

**As Passed by the House**

**134th General Assembly**

**Regular Session**

**2021-2022**

**Sub. H. B. No. 218**

**Representative Cutrona**

**Cosponsors: Representatives Cross, Seitz, Manchester, Jones, Brinkman, Callender, Carruthers, Click, Creech, Dean, Edwards, Ferguson, Fowler Arthur, Grendell, Gross, Hall, John, Johnson, Jordan, Kick, Lipps, Loychik, McClain, Merrin, Miller, K., Powell, Richardson, Riedel, Stein, Stephens, Stoltzfus, Swearingen, Wiggam, Zeltwanger**

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**A BILL**

To amend section 4123.01 and to enact sections 1  
3792.05, 3792.06, 3792.07, 3792.08, 4123.87, 2  
4731.77, and 4765.60 of the Revised Code to 3  
address medical requirements for employees and 4  
students; to address qualified civil immunity 5  
regarding certain coronaviruses; to authorize 6  
emergency medical technicians to administer 7  
COVID-19 tests; to expressly cover COVID-19 8  
vaccine injuries under the workers' compensation 9  
system; and to repeal sections 3792.05, 3792.07, 10  
and 3792.08 of the Revised Code on September 30, 11  
2025. 12

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

**Section 1.** That section 4123.01 be amended and sections 13  
3792.05, 3792.06, 3792.07, 3792.08, 4123.87, 4731.77, and 14  
4765.60 of the Revised Code be enacted to read as follows: 15

Sec. 3792.05. (A) As used in this section: 16

(1) "Children's hospital" has the same meaning as in 17  
section 3722.01 of the Revised Code. 18

(2) "Hospital" has the same meaning as in section 3722.01 19  
of the Revised Code, except that a hospital does not include a 20  
children's hospital. 21

(3) "Physician" means an individual authorized under 22  
Chapter 4731. of the Revised Code to practice medicine and 23  
surgery or osteopathic medicine and surgery. 24

(4) "Private college" has the same meaning as in section 25  
3365.01 of the Revised Code. 26

(5) "School" means either or both of the following: 27

(a) A chartered nonpublic school as defined in section 28  
3310.01 of the Revised Code; 29

(b) A public school as defined in section 3792.04 of the 30  
Revised Code. 31

(6) "State institution of higher education" has the same 32  
meaning as in section 3345.011 of the Revised Code. 33

(B) (1) A school, private college, or state institution of 34  
higher education shall not require a student to receive any of 35  
the following utilizing messenger ribonucleic acid, 36  
deoxyribonucleic acid, or any other genetic vaccine technology 37  
and for which the United States food and drug administration has 38  
not issued a biologics license or otherwise granted full 39  
approval: 40

(a) A vaccine; 41

(b) A drug; 42

<u>(c) A biological product;</u>	43
<u>(d) A form of genetic immunotherapy.</u>	44
<u>(2) For purposes of this section, neither a biologics</u>	45
<u>license issued by the United States food and drug administration</u>	46
<u>nor full approval granted by the United States food and drug</u>	47
<u>administration are the same as an emergency use authorization</u>	48
<u>granted by the United States food and drug administration.</u>	49
<u>(C) In the event a school, private college, or state</u>	50
<u>institution of higher education requires a student to receive a</u>	51
<u>vaccine, drug, biological product, or form of genetic</u>	52
<u>immunotherapy utilizing messenger ribonucleic acid,</u>	53
<u>deoxyribonucleic acid, or any other genetic vaccine technology</u>	54
<u>for which the United States food and drug administration has</u>	55
<u>issued a biologics license or otherwise granted full approval,</u>	56
<u>both of the following apply:</u>	57
<u>(1) The student may satisfy the requirement by doing</u>	58
<u>either of the following:</u>	59
<u>(a) Receiving the vaccine, drug, biological product, or</u>	60
<u>form of genetic immunotherapy;</u>	61
<u>(b) Receiving a vaccine, drug, biological product, or form</u>	62
<u>of genetic immunotherapy utilizing messenger ribonucleic acid,</u>	63
<u>deoxyribonucleic acid, or any other genetic vaccine technology</u>	64
<u>against the same disease that is available under an emergency</u>	65
<u>use authorization.</u>	66
<u>(2) Subject to divisions (D) and (E) of this section, the</u>	67
<u>student is exempt from the requirement for any of the following</u>	68
<u>reasons:</u>	69
<u>(a) Medical contraindications;</u>	70

<u>(b) Natural immunity;</u>	71
<u>(c) Reasons of personal conscience, including religious convictions.</u>	72 73
<u>(D) (1) To claim an exemption as described in division (C) (2) (a) of this section, a student shall submit to the school, private college, or state institution of higher education a written statement signed by a physician who has a bona fide physician-patient relationship with the student as described in section 4731.77 of the Revised Code. The student shall not be required to submit any additional information beyond the written statement.</u>	74 75 76 77 78 79 80 81
<u>(2) To claim an exemption as described in division (C) (2) (b) of this section, a student shall submit written documentation to the school, private college, or state institution of higher education that the student has been tested for the presence of antibodies against the same disease in a form or manner recognized by the medical community and, at the time of testing, had antibodies in an amount at least equal to or greater than those conferred by a vaccine, drug, biological product, or form of genetic immunotherapy utilizing messenger ribonucleic acid, deoxyribonucleic acid, or any other genetic vaccine technology that has been issued a biologics license or otherwise granted full approval.</u>	82 83 84 85 86 87 88 89 90 91 92 93
<u>The department of health shall adopt rules establishing the frequency with which a student shall be retested to determine whether the student's antibody presence remains at least equal to or greater than those conferred by a vaccine, drug, biological product, or form of genetic immunotherapy against the same disease utilizing messenger ribonucleic acid, deoxyribonucleic acid, or any other genetic vaccine technology</u>	94 95 96 97 98 99 100

that has been issued a biologics license or otherwise granted 101  
full approval. In adopting the rules, the department shall not 102  
require retesting more than once per year. Until the department 103  
adopts the rules, the student shall not be required to submit 104  
any additional information beyond the initial written 105  
documentation. 106

(3) To claim an exemption as described in division (C) (2) 107  
(c) of this section, a student shall submit to the school, 108  
private college, or state institution of higher education a 109  
written statement and shall not be required to submit any 110  
additional information beyond the written statement. Once the 111  
student submits the written statement, the school, private 112  
college, or state institution of higher education shall accept 113  
and honor the exemption and shall not expel the student because 114  
the student claimed the exemption. 115

(4) A written statement or documentation described in 116  
division (D) (1), (2), or (3) of this section that is submitted 117  
to a school, private college, or state institution of higher 118  
education is confidential and is not a public record under 119  
section 149.43 of the Revised Code. A school, private college, 120  
or state institution of higher education may share the contents 121  
of the statement or documentation with authorized personnel only 122  
to the extent necessary to comply with this section. 123

(E) (1) (a) The exemptions described in division (C) (2) of 124  
this section do not apply to a student who, as part of the 125  
student's course of study, undergoes instruction or training at 126  
either of the following that is owned or operated by, or 127  
affiliated with, a private college or state institution of 128  
higher education: 129

(i) A children's hospital; 130

(ii) An intensive care or critical care unit of a 131  
hospital. 132

(b) The private college or state institution shall make a 133  
good faith effort to provide equitable instruction and training 134  
for a student who refuses a COVID-19 vaccine and who cannot 135  
claim an exemption because of division (E) (1) (a) of this 136  
section. 137

(2) Nothing in this section shall be construed to limit, 138  
diminish, or otherwise affect any provision of federal law 139  
relating to discrimination. 140

(F) (1) No student is responsible for any costs or fees 141  
associated with measures to prevent the spread of disease 142  
required of the student by the school, private college, or state 143  
institution of higher education, including testing for active 144  
infection and masking. 145

(2) In the case of a student who is exempt because of 146  
natural immunity, the student is responsible for any costs or 147  
fees associated with demonstrating natural immunity to the 148  
school, private college, or state institution of higher 149  
education. 150

(G) A school shall not deny a student the opportunity to 151  
participate in activities affiliated with the school or on 152  
school property based solely on the student's COVID-19 153  
vaccination status. 154

(H) A student may commence a mandamus action in accordance 155  
with Chapter 2731. of the Revised Code to obtain a judgment 156  
ordering a school, private college, or state institution of 157  
higher education to comply with this section. The court may 158  
award reasonable attorney's fees to the prevailing party. 159

Sec. 3792.06. (A) As used in this section: 160

(1) "Business" means a corporation, association, 161  
partnership, limited liability company, sole proprietorship, 162  
joint venture, or other business entity composed of one or more 163  
individuals, whether or not the entity is operated for profit. 164

(2) "Political subdivision" means a county, township, 165  
municipal corporation, school district, or other body corporate 166  
and politic responsible for governmental activities in a 167  
geographic area smaller than that of the state. "Political 168  
subdivision" also includes a board of health of a city or 169  
general health district. 170

(3) "Public official" means any officer, employee, or duly 171  
authorized agent or representative of a state agency or 172  
political subdivision. 173

(4) "Proof of COVID-19 vaccination" means a paper document 174  
or digital application available on a smartphone, tablet, or 175  
other device, that demonstrates that an individual has been 176  
vaccinated against COVID-19, including through the use of a 177  
scannable code. 178

(5) "State agency" means any organized agency, board, 179  
body, commission, department, institution, office, or other 180  
entity established by the laws of the state for the exercise of 181  
any function of state government. "State agency" does not 182  
include a court. 183

(B) Except as otherwise permitted in sections 3792.05 and 184  
3792.07 of the Revised Code, no individual shall be required to 185  
show proof of COVID-19 vaccination for any reason, including the 186  
following: 187

(1) To enter a building, facility, or place controlled, 188

<u>operated, or owned by any business, political subdivision,</u>	189
<u>public official, or state agency;</u>	190
<u>(2) To receive a service provided by any business,</u>	191
<u>political subdivision, public official, or state agency;</u>	192
<u>(3) To enter a building, facility, or place controlled,</u>	193
<u>operated, or owned by a court or to receive a service provided</u>	194
<u>in such a building, facility, or place, but only if the</u>	195
<u>individual enters for purposes other than attending a court</u>	196
<u>proceeding or event or the individual receives a service not</u>	197
<u>related to a court proceeding or event.</u>	198
<u>(C) In any action to enforce this section, a court may</u>	199
<u>award reasonable attorney's fees to the prevailing party.</u>	200
<b>Sec. 3792.07.</b> <u>(A) As used in this section and section</u>	201
<u>3792.08 of the Revised Code:</u>	202
<u>(1) "Employer" means any person who has one or more</u>	203
<u>employees. "Employer" includes an agent of an employer, the</u>	204
<u>state or any agency or instrumentality of the state, and any</u>	205
<u>municipal corporation, county, township, school district, or</u>	206
<u>other political subdivision or any agency or instrumentality</u>	207
<u>thereof.</u>	208
<u>(2) "Children's hospital" has the same meaning as in</u>	209
<u>section 3722.01 of the Revised Code.</u>	210
<u>(3) "Hospital" has the same meaning as in section 3722.01</u>	211
<u>of the Revised Code, except that a hospital does not include a</u>	212
<u>children's hospital.</u>	213
<u>(4) "Physician" means an individual authorized under</u>	214
<u>Chapter 4731. of the Revised Code to practice medicine and</u>	215
<u>surgery or osteopathic medicine and surgery.</u>	216



(B) (1) No employer shall require an employee to receive 217  
any of the following utilizing messenger ribonucleic acid, 218  
deoxyribonucleic acid, or any other genetic vaccine technology 219  
and for which the United States food and drug administration has 220  
not issued a biologics license or otherwise granted full 221  
approval: 222

(a) A vaccine; 223

(b) A drug; 224

(c) A biological product; 225

(d) A form of genetic immunotherapy. 226

(2) For purposes of this section, neither a biologics 227  
license issued by the United States food and drug administration 228  
nor full approval granted by the United States food and drug 229  
administration are the same as an emergency use authorization 230  
granted by the United States food and drug administration. 231

(C) In the event an employer requires an employee to 232  
receive a vaccine, drug, biological product, or form of genetic 233  
immunotherapy utilizing messenger ribonucleic acid, 234  
deoxyribonucleic acid, or any other genetic vaccine technology 235  
and for which the United States food and drug administration has 236  
issued a biologics license or otherwise granted full approval, 237  
both of the following apply: 238

(1) The employee may satisfy the requirement by doing 239  
either of the following: 240

(a) Receiving the vaccine, drug, biological product, or 241  
form of genetic immunotherapy; 242

(b) Receiving a vaccine, drug, biological product, or form 243  
of genetic immunotherapy utilizing messenger ribonucleic acid, 244

deoxyribonucleic acid, or any other genetic vaccine technology 245  
against the same disease that is available under an emergency 246  
use authorization. 247

(2) Except as provided in division (F) of this section, 248  
and subject to divisions (D) and (E) of this section, an 249  
employee is exempt from the requirement for any of the following 250  
reasons: 251

(a) Medical contraindications; 252

(b) Natural immunity; 253

(c) Reasons of personal conscience, including religious 254  
convictions. 255

(D) (1) To claim an exemption as described in division (C) 256  
(2) (a) of this section, an employee shall submit to the employer 257  
a written statement signed by a physician who has a bona fide 258  
physician-patient relationship with the employee as described in 259  
section 4731.77 of the Revised Code. The employee shall not be 260  
required to submit any additional information beyond the written 261  
statement. 262

(2) To claim an exemption described in division (C) (2) (b) 263  
of this section, an employee shall submit written documentation 264  
to the employer that the employee has been tested for the 265  
presence of antibodies against the same disease in a form or 266  
manner recognized by the medical community and at the time of 267  
testing, had antibodies in an amount at least equal to or 268  
greater than those conferred by a vaccine, drug, biological 269  
product, or form of genetic immunotherapy utilizing messenger 270  
ribonucleic acid, deoxyribonucleic acid, or any other genetic 271  
vaccine technology that has been issued a biologics license or 272  
otherwise granted full approval. 273

The department of health shall adopt rules establishing 274  
the frequency with which an employee shall be retested to 275  
determine whether the employee's antibody presence remains at 276  
least equal to or greater than those conferred by a vaccine, 277  
drug, biological product, or form of genetic immunotherapy 278  
utilizing messenger ribonucleic acid, deoxyribonucleic acid, or 279  
any other genetic vaccine technology that has been issued a 280  
biologics license or otherwise granted full approval. In 281  
adopting the rules, the department shall not require retesting 282  
more than once per year. Until such time as the department 283  
adopts the rules, the employee shall not be required to submit 284  
any additional information beyond the initial written 285  
documentation. 286

(3) To claim an exemption described under division (C)(2) 287  
(c) of this section, an employee shall submit to the employer a 288  
written statement and shall not be required to submit any 289  
additional information beyond the written statement. Once the 290  
employee submits the written statement, the employer shall 291  
accept and honor the exemption and shall not terminate the 292  
employee's employment because the employee claimed the 293  
exemption. 294

(4) A written statement or documentation described in 295  
division (D)(1), (2), or (3) of this section that is submitted 296  
to an employer is confidential and is not a public record under 297  
section 149.43 of the Revised Code. An employer may share the 298  
contents of the statement or documentation with authorized 299  
personnel only to the extent necessary to comply with this 300  
section. 301

(E)(1) No employee is responsible for any costs or fees 302  
associated with any measures required of the employee by the 303

employer to prevent the spread of disease, including testing for 304  
active infection and masking. 305

(2) In the case of an employee who is exempt because of 306  
natural immunity, the employee is responsible for any costs or 307  
fees associated with demonstrating natural immunity to the 308  
employer. 309

(F) (1) (a) The exemptions in division (C) (2) of this 310  
section do not apply to either of the following: 311

(i) An employee employed in a children's hospital; 312

(ii) An employee employed in an intensive care or critical 313  
care unit of a hospital. 314

(b) The employer shall make a good faith effort to provide 315  
equitable employment for an employee who refuses a COVID-19 316  
vaccine and who cannot claim an exemption because of division 317  
(F) (1) (a) of this section. 318

(2) This section does not apply to an employer that is not 319  
a hospital and that, as a regular part of its business, conducts 320  
research on, develops, handles, administers, transports, or 321  
stores infectious organisms. 322

(3) Nothing in this section shall be construed to limit, 323  
diminish, or otherwise affect any provision of Chapter 4112. of 324  
the Revised Code or any federal law relating to employment 325  
discrimination. 326

(G) Nothing in this section impedes or in any way 327  
diminishes the right of employees to bargain collectively with 328  
their employers through representatives of their own choosing in 329  
order to establish terms and other conditions of employment 330  
related to vaccines, drugs, biological products, or forms of 331

genetic immunotherapy utilizing messenger ribonucleic acid, 332  
deoxyribonucleic acid, or any other genetic vaccine technology. 333  
However, no provision of a collective bargaining agreement 334  
entered into before, on, or after the effective date of this 335  
section that relates to vaccines, drugs, biological products, or 336  
forms of genetic immunotherapy utilizing messenger ribonucleic 337  
acid, deoxyribonucleic acid, or any other genetic vaccine 338  
technology applies to a person who is not subject to the terms 339  
of the agreement. 340

**Sec. 3792.08.** (A) A violation of section 3792.07 of the 341  
Revised Code is an unlawful discriminatory practice relating to 342  
employment as defined in section 4112.01 of the Revised Code. 343  
Except as provided in division (B) of this section, an employee 344  
who is injured by an alleged violation of section 3792.07 of the 345  
Revised Code may file a complaint with the Ohio civil rights 346  
commission in accordance with the requirements specified in 347  
sections 4112.051 and 4112.052 of the Revised Code. The 348  
commission shall follow the procedures specified in those 349  
sections for complaints filed for violations of section 3792.07 350  
of the Revised Code regarding that complaint, except, if the 351  
commission determines after a hearing described in section 352  
4112.051 of the Revised Code, that a violation has occurred, the 353  
commission's order shall be limited to an order that the 354  
employer cease and desist from the unlawful discriminatory 355  
practice relating to employment and back pay, if applicable. The 356  
commission may award reasonable attorney's fees to the 357  
prevailing party. 358

(B) An employee of the state or a political subdivision of 359  
the state may commence a mandamus action in accordance with 360  
Chapter 2731. of the Revised Code to obtain a judgment ordering 361  
the employer to comply with section 3792.07 of the Revised Code. 362

The court may award reasonable attorney's fees to the prevailing party. A person is prohibited from bringing an action under this division if the person filed a complaint with the Ohio civil rights commission under division (A) of this section. 363  
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365  
366

**Sec. 4123.01.** As used in this chapter: 367

(A) (1) "Employee" means: 368

(a) Every person in the service of the state, or of any 369  
county, municipal corporation, township, or school district 370  
therein, including regular members of lawfully constituted 371  
police and fire departments of municipal corporations and 372  
townships, whether paid or volunteer, and wherever serving 373  
within the state or on temporary assignment outside thereof, and 374  
executive officers of boards of education, under any appointment 375  
or contract of hire, express or implied, oral or written, 376  
including any elected official of the state, or of any county, 377  
municipal corporation, or township, or members of boards of 378  
education. 379

As used in division (A) (1) (a) of this section, the term 380  
"employee" includes the following persons when responding to an 381  
inherently dangerous situation that calls for an immediate 382  
response on the part of the person, regardless of whether the 383  
person is within the limits of the jurisdiction of the person's 384  
regular employment or voluntary service when responding, on the 385  
condition that the person responds to the situation as the 386  
person otherwise would if the person were on duty in the 387  
person's jurisdiction: 388

(i) Off-duty peace officers. As used in division (A) (1) (a) 389  
(i) of this section, "peace officer" has the same meaning as in 390  
section 2935.01 of the Revised Code. 391

(ii) Off-duty firefighters, whether paid or volunteer, of a lawfully constituted fire department.	392 393
(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.	394 395 396 397 398 399
(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 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.	400 401 402 403 404 405 406 407 408 409 410 411
(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:	412 413 414 415
(i) The person is required to comply with instructions from the other contracting party regarding the manner or method of performing services;	416 417 418
(ii) The person is required by the other contracting party to have particular training;	419 420

(iii) The person's services are integrated into the regular functioning of the other contracting party;	421 422
(iv) The person is required to perform the work personally;	423 424
(v) The person is hired, supervised, or paid by the other contracting party;	425 426
(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;	427 428 429
(vii) The person's hours of work are established by the other contracting party;	430 431
(viii) The person is required to devote full time to the business of the other contracting party;	432 433
(ix) The person is required to perform the work on the premises of the other contracting party;	434 435
(x) The person is required to follow the order of work set by the other contracting party;	436 437
(xi) The person is required to make oral or written reports of progress to the other contracting party;	438 439
(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;	440 441
(xiii) The person's expenses are paid for by the other contracting party;	442 443
(xiv) The person's tools and materials are furnished by the other contracting party;	444 445
(xv) The person is provided with the facilities used to perform services;	446 447



(xvi) The person does not realize a profit or suffer a	448
loss as a result of the services provided;	449
(xvii) The person is not performing services for a number	450
of employers at the same time;	451
(xviii) The person does not make the same services	452
available to the general public;	453
(xix) The other contracting party has a right to discharge	454
the person;	455
(xx) The person has the right to end the relationship with	456
the other contracting party without incurring liability pursuant	457
to an employment contract or agreement.	458
Every person in the service of any independent contractor	459
or subcontractor who has failed to pay into the state insurance	460
fund the amount of premium determined and fixed by the	461
administrator of workers' compensation for the person's	462
employment or occupation or who is a self-insuring employer and	463
who has failed to pay compensation and benefits directly to the	464
employer's injured and to the dependents of the employer's	465
killed employees as required by section 4123.35 of the Revised	466
Code, shall be considered as the employee of the person who has	467
entered into a contract, whether written or verbal, with such	468
independent contractor unless such employees or their legal	469
representatives or beneficiaries elect, after injury or death,	470
to regard such independent contractor as the employer.	471
(d) Every person who operates a vehicle or vessel in the	472
performance of services for or on behalf of a motor carrier	473
transporting property, unless all of the following factors apply	474
to the person:	475
(i) The person owns the vehicle or vessel that is used in	476

performing the services for or on behalf of the carrier, or the 477  
person leases the vehicle or vessel under a bona fide lease 478  
agreement that is not a temporary replacement lease agreement. 479  
For purposes of this division, a bona fide lease agreement does 480  
not include an agreement between the person and the motor 481  
carrier transporting property for which, or on whose behalf, the 482  
person provides services. 483

(ii) The person is responsible for supplying the necessary 484  
personal services to operate the vehicle or vessel used to 485  
provide the service. 486

(iii) The compensation paid to the person is based on 487  
factors related to work performed, including on a mileage-based 488  
rate or a percentage of any schedule of rates, and not solely on 489  
the basis of the hours or time expended. 490

(iv) The person substantially controls the means and 491  
manner of performing the services, in conformance with 492  
regulatory requirements and specifications of the shipper. 493

(v) The person enters into a written contract with the 494  
carrier for whom the person is performing the services that 495  
describes the relationship between the person and the carrier to 496  
be that of an independent contractor and not that of an 497  
employee. 498

(vi) The person is responsible for substantially all of 499  
the principal operating costs of the vehicle or vessel and 500  
equipment used to provide the services, including maintenance, 501  
fuel, repairs, supplies, vehicle or vessel insurance, and 502  
personal expenses, except that the person may be paid by the 503  
carrier the carrier's fuel surcharge and incidental costs, 504  
including tolls, permits, and lumper fees. 505

(vii) The person is responsible for any economic loss or economic gain from the arrangement with the carrier.	506 507
(2) "Employee" does not mean any of the following:	508
(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry;	509 510 511
(b) Any officer of a family farm corporation;	512
(c) An individual incorporated as a corporation;	513
(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;	514 515 516
(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;	517 518 519 520 521
(f) (i) A qualifying employee described in division (A) (14) (a) of section 5703.94 of the Revised Code when the qualifying employee is performing disaster work in this state during a disaster response period pursuant to a qualifying solicitation received by the employee's employer;	522 523 524 525 526
(ii) A qualifying employee described in division (A) (14) (b) of section 5703.94 of the Revised Code when the qualifying employee is performing disaster work in this state during a disaster response period on critical infrastructure owned or used by the employee's employer;	527 528 529 530 531
(iii) As used in division (A) (2) (f) of this section, "critical infrastructure," "disaster response period," "disaster	532 533

work," and "qualifying employee" have the same meanings as in 534  
section 5703.94 of the Revised Code. 535

Any employer may elect to include as an "employee" within 536  
this chapter, any person excluded from the definition of 537  
"employee" pursuant to division (A)(1)(d) or (A)(2)(a), (b), 538  
(c), or (e) of this section in accordance with rules adopted by 539  
the administrator, with the advice and consent of the bureau of 540  
workers' compensation board of directors. If an employer is a 541  
partnership, sole proprietorship, individual incorporated as a 542  
corporation, or family farm corporation, such employer may elect 543  
to include as an "employee" within this chapter, any member of 544  
such partnership, the owner of the sole proprietorship, the 545  
individual incorporated as a corporation, or the officers of the 546  
family farm corporation. Nothing in this section shall prohibit 547  
a partner, sole proprietor, or any person excluded from the 548  
definition of "employee" pursuant to division (A)(2)(a), (b), 549  
(c), or (e) of this section from electing to be included as an 550  
"employee" under this chapter in accordance with rules adopted 551  
by the administrator, with the advice and consent of the board. 552

In the event of an election, the employer or person 553  
electing coverage shall serve upon the bureau of workers' 554  
compensation written notice naming the person to be covered and 555  
include the person's remuneration for premium purposes in all 556  
future payroll reports. No partner, sole proprietor, or person 557  
excluded from the definition of "employee" pursuant to division 558  
(A)(1)(d) or (A)(2)(a), (b), (c), or (e) of this section, shall 559  
receive benefits or compensation under this chapter until the 560  
bureau receives written notice of the election permitted by this 561  
section. 562

For informational purposes only, the bureau shall 563

prescribe such language as it considers appropriate, on such of 564  
its forms as it considers appropriate, to advise employers of 565  
their right to elect to include as an "employee" within this 566  
chapter a sole proprietor, any member of a partnership, or a 567  
person excluded from the definition of "employee" under division 568  
(A) (1) (d) or (A) (2) (a), (b), (c), or (e) of this section, that 569  
they should check any health and disability insurance policy, or 570  
other form of health and disability plan or contract, presently 571  
covering them, or the purchase of which they may be considering, 572  
to determine whether such policy, plan, or contract excludes 573  
benefits for illness or injury that they might have elected to 574  
have covered by workers' compensation. 575

(B) (1) "Employer" means: 576

(a) The state, including state hospitals, each county, 577  
municipal corporation, township, school district, and hospital 578  
owned by a political subdivision or subdivisions other than the 579  
state; 580

(b) Every person, firm, professional employer 581  
organization, alternate employer organization, and private 582  
corporation, including any public service corporation, that (i) 583  
has in service one or more employees or shared employees 584  
regularly in the same business or in or about the same 585  
establishment under any contract of hire, express or implied, 586  
oral or written, or (ii) is bound by any such contract of hire 587  
or by any other written contract, to pay into the insurance fund 588  
the premiums provided by this chapter. 589

All such employers are subject to this chapter. Any member 590  
of a firm or association, who regularly performs manual labor in 591  
or about a mine, factory, or other establishment, including a 592  
household establishment, shall be considered an employee in 593

determining whether such person, firm, or private corporation, 594  
or public service corporation, has in its service, one or more 595  
employees and the employer shall report the income derived from 596  
such labor to the bureau as part of the payroll of such 597  
employer, and such member shall thereupon be entitled to all the 598  
benefits of an employee. 599

(2) "Employer" does not include a franchisor with respect 600  
to the franchisor's relationship with a franchisee or an 601  
employee of a franchisee, unless the franchisor agrees to assume 602  
that role in writing or a court of competent jurisdiction 603  
determines that the franchisor exercises a type or degree of 604  
control over the franchisee or the franchisee's employees that 605  
is not customarily exercised by a franchisor for the purpose of 606  
protecting the franchisor's trademark, brand, or both. For 607  
purposes of this division, "franchisor" and "franchisee" have 608  
the same meanings as in 16 C.F.R. 436.1. 609

(C) "Injury" includes any injury, whether caused by 610  
external accidental means or accidental in character and result, 611  
received in the course of, and arising out of, the injured 612  
employee's employment. "Injury" includes an injury or disability 613  
caused by a COVID-19 vaccine, if the employer required the 614  
employee to receive the vaccine as a condition of employment. 615  
"Injury" does not include: 616

(1) Psychiatric conditions except where the claimant's 617  
psychiatric conditions have arisen from an injury or 618  
occupational disease sustained by that claimant or where the 619  
claimant's psychiatric conditions have arisen from sexual 620  
conduct in which the claimant was forced by threat of physical 621  
harm to engage or participate; 622

(2) Injury or disability caused primarily by the natural 623

deterioration of tissue, an organ, or part of the body; 624

(3) Injury or disability incurred in voluntary 625  
participation in an employer-sponsored recreation or fitness 626  
activity if the employee signs a waiver of the employee's right 627  
to compensation or benefits under this chapter prior to engaging 628  
in the recreation or fitness activity; 629

(4) A condition that pre-existed an injury unless that 630  
pre-existing condition is substantially aggravated by the 631  
injury. Such a substantial aggravation must be documented by 632  
objective diagnostic findings, objective clinical findings, or 633  
objective test results. Subjective complaints may be evidence of 634  
such a substantial aggravation. However, subjective complaints 635  
without objective diagnostic findings, objective clinical 636  
findings, or objective test results are insufficient to 637  
substantiate a substantial aggravation. 638

(D) "Child" includes a posthumous child and a child 639  
legally adopted prior to the injury. 640

(E) "Family farm corporation" means a corporation founded 641  
for the purpose of farming agricultural land in which the 642  
majority of the voting stock is held by and the majority of the 643  
stockholders are persons or the spouse of persons related to 644  
each other within the fourth degree of kinship, according to the 645  
rules of the civil law, and at least one of the related persons 646  
is residing on or actively operating the farm, and none of whose 647  
stockholders are a corporation. A family farm corporation does 648  
not cease to qualify under this division where, by reason of any 649  
devise, bequest, or the operation of the laws of descent or 650  
distribution, the ownership of shares of voting stock is 651  
transferred to another person, as long as that person is within 652  
the degree of kinship stipulated in this division. 653

(F) "Occupational disease" means a disease contracted in 654  
the course of employment, which by its causes and the 655  
characteristics of its manifestation or the condition of the 656  
employment results in a hazard which distinguishes the 657  
employment in character from employment generally, and the 658  
employment creates a risk of contracting the disease in greater 659  
degree and in a different manner from the public in general. 660

(G) "Self-insuring employer" means an employer who is 661  
granted the privilege of paying compensation and benefits 662  
directly under section 4123.35 of the Revised Code, including a 663  
board of county commissioners for the sole purpose of 664  
constructing a sports facility as defined in section 307.696 of 665  
the Revised Code, provided that the electors of the county in 666  
which the sports facility is to be built have approved 667  
construction of a sports facility by ballot election no later 668  
than November 6, 1997. 669

(H) "Private employer" means an employer as defined in 670  
division (B) (1) (b) of this section. 671

(I) "Professional employer organization" has the same 672  
meaning as in section 4125.01 of the Revised Code. 673

(J) "Public employer" means an employer as defined in 674  
division (B) (1) (a) of this section. 675

(K) "Sexual conduct" means vaginal intercourse between a 676  
male and female; anal intercourse, fellatio, and cunnilingus 677  
between persons regardless of gender; and, without privilege to 678  
do so, the insertion, however slight, of any part of the body or 679  
any instrument, apparatus, or other object into the vaginal or 680  
anal cavity of another. Penetration, however slight, is 681  
sufficient to complete vaginal or anal intercourse. 682



(L) "Other-states' insurer" means an insurance company 683  
that is authorized to provide workers' compensation insurance 684  
coverage in any of the states that permit employers to obtain 685  
insurance for workers' compensation claims through insurance 686  
companies. 687

(M) "Other-states' coverage" means both of the following: 688

(1) Insurance coverage secured by an eligible employer for 689  
workers' compensation claims of employees who are in employment 690  
relationships localized in a state other than this state or 691  
those employees' dependents; 692

(2) Insurance coverage secured by an eligible employer for 693  
workers' compensation claims that arise in a state other than 694  
this state where an employer elects to obtain coverage through 695  
either the administrator or an other-states' insurer. 696

(N) "Limited other-states coverage" means insurance 697  
coverage provided by the administrator to an eligible employer 698  
for workers' compensation claims of employees who are in an 699  
employment relationship localized in this state but are 700  
temporarily working in a state other than this state, or those 701  
employees' dependents. 702

(O) "Motor carrier" has the same meaning as in section 703  
4923.01 of the Revised Code. 704

(P) "Alternate employer organization" has the same meaning 705  
as in section 4133.01 of the Revised Code. 706

Sec. 4123.87. For claims arising during the period 707  
beginning on the effective date of this section and ending 708  
September 30, 2025, both of the following apply: 709

(A) No claimant is entitled to compensation or benefits 710

under this chapter or Chapter 4121., 4127., or 4131. of the 711  
Revised Code for an injury caused by a vaccine that utilizes 712  
messenger ribonucleic acid, deoxyribonucleic acid, or any other 713  
genetic vaccine technology if both of the following apply: 714

(1) The vaccine was required by an employer as a condition 715  
of employment. 716

(2) The claimant received compensation under the "National 717  
Childhood Vaccine Injury Act of 1986," 42 U.S.C. 300aa-1, et 718  
seq. or the "The Public Readiness and Emergency Preparedness 719  
(PREP) Act," 42 U.S.C. 247d-6d. 720

(B) If a claimant receives an award of compensation or 721  
benefits under this chapter or Chapter 4121., 4127., or 4131. of 722  
the Revised Code for an injury described in division (A) of this 723  
section and also received compensation as described in division 724  
(A)(2) of this section, the administrator of workers' 725  
compensation or any self-insuring employer, by any lawful means, 726  
may collect from the claimant any of the following: 727

(1) The amount of compensation or benefits paid to or on 728  
behalf of the claimant by the administrator or a self-insuring 729  
employer pursuant to this chapter or Chapter 4121., 4127., or 730  
4131. of the Revised Code for that award; 731

(2) Any interest, attorney's fees, and costs the 732  
administrator or the self-insuring employer incurs in collecting 733  
that payment. 734

**Sec. 4731.77.** (A) As used in this section, "physician" 735  
means an individual authorized to practice medicine and surgery 736  
or osteopathic medicine and surgery. 737

(B) To be eligible to sign a written statement to be 738  
submitted by a student or employee as described in section 739

3792.05 or section 3792.07 of the Revised Code, a physician must 740  
have a bona fide physician-patient relationship with the student 741  
or employee. 742

A bona fide physician-patient relationship is established 743  
if all of the following are the case: 744

(1) The physician has conducted an in-person examination 745  
of the student or employee. 746

(2) The physician has reviewed the student's or employee's 747  
medical history. 748

(3) The physician expects to provide care to the student 749  
or employee on an ongoing basis. 750

(4) The student or employee expects to receive care from 751  
the physician on an ongoing basis. 752

**Sec. 4765.60.** Notwithstanding any conflicting provision of 753  
the Revised Code, an emergency medical technician-basic, 754  
emergency medical technician-intermediate, and emergency medical 755  
technician-paramedic who has received proper training may 756  
administer a test for COVID-19 and collect and label test 757  
specimens. 758

**Section 2.** That existing section 4123.01 of the Revised 759  
Code is hereby repealed. 760

**Section 3.** That sections 3792.05, 3792.07, and 3792.08 of 761  
the Revised Code are hereby repealed, effective September 30, 762  
2025. 763

**Section 4.** (A) As used in this section: 764

(1) "Advanced practice registered nurse" means an 765  
individual who holds a current, valid license issued under 766

Chapter 4723. of the Revised Code to practice as an advanced practice registered nurse.	767 768
(2) "Athletic trainer" means an individual licensed under Chapter 4755. of the Revised Code to practice athletic training.	769 770
(3) "Audiologist" means an individual licensed under Chapter 4753. of the Revised Code to practice audiology.	771 772
(4) "Behavioral health provider" means a provider of alcohol and drug addiction services, mental health services, or other behavioral health services and includes the following providers:	773 774 775 776
(a) An independent chemical dependency counselor-clinical supervisor, independent chemical dependency counselor, chemical dependency counselor III, and chemical dependency counselor II, licensed under Chapter 4758. of the Revised Code, and a chemical dependency counselor assistant, prevention consultant, prevention specialist, prevention specialist assistant, and registered applicant, certified under that chapter;	777 778 779 780 781 782 783
(b) A licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist who holds a current, valid license issued under Chapter 4757. of the Revised Code;	784 785 786 787 788
(c) A psychologist.	789
(5) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.	790 791 792
(6) "Chiropractor" means an individual who is authorized under Chapter 4734. of the Revised Code to practice	793 794

chiropractic.	795
(7) "Dental hygienist" means an individual licensed under Chapter 4715. of the Revised Code to practice as a dental hygienist.	796 797 798
(8) "Dentist" has the same meaning as in section 2305.231 of the Revised Code.	799 800
(9) "Direct support professional" means an individual employed by an agency to provide direct care to individuals with developmental disabilities.	801 802 803
(10) "Emergency medical technician" means an EMT-basic, an EMT-I, or a paramedic.	804 805
(11) "EMT-basic" means an individual who holds a current, valid certificate issued under section 4765.30 of the Revised Code to practice as an emergency medical technician-basic.	806 807 808
(12) "EMT-I" means an individual who holds a current, valid certificate issued under section 4765.30 of the Revised Code to practice as an emergency medical technician-intermediate.	809 810 811 812
(13) "Facility" means an institution or setting where health care services are provided, including, without limitation, a hospital, inpatient, ambulatory, surgical, emergency care, urgent care, treatment, laboratory, adult day-care, residential care, residential treatment, long-term care, or intermediate care facility, or a facility for individuals with developmental disabilities; a physician's office; a developmental, diagnostic, or imaging center; a rehabilitation or therapeutic health setting; a federally qualified health center or federally qualified health center look-alike; or any modular field treatment facility or alternative care site	813 814 815 816 817 818 819 820 821 822 823

designated for temporary use for the purposes of providing 824  
health care services in response to an outbreak of MERS-CoV, 825  
SARS-CoV, or SARS-CoV-2, or any mutation thereof. 826

(14) "Facility for individuals with developmental 827  
disabilities" means a facility that provides services to two or 828  
more unrelated individuals with developmental disabilities in a 829  
residential setting, such as an institution for mental disease 830  
or a residential facility licensed under section 5123.19 of the 831  
Revised Code. 832

(15) "Federally qualified health center" and "federally 833  
qualified health center look-alike" have the same meanings as in 834  
section 3701.047 of the Revised Code. 835

(16) "Gross negligence" means a lack of care so great that 836  
it appears to be a conscious indifference to the rights of 837  
others. 838

(17) "Health care professional" means an advanced practice 839  
registered nurse, a registered nurse, a licensed practical 840  
nurse, a pharmacist, a dentist, a dental hygienist, an 841  
optometrist, a physician, a physician assistant, a chiropractor, 842  
a physical therapist, an occupational therapist, an athletic 843  
trainer, a speech-language pathologist, an audiologist, a 844  
laboratory worker, a massage therapist, or a respiratory care 845  
professional. 846

(18) "Health care provider" means a health care 847  
professional, health care worker, direct support professional, 848  
behavioral health provider, hearing aid dealer, hearing aid 849  
fitter, or emergency medical technician or a home health agency, 850  
hospice care program, home and community-based services 851  
provider, or facility, including any agent, board member, 852

committee member, employee, employer, officer, or volunteer of 853  
the agency, program, provider, or facility acting in the course 854  
of the agent's, board member's, committee member's, employee's, 855  
employer's, officer's, or volunteer's service or employment. 856

(19) "Health care services" means services rendered by a 857  
health care provider for the diagnosis, prevention, treatment, 858  
cure, or relief of a health condition, illness, injury, or 859  
disease, including the provision of any medication, medical 860  
equipment, or other medical product. "Health care services" 861  
includes personal care services and experimental treatments. 862

(20) "Health care worker" means a person other than a 863  
health care professional or emergency medical technician who 864  
provides medical, dental, or other health care services under 865  
the direction of a health care professional authorized to direct 866  
the individual's activities. "Health care worker" includes a 867  
medical technician, medical assistant, dental assistant, 868  
occupational therapy assistant, physical therapist assistant, 869  
orderly, nurse aide, and any other individual acting in a 870  
similar capacity. 871

(21) "Hearing aid dealer" and "hearing aid fitter" have 872  
the same meanings as in section 4747.01 of the Revised Code. 873

(22) "Home and community-based services provider" means a 874  
provider of services under a home and community-based services 875  
medicaid waiver component. 876

(23) "Home health agency" has the same meaning as in 877  
section 3701.881 of the Revised Code. 878

(24) "Hospice care program" has the same meaning as in 879  
section 3712.01 of the Revised Code. 880

(25) "Hospital" and "medical claim" have the same meanings 881

as in section 2305.113 of the Revised Code.	882
(26) "Licensed practical nurse" means an individual who	883
holds a current, valid license issued under Chapter 4723. of the	884
Revised Code to practice as a licensed practical nurse.	885
(27) "Long-term care facility" has the same meaning as in	886
section 3701.74 of the Revised Code.	887
(28) "Massage therapist" means an individual licensed	888
under section 4731.15 of the Revised Code to practice massage	889
therapy.	890
(29) "Medicaid waiver component" has the same meaning as	891
in section 5166.01 of the Revised Code.	892
(30) "Occupational therapist" means an individual who	893
holds a current license or limited certificate under Chapter	894
4755. of the Revised Code to practice occupational therapy.	895
(31) "Occupational therapy assistant" means an individual	896
who holds a license or limited permit under Chapter 4755. of the	897
Revised Code to practice as an occupational therapy assistant.	898
(32) "Optometrist" means a person who is licensed under	899
Chapter 4725. of the Revised Code to practice optometry.	900
(33) "Paramedic" means an individual who holds a current,	901
valid certificate issued under section 4765.30 of the Revised	902
Code to practice as an emergency medical technician-paramedic.	903
(34) "Personal care services" has the same meaning as in	904
section 3721.01 of the Revised Code.	905
(35) "Pharmacist" means an individual who holds a current,	906
valid license issued under Chapter 4729. of the Revised Code to	907
practice as a pharmacist.	908



(36) "Physical therapist" means an individual licensed under Chapter 4755. of the Revised Code to practice physical therapy. 909  
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(37) "Physical therapist assistant" means an individual licensed under Chapter 4755. of the Revised Code to practice as a physical therapist assistant. 912  
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(38) "Physician" means an individual who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery. 915  
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(39) "Physician assistant" means an individual who is authorized under Chapter 4730. of the Revised Code to practice as a physician assistant. 919  
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(40) "Psychologist" means an individual who is licensed as a psychologist or school psychologist under Chapter 4732. of the Revised Code. 922  
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(41) "Reckless disregard" means, as it applies to a given health care provider rendering health care services, emergency medical services, first-aid treatment, or other emergency professional care, conduct by which, with heedless indifference to the consequences, the health care provider disregards a substantial and unjustifiable risk that the health care provider's conduct is likely to cause, at the time those services or that treatment or care were rendered, an unreasonable risk of injury, death, or loss to person or property. 925  
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(42) "Registered nurse" means an individual who holds a current, valid license issued under Chapter 4723. of the Revised Code to practice as a registered nurse. 935  
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(43) "Respiratory care professional" has the same meaning as in section 4761.01 of the Revised Code.	938 939
(44) "Speech-language pathologist" means an individual licensed under Chapter 4753. of the Revised Code to practice speech-language pathology.	940 941 942
(45) "Tort action" means a civil action for damages for injury, death, or loss to person or property and includes claims arising under resident or patient bills of rights and contractual claims arising out of statutory or regulatory requirements applicable to health care providers. "Tort action" includes an action on a medical claim.	943 944 945 946 947 948
(B) (1) Subject to division (C) (3) of this section, a health care provider that provides health care services, emergency medical services, first-aid treatment, or other emergency professional care, including the provision of any medication or other medical equipment or product, as a result of and in response to an outbreak of MERS-CoV, SARS-CoV, or SARS-CoV-2, or any mutation thereof is not subject to professional disciplinary action and is not liable in damages to any person or government agency in a tort action for injury, death, or loss to person or property that arises from any of the following:	949 950 951 952 953 954 955 956 957 958
(a) An act or omission of the health care provider in the health care provider's provision, withholding, or withdrawal of those services;	959 960 961
(b) Any decision related to the provision, withholding, or withdrawal of those services;	962 963
(c) Compliance with an executive order or director's order issued during and in response to an outbreak of MERS-CoV, SARS-CoV, or SARS-CoV-2, or any mutation thereof.	964 965 966

(2) Division (B)(1) of this section does not apply in a 967  
tort action if the health care provider's action, omission, 968  
decision, or compliance constitutes a reckless disregard for the 969  
consequences so as to affect the life or health of the patient 970  
or intentional misconduct or willful or wanton misconduct on the 971  
part of the person against whom the action is brought. 972

(3) Division (B)(1) of this section does not apply in a 973  
professional disciplinary action if the health care provider's 974  
action, omission, decision, or compliance constitutes gross 975  
negligence. 976

(4) A health care provider is not subject to professional 977  
disciplinary action and is not liable in damages to any person 978  
or government agency in a tort action for injury, death, or loss 979  
to person or property that arises because the provider was 980  
unable to treat, diagnose, or test the person for any illness, 981  
disease, or condition, including the inability to perform any 982  
elective procedure, due to an executive or director's order or 983  
an order of a board of health of a city or general health 984  
district issued in relation to an outbreak of MERS-CoV, SARS- 985  
CoV, or SARS-CoV-2, or any mutation thereof. 986

(C)(1) This section does not create a new cause of action 987  
or substantive legal right against a health care provider. 988

(2) This section does not affect any immunities from civil 989  
liability or defenses established by another section of the 990  
Revised Code or available at common law to which a health care 991  
provider may be entitled in connection with the provision of 992  
health care services, emergency medical services, first-aid 993  
treatment, or other emergency professional care, including the 994  
provision of medication, medical equipment, or other medical 995  
product. 996

(3) This section does not grant an immunity from tort or 997  
other civil liability or a professional disciplinary action to a 998  
health care provider for actions that are outside the skills, 999  
education, and training of the health care provider, unless the 1000  
health care provider undertakes the action in good faith and in 1001  
response to a lack of resources caused by an outbreak of MERS- 1002  
CoV, SARS-CoV, or SARS-CoV-2, or any mutation thereof. 1003

(4) This section does not affect any legal responsibility 1004  
of a health care provider to comply with any applicable law of 1005  
this state or rule of an agency of this state. 1006

(5) Division (B) of this section applies only to the 1007  
provision, withholding, or withdrawal of health care services, 1008  
emergency medical services, first-aid treatment, or other 1009  
emergency professional care, including the provision of any 1010  
medication or other medical equipment or product, decisions 1011  
related to such services or care, or compliance with an 1012  
executive order or director's order by a health care provider as 1013  
a result of and in response to an outbreak of MERS-CoV, SARS- 1014  
CoV, or SARS-CoV-2, or any mutation thereof and through the 1015  
duration of the outbreak. 1016

(D) If the immunity described in division (B) of this 1017  
section does not apply, no class action shall be brought against 1018  
any health care provider alleging liability for damages for 1019  
injury, death, or loss to person or property on a cause of 1020  
action specified in that division. 1021

(E) This section applies from September 30, 2021, through 1022  
June 30, 2023. 1023

**Section 5.** (A) No civil action for damages for injury, 1024  
death, or loss to person or property shall be brought against 1025

any person if the cause of action on which the civil action is 1026  
based, in whole or in part, is that the injury, death, or loss 1027  
to person or property is caused by the exposure to, or the 1028  
transmission or contraction of, MERS-CoV, SARS-CoV, or SARS-CoV- 1029  
2, or any mutation thereof, unless it is established that the 1030  
exposure to, or the transmission or contraction of, any of those 1031  
viruses or mutations was by reckless conduct or intentional 1032  
misconduct or willful or wanton misconduct on the part of the 1033  
person against whom the action is brought. 1034

(B) For purposes of division (A) of this section, a 1035  
government order, recommendation, or guideline shall neither 1036  
create nor be construed as creating a duty of care upon any 1037  
person that may be enforced in a cause of action or that may 1038  
create a new cause of action or substantive legal right against 1039  
any person with respect to the matters contained in the 1040  
government order, recommendation, or guideline. A presumption 1041  
exists that any such government order, recommendation, or 1042  
guideline is not admissible as evidence that a duty of care, a 1043  
new cause of action, or a substantive legal right has been 1044  
established. 1045

(C) If the immunity described in division (A) of this 1046  
section does not apply, no class action shall be brought against 1047  
any person alleging liability for damages for injury, death, or 1048  
loss to person or property on a cause of action specified in 1049  
that division. 1050

(D) As used in this section: 1051

(1) "MERS-CoV" means the coronavirus that causes middle 1052  
east respiratory syndrome. 1053

(2) "Person" has the same meaning as in section 1.59 of 1054

the Revised Code and includes a school, a for-profit or 1055  
nonprofit entity, a governmental entity, a religious entity, or 1056  
a state institution of higher education. 1057

(3) "Reckless conduct" means conduct by which, with 1058  
heedless indifference to the consequences, the person disregards 1059  
a substantial and unjustifiable risk that the person's conduct 1060  
is likely to cause an exposure to, or a transmission or 1061  
contraction of, MERS-CoV, SARS-CoV, or SARS-CoV-2, or any 1062  
mutation thereof, or is likely to be of a nature that results in 1063  
an exposure to, or a transmission or contraction of, any of 1064  
those viruses or mutations. A person is reckless with respect to 1065  
circumstances in relation to causing an exposure to, or a 1066  
transmission or contraction of, MERS-CoV, SARS-CoV, or SARS-CoV- 1067  
2, or any mutation thereof, when, with heedless indifference to 1068  
the consequences, the person disregards a substantial and 1069  
unjustifiable risk that such circumstances are likely to exist. 1070

(4) "SARS-CoV" means the coronavirus that causes severe 1071  
acute respiratory syndrome. 1072

(5) "SARS-CoV-2" means the novel coronavirus that causes 1073  
coronavirus disease 2019 (COVID-19). 1074

(6) "State institution of higher education" has the same 1075  
meaning as in section 3345.011 of the Revised Code. 1076

(E) This section applies from September 30, 2021, through 1077  
June 30, 2023. 1078

**Section 6.** Sections 4 and 5 of this act, regarding 1079  
temporary qualified civil immunities, are remedial in nature and 1080  
apply retroactively to acts, omissions, conduct, decisions, or 1081  
compliance from September 30, 2021, through June 30, 2023. 1082

**Section 7.** The items of law contained in this act, and 1083

their applications, are severable. If any item of law contained 1084  
in this act, or if any application of any item of law contained 1085  
in this act, is held invalid, the invalidity does not affect 1086  
other items of law contained in this act and their applications 1087  
that can be given effect without the invalid item of law or 1088  
application. 1089