

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**H. B. No. 676**

**Representative Brinkman**

---

**A BILL**

To amend section 4123.57 of the Revised Code 1  
regarding permanent partial disability awards 2  
under the Workers' Compensation Law. 3

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

**Section 1.** That section 4123.57 of the Revised Code be 4  
amended to read as follows: 5

**Sec. 4123.57.** Partial disability compensation shall be 6  
paid as follows. 7

Except as provided in this section, not earlier than 8  
twenty-six weeks after the date of termination of the latest 9  
period of payments under section 4123.56 of the Revised Code or 10  
twenty-six weeks after the termination of wages in lieu of those 11  
payments, or not earlier than twenty-six weeks after the date of 12  
the injury or contraction of an occupational disease in the 13  
absence of payments under section 4123.56 of the Revised Code or 14  
wages in lieu of those payments, the employee may file an 15  
application with the bureau of workers' compensation for the 16  
determination of the percentage of the employee's permanent 17  
partial disability resulting from an injury or occupational 18  
disease. 19

Whenever the application is filed, the bureau shall send a 20  
copy of the application to the employee's employer or the 21  
employer's representative and shall schedule the employee for a 22  
medical examination by the bureau medical section. The bureau 23  
shall send a copy of the report of the medical examination to 24  
the employee, the employer, and their representatives. 25  
Thereafter, the administrator of workers' compensation shall 26  
review the employee's claim file and make a tentative order as 27  
the evidence before the administrator at the time of the making 28  
of the order warrants. If the administrator determines that 29  
there is a conflict of evidence, the administrator shall send 30  
the application, along with the claimant's file, to the district 31  
hearing officer who shall set the application for a hearing. 32

If an employee fails to respond to an attempt to schedule 33  
a medical examination by the bureau medical section, or fails to 34  
attend a medical examination scheduled under this section 35  
without notice or explanation, the employee's application for a 36  
finding shall be dismissed without prejudice. The employee may 37  
refile the application. A dismissed application does not toll 38  
the continuing jurisdiction of the industrial commission under 39  
section 4123.52 of the Revised Code. The administrator shall 40  
adopt rules addressing the manner in which an employee will be 41  
notified of a possible dismissal and how an employee may refile 42  
an application for a determination. 43

The administrator shall notify the employee, the employer, 44  
and their representatives, in writing, of the tentative order 45  
and of the parties' right to request a hearing. Unless the 46  
employee, the employer, or their representative notifies the 47  
administrator, in writing, of an objection to the tentative 48  
order within twenty days after receipt of the notice thereof, 49  
the tentative order shall go into effect and the employee shall 50

receive the compensation provided in the order. In no event 51  
shall there be a reconsideration of a tentative order issued 52  
under this division. 53

If the employee, the employer, or their representatives 54  
timely notify the administrator of an objection to the tentative 55  
order, the matter shall be referred to a district hearing 56  
officer who shall set the application for hearing with written 57  
notices to all interested persons. Upon referral to a district 58  
hearing officer, the employer may obtain a medical examination 59  
of the employee, pursuant to rules of the industrial commission. 60

(A) The district hearing officer, upon the application, 61  
shall determine the percentage of the employee's permanent 62  
disability, except as is subject to division (B) of this 63  
section, based upon that condition of the employee resulting 64  
from the injury or occupational disease and causing permanent 65  
impairment evidenced by medical or clinical findings reasonably 66  
demonstrable. The employee shall receive sixty-six and two- 67  
thirds per cent of the employee's average weekly wage, but not 68  
more than a maximum of thirty-three and one-third per cent of 69  
the statewide average weekly wage as defined in division (C) of 70  
section 4123.62 of the Revised Code, per week regardless of the 71  
average weekly wage, for the number of weeks which equals the 72  
percentage of two hundred weeks. Except on application for 73  
reconsideration, review, or modification, which is filed within 74  
ten days after the date of receipt of the decision of the 75  
district hearing officer, in no instance shall the former award 76  
be modified unless it is found from medical or clinical findings 77  
that the condition of the claimant resulting from the injury has 78  
so progressed as to have increased the percentage of permanent 79  
partial disability. A staff hearing officer shall hear an 80  
application for reconsideration filed and the staff hearing 81

officer's decision is final. An employee may file an application 82  
for a subsequent determination of the percentage of the 83  
employee's permanent disability. If such an application is 84  
filed, the bureau shall send a copy of the application to the 85  
employer or the employer's representative. No sooner than sixty 86  
days from the date of the mailing of the application to the 87  
employer or the employer's representative, the administrator 88  
shall review the application. The administrator may require a 89  
medical examination or medical review of the employee. The 90  
administrator shall issue a tentative order based upon the 91  
evidence before the administrator, provided that if the 92  
administrator requires a medical examination or medical review, 93  
the administrator shall not issue the tentative order until the 94  
completion of the examination or review. 95

The employer may obtain a medical examination of the 96  
employee and may submit medical evidence at any stage of the 97  
process up to a hearing before the district hearing officer, 98  
pursuant to rules of the commission. The administrator shall 99  
notify the employee, the employer, and their representatives, in 100  
writing, of the nature and amount of any tentative order issued 101  
on an application requesting a subsequent determination of the 102  
percentage of an employee's permanent disability. An employee, 103  
employer, or their representatives may object to the tentative 104  
order within twenty days after the receipt of the notice 105  
thereof. If no timely objection is made, the tentative order 106  
shall go into effect. In no event shall there be a 107  
reconsideration of a tentative order issued under this division. 108  
If an objection is timely made, the application for a subsequent 109  
determination shall be referred to a district hearing officer 110  
who shall set the application for a hearing with written notice 111  
to all interested persons. No application for subsequent 112

percentage determinations on the same claim for injury or 113  
occupational disease shall be accepted for review by the 114  
district hearing officer unless supported by substantial 115  
evidence of new and changed circumstances developing since the 116  
time of the hearing on the original or last determination. 117

No award shall be made under this division based upon a 118  
percentage of disability which, when taken with all other 119  
percentages of permanent disability, exceeds one hundred per 120  
cent. If the percentage of the permanent disability of the 121  
employee equals or exceeds ninety per cent, compensation for 122  
permanent partial disability shall be paid for two hundred 123  
weeks. 124

Compensation payable under this division ~~accrues and is~~ 125  
payable to the employee from the date of last payment of 126  
compensation, or, in cases where no previous compensation has 127  
been paid, from the date of the injury or the date of the 128  
diagnosis of the occupational disease. An award under this 129  
division shall be paid in weekly installments. 130

When an award under this division has been made prior to 131  
the death of an employee, all unpaid installments ~~accrued or to~~ 132  
~~accrue under the provisions~~ of the award are payable to the 133  
surviving spouse, or if there is no surviving spouse, to the 134  
dependent children of the employee, and if there are no children 135  
surviving, then to other dependents as the administrator 136  
determines. 137

(B) For purposes of this division, "payable per week" 138  
means the seven-consecutive-day period in which compensation is 139  
paid in installments according to the schedule associated with 140  
the applicable injury as set forth in this division. 141

An award under this division shall be paid in weekly 142  
installments. Compensation paid in weekly installments according 143  
to the schedule described in this division may only be commuted 144  
to one or more lump sum payments pursuant to the procedure set 145  
forth in section 4123.64 of the Revised Code. 146

In cases included in the following schedule the 147  
compensation payable per week to the employee is the statewide 148  
average weekly wage as defined in division (C) of section 149  
4123.62 of the Revised Code per week and shall be paid in 150  
installments according to the following schedule: 151

For the loss of a first finger, commonly known as a thumb, 152  
sixty weeks. 153

For the loss of a second finger, commonly called index 154  
finger, thirty-five weeks. 155

For the loss of a third finger, thirty weeks. 156

For the loss of a fourth finger, twenty weeks. 157

For the loss of a fifth finger, commonly known as the 158  
little finger, fifteen weeks. 159

The loss of a second, or distal, phalange of the thumb is 160  
considered equal to the loss of one half of such thumb; the loss 161  
of more than one half of such thumb is considered equal to the 162  
loss of the whole thumb. 163

The loss of the third, or distal, phalange of any finger 164  
is considered equal to the loss of one-third of the finger. 165

The loss of the middle, or second, phalange of any finger 166  
is considered equal to the loss of two-thirds of the finger. 167

The loss of more than the middle and distal phalanges of 168

any finger is considered equal to the loss of the whole finger. 169  
In no case shall the amount received for more than one finger 170  
exceed the amount provided in this schedule for the loss of a 171  
hand. 172

For the loss of the metacarpal bone (bones of the palm) 173  
for the corresponding thumb, or fingers, add ten weeks to the 174  
number of weeks under this division. 175

For ankylosis (total stiffness of) or contractures (due to 176  
scars or injuries) which makes any of the fingers, thumbs, or 177  
parts of either useless, the same number of weeks apply to the 178  
members or parts thereof as given for the loss thereof. 179

If the claimant has suffered the loss of two or more 180  
fingers by amputation or ankylosis and the nature of the 181  
claimant's employment in the course of which the claimant was 182  
working at the time of the injury or occupational disease is 183  
such that the handicap or disability resulting from the loss of 184  
fingers, or loss of use of fingers, exceeds the normal handicap 185  
or disability resulting from the loss of fingers, or loss of use 186  
of fingers, the administrator may take that fact into 187  
consideration and increase the award of compensation 188  
accordingly, but the award made shall not exceed the amount of 189  
compensation for loss of a hand. 190

For the loss of a hand, one hundred seventy-five weeks. 191

For the loss of an arm, two hundred twenty-five weeks. 192

For the loss of a great toe, thirty weeks. 193

For the loss of one of the toes other than the great toe, 194  
ten weeks. 195

The loss of more than two-thirds of any toe is considered 196

equal to the loss of the whole toe.	197
The loss of less than two-thirds of any toe is considered	198
no loss, except as to the great toe; the loss of the great toe	199
up to the interphalangeal joint is co-equal to the loss of one-	200
half of the great toe; the loss of the great toe beyond the	201
interphalangeal joint is considered equal to the loss of the	202
whole great toe.	203
For the loss of a foot, one hundred fifty weeks.	204
For the loss of a leg, two hundred weeks.	205
For the loss of the sight of an eye, one hundred twenty-	206
five weeks.	207
For the permanent partial loss of sight of an eye, the	208
portion of one hundred twenty-five weeks as the administrator in	209
each case determines, based upon the percentage of vision	210
actually lost as a result of the injury or occupational disease,	211
but, in no case shall an award of compensation be made for less	212
than twenty-five per cent loss of <del>uncorrected</del> vision. "Loss of	213
<del>uncorrected</del> vision" means the percentage of vision actually lost	214
as the result of the injury or occupational disease <u>after any</u>	215
<u>corrective surgery or other corrections to vision.</u>	216
For the permanent and total loss of hearing of one ear,	217
twenty-five weeks; but in no case shall an award of compensation	218
be made for less than permanent and total loss of hearing of one	219
ear.	220
For the permanent and total loss of hearing, one hundred	221
twenty-five weeks; but, except pursuant to the next preceding	222
paragraph, in no case shall an award of compensation be made for	223
less than permanent and total loss of hearing.	224



In case an injury or occupational disease results in 225  
serious facial or head disfigurement which either impairs or may 226  
in the future impair the opportunities to secure or retain 227  
employment, the administrator shall make an award of 228  
compensation as it deems proper and equitable, in view of the 229  
nature of the disfigurement, and not to exceed the sum of ten 230  
thousand dollars. For the purpose of making the award, it is not 231  
material whether the employee is gainfully employed in any 232  
occupation or trade at the time of the administrator's 233  
determination. 234

~~When an award under this division has been made prior to~~ 235  
~~the death of an employee all~~ Payment of weekly installments for 236  
an award under this division shall stop on the employee's death. 237  
If an employee dies in the middle of a week, payment shall be 238  
made for the full week in which the employee dies. Any unpaid 239  
weekly installments accrued or to accrue under the provisions of 240  
the award due to the employee for the weeks prior to the 241  
employee's death, or for the remainder of the week in which the 242  
employee dies, shall be payable to the surviving spouse, or if 243  
there is no surviving spouse, to the dependent children of the 244  
employee and if there are no such children, then to such 245  
dependents as the administrator determines. 246

When an employee has sustained ~~the a scheduled loss of a~~ 247  
~~member by severance under this division,~~ but no award has been 248  
made on account thereof prior to the employee's death, the 249  
administrator shall make an award in accordance with this 250  
division for the loss which shall be payable to the surviving 251  
spouse, or if there is no surviving spouse, to the dependent 252  
children of the employee and if there are no such children, then 253  
to such dependents as the administrator determines, provided 254  
that the award may be paid only for the weeks prior to the 255

employee's death or for the remainder of the week in which the 256  
employee dies. 257

(C) Compensation for partial impairment under divisions 258  
(A) and (B) of this section is in addition to the compensation 259  
paid the employee pursuant to section 4123.56 of the Revised 260  
Code. A claimant may receive compensation under divisions (A) 261  
and (B) of this section. 262

In all cases arising under division (B) of this section, 263  
if it is determined by any one of the following: (1) the amputee 264  
clinic at University hospital, Ohio state university; (2) the 265  
opportunities for Ohioans with disabilities agency; (3) an 266  
amputee clinic or prescribing physician approved by the 267  
administrator or the administrator's designee, that an injured 268  
or disabled employee is in need of an artificial appliance, or 269  
in need of a repair thereof, regardless of whether the appliance 270  
or its repair will be serviceable in the vocational 271  
rehabilitation of the injured employee, and regardless of 272  
whether the employee has returned to or can ever again return to 273  
any gainful employment, the bureau shall pay the cost of the 274  
artificial appliance or its repair out of the surplus created by 275  
division (B) of section 4123.34 of the Revised Code. 276

In those cases where an opportunities for Ohioans with 277  
disabilities agency's recommendation that an injured or disabled 278  
employee is in need of an artificial appliance would conflict 279  
with their state plan, adopted pursuant to the "Rehabilitation 280  
Act of 1973," 87 Stat. 355, 29 U.S.C.A. 701, the administrator 281  
or the administrator's designee or the bureau may obtain a 282  
recommendation from an amputee clinic or prescribing physician 283  
that they determine appropriate. 284

(D) If an employee of a state fund employer makes 285

application for a finding and the administrator finds that the 286  
employee has contracted silicosis as defined in division (Y), or 287  
coal miners' pneumoconiosis as defined in division (Z), or 288  
asbestosis as defined in division (BB) of section 4123.68 of the 289  
Revised Code, and that a change of such employee's occupation is 290  
medically advisable in order to decrease substantially further 291  
exposure to silica dust, asbestos, or coal dust and if the 292  
employee, after the finding, has changed or shall change the 293  
employee's occupation to an occupation in which the exposure to 294  
silica dust, asbestos, or coal dust is substantially decreased, 295  
the administrator shall allow to the employee an amount equal to 296  
fifty per cent of the statewide average weekly wage per week for 297  
a period of thirty weeks, commencing as of the date of the 298  
discontinuance or change, and for a period of one hundred weeks 299  
immediately following the expiration of the period of thirty 300  
weeks, the employee shall receive sixty-six and two-thirds per 301  
cent of the loss of wages resulting directly and solely from the 302  
change of occupation but not to exceed a maximum of an amount 303  
equal to fifty per cent of the statewide average weekly wage per 304  
week. No such employee is entitled to receive more than one 305  
allowance on account of discontinuance of employment or change 306  
of occupation and benefits shall cease for any period during 307  
which the employee is employed in an occupation in which the 308  
exposure to silica dust, asbestos, or coal dust is not 309  
substantially less than the exposure in the occupation in which 310  
the employee was formerly employed or for any period during 311  
which the employee may be entitled to receive compensation or 312  
benefits under section 4123.68 of the Revised Code on account of 313  
disability from silicosis, asbestosis, or coal miners' 314  
pneumoconiosis. An award for change of occupation for a coal 315  
miner who has contracted coal miners' pneumoconiosis may be 316  
granted under this division even though the coal miner continues 317

employment with the same employer, so long as the coal miner's 318  
employment subsequent to the change is such that the coal 319  
miner's exposure to coal dust is substantially decreased and a 320  
change of occupation is certified by the claimant as permanent. 321  
The administrator may accord to the employee medical and other 322  
benefits in accordance with section 4123.66 of the Revised Code. 323

(E) If a firefighter or police officer makes application 324  
for a finding and the administrator finds that the firefighter 325  
or police officer has contracted a cardiovascular and pulmonary 326  
disease as defined in division (W) of section 4123.68 of the 327  
Revised Code, and that a change of the firefighter's or police 328  
officer's occupation is medically advisable in order to decrease 329  
substantially further exposure to smoke, toxic gases, chemical 330  
fumes, and other toxic vapors, and if the firefighter, or police 331  
officer, after the finding, has changed or changes occupation to 332  
an occupation in which the exposure to smoke, toxic gases, 333  
chemical fumes, and other toxic vapors is substantially 334  
decreased, the administrator shall allow to the firefighter or 335  
police officer an amount equal to fifty per cent of the 336  
statewide average weekly wage per week for a period of thirty 337  
weeks, commencing as of the date of the discontinuance or 338  
change, and for a period of seventy-five weeks immediately 339  
following the expiration of the period of thirty weeks the 340  
administrator shall allow the firefighter or police officer 341  
sixty-six and two-thirds per cent of the loss of wages resulting 342  
directly and solely from the change of occupation but not to 343  
exceed a maximum of an amount equal to fifty per cent of the 344  
statewide average weekly wage per week. No such firefighter or 345  
police officer is entitled to receive more than one allowance on 346  
account of discontinuance of employment or change of occupation 347  
and benefits shall cease for any period during which the 348

firefighter or police officer is employed in an occupation in 349  
which the exposure to smoke, toxic gases, chemical fumes, and 350  
other toxic vapors is not substantially less than the exposure 351  
in the occupation in which the firefighter or police officer was 352  
formerly employed or for any period during which the firefighter 353  
or police officer may be entitled to receive compensation or 354  
benefits under section 4123.68 of the Revised Code on account of 355  
disability from a cardiovascular and pulmonary disease. The 356  
administrator may accord to the firefighter or police officer 357  
medical and other benefits in accordance with section 4123.66 of 358  
the Revised Code. 359

(F) An order issued under this section is appealable 360  
pursuant to section 4123.511 of the Revised Code but is not 361  
appealable to court under section 4123.512 of the Revised Code. 362

**Section 2.** That existing section 4123.57 of the Revised 363  
Code is hereby repealed. 364

**Section 3.** Sections 1 and 2 of this act apply to all 365  
claims pursuant to Chapters 4121., 4123., 4127., and 4131. of 366  
the Revised Code arising on or after the effective date of this 367  
section. 368