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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Office

H.B. 605  
133<sup>rd</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Kelly and Patton

Paul Luzzi, Attorney

### SUMMARY

- Creates a presumption that COVID-19 is an occupational disease under the Workers' Compensation Law for a retail food establishment employee or a food processing establishment employee who contracts COVID-19 during the emergency declared by Executive Order 2020-01D, issued March 9, 2020.
- Allows the presumption to be rebutted by affirmative evidence.
- Applies the presumption to claims arising only during the period of the emergency declared by the Order.
- Declares an emergency.

### DETAILED ANALYSIS

#### Presumption that COVID-19 was contracted during employment

For purposes of the Workers' Compensation Law,<sup>1</sup> the bill creates a presumption that a retail food establishment employee or a food processing establishment employee who contracts COVID-19 contracted the disease in the course of and arising out of the employee's employment during the emergency declared by Executive Order 2020-01D, issued March 9, 2020. The presumption applies to claims arising only during the period of the emergency declared by the Order. The presumption may be refuted with affirmative evidence.<sup>2</sup>

Under continuing law, a retail food establishment is a premises where food is stored, processed, prepared, manufactured, or otherwise held or handled for retail sale (for example, a

<sup>1</sup> R.C. Chapters 4121, 4123, 4127, and 4131.

<sup>2</sup> R.C. 4123.68(CC), by reference to R.C. 3715.021 and 3717.01, not in the bill.

grocery store).<sup>3</sup> A food processing establishment is a premises where food is processed, packaged, manufactured, or otherwise held or handled for distribution to another location or for sale at wholesale. An individual who produces nonhazardous food items in the individual's home is not a food processing establishment. Additionally, a processor of syrup, apple syrup, apple butter, sorghum juice, or honey is not a food processing establishment if 75% or more of the sap, apples, sorghum, or honey is produced or harvested directly from the processor's own trees, plants, or hives.<sup>4</sup>

The bill includes the presumption in the schedule of occupational diseases that are compensable under continuing law. An employee who is disabled by a scheduled occupational disease, or the dependent of an employee whose death is caused by the disease, is typically entitled to any compensation and benefits provided by the Law. The schedule, however, is not exclusive; any disease that satisfies the continuing law definition of occupational disease is compensable. For a disease to be considered an occupational disease under the Law, all of the following conditions must be satisfied:

1. The disease is contracted in the course of employment;
2. The employment creates a risk of contracting the disease in greater degree and in a different manner from the general public;
3. Either of the following applies:
  - a. The disease is peculiar to that type of employment by the disease's causes and the characteristics of the disease's manifestations;
  - b. The conditions of the employment results in a hazard that distinguishes the employment in character from employment generally.<sup>5</sup>

## Emergency

The bill declares it to be an emergency law, meaning that it will take immediate effect once signed by the Governor.<sup>6</sup>

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## HISTORY

Action	Date
Introduced	04-10-20

H0605-I-133/ec

<sup>3</sup> R.C. 3717.01, not in the bill.

<sup>4</sup> R.C. 3715.01 and 3715.021, not in the bill.

<sup>5</sup> R.C. 4123.68; R.C. 4123.01(F), not in the bill, and *State ex rel. Ohio Bell Tel. Co. v. Krise*, 42 Ohio St.2d 247, 253-254 (1975).

<sup>6</sup> Section 3.