



Ohio Revised Code

Section 4123.343 Employing and retaining handicapped employees.

Effective: April 6, 2023

Legislation: House Bill 281

This section shall be construed liberally to the end that employers shall be encouraged to employ and retain in their employment employees with disabilities as defined in this section.

(A) As used in this section, "employee with a disability" means an employee who is afflicted with or subject to any physical or mental impairment, or both, whether congenital or due to an injury or disease of such character that the impairment constitutes an impediment in obtaining employment or would constitute an impediment in obtaining reemployment if the employee should become unemployed and whose disability is due to any of the following diseases or conditions:

- (1) Epilepsy;
- (2) Diabetes;
- (3) Cardiac disease;
- (4) Arthritis;
- (5) Amputated foot, leg, arm, or hand;
- (6) Loss of sight of one or both eyes or a partial loss of uncorrected vision of more than seventy-five per cent bilaterally;
- (7) Residual disability from poliomyelitis;
- (8) Cerebral palsy;
- (9) Multiple sclerosis;



- (10) Parkinson's disease;
- (11) Cerebral vascular accident;
- (12) Tuberculosis;
- (13) Silicosis;
- (14) Psycho-neurotic disability following treatment in a recognized medical or mental institution;
- (15) Hemophilia;
- (16) Chronic osteomyelitis;
- (17) Ankylosis of joints;
- (18) Hyper insulinism;
- (19) Muscular dystrophies;
- (20) Arterio-sclerosis;
- (21) Thrombo-phlebitis;
- (22) Varicose veins;
- (23) Cardiovascular, pulmonary, or respiratory diseases of a firefighter or police officer employed by a municipal corporation or township as a regular member of a lawfully constituted police department or fire department;
- (24) Coal miners' pneumoconiosis, commonly referred to as "black lung disease";
- (25) Disability with respect to which an individual has completed a rehabilitation program conducted



pursuant to sections 4121.61 to 4121.69 of the Revised Code.

(B) Under the circumstances set forth in this section all or such portion as the administrator determines of the compensation and benefits paid in any claim arising hereafter shall be charged to and paid from the statutory surplus fund created under section 4123.34 of the Revised Code and only the portion remaining shall be merit-rated or otherwise treated as part of the accident or occupational disease experience of the employer. The provisions of this section apply only in cases of death, total disability, whether temporary or permanent, and all disabilities compensated under division (B) of section 4123.57 of the Revised Code. The administrator shall adopt rules specifying the grounds upon which charges to the statutory surplus fund are to be made. The administrator, in those rules, shall require that a settlement agreement approved pursuant to section 4123.65 of the Revised Code or a settlement agreement approved by a court of competent jurisdiction in this state be treated as an award of compensation granted by the administrator for the purpose of making a determination under this section.

(C) Any employer who has in its employ an employee with a disability is entitled, in the event the person is injured, to a determination under this section.

An employer shall file an application under this section for a determination with the bureau or commission in the same manner as other claims. An application only may be made in cases where an employee with a disability or the dependents of an employee with a disability claim or are receiving an award of compensation as a result of an injury or occupational disease occurring or contracted on or after the date on which division (A) of this section first included the disability of such employee.

(D) The circumstances under and the manner in which an apportionment under this section shall be made are:

(1) Whenever an employee with a disability is injured or further disabled or dies as the result of an injury or occupational disease sustained in the course of and arising out of an employee with a disability's employment in this state and the administrator awards compensation therefor and when it appears to the satisfaction of the administrator that the injury or occupational disease or the death resulting therefrom would not have occurred but for the pre-existing physical or mental impairment of the employee with a disability, all compensation and benefits payable on account of the disability



or death shall be paid from the surplus fund.

(2) Whenever an employee with a disability is injured or further disabled or dies as a result of an injury or occupational disease and the administrator finds that the injury or occupational disease would have been sustained or suffered without regard to the employee's pre-existing impairment but that the resulting disability or death was caused at least in part through aggravation of the employee's pre-existing disability, the administrator shall determine in a manner that is equitable and reasonable and based upon medical evidence the amount of disability or proportion of the cost of the death award that is attributable to the employee's pre-existing disability and the amount found shall be charged to the statutory surplus fund.

(E) The benefits and provisions of this section apply only to employers who have complied with this chapter through insurance with the state fund.

(F) No employer shall in any year receive credit under this section in an amount greater than the premium the employer paid.

(G) An order issued by the administrator pursuant to this section is appealable under section 4123.511 of the Revised Code but is not appealable to court under section 4123.512 of the Revised Code.