the facilities used to perform services;

(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;

(xvii) The person is not performing services for a number of employers at the same time;

(xviii) The person does not make the same services available to the general public;

(xix) The other contracting party has a right to discharge the person;

(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.

Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or if a self-insuring employer has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the person who has entered into a contract, whether written or verbal, with such independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.
(2) "Employee" does not mean any of the following:

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

(b) Any officer of a family farm corporation;

(c) An individual incorporated as a corporation;

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

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

(f) An illegal alien or an unauthorized alien.

Any employer may elect to include as an "employee" within this chapter, any person excluded from the definition of "employee" pursuant to division (A)(2)(a), (b), (c), or (e) of this section in accordance with rules adopted by the administrator, with the advice and consent of the bureau of workers' compensation board of directors. If an employer is a partnership, sole proprietorship, individual incorporated as a corporation, or family farm corporation, such employer may elect to include as an "employee" within this chapter, any member of such partnership, the owner of the sole proprietorship, the individual incorporated as a corporation, or the officers of the family farm corporation. Nothing in this section shall prohibit a partner, sole proprietor, or any person excluded from the definition of "employee" pursuant to division (A)(2)(a), (b),
(c), or (e) of this section from electing to be included as an "employee" under this chapter in accordance with rules adopted by the administrator, with the advice and consent of the board.

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

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

(B) "Employer" means:

(1) The state, including state hospitals, each county, municipal corporation, township, school district, and hospital owned by a political subdivision or subdivisions other than the
(2) Every person, firm, professional employer organization, and private corporation, including any public service corporation, that (a) has in service one or more employees or shared employees regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, or (b) is bound by any such contract of hire or by any other written contract, to pay into the insurance fund the premiums provided by this chapter.

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

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

(1) Psychiatric conditions except where the claimant's psychiatric conditions have arisen from an injury or occupational disease sustained by that claimant or where the claimant's psychiatric conditions have arisen from sexual conduct in which the claimant was forced by threat of physical harm to engage or participate;
(2) Injury or disability caused primarily by the natural
deterioration of tissue, an organ, or part of the body;

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

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

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

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

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

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

(H) "Private employer" means an employer as defined in division (B)(2) of this section.

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

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

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

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

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

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

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

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

(O) "Illegal alien" means an alien who is deportable if
apprehended because of one of the following:

1. The alien entered the United States illegally without
the proper authorization and documents.

2. The alien once entered the United States legally and
has since violated the terms of the status under which the alien
entered the United States, making that alien an "out of status"
alien.

(3) The alien once entered the United States legally but has overstayed the time limits of the original legal status.

(P) "Unauthorized alien" means an alien who is not authorized to be employed as determined in accordance with section 101(a) of the "Immigration Reform and Control Act of 1986," 100 Stat. 3360, 8 U.S.C. 1324a.

Sec. 4123.51. (A) The administrator of workers' compensation shall by published notices and other appropriate means endeavor to cause claims to be filed in the service office of the bureau of workers' compensation from which the investigation and determination of the claim may be made most expeditiously. A claim or appeal under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code may be filed with any office of the bureau of workers' compensation or the industrial commission, within the required statutory period, and is considered received for the purpose of processing the claims or appeals.

(B) The administrator, on the form an employee or an individual acting on behalf of the employee files with the administrator or a self-insuring employer to initiate a claim under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code, shall include all of the following:

(1) A statement that is substantially similar to the following statement in bold font and set apart from all other text in the form:

"By signing this form, I elect to only receive compensation, benefits, or both that are provided for in this claim under Ohio's workers' compensation laws. I understand and
I hereby waive and release my right to receive compensation and benefits under the workers' compensation laws of another state for the injury or occupational disease, or the death resulting from an injury or occupational disease, for which I am filing this claim. I have not received compensation and benefits under the workers' compensation laws of another state for this claim, and I will not file and have not filed a claim in another state for the injury or occupational disease or death resulting from an injury or occupational disease for which I am filing this claim."

(2) A place for the claimant to state whether the claimant is a citizen of the United States;

(3) A place for a claimant who is not a citizen of the United States to provide either of the following, as applicable:

(a) The claimant's alien registration number or other signifier that the claimant is authorized to work by the United States department of homeland security or its successor and the expiration date of the claimant's authorization to work;

(b) If the claimant is a dependent of an individual who died as a result of suffering an injury or contracting an occupational disease, the deceased individual's alien registration number or other signifier that the individual was authorized to work by the United States department of homeland security or its successor and the expiration date of the individual's authorization to work.

Sec. 4123.513. (A) As used in this section, "damages" means damages suffered by reason of personal injury sustained or occupational disease contracted in the course of employment caused by the wrongful act or omission or neglect of the
(B) To be considered eligible for compensation or benefits paid under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code, other than medical benefits as described in section 4123.66 of the Revised Code, a claimant who is not a United States citizen shall provide the administrator of workers' compensation with one of the following, as applicable:

(1) The claimant's alien registration number or other signifier that the claimant is authorized to work by the United States department of homeland security or its successor and the expiration date of the claimant's authorization to work;

(2) If the claimant is a dependent of an individual who died as a result of suffering an injury or contracting an occupational disease, the deceased individual's alien registration number or other signifier that the individual was authorized to work by the United States department of homeland security or its successor and the expiration date of the individual's authorization to work.

(C)(1) Except as otherwise provided in divisions (D) and (E) of this section, an employer is not liable to a claimant for damages if the claimant's claim for compensation or benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code is denied for either of the following reasons:

(a) The claimant is an unauthorized alien.

(b) The claimant is not a United States citizen and is a dependent of an unauthorized alien who died as a result of suffering an injury or contracting an occupational disease.

(2) For any claimant described in division (C)(1) of this section, filing a claim under Chapter 4121., 4123., 4127., or 4131.
4131. of the Revised Code is the exclusive remedy against the
employer on account of injury, disease, or death in the course
of and arising out of the claimant's or deceased individual's
employment. Notwithstanding section 4123.77 of the Revised Code
and except as provided in divisions (D) and (E) of this section,
an irrebuttable presumption exists that the individual who is
the subject of the claim assumed the risk of incurring an injury
or contracting an occupational disease at the workplace, or
dying as a result of such an injury or occupational disease,
when performing services or providing labor for that employer.

(D) An employer is liable to a claimant described in
division (C)(1) of this section for damages if the claimant
establishes, by clear and convincing evidence, that the employer
hired the claimant or the deceased individual knowing that the
claimant or deceased individual was not authorized to work under
section 101(a) of the "Immigration Reform and Control Act of
1986," 100 Stat. 3360, 8 U.S.C. 1324a. There is a rebuttable
presumption that an employer did not hire a person knowing the
person was an illegal alien or unauthorized alien if the
employer has complied with the requirements of section 101(a) of
3360, 8 U.S.C. 1324a. An employer may not assert any of the
common law defenses listed in section 4123.77 of the Revised
Code in an action brought against the employer pursuant to this
section.

(E) Nothing in this section shall be construed to prevent
a claimant described in division (C)(1) of this section from
bringing a claim against an employer in a court of competent
jurisdiction for an intentional tort allegedly committed by the
employer against the claimant or deceased individual who was the
subject of the claim.
Sec. 4123.59. In case an injury to or an occupational disease contracted by an employee causes the employee's death, benefits shall be in the amount and to the persons following:

(A) If there are no dependents, the disbursements from the state insurance fund is limited to the expenses provided for in section 4123.66 of the Revised Code.

(B) If there are wholly dependent persons at the time of the death, the weekly payment is sixty-six and two-thirds per cent of the average weekly wage, but not to exceed a maximum aggregate amount of weekly compensation which is equal to sixty-six and two-thirds per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code, and not in any event less than a minimum amount of weekly compensation which is equal to fifty per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code, regardless of the average weekly wage; provided however, that if the death is due to injury received or occupational disease first diagnosed after January 1, 1976, the weekly payment is sixty-six and two-thirds per cent of the average weekly wage but not to exceed a maximum aggregate amount of weekly compensation which is equal to the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code; provided that when any claimant is receiving total disability compensation at the time of death the wholly dependent person is eligible for the maximum compensation provided for in this section. Where there is more than one person who is wholly dependent at the time of the death of the employee, the administrator of workers' compensation shall promptly apportion the weekly amount of compensation payable under this section among the dependent persons as provided in division (D) of this section.
(1) The payment as provided in this section shall continue from the date of death of an injured or disabled employee until the death or remarriage of such dependent spouse. If the dependent spouse remarries, an amount equal to two years of compensation benefits at the weekly amount determined to be applicable to and being paid to the dependent spouse shall be paid in a lump sum to such spouse and no further compensation shall be paid to such spouse.

(2) That portion of the payment provided in division (B) of this section applicable to wholly dependent persons other than a spouse shall continue from the date of death of an injured or disabled employee to a dependent as of the date of death, other than a spouse, at the weekly amount determined to be applicable and being paid to such dependent other than a spouse, until the dependent:

(a) Reaches eighteen years of age;

(b) If pursuing a full time educational program while enrolled in an accredited educational institution and program, reaches twenty-five years of age;

(c) If mentally or physically incapacitated from having any earnings, is no longer so incapacitated.

(3)(a) Payments under division (B) of this section to a dependent described in division (B)(2)(c) of this section shall not be terminated due to the dependent's employment in a sheltered workshop if the dependent does not receive income, compensation, or remuneration from that employment in excess of two thousand dollars in any calendar quarter.

(b) As used in division (B)(3) of this section, "sheltered workshop" has the same meaning as in section 4123.58 of the
(C) If there are partly dependent persons at the time of the death the weekly payment is sixty-six and two-thirds per cent of the employee's average weekly wage, not to exceed sixty-six and two-thirds per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code, and shall continue for such time as the administrator in each case determines.

(D) The following persons are presumed to be wholly dependent for their support upon a deceased employee:

(1) A surviving spouse who was living with the employee at the time of death or a surviving spouse who was separated from the employee at the time of death because of the aggression of the employee;

(2) A child under the age of eighteen years, or twenty-five years if pursuing a full-time educational program while enrolled in an accredited educational institution and program, or over said age if physically or mentally incapacitated from earning, upon only the one parent who is contributing more than one-half of the support for such child and with whom the child is living at the time of the death of such parent, or for whose maintenance such parent was legally liable at the time of the parent's death.

It is presumed that there is sufficient dependency to entitle a surviving natural parent or surviving natural parents, share and share alike, with whom the decedent was living at the time of the decedent's death, to a total minimum award of three thousand dollars.

The administrator may take into consideration any
circumstances which, at the time of the death of the decedent, clearly indicate prospective dependency on the part of the claimant and potential support on the part of the decedent. No person shall be considered a prospective dependent unless such person is a member of the family of the deceased employee and bears to the deceased employee the relation of surviving spouse, lineal descendant, ancestor, or brother or sister. The total award for any or all prospective dependency to all such claimants, except to a natural parent or natural parents of the deceased, shall not exceed three thousand dollars to be apportioned among them as the administrator orders.

In all other cases, the question of dependency, in whole or in part, shall be determined in accordance with the facts in each particular case existing at the time of the injury resulting in the death of such employee, but no person shall be considered as dependent unless such person is a member of the family of the deceased employee, or bears to the deceased employee the relation of surviving spouse, lineal descendant, ancestor, or brother or sister.

(E) An A United States citizen who is a dependent of an illegal or unauthorized alien may receive benefits under this section if both of the following apply:

(a) The illegal or unauthorized alien died as a result of an injury or occupational disease.

(b) The illegal or unauthorized alien would have been eligible to receive compensation or benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code, notwithstanding division (A)(2)(f) of section 4123.01 of the Revised Code excluding illegal and unauthorized aliens from the definition of employee under this chapter.
(2) If the decedent's employer pays premiums into the state insurance fund, the administrator shall charge the amount of benefits paid pursuant to division (E)(1) of this section to the employer's experience. If the decedent's employer is a self-insuring employer, the self-insuring employer shall include the amount of benefits the self-insuring employer pays pursuant to division (E)(1) of this section in the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code.

(F) Notwithstanding section 2307.82, division (I) of section 2743.02, and division (A)(1) of section 2744.02 of the Revised Code, an order issued by the administrator under this section is appealable pursuant to sections 4123.511 to 4123.512 of the Revised Code.

Section 2. That existing sections 2743.02, 2744.02, 4123.01, 4123.51, and 4123.59 of the Revised Code are hereby repealed.

Section 3. This act applies to claims arising on or after the effective date of this act.