



# **Safety & Workers' Compensation Committee**

Thursday, June 11, 2020

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**2020 Committee Meeting Calendar**  
Meetings begin at 10 a.m.

November 4

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## **Safety & Workers' Compensation Committee Agenda June 11, 2020**

<b>Welcome &amp; Self-Introductions</b>	Larry Holmes, Fort Recovery Industries Inc.
<b>BWC COVID-19 Update</b>	Karen Thrapp, Ohio BWC and Janet Wilks, Ohio BWC
<b>Safety Update</b>	Dianne Grote Adams, Safex
<b>Guest Speaker</b>	Robert M. Robenalt, Partner Fisher & Phillips LLP
<b>OMA Counsel's Report</b>	Sue Roudebush, Bricker & Eckler LLP
<b>Public Policy Report</b>	Rob Brundrett, OMA Staff
<b>Guest Speaker</b>	Howie Eberts, Area Director, Occupational Safety and Health Administration
<b>Passing of the Gavel</b>	Larry Holmes, Fort Recovery Industries Inc. and Matt Shurte, Lancaster Colony Corporation

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## **COVID-19 Continues to Dominate**

**Great resources besides CDC, State guidance is <https://www.backtoworksafely.org/>.** Developed by H&S professionals. Have industry specific guidance from amateur sports, to fitness centers, religious organizations, manufacturing, etc. It is valuable resource to assess places you may frequent or where family members participate.

### **Face covering vs face mask vs respirator (N-95 and KN95)**

Important to know the differences and the limitations and train staff as well.

1. Face coverings are cloth and designed to prevent spread of respiratory particles – they do NOT protect wearer.
2. Face mask – usually a term used for surgical mask which also designed to prevent spread of respirator particles – they also do NOT protect wearer from inhalation but may have splash resistant barrier.
3. Respirators (filtering facepieces, N-95 and KN95) are designed to prevent inhalation of small particles including viruses. They do require proper fitting and wearing to be effective.
4. Surgical N-95 – protect both wearer and those around them; but supplies are limited to health care.

### **COVID-19 – A recordable disease?**

Under OSHA's recordkeeping requirements, COVID-19 is a recordable illness, and thus employers are responsible for recording cases of COVID-19, if:

1. The case is a confirmed case of COVID-19, as defined by the Centers for Disease Control and Prevention (CDC);<sup>[2]</sup>
2. The case is work-related as defined by 29 CFR § 1904.5;<sup>[3]</sup> and
3. The case involves one or more of the general recording criteria set forth in 29 CFR § 1904.7.<sup>[4]</sup>

In determining whether an employer has complied with this obligation and made a reasonable determination of work-relatedness, CSHOs should apply the following considerations:

- *The reasonableness of the employer's investigation into work-relatedness.* Employers, especially small employers, should not be expected to undertake extensive medical inquiries, given employee privacy concerns and most employers' lack of expertise in this area. It is sufficient in most circumstances for the employer, when it learns of an employee's COVID-19 illness, (1) to ask the

employee how he believes he contracted the COVID-19 illness; (2) while respecting employee privacy, discuss with the employee his work and out-of-work activities that may have led to the COVID-19 illness; and (3) review the employee's work environment for potential SARS-CoV-2 exposure. The review in (3) should be informed by any other instances of workers in that environment contracting COVID-19 illness.

- *The evidence available to the employer.* The evidence that a COVID-19 illness was work-related should be considered based on the information reasonably available to the employer at the time it made its work-relatedness determination. If the employer later learns more information related to an employee's COVID-19 illness, then that information should be considered as well in determining whether an employer made a reasonable work-relatedness determination.
- *The evidence that a COVID-19 illness was contracted at work.* CSHOs should consider all reasonably available evidence, in the manner described above, to determine whether an employer has complied with its recording obligation. This cannot be reduced to a ready formula, but certain types of evidence may weigh in favor of or against work-relatedness. For instance:
  - COVID-19 illnesses are likely work-related when several cases develop among workers who work closely together and there is no alternative explanation.
  - An employee's COVID-19 illness is likely work-related if it is contracted shortly after lengthy, close exposure to a customer or coworker who has a confirmed case of COVID-19 and there is no alternative explanation.
  - An employee's COVID-19 illness is likely work-related if his job duties include having frequent, close exposure to the public in a locality with ongoing community transmission and there is no alternative explanation.
  - An employee's COVID-19 illness is likely not work-related if she is the only worker to contract COVID-19 in her vicinity and her job duties do not include having frequent contact with the general public, regardless of the rate of community spread.
  - An employee's COVID-19 illness is likely not work-related if he, outside the workplace, closely and frequently associates with someone (e.g., a family member, significant other, or close friend) who (1) has COVID-19; (2) is not a coworker, and (3) exposes the employee during the period in which the individual is likely infectious.
  - CSHOs should give due weight to any evidence of causation, pertaining to the employee illness, at issue provided by medical providers, public health authorities, or the employee herself.

If, after the reasonable and good faith inquiry described above, the employer cannot determine whether it is more likely than not that exposure in the workplace played a causal role with respect to a particular case of COVID-19, the employer does not need to record that COVID-19 illness. In all events, it is important as a matter of worker health and safety, as well as public health, for an employer to examine COVID-19 cases among workers and respond appropriately to protect workers, regardless of whether a case is ultimately determined to be work-related.

## **Infectious Disease Control Plan and Hazard Assessment**

Conducting and documenting a hazard assessment as well as an infectious disease control plan results in decreasing employee risk and assisting with decision process if a case is recordable, should a positive diagnosis occur. OSHA has provided some prevention and control guidance, based on risk level. <https://www.osha.gov/SLTC/covid-19/controlprevention.html>

OSHA has divided job tasks into four risk exposure levels: very high, high, medium, and lower risk, as shown in the occupational risk pyramid, below. The four exposure risk levels represent the probable distribution of risk. Most American workers will likely fall in the lower exposure risk (caution) or medium exposure risk levels



### ***Lower Exposure Risk (Caution)***

Jobs that do not require contact with people known to be, or suspected of being, infected with SARS-CoV-2. Workers in this category have minimal occupational contact with the public and other coworkers. Examples include:

- Remote workers (i.e., those working from home during the pandemic).
- Office workers who do not have frequent close contact with coworkers, customers, or the public.
- Manufacturing and industrial facility workers who do not have frequent close contact with coworkers, customers, or the public.
- Healthcare workers providing only telemedicine services.
- Long-distance truck drivers.

### ***Medium Exposure Risk***

Jobs that require frequent/close contact with people who may be infected, but who are not known to have or suspected of having COVID-19. Workers in this category include:

- Those who may have frequent contact with travelers who return from international locations with widespread COVID-19 transmission.
- Those who may have contact with the public (e.g., in schools, high population density work environments, and some high-volume retail settings).

### ***High Exposure Risk***

Jobs with a *high potential for exposure to known or suspected sources of SARS-CoV-2.* Workers in this category include:

- Healthcare delivery and support staff (hospital staff who must enter patients' rooms) exposed to known or suspected COVID-19 patients.
- Medical transport workers (ambulance vehicle operators) moving known or suspected COVID-19 patients in enclosed vehicles.
- Mortuary workers involved in preparing bodies for burial or cremation of people known to have, or suspected of having, COVID-19 at the time of death.

### ***Very High Exposure Risk***

Jobs with a *very high potential for exposure to known or suspected sources of SARS-CoV-2 during specific medical, postmortem, or laboratory procedures.* Workers in this category include:

- Healthcare workers (e.g., doctors, nurses, dentists, paramedics, emergency medical technicians) performing aerosol-generating procedures (e.g., intubation, cough induction procedures, bronchoscopies, some dental procedures and exams, or invasive specimen collection) on known or suspected COVID-19 patients.
- Healthcare or laboratory personnel collecting or handling specimens from known or suspected COVID-19 patients (e.g., manipulating cultures from known or suspected COVID-19 patients).
- Morgue workers performing autopsies, which generally involve aerosol-generating procedures, on the bodies of people who are known to have, or are suspected of having, COVID-19 at the time of their death.

### **Summer Considerations**

1. Evaluation % fresh air during AC. More is better.
2. Evaluate MERV rating of filters 11 is good, 17 is better.
3. Cooling fans may blow respiratory droplets from employee; evaluate who works downstream of air flow.
4. Consider heat stress program implementation: training, pulse rate monitoring, water availability, frequent breaks. NIOSH, ACGIH, AIHA and OSHA are sources of information.  
<https://www.osha.gov/SLTC/emergencypreparedness/guides/heat.html>
5. Consider face shields in lieu of cloth face coverings.

6. Alternatives to face coverings – barriers, staggering shifts /work to reduce people and duration near each other.

### **Other Considerations**

1. Distracted work behaviors due to employee concerns for personal or family health or financial concerns.
2. Mental health issues resulting from isolation.
3. Team member interactions have changed.
4. Setbacks in other safety and health activities/emphasis.
5. Safety risks of face coverings.

### **OSHA Enforcement for COVID-19**

<https://www.osha.gov/memos/2020-05-19/updated-interim-enforcement-response-plan-coronavirus-disease-2019-covid-19>

As cases of COVID-19 are being reduced, OSHA inspections are returning to prior enforcement guidance and procedures, effective May 26. OSHA expects complaints from non-essential business employees. Responses by OSHA could be rapid response, or on site, depending on assessment of the situation.

<https://www.osha.gov/memos/2020-04-16/discretion-enforcement-when-considering-employers-good-faith-efforts-during>

Compliance with other standards. OSHA will assess an employer's efforts to comply with standards that require annual or recurring audits, reviews, training, or assessments. Widespread business closures, restrictions on travel, limitations on group sizes, facility visitor prohibitions, and stay-at-home or shelter-in-place requirements may limit the availability of employees, consultants, or contractors who normally provide training, auditing, equipment inspections, testing, and other essential safety and industrial hygiene services. Business closures and other restrictions and limitations may also preclude employee participation in training even when trainers are available. In other situations, access to medical testing facilities may be limited or suspended.

[www.safex.us](http://www.safex.us)

614.890.0800

info@safex.us



The OMA's mission is to protect and grow Ohio manufacturing. We created this page to share content that we believe is relevant to your challenges related to the coronavirus (COVID-19) pandemic. The OMA is in regular contact with state officials, as well as our counterparts at the National Association of Manufacturers, regarding the response to COVID-19.

We will keep OMA members updated regularly through electronic communications from OMA President Eric Burkland, as well as via our normal communication tools, such as the OMA's weekly Leadership Briefing.

If you have health-related questions about COVID-19, contact the Ohio Department of Health's call center at 1-833-4ASKODH (1-833-427-5634).

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## Federal

- [Latest updates from the CDC.](#)
- [CDC's updated guidance for manufacturing workers and employers](#) (includes [this infographic on workstations](#)).
- [CDC's resources for businesses and employers.](#)
- [CDC's reopening guidance](#) for workplaces and businesses.
- [FFCRA Paid Leave Q&A.](#)
- [FFCRA Poster on Employee Rights.](#)
- [OSHA's safety tips](#) for manufacturers to protect employees from exposure to coronavirus – in both [English](#) and [Spanish](#).
- [U.S. EPA's list of disinfectants for use against the coronavirus.](#)
- [OSHA's new poster on steps to reduce the risk of exposure in workplaces.](#)
- [OSHA's video](#) and [poster](#) on how to properly wear and remove a mask/respirator.
- [CDC recommendation's regarding the use of cloth face coverings.](#)
- [U.S. Department of Labor guidance on the WARN Act](#) (regarding plant closings and mass layoffs).
- [Families First Coronavirus Response Act \(FFCRA\) paid leave requirements – for employers.](#)
- [COVID-19 Screening Tool.](#)
- [OSHA guidance on preparing workplaces for COVID-19.](#)
- [U.S. Small Business Administration resources](#) for employers regarding the coronavirus pandemic, including information on its [disaster loan program](#).
- [SBA coronavirus relief options.](#)
- [SBA Guidance on the CARES Act's Paycheck Protection Program Loan Guarantee.](#)
- [The Federal Reserve's Main Street Lending Program.](#)
- [Summaries and FAQs on all phases \(I, II, and III\) of the federal COVID-19 emergency packages.](#)



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## Ohio

- The DeWine administration's [latest public health order](#), which remains in effect through July 1, unless rescinded or modified sooner. Section 13 is specific to manufacturing.
- [Safety guidance for manufacturers](#), as well as the [five safety protocols](#) for all businesses, under the DeWine administration's [Responsible RestartOhio](#) plan.
- Ohio Department of Health [FAQs on the use of face coverings in the workplace](#).
- Ohio Department of Health's updated [checklist for employers regarding potentially exposed essential workers](#).
- [Ohio's Office of Small Business Relief](#).
- [Ohio Department of Health information and checklist for employers](#).
- [Ohio COVID-19 Dashboard](#).
- [Latest updates and resources from the Ohio Department of Health \(ODH\)](#).
- [JobsOhio 'Ohio Working. Ohio Safe' website](#).
- [Governor DeWine's briefings](#).
- [Governor DeWine's website](#).
- [SharedWork Ohio](#) – an OMA-supported program that provides employers with an alternative to layoffs.
- [State of Ohio's job search engine](#) for employers to post job openings during the COVID-19 emergency.
- [Information for employers regarding unemployment issues](#).

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## Industry

- The Manufacturing Leadership Council's [collection](#) of emerging strategies and operational practices that manufacturers are utilizing to keep employees safe.
- [National Association of Manufacturers: New Operational Practices to Consider in the Time of COVID-19-May 2020](#).
- [Ohio Manufacturing Alliance to Fight COVID-19](#) (to help ensure that health care workers have the protective equipment they need).
- The Ohio Manufacturing Alliance's [Ohio Emergency PPE Makers' Exchange](#). (This online marketplace is a resource for organizations, including essential employers, that need PPE and related equipment to find a selection offered by Ohio manufacturers and makers.)
- [National Association of Manufacturers COVID-19 Resources](#).
- CDC [letter](#) to NAM and [additional guidance](#) to give manufacturers clearer guidance on how to operate safely during the COVID-19 outbreak.
- The National Association of Manufacturers [state tracker](#) to provide the latest re-opening information for all states.
- The U.S. Chamber's [interactive map](#) comparing state-by-state re-opening guidelines for businesses.
- [MAGNET \(Northeast Ohio's MEP\) Best Practices](#).
- [Video](#) with Dr. Bill Gegas, medical director at Worthington Industries, explaining the differences between various masks and face coverings.

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## OMA Connections Partners

- [Huntington National Bank's summary of financial support programs for businesses](#)
- [Clark Schaefer Hackett COVID-19 Resource Center](#)
- [RSM COVID-19 Resource Center and COVID-19 Tax Relief Center](#)
- [Bricker & Eckler Resource Center](#)
- [Calfee COVID-19 Resource Center](#)
- [Dinsmore COVID-19 Business Strategies Hub](#)
- [Frantz Ward Coronavirus Updates](#)
- [GBQ Partners COVID-19 Insights](#)
- [Roetzel COVID-19 Resources](#)
- [Benesch COVID-19 Resource Center](#)
- [Jones Day COVID-19 Insights](#)
- [Plante Moran's COVID-19 Resource Center for Manufacturers](#)
- [Thompson Hine COVID-19 Task Force](#)
- [CliftonLarsonAllen COVID-19 Resources](#)
- [Crowe COVID-19 Resource Center](#)
- [Fisher Phillips COVID-19 Resource Center](#)
- [MCM COVID-19 Resource Center](#)
- [Pharmaceutical Research and Manufacturers of America](#)
- [Schneider Downs](#)
- [Squire Patton Boggs](#)

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## OMA Information

- OMA communications on COVID-19:
  - [May 29, 2020](#) email from OMA President Eric Burkland.
  - [May 28, 2020](#) email from OMA President Eric Burkland.
  - [May 26, 2020](#) email from OMA President Eric Burkland.
  - [May 22, 2020](#) email from OMA President Eric Burkland.
  - [May 21, 2020](#) email from OMA President Eric Burkland.
  - [May 19, 2020](#) email from OMA President Eric Burkland.
  - [May 18, 2020](#) email from OMA President Eric Burkland.
  - [May 15, 2020](#) email from OMA President Eric Burkland.
  - [May 14, 2020](#) email from OMA President Eric Burkland.
  - [May 13, 2020](#) email from OMA President Eric Burkland.
  - [May 12, 2020](#) email from OMA President Eric Burkland.
  - [May 11, 2020](#) email from OMA President Eric Burkland.
  - [May 8, 2020](#) email from OMA President Eric Burkland.
  - [May 7, 2020](#) email from OMA President Eric Burkland.
  - [May 6, 2020](#) email from OMA President Eric Burkland.
  - [May 5, 2020](#) email from OMA President Eric Burkland.
  - [May 4, 2020](#) email from OMA President Eric Burkland.
  - [May 1, 2020](#) email from OMA President Eric Burkland.
  - [April 30, 2020](#) email from OMA President Eric Burkland.
  - [April 29, 2020](#) email from OMA President Eric Burkland.
  - [April 28, 2020](#) email from OMA President Eric Burkland.
  - [April 27, 2020](#) email from OMA President Eric Burkland.
  - [April 24, 2020](#) email from OMA President Eric Burkland.
  - [OMA Leadership Briefing \(full issue\)](#) – April 24, 2020
  - [April 23, 2020](#) email from OMA President Eric Burkland.

- April 22, 2020 email from OMA President Eric Burkland.
- April 21, 2020 email from OMA President Eric Burkland.
- April 20, 2020 email from OMA President Eric Burkland.
- April 17, 2020 email from OMA President Eric Burkland.
- OMA Leadership Briefing (full issue) – April 17, 2020
- April 16, 2020 email from OMA President Eric Burkland.
- April 15, 2020 email from OMA President Eric Burkland.
- April 14, 2020 email from OMA President Eric Burkland.
- April 13, 2020 email from OMA President Eric Burkland.
- April 10, 2020 email from OMA President Eric Burkland.
- OMA Leadership Briefing (full issue) – April 10, 2020
- April 9, 2020 email from OMA President Eric Burkland.
- April 9, 2020 press release from the Ohio Manufacturing Alliance to Fight COVID-19.
- April 8, 2020 email from OMA President Eric Burkland.
- April 7, 2020 email from OMA President Eric Burkland.
- April 6, 2020 email from OMA President Eric Burkland.
- April 3, 2020 email from OMA President Eric Burkland.
- OMA Leadership Briefing (full issue) – April 3, 2020
- April 2, 2020 email from OMA President Eric Burkland.
- April 1, 2020 email from OMA President Eric Burkland.
- March 31, 2020 email from OMA President Eric Burkland.
- March 30, 2020 email from OMA President Eric Burkland.
- March 27, 2020 email from OMA President Eric Burkland.
- OMA Leadership Briefing (full issue) – March 27, 2020
- March 26, 2020 email from OMA President Eric Burkland.
- March 25, 2020 email from OMA President Eric Burkland.
- March 24, 2020 email from OMA President Eric Burkland.
- March 23, 2020 email from OMA President Eric Burkland.
- March 22, 2020 email from OMA President Eric Burkland.
- March 21, 2020 email from OMA President Eric Burkland.
- March 20, 2020 email from OMA President Eric Burkland.
- OMA Leadership Briefing (full issue) – March 20, 2020
- March 19, 2020 email from OMA President Eric Burkland.
- March 18, 2020 email from OMA President Eric Burkland.
- March 16, 2020 email from OMA President Eric Burkland.
- March 15, 2020 press release
- OMA Leadership Briefing update – March 13, 2020.
- March 12, 2020 email from OMA President Eric Burkland.
- March 11, 2020 email from OMA President Eric Burkland.
- OMA Leadership Briefing update – March 6, 2020.
- OMA Leadership Briefing update – February 28, 2020.
- OMA Leadership Briefing update – February 21, 2020.
- OMA COVID-19 Manufacturers' Information Exchange (via LinkedIn) to share information and best practices with other manufacturers.
- Bricker & Eckler analysis of Ohio's April 6, 2020 stay-at-home order.
- Bricker & Eckler analysis of Ohio's March 23, 2020 stay-at-home order.
- Recording of OMA's COVID-19 Briefing for Manufacturers – March 23, 2020. (Includes information regarding Ohio's stay-at-home order and actions to keep the workplace safe.)
- Recording of OMA's Second COVID-19 Briefing for Manufacturers – March 25, 2020. (Includes discussion from Lt. Gov. Jon Husted, as well as a panel of experts addressing key concerns.)
- Recording of OMA's Third COVID-19 Briefing for Manufacturers – April 29, 2020. (Includes subject-matter expertise on Ohio's re-opening plan, workplace safety, use of PPE by employees, unemployment provisions, federal loan programs, and other manufacturing-related topics.)

- Bricker & Eckler analysis of Ohio's April 30, 2020 "Stay Safe Ohio" order.
  - OMA's "Guidance on the Use of Face Coverings & Masks."
  - OMA's "Safety Guidance & Resources for Manufacturers During the COVID-19 Emergency."
  - OMA's FAQs document, which addresses questions raised by several members.
  - Recording of OMA's Infectious Disease Preparedness and Response webinar – May 12, 2020.
  - Bricker & Eckler Analysis of Ohio's May 20, 2020 "Ohioans Protecting Ohioans Urgent Health Advisory".
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## About the OMA Office and Staff:

Effective Monday, March 23, 2020, the OMA staff will be working remotely and will be available to help meet your needs. Email us at [oma@ohiomfg.com](mailto:oma@ohiomfg.com) or call (800) 662-4463. Here is a [list of staff emails](#).



**Sue A. Roudebush**  
Partner  
Columbus  
614.227.7744  
sroudebush@bricker.com



**Anthony T. Lelli**  
Staff Attorney  
Columbus  
614.227.4846  
alelli@bricker.com

## Workers' compensation implications of COVID-19 for employers

March 19, 2020

The Bureau of Workers' Compensation (BWC) has not provided a specific stance regarding compensability of COVID-19 (coronavirus). However, businesses should consider several factors of a workers' compensation claim to prepare for potential claims, should a member of their workforce contract the virus.

Generally, claims of exposure to viruses or other potentially dangerous substances are not covered by workers' compensation, unless an injury or occupational disease (OD) results from such exposure. Therefore, a claim of exposure to COVID-19 at work is not, in itself, a compensable injury or disease. Each claim will need to be evaluated on a case-by-case basis.

In order to prevail on a COVID-19 claim, an employee would need to show that:

- they were exposed to COVID-19 in the course and scope of their employment;
- the exposure at work caused them to contract COVID-19; and
- the employee's employment involved a peculiar risk of exposure to COVID-19 different from that which the public and employees in general face.

Due to the fact that COVID-19 is now prevalent and widespread in the public,

employees will have difficulty specifically linking the condition to their employment, as mere exposure to or contact with the virus is insufficient for the allowance an OD claim.

Could your employee file a claim?

Consider a health care employee working around patients that could likely be infected with COVID-19 on a daily basis versus an office employee that is unknowingly working around individuals that could be infected with the virus.

The health care employee expected to work with or around patients that could likely be infected with the virus is more likely to have a compensable claim, assuming the test above is met, versus an employee working in an office where no other COVID-19 cases were identified. This is because the risk of contracting the virus is higher for the health care employee who is expected to engage individuals with the virus versus the office employee who is not expected to engage individuals with the virus. In other words, the health care employee's employment involved a peculiar risk, different from that which the public and employees in general face.

While the BWC has not taken a specific stance regarding compensability of the COVID-19, it does have a [Disaster & Pandemic Preparedness webpage](#) that offers general prevention guidelines for employers during this time.

# Coronavirus (COVID-19) Frequently Asked Questions

To minimize the spread of coronavirus (COVID-19) and continue business operations, our BWC staff is teleworking. While we may be operating from a different physical location, we do not currently anticipate major issues with continuing to provide our employers, injured workers, and the many others we serve, with service. Phone numbers and email addresses for our customer service representatives remain the same.

We are monitoring the situation closely and will provide updates as necessary. We know you may have questions that we are just not able to immediately answer. We promise to keep you updated and share information as we have it. In the meantime, thank you for your patience as we all work through COVID-19 together.

For the latest information on coronavirus (COVID-19) visit [coronavirus.ohio.gov](https://coronavirus.ohio.gov). For questions about COVID-19's effect on BWC not listed here, you can email [BWCCOVID19@bwc.state.oh.us](mailto:BWCCOVID19@bwc.state.oh.us).

**Last updated at 6/4/2020 11:07 AM**

**New!** See Q 2 about our second premium deferral.

**Note to Medical Providers:** BWC has developed an FAQ document specifically for medical providers that addresses COVID-19 issues. To download, click [here](#).

**Face Coverings for Employers and Workforce:** For FAQs related to our [Protecting Ohio's Workforce — We've Got You Covered](#) plan, [visit this link](#).

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## Frequently Asked Questions

**Note:** This is a "living" document. The following is updated routinely to reflect our most recent policy changes and initiatives, with new Q&As at the end.

### Claims and Policy Processing

#### **Q 1: What is BWC doing to help employers during this unprecedented time?**

A: At the request of Ohio Governor Mike DeWine, in late April we sent up to \$1.6 billion to Ohio employers to ease the economic impact of the coronavirus (COVID-19) on Ohio's economy and business community. This dividend equals approximately 100% of the premiums employers paid in policy year 2018. BWC applied the dividend to an employer's outstanding balances first, including the recent installment deferrals. Any amounts exceeding outstanding balances were sent to the employer. For those employers, it means one less bill to worry about. As in previous years, the dividend is possible due to strong investment returns on employer premiums, a declining number of claims each year, and prudent fiscal management. It's also due to employers who work hard to improve workplace safety and reduce injury claims. Even with the downturn in the market, BWC is able to provide this important dividend to employers while maintaining funds to take care of injured workers for years to come. All checks were issued by the end of April. **Employers: For frequently asked questions about the dividend, [visit this link](#).**

**Q 2: Will BWC allow employers to delay installment payments due to COVID-19's hardship?**

A: To ease the continuing financial impact on Ohio businesses due to the COVID-19 pandemic, BWC is deferring installment payments for Policy Year 2020 for June, July, and August to Sept. 1, 2020. If employers are able to follow the normal installment payment scheduled due date, such payments may still be submitted. BWC will not lapse coverage or assess penalties for unpaid installments during this deferral period.

We previously deferred installments for March, April, and May until June 1, 2020. Following that decision, we gave Ohio employers nearly \$1.6 billion in dividends, but for most employers, we first applied the dividends to the unpaid balance for March, April, and May.

**Q 3: How does BWC's deferral of premium installment payments apply to state fund employers that are Professional Employer Organizations (PEOs)?**

A: PEO employers are required to report actual payroll and pay premiums on a monthly basis, but as state fund employers operating under the COVID-19 climate, they may defer reporting and payments for March through July until Sept. 1, 2020. As for the August payroll report and premium payment, it will be due as normally scheduled, on or before Sept. 15, 2020. The deferral is automatic, there is no "opt in" requirement to take advantage of this option.

**Q 4: How does this impact state fund clients of PEO employers?**

A: A client of a PEO employer must maintain active workers' compensation coverage throughout the duration of any type of PEO agreement. Client employers will be treated the same as all other state fund employers and will have the option to defer payments until Sept. 1 without a lapse in coverage.

**Q 5: If I contract COVID-19, is it a compensable workers' compensation claim?**

A: It depends on how you contract it and the nature of your occupation. Generally, communicable diseases like COVID-19 are not workers' compensation claims because people are exposed in a variety of ways, and few jobs have a hazard or risk of getting the diseases in a greater degree or a different manner than the general public. However, if you work in a job that poses a special hazard or risk and contract COVID-19 from the work exposure, BWC could allow your claim.

**Q 6: If I am quarantined due to COVID-19 can I receive workers' compensation wage replacement benefits?**

A: BWC can only pay compensation in an allowed claim for disability resulting from the allowed conditions. An executive order issued by Governor DeWine, however, expands flexibility for Ohioans to receive unemployment benefits during Ohio's emergency declaration period. For more information on unemployment benefits go to the [Ohio Department of Job and Family Services](#).

**Q 7: Are you making determinations on new claims?**

A: Yes. Our staff is teleworking and has access to our systems.

**Q 8: How will my benefits be extended when my doctor's office is closed, and they haven't completed my Medco-14?**

A: BWC and the Managed Care Organizations are working with your physicians to ensure medical care and any necessary paperwork are completed so that benefits can continue uninterrupted. You may want to check with your treating provider to determine if telemedicine is available. Telemedicine can be an effective treatment tool and can be used when a new MEDCO-14 is needed.



**Q 9: Will my benefits be extended if I am participating in a rehab program?**

A: BWC is working with the vocational rehabilitation providers to ensure that those injured workers who are participating in a rehab program have the necessary documentation submitted to continue benefits.

**Q 10: Will my wage-loss benefits be discontinued if I'm unable to complete the job searches?**

A: BWC is working with injured workers to complete online job searches. Information about job postings is also available on the [JobSearch.Ohio.Gov](http://JobSearch.Ohio.Gov) website. We encourage individuals who have been affected by COVID-19 to visit the website and apply for a position. Job search activities could also include the injured worker submitting resumes, taking online interviewing or resume tutorials, or working on sharpening their interview skills.

**Q 11: I have an Independent Medical Exam (IME) scheduled and it has been cancelled, will my benefits be suspended?**

A: If the examining physician has cancelled your examination, your benefits will not be suspended. Another examination will be scheduled at a later date.

**Q 12: How will BWC be handling 90-day and extent of disability IMEs?**

A: BWC has resumed scheduling examinations. We are asking injured workers and examining physicians to follow protocols outlined by the Ohio Department of Health to ensure the health and well-being of all who enter the facilities.

**Q 13: Will I be able to speak with my claim representative?**

A: If you are represented by an attorney, call your attorney first. Staff will be monitoring voice mail on a limited basis, but the most efficient method of communication will be via email messaging. The email address for your claims service specialist (CSS) can be found on the bottom of any correspondence you have previously received or look up your claim [here](#). For general questions, you may also call our call center at 1-800-OHIOBWC.

**Q 14: What happens if my claim is denied or my employer does not agree with my claim?**

A: Parties to the claim can still file an appeal if they disagree with the decision on a claim. The Ohio Industrial Commission (IC) will continue to have hearings. For the latest information visit the IC website at [www.ic.ohio.gov](http://www.ic.ohio.gov).

**Q 15: Will my Ohio Industrial Commission hearing be cancelled?**

A: Please feel free to visit the IC website at [www.ic.ohio.gov](http://www.ic.ohio.gov) to view updated information and press releases.

**Q 16: Will I be able to pick up a check for a compensation payment in a local service office?**

A: After March 18, 2020, you will no longer be able to pick up your check from a local service office. We will address requests for overnight delivery on a case by case basis.

**Q. 17: I have questions about the electronic delivery of my benefits, but I can't reach Key Bank. Where do I turn?**

A. Key Bank is BWC's vendor that provides electronic delivery of funds through electronic fund transfers (EFT) and electronic benefit transfer (EBT) cards to our workers' compensation claimants. Key Bank's call center is currently experiencing an extremely high call volume that has resulted in difficulty reaching a Key Bank agent. Key Bank has notified BWC of this issue and has assured BWC they are taking corrective steps. Meanwhile, if you continue having difficulty reaching Key Bank, try calling Key

Bank's call center during off hours. Their call center is currently open 24/7, and call volume is much lower outside normal business hours.

**Q 18: How will BWC handle additional allowance and Temporary Total (TT) entitlement requests that would ordinarily require an IME?**

A: BWC continues to process additional allowance and TT entitlement requests but is using physician file reviews instead of in-person examinations whenever possible. In some cases, BWC will schedule an in-person examination. We are asking injured workers and examining physicians to follow protocols outlined by the Ohio Department of Health to ensure the health and well-being of all who enter the facilities.

**Q 19: How is BWC addressing C-92 applications?**

A: BWC has resumed scheduling examinations. We are asking injured workers and examining physicians to follow protocols outlined by the Ohio Department of Health to ensure the health and well-being of all who enter the facilities. However, if injured workers prefer to schedule their examination at a later date due to COVID-19 concerns, no penalties will be assessed.

**Q 20: Will BWC be extending program reporting/requirement completion deadlines?**

A: BWC is waiving all safety education and training requirements for this policy year (July 1, 2019 June 30, 2020 for private employers) for participants in the following programs:

- Drug Free Safety Program.
- EM Cap Program.
- Grow Ohio.
- Industry Specific Safety Program.
- One Claim Program.
- Policy Activity Rebate Program.

Calendar year 2020 public employer program participant requirements will be reviewed in June.

Discounts offered through these programs will be applied automatically.

Additionally, the annual report deadline submission for Drug Free Safety Program participants has been extended to June 1, 2020. More on these programs can be found at [bwc.ohio.gov](http://bwc.ohio.gov).

**Q 21: Will BWC be suspending audits of self-insuring (SI) and state fund (SF) employers?**

A: Yes, BWC has suspended face-to-face audits for both SI and SF employers. Paper and virtual audits will continue. We will be issuing temporary certificates to SI employers.

**Q 22: What are employers supposed to do about the classes that were cancelled? What about the ½ day classroom training?**

A: We have waived several requirements for many of our programs (see Q 20), but we encourage employers to take advantage of online classes while we continue to assess other training options.

**Q 23: Will BWC extend the public employer taxing district (PEC) true-up grace period that ended March 16?**

A: We extended the grace period to June 1, 2020.

**Q 24: Is emergency sick leave and expanded FMLA paid to employees under the Families First Coronavirus Response Act reportable when submitting true-up payroll?**

A: No. Emergency sick leave and expanded FMLA paid to employees under the Families First Coronavirus Response Act are not reportable to BWC for premium purposes. While regular paid sick leave (including third-party sick pay) is reportable to BWC, emergency sick leave and expanded FMLA paid under this act are not reportable.

Effective April 1, 2020, through Dec. 31, 2020, wages companies pay under the act for sick leave related to COVID-19 are not reportable to BWC. Also, leave time to care for a child whose school or childcare provider is closed or unavailable for COVID-19-related reasons is not reportable to BWC. Employers must follow the federal government's eligibility and documentation guidelines to exclude these wages from their reportable payroll and premium calculation at true-up. Wages reported to BWC for premium calculation purposes are subject to verification by a premium audit.

**Q 25: How will employers report wages at true-up for operational employees who are teleworking as a result of Governor Mike DeWine's "stay at home" order while receiving wages from the employer?**

A: To ease the economic impact of the COVID-19 crisis on businesses, private employers may report operational staff currently teleworking to class code **8871 – Clerical Telecommuter** during a declared state of emergency. For public employer taxing districts, we are creating a new class code, **9444 - Public Employee Clerical Telecommuter**, to report operational staff currently teleworking.

- The employer must contact BWC to request the addition of classification code 8871 – Clerical Telecommuter for private policies and 9444 - Public Employee Clerical Telecommuter for public employer taxing districts to their policy. This will allow the employer to report teleworking wages to class code 8871 or 9444 during the true-up period. NOTE: Since we are in the process of creating the new class code for public employers, the class code will not be available to add to your policy until after July 1, 2020. This will be available to add to your policy prior to the true-up period for public employers.
- Sole Proprietors and Partners who have elective to cover themselves will continue to report their wages to the assigned operating class code.
- Private employer staff currently reported under class code 8810-Clerical will continue to be reported under class code 8810, not 8871.
- The employer is responsible for recording, tracking, and documenting the wages associated with the operational employees now teleworking for premium audit purposes.
- If a worker continues to perform the same duties from home while teleworking, the employer will continue reporting that worker's wages to the appropriate operational classification code, not to class code for teleworking.
  - For example: the employer manufactures surgical masks. The employer has sent workers home with the equipment and materials to continue making masks. These workers are not 8871 Clerical Telecommuter employees. They would remain under classification **2501 – Cloth, canvas and related products manufacturing**. The exposures for them do not change.
- If the worker performs their regular duties on an intermittent basis, such as working on the employer location Monday, Wednesday and Friday and is paid to stay home Tuesday and Thursday, all wages are to be reported to the operating class code and not to class code 8871.
- This temporary revision to the class code assignment rule only applies during the time of Governor DeWine's "stay at home" order, which he initiated March 15, 2020.

- The employer is to cease reporting operational employees' wages to teleworking class code 8871 or 9444 once the "stay at home" order has ended or if the operational employee(s) return to performing their previous job duties.

To request the addition of class code 8871 - Clerical Telecommuter or 9444 for public employer taxing districts to your policy, please call 1-800-644-6292 or send an email to [RTSclass@ohiobwc.com](mailto:RTSclass@ohiobwc.com). Remember to include your policy number in your email request.

**Q 26: How will BWC address late payments for Self-Insured employer assessments?**

A: As you are aware, assessment payments for the July 1, 2019, to Dec. 31, 2019, period were due by Feb. 28, 2020. Normally, payments not received by the due date are subject to additional late payment penalty fees.

However, to provide financial relief to employers amid the coronavirus (COVID-19) pandemic, we are waiving the late payment penalty fees applicable to the semi-annual assessments that were due Feb. 28, 2020. We also are reimbursing employers who had submitted late payment penalty fees levied for the assessment period.

This waiver does not apply to future semi-annual assessment invoice payments. **It is only for the assessment period of July 1, 2019, to Dec. 31, 2019.**

**Q 27: Will BWC continue to assess increases in security and require Letters of Credit as a result of annual reviews?**

A: BWC is continuing its annual review of Self-Insured employers' workers compensation policies. A satisfactory review permits renewal for the next policy year. Results of initial reviews that indicate the need for additional security to be provided will be suspended for 90 days as a result of the COVID-19 pandemic.

In addition, though we continue our annual review of Self-Insured employers' workers' compensations policies, we are suspending assessing additional security for a 90-day period when reviews indicate a need. In such cases, we will issue temporary certificates of coverage with plans to re-evaluate prior to the end of the extended period.

**Q 28: I am a self-insuring (SI) employer or a client of a self-insuring Professional Employer Organization (PEO). Why don't I receive a dividend payment like the state fund employers?**

A: The recent dividend announcement was made possible for state insurance fund employers because of strong investment returns on the premiums BWC collects and lower than expected claims costs in recent policy periods. Self-insuring employers and self-insuring Professional Employer Organization(s) (PEO) do not pay premiums to the state insurance fund. Thus, the SI community has not provided the premium dollars that through the strong investment returns allow the payment of dividend dollars back to the state insurance fund premium payers.

SI assessments are used to cover the cost of the annual involvement of the BWC and the Industrial Commission in self-insured employer and claim issues as well as the cost related to previous SI employers that have defaulted on their workers' compensation claim obligations. These assessments are used within the year of collection with very little money available for investment. Any investment on SI provided money is used to lower the annual assessment rates.

**Q 29: Will employers who have suspended operations due to the COVID-19 who are paying employees while they are idle at home need to report the payments as payroll?**

A: No. Employers are not required to report to BWC the wages paid to employees who are idle at home because of the COVID-19 pandemic. We encourage employers to keep track of such payments, however, for purposes that might surface during potential audits.

**Q 30: Has BWC modified its delivery of care for injured workers through telemedicine and telephone services?**

A: Yes. BWC released three policy alerts to date to address the expanded use of telemedicine and telephone services.

- Policy alert [2020-01](#) announces a more flexible use of telemedicine and expands the site of care delivery to the injured worker's home, as well as relaxing the requirements for using a secure platform of communication. It also reduces some administrative burden to notify or request additional authorization from the managed care organization (MCO) to change the care-delivery method.
- Policy alert [2020-02](#) permits telephonic communication as a temporary substitute for some vocational rehabilitation services.
- Policy alert [2020-03](#) expands the service providers eligible to provide and bill for virtual check in and/or telephone services (audio only).

**Q31: Will BWC reimburse for COVID-19 testing prior to an elective surgery?**

A: Yes. Generally, COVID-related testing would not be covered or reimbursable unless COVID-19 was allowed in the claim. However, BWC recognizes that an injured worker who is positive for COVID-19 may be at greater risk for negative surgical complications, such as deep vein thrombosis (DVT), secondary pulmonary infections, unexpected progression to acute respiratory distress syndrome, cardiac injury, kidney failure and even death following the scheduled surgery. Therefore, to enable the Managed Care Organization, surgeon and injured worker to determine if surgery postponement is appropriate and to prevent greater risk for negative health consequences during or following surgery, **one pre-surgical COVID-19 test may be authorized when the injured worker is scheduled for an inpatient or outpatient surgery to be performed at a hospital or Ambulatory Surgical Center (ASC).** For additional information regarding reimbursement for this testing, providers can refer to [Policy Alert #2020-04](#).

**Q32: Will BWC extend the Public Employer Group-Experience Rating program roster filing deadline?**

A: Yes. Normally, PEC employers would need to apply for a group rating plan by the last business day of May (May 29th this year). We have approved an extension of this deadline to June 12, 2020, with consideration that many PEC may not have had the opportunity to perform normal work duties that would require attention to such applications and deadline dates.

**Q33: Will BWC extend the Private Employer (PA) Industry-Specific Safety Program (ISSP), Drug-Free Safety Program (DFSP) and Transitional Work Bonus (TWB) program enrollment deadlines?**

A: Yes. Normally, the deadline for PA employers to apply for ISSP, DFSP, and TWB would be the last business day of May (May 29th this year). We have approved an extension of this deadline to June 30, 2020, for new employers, as well as those employers who withdrew from the program previously, to apply for these programs with consideration that many employers may not have been working and able to submit applications timely.



# Guidance on the Use of Face Coverings & Masks

*Revised June 1, 2020*

This document is designed to be used only as guidance and a general reference for Ohio manufacturers. For specific questions relating exclusively to your operations, please work with your internal experts, counsel, and state/local public health authorities.

## **Overview**

On May 29, 2020, the DeWine administration released its latest public health order providing business guidance and social distancing requirements. OMA general counsel Bricker & Eckler produced [this memo](#) to summarize how the new order affects manufacturers. The firm notes: "This order does not contain many changes compared to the previous orders ... therefore manufacturers should not see many changes in either operational requirements or the enforcement of mandates. However, the order does contain new guidance for manufacturers on what constitutes a practical reason for not wearing a face mask/covering."

**Under Ohio's May 29 public health order ([read Section 13](#)), the use of face coverings by manufacturing employees is mandatory, except for any one or more of the following cases:**

- Facial coverings in the work setting are prohibited by law or regulation;
- Facial coverings are in violation of documented industry standards;
- Facial coverings are not advisable for health reasons;
- Facial coverings are in violation of the business's documented safety policies;
- Facial coverings are not required when the employee works alone in an assigned work area; or
- There is a functional (practical) reason for an employee not to wear a facial covering in the workplace. Practical reasons include, but are not limited to, high temperatures in manufacturing facilities, or manufacturing employees separated by more than six feet or by a barrier when performing their jobs on the manufacturing floor.

**Businesses must provide written justification to local health officials – upon request – explaining why an employee is not required to wear a facial covering in the workplace. At a minimum, facial coverings (masks) should be cloth/fabric and cover an individual's nose, mouth, and chin.**

Read [Ohio's May 29 health care order](#), which includes safety protocols for Ohio businesses.

For specific information on face coverings, see the Ohio Department of Health's (ODH) [FAQs on cloth masks/face coverings in the workplace](#), as well as the [CDC's updated guidance](#).

For more on Ohio's re-opening plan, visit the [Responsible Restart Ohio](#) website.

### **Guidance Resources**

- ODH's [guidance on the do's and don'ts of cloth face coverings](#).
- ODH's [FAQs on cloth masks/face coverings in the workplace](#).
- ODH's [masks/face coverings checklist](#).
- CDC on [homemade cloth face coverings](#).
- CDC's [questions and answers on face coverings](#).
- CDC's [interim guidance for conserving and extending filtering facepiece respirator supply in non-health care sectors](#).
- OMA Connections Partner Fisher Phillips has posted [these tips](#) for avoiding heat stress when wearing COVID-19 face coverings.
- [Guidance](#) from the National Center for Biotechnology and [WSJ.com](#) on how to keep your glasses from fogging when wearing a mask.



## U.S. Department of Labor Email Subscription Service

### U.S. Department of Labor Adopts Revised Enforcement Policies For Coronavirus

United States Department of Labor sent this bulletin at 05/19/2020 04:49 PM EDT

News Release from OSHA

Having trouble viewing this email? [View it as a Web page.](#)



# News Release

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U.S. Department of Labor | May 19, 2020

## U.S. Department of Labor Adopts Revised Enforcement Policies For Coronavirus

**WASHINGTON, DC** – The U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) has adopted revised policies for enforcing OSHA’s requirements with respect to coronavirus as economies reopen in states throughout the country.

Throughout the course of the pandemic, understanding about the transmission and prevention of infection has improved. The government and the private sector have taken rapid and evolving measures to slow the virus’s spread, protect employees, and adapt to new ways of doing business.

Now, as states begin reopening their economies, OSHA has issued two revised enforcement policies to ensure employers are taking action to protect their employees.

First, OSHA is increasing in-person inspections at all types of workplaces. The [new enforcement guidance](#) reflects changing circumstances in which many non-critical businesses have begun to reopen in areas of lower community spread. The risk of transmission is lower in specific categories of workplaces, and personal protective equipment potentially needed for inspections is more widely available. OSHA staff will continue to prioritize COVID-19 inspections, and will utilize all enforcement tools as OSHA has historically done.



Second, OSHA is revising its previous enforcement policy for recording cases of coronavirus. Under OSHA's recordkeeping requirements, coronavirus is a recordable illness, and employers are responsible for recording cases of the coronavirus, if the case:

- Is confirmed as a coronavirus illness;
- Is [work-related](#) as defined by [29 CFR 1904.5](#); and
- Involves one or more of the [general recording criteria](#) in [29 CFR 1904.7](#), such as medical treatment beyond first aid or days away from work.

Under the [new policy](#) issued today, OSHA will enforce the recordkeeping requirements of [29 CFR 1904](#) for employee coronavirus illnesses for all employers. Given the nature of the disease and community spread, however, in many instances it remains difficult to determine whether a coronavirus illness is work-related, especially when an employee has experienced potential exposure both in and out of the workplace. OSHA's guidance emphasizes that employers must make reasonable efforts, based on the evidence available to the employer, to ascertain whether a particular case of coronavirus is work-related.

Recording a coronavirus illness does not mean that the employer has violated any OSHA standard. Following [existing regulations](#), employers with 10 or fewer employees and certain employers in low hazard industries have no recording obligations; they need only report work-related coronavirus illnesses that result in a fatality or an employee's in-patient hospitalization, amputation, or loss of an eye.<sup>[1]</sup>

For further information and resources about the coronavirus disease, please visit OSHA's [coronavirus webpage](#).

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA's role is to help ensure these conditions for America's working men and women by setting and enforcing standards, and providing training, education and assistance. For more information, visit [www.osha.gov](http://www.osha.gov).

The mission of the Department of Labor is to foster, promote and develop the welfare of the wage earners, job seekers and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights.

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[1] See 29 C.F.R. §§ 1904.1(a)(1), 1904.2.

###

**Media Contacts:**

Megan Sweeney, 202-693-4661, [sweeney.megan.p@dol.gov](mailto:sweeney.megan.p@dol.gov)

Release Number: 20-1054-NAT

U.S. Department of Labor news materials are accessible at <http://www.dol.gov>. The Department's [Reasonable Accommodation Resource Center](#) converts departmental information and documents into alternative formats, which include Braille and large print. For alternative format requests, please contact the Department at (202) 693-7828 (voice) or (800) 877-8339 (federal relay).

# Responsible RestartOhio

## Manufacturing, Distribution & Construction



### Employees, Distributors, & Guests

#### Mandatory

- **Ensure minimum 6 ft between people, if not possible, install barriers**
- Businesses must require all employees to wear facial coverings, except for one of the following reasons:
  - Facial coverings in the work setting are prohibited by law or regulation
  - Facial coverings are in violation of documented industry standards
  - Facial coverings are not advisable for health reasons
  - Facial coverings are in violation of the business's documented safety policies
  - Facial coverings are not required when the employee works alone in an assigned work area
  - There is a functional (practical) reason for an employee not to wear a facial covering in the workplace
  - Practical reasons include, but are not limited to, high temperatures in facilities or employees separated by more than 6 feet or by a barrier when performing the jobs on the manufacturing floor

*(Businesses must provide written justification to local health officials, upon request, explaining why an employee is not required to wear a facial covering in the workplace. At minimum, facial coverings (masks) should be cloth/fabric and cover an individual's nose, mouth, and chin.)*
- Employees must perform daily symptom assessment\*
- Require employees to stay home if symptomatic
- Require regular handwashing
- Stagger or limit arrivals of employees and guests
- Have employees work from home whenever possible

#### Recommended Best Practices

- Consider having distributors and guests wear face coverings at all times
- Provide stipend to employees for transportation

### Shift Pattern

- Daily disinfection of desks and workstations
- Change shift patterns (e.g. fewer shifts)
- Stagger lunch and break times
- Split into sub-teams, limit contact across sub-teams
- Reduce pace to allow less FTEs per line

### Physical Spaces / Workstations

- **Ensure minimum 6 ft between people, if not possible, install barriers**
- Daily deep disinfection of high-contact surfaces
- Space factory floor to allow for distancing
- Regulate max number of people in cafeterias/ common spaces
- Establish maximum capacity
- Close cafeteria and gathering spaces if possible, or conduct regular cleanings
- Daily deep disinfection of entire facility

### Confirmed Cases

- Immediately isolate and seek medical care for any individual who develops symptoms while at work
- Contact the local health district about suspected cases or exposures
- Shutdown shop/floor for deep sanitation if possible
- Work with local health department to identify potentially infected or exposed individuals to help facilitate effective contact tracing/notifications
- Once testing is readily available, test all suspected infections or exposures
- Following testing, contact local health department to initiate appropriate care and tracing

\*Per the CDC, symptoms include cough, shortness of breath or difficulty breathing, fever, chills, muscle pain, sore throat, and new loss of taste or smell.

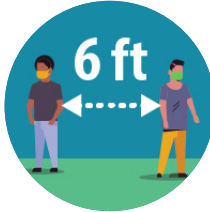
# Manufacturing Facilities:

## Key Strategies to Prevent COVID-19 Infection among Employees

Accessible version: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-manufacturing-workers-employers.html>

Employers should assess their workplace for factors that might increase the risk of spreading COVID-19. Develop a health and safety plan using a combination of the following prevention recommendations. Reach out frequently to state and/or local public health officials and occupational safety and health professionals to get relevant and up-to-date information concerning COVID-19.

- **Keep employees at least 6 feet away from each other as much as possible.** Use physical barriers, reduce staffing, or modify workstations, work procedures, or hours and shifts to increase the distance among employees. Add additional clock in/out stations, space out chairs in break rooms, and add outside tents for breaks.



- **Encourage sick employees to stay home (including employees who test positive but do not have symptoms).**

Develop policies that encourage sick employees to stay at home without fear of punishment or loss of incentives, and make sure employees are aware of these policies. Work with occupational medicine professionals to develop policies for workers who may be at [increased risk](#) related to COVID-19.



- **Increase frequency of cleaning and disinfection in shared spaces.** [Clean and disinfect tools](#) or other equipment at least as [often](#) as employees change workstations. Disinfect frequently touched surfaces in workspaces and break rooms at the end of each shift. Clean and disinfect shuttle buses or vans if used.



- **Encourage employees to practice social distancing (staying at least 6 feet away from others).** Stagger break times and shifts. Place reminders where employees might gather, including work areas, break areas, locker rooms, halls or corridors, and entrance and exit areas. Encourage employees to avoid carpooling to and from work, if possible.

- **Screen employees for potential COVID-19 symptoms before they enter the workplace.** Consult with state and local health officials and occupational medicine professionals on screening procedures. Send employees with symptoms home immediately, encourage them to self-isolate at home, and provide information on when they can return to work.

- **Promote proper hand hygiene. Provide access to running water, soap, paper towels, and trash cans (no-touch trash cans if available).** Have employees wash hands for at least 20 seconds. Increase the number of hand sanitizer stations (touch-free where possible). Provide alcohol-based hand sanitizer that contains at least 60% alcohol.



- **Provide cloth face coverings and face shields.**

Make sure face coverings are worn properly (snugly over the nose and mouth). Provide washable coverings with multiple layers of fabric. Replace when wet, dirty, or contaminated. Clean face shields after each shift if used. Make sure face shields extend past the chin and wrap around the sides of the face.



- **Educate and train employees on COVID-19 and how to protect themselves and others at home and at work.** Cover topics like [staying home when sick](#), social distancing, how to wear [cloth face coverings](#), and proper [hand hygiene](#). Provide materials in an easy to understand format and in appropriate languages. CDC has [posters](#) available for download.



- **Provide personal protective equipment (PPE) needed for job tasks.** Do not substitute face coverings for recommended or required PPE such as respirators or medical facemasks. Ensure PPE is used properly. Train employees on how to put on and take off PPE without contaminating themselves.

- **Create an emergency operational plan.**

Prepare for increased absences. Plan how to continue your essential business functions with a reduced workforce. Cross-train workers to perform critical duties.



# Manufacturing Employees

## Things you can do in and outside of work to protect yourself and your coworkers from COVID-19

Accessible version: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-manufacturing-workers-employers.html>



### STAY HOME if you are sick.

#### **Symptoms to watch for:**

- Cough
- Shortness of breath or difficulty breathing
- Fever
- Chills
- Muscle pain
- Sore throat
- New loss of taste or smell

#### **Avoid contact with others while you are sick**

- Stay in a specific room at home and away from other people, as much as possible
- Talk with a doctor and your supervisor about when you can return to work



### Stay at least 6 feet (about 2 adult arms' length) from other people at work and in your community as much as possible

- Stay at least 6 feet apart during conversations, in locker rooms, hallways or corridors, and when entering or leaving your workplace
- Do not share drinks or food with coworkers
- Tools should be regularly [cleaned and disinfected](#), especially when you change workstations or move to a new set of tools
- Do not carpool, if possible



### Wear a cloth face covering over your mouth and nose while in the workplace and in public

- Fit your covering snugly, but comfortably, against the sides of your face
- When removing your face covering, try not to touch your eyes, nose, or mouth, and wash your hands immediately
- Wash or replace the face covering after use
- Replace the face covering when it is wet or dirty
- Continue to wear the personal protective equipment (PPE) required for your normal work tasks





### **Do not touch your eyes, nose, or mouth**

- With unwashed hands
  - While wearing gloves
  - While adjusting or removing your face covering or safety glasses
- 



### **Wash your hands** with soap and water for at least 20 seconds or use an **alcohol-based hand sanitizer** that contains at least 60% alcohol:

- Before and after work shifts and breaks
  - After blowing your nose, coughing, or sneezing
  - After using the restroom
  - Before eating
  - Before and after preparing food
  - After putting on, touching, or removing cloth face coverings.
- 



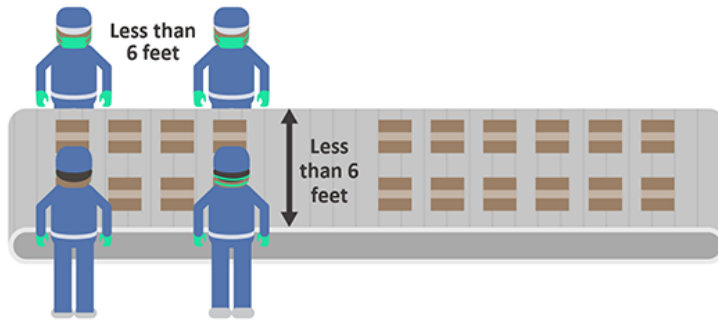
### **Cover your coughs and sneezes**

- Cover your mouth and nose with a tissue or use the inside of your elbow if you have no tissue
- Throw used tissues in the garbage
- Immediately [wash your hands](#) or use hand-sanitizer containing at least 60% alcohol after sneezing or coughing

## How to Align Manufacturing Workstations, If Feasible

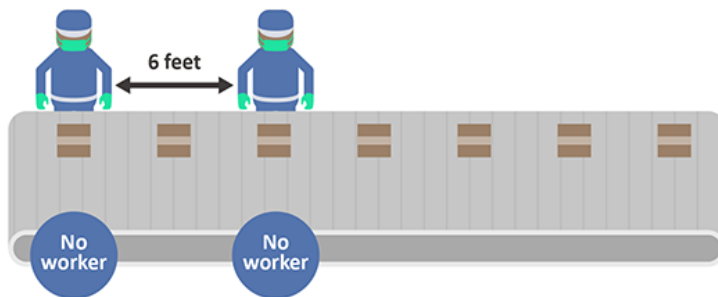
### Bad:

Workers are within six feet of one another, including at side-by-side or facing workstations.



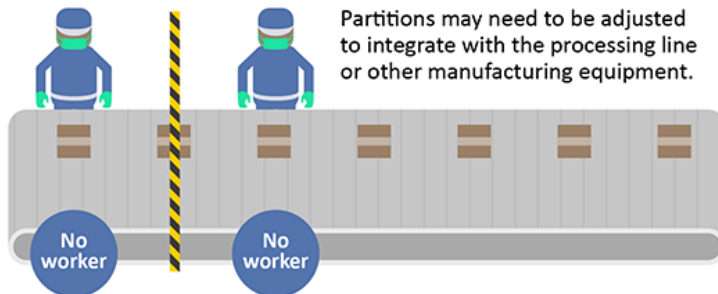
### Good:

Workers are spaced at least six feet apart, not facing one another. Another setup may be used to achieve similar distancing between workers.



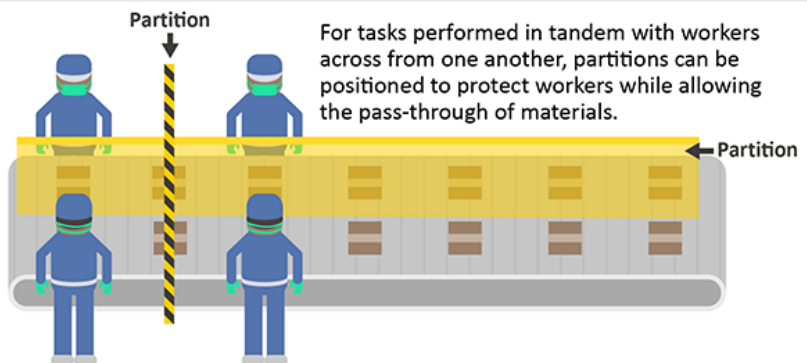
### Good:

Physical barriers, such as partitions, separate workers from each other.



### Good:

Physical barriers, such as partitions, separate workers from each other, including where workers need to perform tasks in tandem across from one another.



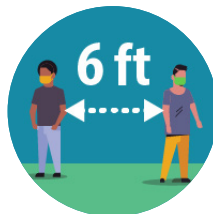
# Meat and Poultry Processing Facilities:

## Key Strategies to Prevent COVID-19 Infection among Employees

Accessible version: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/meat-poultry-processing-workers-employers.html>

Employers should assess their workplace for factors that might increase the risk of spreading COVID-19. Develop a health and safety plan using the following prevention guidance. Reach out frequently to [state](#) and/or [local](#) public health officials and occupational safety and health professionals to get relevant and up-to-date information concerning COVID-19 in your area.

- **Keep employees at least 6 feet away from each other as much as possible (encourage social distancing).** Use physical barriers or partitions, reduce staffing, or modify workstations or work procedures to increase the distance between employees. Add additional clock in/out stations, space out chairs in break rooms, and add outside tents for breaks.



- **Encourage sick employees to stay home.** Develop policies that allow sick employees to stay at home without loss of incentives. Ensure employees are aware of and understand these policies. Work with occupational medicine professionals to develop policies for workers who may be at increased risk related to COVID-19.



- **Increase frequency of cleaning and disinfection and make sure there is adequate ventilation in shared spaces.** [Clean and disinfect](#) tools or other equipment at least as often as employees change workstations. Disinfect frequently touched surfaces in workspaces, break rooms, and shuttle buses or vans if used, at the end of each shift, or more frequently. Redirect or remove fans to prevent air from blowing directly from one worker to another. If fans are removed, employers should take steps to prevent [heat hazards](#).



- **Encourage employees to practice social distancing.** Stagger break times and arrival and departure times. Place visual reminders (floor markings and signs) where employees might gather, including work areas, break areas, locker rooms, halls or corridors, and entrances and exit areas. Encourage employees to avoid carpooling to and from work. If carpooling is necessary, limit the number of people per vehicle as much as possible. This may require using more vehicles. Encourage employees in a shared van or car space to [wear cloth face coverings](#).

- **Screen employees for potential COVID-19 symptoms before they enter the workplace.** Consult with state and local health officials and occupational medicine professionals on screening procedures. Send employees with symptoms home immediately, encourage them to self-isolate at home (if possible), and contact a healthcare provider. Provide information on when they can return to work.

- **Consider providing cloth face coverings and/or face shields.** Ensure face coverings are worn properly (snugly over the nose and mouth). Provide washable coverings with multiple layers of fabric. Replace when wet, dirty, or contaminated. Face coverings are not a substitute for recommended or required PPE such as respirators or medical facemasks. Train employees on how to put on and take off PPE without contaminating themselves. Clean and disinfect face shields after each shift if used. Make sure face shields extend past the chin and wrap around the sides of the face.



- **Promote proper hand hygiene.** Provide access to running water, soap, paper towels, and trash cans (no-touch trash cans if available). Have employees [wash hands](#) for at least 20 seconds. Place hand washing or hand sanitizer stations in multiple locations. Provide alcohol-based hand sanitizer that contains at least 60% alcohol.



- **Educate and train employees and supervisors on how they can reduce the spread of COVID-19.** Cover topics like [staying home when sick](#), [social distancing](#), how to wear [cloth face coverings](#), and proper [hand hygiene](#). Provide materials in an easy to understand format and in appropriate languages. CDC has [posters](#) available for download.



# GUIDANCE FOR CLEANING AND DISINFECTING

## PUBLIC SPACES, WORKPLACES, BUSINESSES, SCHOOLS, AND HOMES



SCAN HERE  
FOR MORE  
INFORMATION

This guidance is intended for all Americans, whether you own a business, run a school, or want to ensure the cleanliness and safety of your home. Reopening America requires all of us to move forward together by practicing social distancing and other [daily habits](#) to reduce our risk of exposure to the virus that causes COVID-19. Reopening the country also strongly relies on public health strategies, including increased testing of people for the virus, social distancing, isolation, and keeping track of how someone infected might have infected other people. This plan is part of the larger [United States Government plan](#) and focuses on cleaning and disinfecting public spaces, workplaces, businesses, schools, and can also be applied to your home.

### **Cleaning and disinfecting public spaces including your workplace, school, home, and business will require you to:**

- Develop your plan
- Implement your plan
- Maintain and revise your plan

Reducing the risk of exposure to COVID-19 by cleaning and disinfection is an important part of reopening public spaces that will require careful planning. Every American has been called upon to slow the spread of the virus through social distancing and prevention hygiene, such as frequently washing your hands and wearing face coverings. Everyone also has a role in making sure our communities are as safe as possible to reopen and remain open.

The virus that causes COVID-19 can be killed if you use the right products. EPA has compiled a list of disinfectant products that can be used against COVID-19, including ready-to-use sprays, concentrates, and wipes. Each product has been shown to be effective against viruses that are harder to kill than viruses like the one that causes COVID-19.

For more information, please visit **CORONAVIRUS.GOV**





This document provides a general framework for cleaning and disinfection practices. The framework is based on doing the following:

1. Normal routine cleaning with soap and water will decrease how much of the virus is on surfaces and objects, which reduces the risk of exposure.
2. Disinfection using [EPA-approved disinfectants against COVID-19](#) can also help reduce the risk. Frequent disinfection of surfaces and objects touched by multiple people is important.
3. When [EPA-approved disinfectants](#) are not available, alternative disinfectants can be used (for example, 1/3 cup of bleach added to 1 gallon of water, or 70% alcohol solutions). Do not mix bleach or other cleaning and disinfection products together--this can cause fumes that may be very dangerous to breathe in. Keep all disinfectants out of the reach of children.

Links to specific recommendations for many public spaces that use this framework, can be found at the end of this document.

***It's important to continue to follow federal, state, tribal, territorial, and local guidance for reopening America.***

### **A Few Important Reminders about Coronaviruses and Reducing the Risk of Exposure:**

- Coronaviruses on surfaces and objects naturally die within hours to days. Warmer temperatures and exposure to sunlight will reduce the time the virus survives on surfaces and objects.
- Normal routine cleaning with soap and water removes germs and dirt from surfaces. It lowers the risk of spreading COVID-19 infection.
- Disinfectants kill germs on surfaces. By killing germs on a surface after cleaning, you can further lower the risk of spreading infection. [EPA-approved disinfectants](#) are an important part of reducing the risk of exposure to COVID-19. If disinfectants on this list are in short supply, alternative disinfectants can be used (for example, 1/3 cup of bleach added to 1 gallon of water, or 70% alcohol solutions).
- Store and use disinfectants in a responsible and appropriate manner according to the label. Do not mix bleach or other cleaning and disinfection products together--this can cause fumes that may be very dangerous to breathe in. Keep all disinfectants out of the reach of children.
- Do not overuse or stockpile disinfectants or other supplies. This can result in shortages of appropriate products for others to use in critical situations.
- Always wear gloves appropriate for the chemicals being used when you are cleaning and disinfecting. Additional personal protective equipment (PPE) may be needed based on setting and product. For more information, see [CDC's website on Cleaning and Disinfection for Community Facilities](#).
- Practice social distancing, wear facial coverings, and follow proper prevention hygiene, such as washing your hands frequently and using alcohol-based (at least 60% alcohol) hand sanitizer when soap and water are not available.

If you oversee staff in a workplace, your plan should include considerations about the safety of custodial staff and other people who are carrying out the cleaning or disinfecting. These people are at increased risk of being exposed to the virus and to any toxic effects of the cleaning chemicals. These staff should wear appropriate PPE for cleaning and disinfecting. To protect your staff and to ensure that the products are used effectively, staff should be instructed on how to apply the disinfectants according to the label. For more information on concerns related to cleaning staff, visit the Occupational Safety and Health Administration's website on [Control and Prevention](#).

## DEVELOP YOUR PLAN

Evaluate your workplace, school, home, or business to determine what kinds of surfaces and materials make up that area. Most surfaces and objects will just need normal routine cleaning. Frequently touched surfaces and objects like light switches and doorknobs will need to be cleaned and then disinfected to further reduce the risk of germs on surfaces and objects.

- First, clean the surface or object with soap and water.
- Then, disinfect using an [EPA-approved disinfectant](#).
- If an EPA-approved disinfectant is unavailable, you can use 1/3 cup of bleach added to 1 gallon of water, or 70% alcohol solutions to disinfect. Do not mix bleach or other cleaning and disinfection products together. Find additional information at [CDC's website on Cleaning and Disinfecting Your Facility](#).

You should also consider what items can be moved or removed completely to reduce frequent handling or contact from multiple people. Soft and porous materials, such as area rugs and seating, may be removed or stored to reduce the challenges with cleaning and disinfecting them. Find additional reopening guidance for cleaning and disinfecting in the [Reopening Decision Tool](#).

It is critical that your plan includes how to maintain a cleaning and disinfecting strategy after reopening. Develop a flexible plan with your staff or family, adjusting the plan as federal, state, tribal, territorial, or local guidance is updated and if your specific circumstances change.

### Determine what needs to be cleaned

Some surfaces only need to be cleaned with soap and water. For example, surfaces and objects that are not frequently touched should be cleaned and do not require additional disinfection. Additionally, disinfectants should typically not be applied on items used by children, especially any items that children might put in their mouths. Many disinfectants are toxic when swallowed. In a household setting, cleaning toys and other items used by children with soap and water is usually sufficient. Find more information on cleaning and disinfection toys and other surfaces in the childcare program setting at [CDC's Guidance for Childcare Programs that Remain Open](#).

These questions will help you decide which surfaces and objects will need normal routine cleaning.

#### Is the area outdoors?

Outdoor areas generally require normal routine cleaning and do not require disinfection. Spraying disinfectant on sidewalks and in parks is not an efficient use of disinfectant supplies and has not been proven to reduce the risk of COVID-19 to the public. You should maintain existing cleaning and hygiene practices for outdoor areas.

The targeted use of disinfectants can be done effectively, efficiently and safely on outdoor hard surfaces and objects frequently touched by multiple people. Certain outdoor areas and facilities, such as bars and restaurants, may have additional requirements. More information can be found on CDC's website on [Food Safety and the Coronavirus Disease 2019 \(COVID-19\)](#).

There is no evidence that the virus that causes COVID-19 can spread directly to humans from water in pools, hot tubs or spas, or water play areas. Proper operation, maintenance, and disinfection (for example, with chlorine or bromine) of pools, hot tubs or spas, and water playgrounds should kill the virus that causes COVID-19. However, there are additional concerns with outdoor areas that may be maintained less frequently, including playgrounds, or other facilities located within local, state, or national parks. For more information, visit CDC's website on [Visiting Parks & Recreational Facilities](#).

### **Has the area been unoccupied for the last 7 days?**

If your workplace, school, or business has been unoccupied for 7 days or more, it will only need your normal routine cleaning to reopen the area. This is because the virus that causes COVID-19 has not been shown to survive on surfaces longer than this time.

There are many public health considerations, not just COVID-19 related, when reopening public buildings and spaces that have been closed for extended periods. For example, take measures to ensure the [safety of your building water system](#). It is not necessary to clean ventilation systems, other than routine maintenance, as part of reducing risk of coronaviruses. For healthcare facilities, additional guidance is provided on [CDC's Guidelines for Environmental Infection Control in Health-Care Facilities](#).

### **Determine what needs to be disinfected**

Following your normal routine cleaning, you can disinfect frequently touched surfaces and objects using a product from [EPA's list of approved products that are effective against COVID-19](#).

These questions will help you choose appropriate disinfectants.

### **Are you cleaning or disinfecting a hard and non-porous material or item like glass, metal, or plastic?**

Consult [EPA's list of approved products for use against COVID-19](#). This list will help you determine the most appropriate disinfectant for the surface or object. You can use diluted household bleach solutions if appropriate for the surface. Pay special attention to the personal protective equipment (PPE) that may be needed to safely apply the disinfectant and the manufacturer's recommendations concerning any additional hazards. Keep all disinfectants out of the reach of children. Please visit CDC's website on [How to Clean and Disinfect](#) for additional details and warnings.

Examples of frequently touched surfaces and objects that will need routine disinfection following reopening are:

- tables,
- doorknobs,
- light switches,
- countertops,
- handles,
- desks,
- phones,
- keyboards,
- toilets,
- faucets and sinks,
- gas pump handles,
- touch screens, and
- ATM machines.

Each business or facility will have different surfaces and objects that are frequently touched by multiple people. Appropriately disinfect these surfaces and objects. For example, transit stations have [specific guidance](#) for application of cleaning and disinfection.

### **Are you cleaning or disinfecting a soft and porous material or items like carpet, rugs, or seating in areas?**

Soft and porous materials are generally not as easy to disinfect as hard and non-porous surfaces. [EPA has listed a limited number of products approved for disinfection for use on soft and porous materials](#). Soft and porous materials that are not frequently touched should only be cleaned or laundered, following the directions on the item's label, using the warmest appropriate water setting. Find more information on [CDC's website on Cleaning and Disinfecting Your Facility](#) for developing strategies for dealing with soft and porous materials.

## Consider the resources and equipment needed

Keep in mind the availability of cleaning and disinfection products and appropriate PPE. Always wear gloves appropriate for the chemicals being used for routine cleaning and disinfecting. Follow the directions on the disinfectant label for additional PPE needs. In specific instances, personnel with specialized training and equipment may be required to apply certain disinfectants such as fumigants or fogs. For more information on appropriate PPE for cleaning and disinfection, see [CDC's website on Cleaning and Disinfection for Community Facilities](#).

## IMPLEMENT YOUR PLAN

Once you have a plan, it's time to take action. Read all manufacturer's instructions for the cleaning and disinfection products you will use. Put on your gloves and other required personal protective equipment (PPE) to begin the process of cleaning and disinfecting.

### Clean visibly dirty surfaces with soap and water

Clean surfaces and objects using soap and water prior to disinfection. Always wear gloves appropriate for the chemicals being used for routine cleaning and disinfecting. Follow the directions on the disinfectant label for additional PPE needs. When you finish cleaning, remember to wash hands thoroughly with soap and water.

Clean or launder soft and porous materials like seating in an office or coffee shop, area rugs, and carpets. Launder items according to the manufacturer's instructions, using the warmest temperature setting possible and dry items completely.

### Use the appropriate cleaning or disinfectant product

[EPA approved disinfectants](#), when applied according to the manufacturer's label, are effective for use against COVID-19. Follow the instructions on the label for all cleaning and disinfection products for concentration, dilution, application method, contact time and any other special considerations when applying.

### Always follow the directions on the label

Follow the instructions on the label to ensure safe and effective use of the product. Many product labels recommend keeping the surface wet for a specific amount of time. The label will also list precautions such as wearing gloves and making sure you have good ventilation during use of the product. Keep all disinfectants out of the reach of children.

## MAINTAIN AND REVISE YOUR PLAN

Take steps to reduce your risk of exposure to the virus that causes COVID-19 during daily activities. [CDC provides tips](#) to reduce your exposure and risk of acquiring COVID-19. Reducing exposure to yourself and others is a shared responsibility. Continue to update your plan based on updated guidance and your current circumstances.

### Continue routine cleaning and disinfecting

Routine cleaning and disinfecting are an important part of reducing the risk of exposure to COVID-19. Normal routine cleaning with soap and water alone can reduce risk of exposure and is a necessary step before you disinfect dirty surfaces.

Surfaces frequently touched by multiple people, such as door handles, desks, phones, light switches, and faucets, should be cleaned and disinfected at least daily. More frequent cleaning and disinfection may be required based on level of use. For example, certain surfaces and objects in public spaces, such as shopping carts and point of sale keypads, should be cleaned and disinfected before each use.

Consider choosing a different disinfectant if your first choice is in short supply. Make sure there is enough supply of gloves and appropriate personal protective equipment (PPE) based on the label, the amount of product you will need to apply, and the size of the surface you are treating.

### Maintain safe behavioral practices

We have all had to make significant behavioral changes to reduce the spread of COVID-19. To reopen America, we will need to continue these practices:

- social distancing (specifically, staying 6 feet away from others when you must go into a shared space)
- frequently washing hands or use alcohol-based (at least 60% alcohol) hand sanitizer when soap and water are not available
- wearing cloth face coverings
- avoiding touching eyes, nose, and mouth
- staying home when sick
- cleaning and disinfecting frequently touched objects and surfaces

It's important to continue to follow federal, state, tribal, territorial, and local guidance for reopening America. Check this resource for [updates on COVID-19](#). This will help you change your plan when situations are updated.

### Consider practices that reduce the potential for exposure

It is also essential to change the ways we use public spaces to work, live, and play. We should continue thinking about our safety and the safety of others.

To reduce your exposure to or the risk of spreading COVID-19 after reopening your business or facility, consider whether you need to touch certain surfaces or materials. Consider wiping public surfaces before and after you touch them. These types of behavioral adjustments can help reduce the spread of COVID-19. There are other resources for more information on [COVID-19](#) and how to [Prevent Getting Sick](#).

Another way to reduce the risk of exposure is to make long-term changes to practices and procedures. These could include reducing the use of porous materials used for seating, leaving some doors open to reduce touching by multiple people, opening windows to improve ventilation, or removing objects in your common areas, like coffee creamer containers. There are many other steps that businesses and institutions can put into place to help reduce the spread of COVID-19 and protect their staff and the public. More information can be found at [CDC's Implementation of Mitigation Strategies for Communities with Local COVID-19 Transmission](#).

# CONCLUSION

Reopening America requires all of us to move forward together using recommended best practices and maintaining safe daily habits in order to reduce our risk of exposure to COVID-19. Remember: We’re all in this together!

## Additional resources with more specific recommendations.

### HEALTHCARE SETTINGS

<b>Long-term Care Facilities, Nursing Homes</b>	<a href="#">Infection Control in Healthcare Settings</a>
	<a href="#">Using Personal Protective Equipment</a>
	<a href="#">Hand Hygiene</a>
	<a href="#">Interim Guidance for Infection Prevention</a>
	<a href="#">Preparedness Checklist</a>
	<a href="#">Things Facilities Should Do Now to Prepare for COVID-19</a>
	<a href="#">When there are Cases in the Facility</a>
<b>Dialysis Facilities</b>	<a href="#">Infection Control in Healthcare Settings</a>
	<a href="#">Using Personal Protective Equipment</a>
	<a href="#">Hand Hygiene</a>
	<a href="#">Interim guidance for Outpatient Hemodialysis Facilities</a>
	<a href="#">Patient Screening</a>
<b>Blood and Plasma Facilities</b>	<a href="#">Infection control in Healthcare Settings</a>
	<a href="#">Infection Control and Environmental Management</a>
	<a href="#">Using Personal Protective Equipment</a>
	<a href="#">Hand Hygiene</a>
	<a href="#">Interim Guidance for Blood and Plasma Collection Facilities</a>
<b>Alternate Care Sites</b>	<a href="#">Infection Prevention and Control</a>
<b>Dental Settings</b>	<a href="#">Infection Control in Healthcare Settings</a>
	<a href="#">Using Personal Protective Equipment</a>
	<a href="#">Hand Hygiene</a>
	<a href="#">Interim Guidance for Dental Settings</a>
<b>Pharmacies</b>	<a href="#">Infection Control in Healthcare Settings</a>
	<a href="#">Using Personal Protective Equipment</a>
	<a href="#">Hand Hygiene</a>
	<a href="#">Interim Guidance for Pharmacies</a>
	<a href="#">Risk-Reduction During Close-Contact Services</a>
<b>Outpatient and ambulatory care facilities</b>	<a href="#">Infection Control in Healthcare Settings</a>
	<a href="#">Using Personal Protective Equipment</a>
	<a href="#">Hand Hygiene</a>
	<a href="#">Interim Guidance for Outpatient &amp; Ambulatory Care Settings</a>
<b>Postmortem Care</b>	<a href="#">Using Personal Protective Equipment</a>
	<a href="#">Hand Hygiene</a>
	<a href="#">Collection and Submission of Postmortem Samples</a>
	<a href="#">Cleaning and Waste Disposal</a>
	<a href="#">Transportation of Human Remains</a>

<b>COMMUNITY LOCATIONS</b>	<b>Critical Infrastructure Employees</b>	<a href="#">Interim Guidance for Critical Infrastructure Employees</a>
		<a href="#">Cleaning and Disinfecting your Facility</a>
	<b>Schools and childcare programs</b>	<a href="#">K-12 and Childcare Interim Guidance</a>
		<a href="#">Cleaning and Disinfecting your Facility</a>
		<a href="#">FAQ for Administrators</a>
		<a href="#">Parent and Teacher Checklist</a>
	<b>Colleges and universities</b>	<a href="#">Interim Guidance for Colleges &amp; Universities</a>
		<a href="#">Cleaning and Disinfecting your Facility</a>
		<a href="#">Guidance for Student Foreign Travel</a>
		<a href="#">FAQ for Administrators</a>
	<b>Gatherings and community events</b>	<a href="#">Interim Guidance for Mass Gatherings and Events</a>
		<a href="#">Election Polling Location Guidance</a>
		<a href="#">Events FAQ</a>
	<b>Community- and faith-based organizations</b>	<a href="#">Interim Guidance for Organizations</a>
		<a href="#">Cleaning and Disinfecting your Facility</a>
	<b>Businesses</b>	<a href="#">Interim Guidance for Businesses</a>
	<b>Parks &amp; Rec Facilities</b>	<a href="#">Guidance for Administrators of Parks</a>
	<b>Law Enforcement</b>	<a href="#">What Law Enforcement Personnel Need to Know about COVID-19</a>
	<b>Homeless Service Providers</b>	<a href="#">Interim Guidance for Homeless Service Providers</a>
	<b>Retirement Homes</b>	<a href="#">Interim Guidance for Retirement Communities</a>
	<a href="#">FAQ for Administrators</a>	
<b>Correction &amp; Detention Facilities</b>	<a href="#">Interim Guidance for Correction &amp; Detention Facilities</a>	
	<a href="#">FAQ for Administrators</a>	
<b>HOME SETTING</b>	<b>Preventing Getting Sick</b>	<a href="#">How to Protect Yourself and Others</a>
		<a href="#">How to Safely Sterilize/Clean a Cloth Face Covering</a>
		<a href="#">Cleaning and Disinfecting your Home</a>
		<a href="#">Tribal - How to Prevent the Spread of Coronavirus (COVID-19) in Your Home</a>
		<a href="#">Tribal - How to Care for Yourself at Home During Covid-19</a>
	<b>Running Errands</b>	<a href="#">Shopping for Food and Other Essential Items</a>
		<a href="#">Accepting Deliveries and Takeout</a>
		<a href="#">Banking</a>
		<a href="#">Getting Gasoline</a>
		<a href="#">Going to the Doctor and Pharmacy</a>
<b>If you are sick</b>	<a href="#">Steps to Help Prevent the Spread of COVID19 if You are Sick</a>	

<b>TRANSPORTATION</b>	<b>Ships</b>	<a href="#">Interim Guidance for Ships on Managing Suspected COVID-19</a>
	<b>Airlines</b>	<a href="#">Cleaning Aircraft Carriers</a>
		<a href="#">Airline Agents Interim Guidance</a>
	<b>Buses</b>	<a href="#">Bus Transit Operator</a>
	<b>Rail</b>	<a href="#">Rail Transit Operators</a>
		<a href="#">Transit Station Workers</a>
	<b>EMS Transport Vehicles</b>	<a href="#">Interim Guidance for EMS</a>
	<b>Taxis and Rideshares</b>	<a href="#">Keeping Commercial Establishments Safe</a>
<b>RESTAURANTS &amp; BARS</b>		<a href="#">Best Practices from FDA</a>



MAY 2020

# ▶ MANUFACTURING FACILITIES AND OPERATIONS

## New Operational Practices to Consider in the Time of **COVID-19**

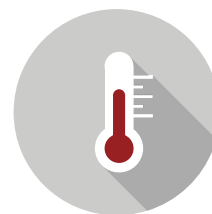
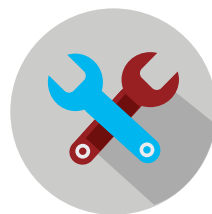
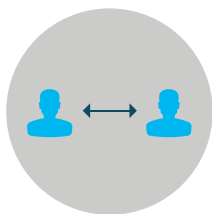
The following is a collection of emerging strategies and new operational practices that many leading manufacturing organizations of all sizes are considering and/or implementing to guide their workplaces and employees safely through the pandemic.

These practices are being shared to assist manufacturers taking steps within their facilities to meet or exceed Centers for Disease Control and Prevention and Occupational Safety and Health Administration guidelines and recommendations, while also mitigating operational and business risks that are outside the scope of such guidance. This information is not meant as authoritative legal, medical or regulatory guidance or advice. It is not an exhaustive list of operational practices in the COVID-19 environment but rather represents some of the most common “best practices” communicated to the National Association of Manufacturers.

## SITE ACCESS TO MITIGATE EXPOSURE

1. Many sites have eliminated all visitor access or are only allowing third-party visitors if they are critical for ongoing operations (i.e., maintenance or service technicians).
2. Some companies are using self-certification questionnaires for staff and/or guests. These must be completed before the person is allowed on site, and they require the individual to certify that he or she is free of specific symptoms and has not knowingly been in contact with anyone testing positive for COVID-19 or showing specific symptoms in the past 14 days. They also ask to disclose recent travel or to certify that no recent travel has occurred to specific “hot spots.”
3. Facilities that use temperature screening report doing the following:
  - Staff who perform the temperature screenings are outside the facility at a special checkpoint and are trained on how to use the equipment and outfitted with special medical personal protective equipment.
  - Temperatures are taken with a nontouch laser device.
  - The company decides what temperature level is permissible, with the common thresholds at 99°F or 100°F. The CDC defines a fever as a body temperature at or above 100.4°F.
  - Any staff with a reading above the allowed threshold is asked to return home and does not enter the workplace.
  - Neither temperature readings nor employee names are recorded to maintain privacy.
  - Measures should be taken to protect the privacy of workers while receiving tests and if they test positive when leaving the facility.
  - Companies should consider whether federal and state wage and hour laws require that the time workers spend waiting in line is compensable.

## WORKSTATION MEASURES TO PROMOTE SOCIAL DISTANCING



1. Companies are working to ensure that, if possible, all workers are stationed at least six feet or more from their nearest coworker.
2. Some companies have slowed production lines intentionally to make the appropriate social distancing feasible.
3. When six feet of distance between workstations is not feasible, some are using plexiglass or vinyl barriers between workers coupled with workplace-appropriate face coverings for employees in these types of workstations.
4. The CDC recommends wearing facial coverings, such as cloth masks, at all times in manufacturing facilities. This would not only help to limit possible human-to-human transmission but also help to reduce the chance of surface or airborne contamination.
5. Companies are using higher-grade PPE when the six-foot recommended radius is not possible.
6. Preexisting PPE that was required before the pandemic—such as hard hats, goggles, gloves, etc.—was likely never shared between staff. But companies are ensuring that policy should be strictly communicated and enforced now, and some require that all PPE should be disinfected daily by either the company or the employee.
7. Many companies have also banned sharing other types of wearable or high-touch equipment, such as headsets and remote controls.
8. Some are implementing additional protective coverings—such as keyboard covers—and allowing employees to bring their own to each shift and then take it home for cleaning each day.
9. Companies are usually requiring significant cleaning and disinfecting of all high-touch surfaces at a workstation at the beginning and end of a shift.
10. If more than one person uses a workstation during a shift, then the cleaning and disinfecting regimen is usually more frequent.
11. Any shared tools are usually disinfected before the next employee uses them, whether that is within a shift or between shifts.
12. A deeper cleaning of the entire work area is often standard each night or weekly, depending on many factors, including number of workers, types of surfaces, environmental conditions, etc.
13. Some companies are scheduling daily cleaning crews to come through facilities during the day, rather than at night, to show employees that safety measures are being taken.

## FACILITIES AND TRAFFIC MANAGEMENT

1. Companies are limiting and discouraging congregation of staff in any area where they must be closer together than six feet and/or with poor ventilation characteristics.
2. Cafeterias and break rooms are frequently either closed, or they are rearranged in reduced seating formations

to prevent people from sharing tables. In some cases, staff are asked to take breaks or eat lunches in their cars to maintain separation while getting off their feet. Companies are using ample signage to communicate room occupancy limits.

3. Companies are seeking to install touchless appliances wherever possible—including all sinks and paper towel holders.
4. Major emphasis is placed on frequent hand washing or hand sanitizing, and, when possible, the appropriate sinks or supplies are located throughout the facility to accommodate the increased frequency.
5. Companies are focused on cleaning restrooms more frequently, and some toilets or sinks may be blocked off to help maintain social distancing.
6. Wherever possible, doors are propped open to eliminate a frequent touchpoint for many staff hands. Other companies are installing hardware that allows workers to open doors with their forearms or with a foot pedal.
7. Hallways and other walkways through buildings may be designated as one-way to reduce close-proximity passing of staff.
8. Some companies are increasing the use of radios, text messages and email to reduce staff movement and face-to-face communication.
9. Time clocks can cause crowds to form, and many companies have reported the following measures to help alleviate that issue:



Replacing the traditional technology with something that is touchless—linked perhaps to each employee's cell phone or a wrist band, etc.



Installing additional time clock stations in the facility



Staggering start and end times within a shift so that the time clock usage is less intense at any one time



Placing social distancing markers on the floor to guide the line formation and proper spacing of those waiting to clock in or out

## SHIFT AND TEAM DESIGN

1. Many companies realize that any worker may get infected or sick at any time, no matter where the exposure occurs. They, therefore, endeavor to ensure that each worker is only interacting with a very limited number of coworkers to minimize the number of people who might be exposed in the workplace and then quarantined or infected as a result.
2. Increasing the time between shifts allows for policies that ensure all workers from one shift are off premises before the next shift arrives, preventing incidental contact between workers on different shifts.
3. Some facilities have divided workers within the same shift into specific smaller work teams. These teams may be designated with a specific marked floor area in the facility or designated by color of uniforms or other visual cues. Workers may need to interact at closer distances with those on their designated team, but they explicitly do not do so with members of any other team.
4. Hand-offs are often a critical and normal part of factory operations; everything from clipboards to raw materials

to forms or tablets may be regularly passed from one staff to another to facilitate work and all the tracking and reporting that goes with it. Each hand-off should be evaluated from a virus transmission risk perspective and, where possible, reworked to be as distant and touchless as possible.

## ILLNESS OR DIAGNOSIS RESPONSE

1. An important consideration is to design a plan for how an employee who reports feeling ill in the workplace will be isolated and cared for—and to make accommodations for privacy when requiring an employee to leave.
2. Consider and plan for how an employee's positive COVID-19 test or likely infection due to symptoms will be handled. What contact tracing among other staff will be carried out and by what means? How will the employee's privacy be protected?
3. Determine what facility-related steps will be taken if an employee recently on-site is assumed to be infected. Will the facility close in total or in part? What cleaning and disinfecting protocols will be followed? What communications will go out to employees?
4. As a representative of a community facility, consider developing a working relationship with county health officials so that reporting and mitigation can be addressed smoothly and proactively.

## ESSENTIAL TRAVEL POLICIES

1. Companies are adopting various policies for essential staff travel. Examples include using only personal vehicles instead of rental cars, providing protocols for cleaning/disinfecting hotel rooms upon check-in and establishing dining policies, such as takeout or delivery only. Additional considerations include the use of PPE and social distancing protocols while on a remote worksite.
2. When sending workers to customer locations, companies are focusing on communicating clearly with customers on safety protocols and inquiring about their own on-site practices.





## RETURNING NONESSENTIAL WORKERS

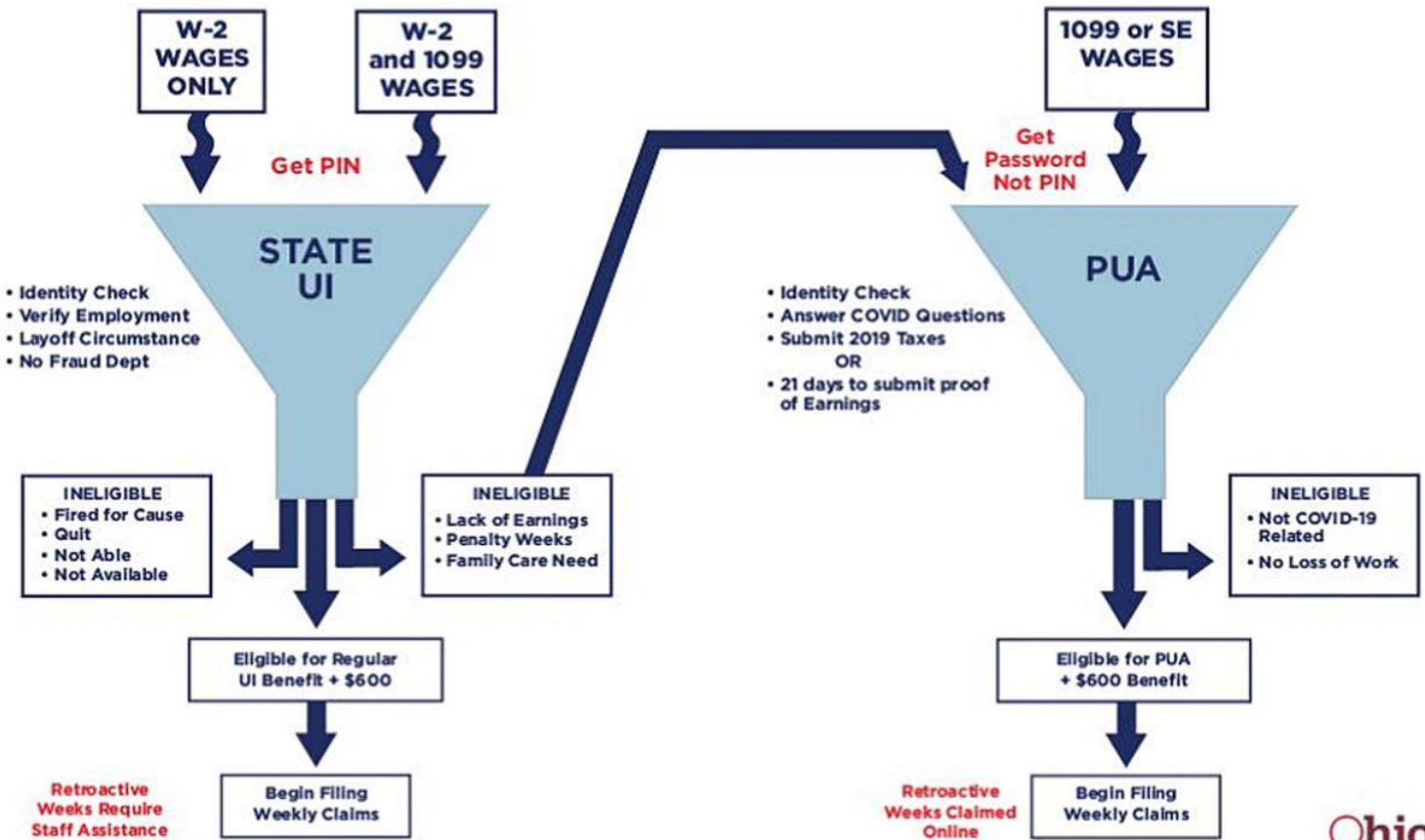
1. Companies are determining which workers should return to the workplace based on their effectiveness working remotely versus on-site. They are typically prioritizing those roles with greater on-site effectiveness.
2. Other considerations include the distance the employee would be traveling to work, his or her own health status or health status of family members (such as being immunocompromised or having other underlying health conditions or risk factors) and whether the employee would need to take public transit to get to the workplace.
3. Companies are communicating clearly and regularly with employees about on-site safety protocols in advance of their return.
4. Companies are monitoring reintegration and reinforcing protocols and policies as necessary.
5. Explaining the return-to-work philosophy of the company can be helpful in addressing employees' concerns.

### Legal Disclaimer:

The information contained in this document does not constitute legal or medical advice. The practices outlined here are meant as examples, and the NAM bears no responsibility with respect to third-party reliance on the recommendations set out herein. All employers should consult with local legal counsel and regulators specific to their jurisdictions and industries in developing strategies applicable to their unique workplaces.



# Navigating Ohio Unemployment During COVID-19



**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.

Sub. H. B. No. 606  
As Reported by House Committee

\_\_\_\_\_ moved to amend as follows:

In line 1 of the title, delete "and"; after "2744.01" insert ", and 1  
4123.68" 2

In line 12 of the title, after "pandemic," insert "to make COVID-19 3  
contracted by certain employees an occupational disease under the Workers' 4  
Compensation Law under specific circumstances," 5

In line 14, delete "and"; after "2744.01" insert ", and 4123.68" 6

After line 620, insert: 7

**"Sec. 4123.68.** Every employee who is disabled because of 8  
the contraction of an occupational disease or the dependent of 9  
an employee whose death is caused by an occupational disease, is 10  
entitled to the compensation provided by sections 4123.55 to 11  
4123.59 and 4123.66 of the Revised Code subject to the 12  
modifications relating to occupational diseases contained in 13  
this chapter. An order of the administrator issued under this 14  
section is appealable pursuant to sections 4123.511 and 4123.512 15  
of the Revised Code. 16

The following diseases are occupational diseases and 17



compensable as such when contracted by an employee in the course 18  
of the employment in which such employee was engaged and due to 19  
the nature of any process described in this section. A disease 20  
which meets the definition of an occupational disease is 21  
compensable pursuant to this chapter though it is not 22  
specifically listed in this section. 23

SCHEDULE 24

Description of disease or injury and description of 25  
process: 26

(A) Anthrax: Handling of wool, hair, bristles, hides, and 27  
skins. 28

(B) Glanders: Care of any equine animal suffering from 29  
glanders; handling carcass of such animal. 30

(C) Lead poisoning: Any industrial process involving the 31  
use of lead or its preparations or compounds. 32

(D) Mercury poisoning: Any industrial process involving 33  
the use of mercury or its preparations or compounds. 34

(E) Phosphorous poisoning: Any industrial process 35  
involving the use of phosphorous or its preparations or 36  
compounds. 37

(F) Arsenic poisoning: Any industrial process involving 38  
the use of arsenic or its preparations or compounds. 39

(G) Poisoning by benzol or by nitro-derivatives and amido- 40  
derivatives of benzol (dinitro-benzol, anilin, and others): Any 41  
industrial process involving the use of benzol or nitro- 42  
derivatives or amido-derivatives of benzol or its preparations 43  
or compounds. 44

(H) Poisoning by gasoline, benzine, naphtha, or other volatile petroleum products: Any industrial process involving the use of gasoline, benzine, naphtha, or other volatile petroleum products.	45 46 47 48
(I) Poisoning by carbon bisulphide: Any industrial process involving the use of carbon bisulphide or its preparations or compounds.	49 50 51
(J) Poisoning by wood alcohol: Any industrial process involving the use of wood alcohol or its preparations.	52 53
(K) Infection or inflammation of the skin on contact surfaces due to oils, cutting compounds or lubricants, dust, liquids, fumes, gases, or vapors: Any industrial process involving the handling or use of oils, cutting compounds or lubricants, or involving contact with dust, liquids, fumes, gases, or vapors.	54 55 56 57 58 59
(L) Epithelion cancer or ulceration of the skin or of the corneal surface of the eye due to carbon, pitch, tar, or tarry compounds: Handling or industrial use of carbon, pitch, or tarry compounds.	60 61 62 63
(M) Compressed air illness: Any industrial process carried on in compressed air.	64 65
(N) Carbon dioxide poisoning: Any process involving the evolution or resulting in the escape of carbon dioxide.	66 67
(O) Brass or zinc poisoning: Any process involving the manufacture, founding, or refining of brass or the melting or smelting of zinc.	68 69 70
(P) Manganese dioxide poisoning: Any process involving the grinding or milling of manganese dioxide or the escape of	71 72

manganese dioxide dust.	73
(Q) Radium poisoning: Any industrial process involving the use of radium and other radioactive substances in luminous paint.	74 75 76
(R) Tenosynovitis and prepatellar bursitis: Primary tenosynovitis characterized by a passive effusion or crepitus into the tendon sheath of the flexor or extensor muscles of the hand, due to frequently repetitive motions or vibrations, or prepatellar bursitis due to continued pressure.	77 78 79 80 81
(S) Chrome ulceration of the skin or nasal passages: Any industrial process involving the use of or direct contact with chromic acid or bichromates of ammonium, potassium, or sodium or their preparations.	82 83 84 85
(T) Potassium cyanide poisoning: Any industrial process involving the use of or direct contact with potassium cyanide.	86 87
(U) Sulphur dioxide poisoning: Any industrial process in which sulphur dioxide gas is evolved by the expansion of liquid sulphur dioxide.	88 89 90
(V) Berylliosis: Berylliosis means a disease of the lungs caused by breathing beryllium in the form of dust or fumes, producing characteristic changes in the lungs and demonstrated by x-ray examination, by biopsy or by autopsy.	91 92 93 94
This chapter does not entitle an employee or the employee's dependents to compensation, medical treatment, or payment of funeral expenses for disability or death from berylliosis unless the employee has been subjected to injurious exposure to beryllium dust or fumes in the employee's employment in this state preceding the employee's disablement and only in	95 96 97 98 99 100

the event of such disability or death resulting within eight 101  
years after the last injurious exposure; provided that such 102  
eight-year limitation does not apply to disability or death from 103  
exposure occurring after January 1, 1976. In the event of death 104  
following continuous total disability commencing within eight 105  
years after the last injurious exposure, the requirement of 106  
death within eight years after the last injurious exposure does 107  
not apply. 108

Before awarding compensation for partial or total 109  
disability or death due to berylliosis, the administrator of 110  
workers' compensation shall refer the claim to a qualified 111  
medical specialist for examination and recommendation with 112  
regard to the diagnosis, the extent of the disability, the 113  
nature of the disability, whether permanent or temporary, the 114  
cause of death, and other medical questions connected with the 115  
claim. An employee shall submit to such examinations, including 116  
clinical and x-ray examinations, as the administrator requires. 117  
In the event that an employee refuses to submit to examinations, 118  
including clinical and x-ray examinations, after notice from the 119  
administrator, or in the event that a claimant for compensation 120  
for death due to berylliosis fails to produce necessary consents 121  
and permits, after notice from the administrator, so that such 122  
autopsy examination and tests may be performed, then all rights 123  
for compensation are forfeited. The reasonable compensation of 124  
such specialist and the expenses of examinations and tests shall 125  
be paid, if the claim is allowed, as part of the expenses of the 126  
claim, otherwise they shall be paid from the surplus fund. 127

(W) Cardiovascular, pulmonary, or respiratory diseases 128  
incurred by firefighters or police officers following exposure 129  
to heat, smoke, toxic gases, chemical fumes and other toxic 130  
substances: Any cardiovascular, pulmonary, or respiratory 131

disease of a firefighter or police officer caused or induced by 132  
the cumulative effect of exposure to heat, the inhalation of 133  
smoke, toxic gases, chemical fumes and other toxic substances in 134  
the performance of the firefighter's or police officer's duty 135  
constitutes a presumption, which may be refuted by affirmative 136  
evidence, that such occurred in the course of and arising out of 137  
the firefighter's or police officer's employment. For the 138  
purpose of this section, "firefighter" means any regular member 139  
of a lawfully constituted fire department of a municipal 140  
corporation or township, whether paid or volunteer, and "police 141  
officer" means any regular member of a lawfully constituted 142  
police department of a municipal corporation, township or 143  
county, whether paid or volunteer. 144

This chapter does not entitle a firefighter, or police 145  
officer, or the firefighter's or police officer's dependents to 146  
compensation, medical treatment, or payment of funeral expenses 147  
for disability or death from a cardiovascular, pulmonary, or 148  
respiratory disease, unless the firefighter or police officer 149  
has been subject to injurious exposure to heat, smoke, toxic 150  
gases, chemical fumes, and other toxic substances in the 151  
firefighter's or police officer's employment in this state 152  
preceding the firefighter's or police officer's disablement, 153  
some portion of which has been after January 1, 1967, except as 154  
provided in division (E) of section 4123.57 of the Revised Code. 155

Compensation on account of cardiovascular, pulmonary, or 156  
respiratory diseases of firefighters and police officers is 157  
payable only in the event of temporary total disability, 158  
permanent total disability, or death, in accordance with section 159  
4123.56, 4123.58, or 4123.59 of the Revised Code. Medical, 160  
hospital, and nursing expenses are payable in accordance with 161  
this chapter. Compensation, medical, hospital, and nursing 162

expenses are payable only in the event of such disability or 163  
death resulting within eight years after the last injurious 164  
exposure; provided that such eight-year limitation does not 165  
apply to disability or death from exposure occurring after 166  
January 1, 1976. In the event of death following continuous 167  
total disability commencing within eight years after the last 168  
injurious exposure, the requirement of death within eight years 169  
after the last injurious exposure does not apply. 170

This chapter does not entitle a firefighter or police 171  
officer, or the firefighter's or police officer's dependents, to 172  
compensation, medical, hospital, and nursing expenses, or 173  
payment of funeral expenses for disability or death due to a 174  
cardiovascular, pulmonary, or respiratory disease in the event 175  
of failure or omission on the part of the firefighter or police 176  
officer truthfully to state, when seeking employment, the place, 177  
duration, and nature of previous employment in answer to an 178  
inquiry made by the employer. 179

Before awarding compensation for disability or death under 180  
this division, the administrator shall refer the claim to a 181  
qualified medical specialist for examination and recommendation 182  
with regard to the diagnosis, the extent of disability, the 183  
cause of death, and other medical questions connected with the 184  
claim. A firefighter or police officer shall submit to such 185  
examinations, including clinical and x-ray examinations, as the 186  
administrator requires. In the event that a firefighter or 187  
police officer refuses to submit to examinations, including 188  
clinical and x-ray examinations, after notice from the 189  
administrator, or in the event that a claimant for compensation 190  
for death under this division fails to produce necessary 191  
consents and permits, after notice from the administrator, so 192  
that such autopsy examination and tests may be performed, then 193



all rights for compensation are forfeited. The reasonable 194  
compensation of such specialists and the expenses of examination 195  
and tests shall be paid, if the claim is allowed, as part of the 196  
expenses of the claim, otherwise they shall be paid from the 197  
surplus fund. 198

(X) (1) Cancer contracted by a firefighter: Cancer 199  
contracted by a firefighter who has been assigned to at least 200  
six years of hazardous duty as a firefighter constitutes a 201  
presumption that the cancer was contracted in the course of and 202  
arising out of the firefighter's employment if the firefighter 203  
was exposed to an agent classified by the international agency 204  
for research on cancer or its successor organization as a group 205  
1 or 2A carcinogen. 206

(2) The presumption described in division (X) (1) of this 207  
section is rebuttable in any of the following situations: 208

(a) There is evidence that the firefighter's exposure, 209  
outside the scope of the firefighter's official duties, to 210  
cigarettes, tobacco products, or other conditions presenting an 211  
extremely high risk for the development of the cancer alleged, 212  
was probably a significant factor in the cause or progression of 213  
the cancer. 214

(b) There is evidence that shows, by a preponderance of 215  
competent scientific evidence, that exposure to the type of 216  
carcinogen alleged did not or could not have caused the cancer 217  
being alleged. 218

(c) There is evidence that the firefighter was not exposed 219  
to an agent classified by the international agency for research 220  
on cancer as a group 1 or 2A carcinogen. 221

(d) There is evidence that the firefighter incurred the 222

type of cancer alleged before becoming a member of the fire department.	223 224
(e) The firefighter is seventy years of age or older.	225
(3) The presumption described in division (X) (1) of this section does not apply if it has been more than fifteen years since the firefighter was last assigned to hazardous duty as a firefighter.	226 227 228 229
(4) Compensation for cancer contracted by a firefighter in the course of hazardous duty under division (X) of this section is payable only in the event of temporary total disability, working wage loss, permanent total disability, or death, in accordance with division (A) or (B) (1) of section 4123.56 and sections 4123.58 and 4123.59 of the Revised Code.	230 231 232 233 234 235
(5) As used in division (X) of this section, "hazardous duty" has the same meaning as in 5 C.F.R. 550.902, as amended.	236 237
(Y) Silicosis: Silicosis means a disease of the lungs caused by breathing silica dust (silicon dioxide) producing fibrous nodules distributed through the lungs and demonstrated by x-ray examination, by biopsy or by autopsy.	238 239 240 241
(Z) Coal miners' pneumoconiosis: Coal miners' pneumoconiosis, commonly referred to as "black lung disease," resulting from working in the coal mine industry and due to exposure to the breathing of coal dust, and demonstrated by x-ray examination, biopsy, autopsy or other medical or clinical tests.	242 243 244 245 246 247
This chapter does not entitle an employee or the employee's dependents to compensation, medical treatment, or payment of funeral expenses for disability or death from	248 249 250

silicosis, asbestosis, or coal miners' pneumoconiosis unless the 251  
employee has been subject to injurious exposure to silica dust 252  
(silicon dioxide), asbestos, or coal dust in the employee's 253  
employment in this state preceding the employee's disablement, 254  
some portion of which has been after October 12, 1945, except as 255  
provided in division (E) of section 4123.57 of the Revised Code. 256

Compensation on account of silicosis, asbestosis, or coal 257  
miners' pneumoconiosis are payable only in the event of 258  
temporary total disability, permanent total disability, or 259  
death, in accordance with sections 4123.56, 4123.58, and 4123.59 260  
of the Revised Code. Medical, hospital, and nursing expenses are 261  
payable in accordance with this chapter. Compensation, medical, 262  
hospital, and nursing expenses are payable only in the event of 263  
such disability or death resulting within eight years after the 264  
last injurious exposure; provided that such eight-year 265  
limitation does not apply to disability or death occurring after 266  
January 1, 1976, and further provided that such eight-year 267  
limitation does not apply to any asbestosis cases. In the event 268  
of death following continuous total disability commencing within 269  
eight years after the last injurious exposure, the requirement 270  
of death within eight years after the last injurious exposure 271  
does not apply. 272

This chapter does not entitle an employee or the 273  
employee's dependents to compensation, medical, hospital and 274  
nursing expenses, or payment of funeral expenses for disability 275  
or death due to silicosis, asbestosis, or coal miners' 276  
pneumoconiosis in the event of the failure or omission on the 277  
part of the employee truthfully to state, when seeking 278  
employment, the place, duration, and nature of previous 279  
employment in answer to an inquiry made by the employer. 280

Before awarding compensation for disability or death due 281  
to silicosis, asbestosis, or coal miners' pneumoconiosis, the 282  
administrator shall refer the claim to a qualified medical 283  
specialist for examination and recommendation with regard to the 284  
diagnosis, the extent of disability, the cause of death, and 285  
other medical questions connected with the claim. An employee 286  
shall submit to such examinations, including clinical and x-ray 287  
examinations, as the administrator requires. In the event that 288  
an employee refuses to submit to examinations, including 289  
clinical and x-ray examinations, after notice from the 290  
administrator, or in the event that a claimant for compensation 291  
for death due to silicosis, asbestosis, or coal miners' 292  
pneumoconiosis fails to produce necessary consents and permits, 293  
after notice from the commission, so that such autopsy 294  
examination and tests may be performed, then all rights for 295  
compensation are forfeited. The reasonable compensation of such 296  
specialist and the expenses of examinations and tests shall be 297  
paid, if the claim is allowed, as a part of the expenses of the 298  
claim, otherwise they shall be paid from the surplus fund. 299

(AA) Radiation illness: Any industrial process involving 300  
the use of radioactive materials. 301

Claims for compensation and benefits due to radiation 302  
illness are payable only in the event death or disability 303  
occurred within eight years after the last injurious exposure 304  
provided that such eight-year limitation does not apply to 305  
disability or death from exposure occurring after January 1, 306  
1976. In the event of death following continuous disability 307  
which commenced within eight years of the last injurious 308  
exposure the requirement of death within eight years after the 309  
last injurious exposure does not apply. 310

(BB) Asbestosis: Asbestosis means a disease caused by inhalation or ingestion of asbestos, demonstrated by x-ray examination, biopsy, autopsy, or other objective medical or clinical tests.

(CC) (1) COVID-19: COVID-19 contracted by an employee described in division (CC) (2) of this section during the emergency declared by Executive Order 2020-01D, issued March 9, 2020, constitutes a presumption, which may be refuted by affirmative evidence, that COVID-19 was contracted in the course of and arising out of the employee's employment. This division applies only to claims arising during the period that begins with the issuance of Executive Order 2020-01D, issued on March 9, 2020 and ending December 31, 2020.

(2) Division (CC) (1) of this section applies to all of the following:

(a) An employee of a retail food establishment as defined in section 3717.01 of the Revised Code;

(b) An employee of a food processing establishment as defined in section 3715.021 of the Revised Code;

(c) A peace officer, firefighter, or emergency medical worker as those terms are defined in section 4123.026 of the Revised Code;

(d) A person employed as a corrections officer by any public or private place used for the confinement of a person charged with or convicted of any crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States.

All conditions, restrictions, limitations, and other 339  
provisions of this section, with reference to the payment of 340  
compensation or benefits on account of silicosis or coal miners' 341  
pneumoconiosis apply to the payment of compensation or benefits 342  
on account of any other occupational disease of the respiratory 343  
tract resulting from injurious exposures to dust. 344

The refusal to produce the necessary consents and permits 345  
for autopsy examination and testing shall not result in 346  
forfeiture of compensation provided the administrator finds that 347  
such refusal was the result of bona fide religious convictions 348  
or teachings to which the claimant for compensation adhered 349  
prior to the death of the decedent." 350

In line 621, delete "and" 351

In line 622, after "2744.01" insert ", and 4123.68" 352

In line 991, after "provide" insert "protections for essential 353  
workers and"; after "immunity" insert "from law suits" 354

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS 355

**Presumption that COVID-19 was contracted during 356  
employment 357**

**R.C. 4123.68 and Section 7 358**

Creates a presumption that COVID-19 is an occupational 359  
disease under the Workers' Compensation Law for the following 360  
employees if the employee contracts COVID-19 during the 361

emergency declared by Executive Order 2020-01D, issued March 9, 2020:	362 363
--Retail food establishment employees;	364
--Food processing establishment employees;	365
--Peace officers, firefighters, and emergency medical workers;	366 367
--Corrections officers.	368
Allows the presumption to be rebutted by affirmative evidence.	369 370
Applies the presumption to claims arising only during the period of the emergency declared by the Order but not later than December 31, 2020.	371 372 373

**Version:** As Introduced

**Primary Sponsors:** Reps. Sobecki and Boggs

Paul Luzzi, Attorney

## SUMMARY

- Creates a presumption that COVID-19 is an occupational disease under the Workers' Compensation Law if an employee's employer required the employee to work outside of the employee's home 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 and to claims arising during the 14-day period after the emergency ends.
- 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 an employee who contracts COVID-19 contracted the disease in the course of and arising out of the employee's employment if the employee's employer required the employee to work outside of the employee's home 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 and claims arising during the 14-day period after the emergency ends. The presumption may be refuted with affirmative evidence.<sup>2</sup>

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

<sup>2</sup> R.C. 4123.68(CC).



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>3</sup>

## Emergency

The bill declares it to be an emergency law, meaning that it will take immediate effect once signed by the Governor.<sup>4</sup>

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## HISTORY

Action	Date
Introduced	03-23-20

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H0573-I-133/ks

<sup>3</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>4</sup> Section 3.

**TO: OMA Safety and Workers' Compensation Committee**  
**FROM: Rob Brundrett**  
**RE: Safety and Workers' Compensation Report**  
**DATE: June 11, 2020**

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### **Overview**

Workers' compensation law continues to be a legislative hotspot even amid COVID-19. The House continues to make workers' compensation expansion a priority. PTSD was recently passed from the House and is now being heard in the Senate.

A workers' compensation amendment was slipped into the COVID-19 immunity bill and is causing potential problems for that piece of priority legislation.

The OMA continues to work with allies to fight back against these attacks on workers' compensation law.

A plethora of new workers' compensation legislation was introduced because of the pandemic.

The BWC continues to defer premium payments amid the pandemic and has announced more money back to state fund employers. The Industrial Commission is expected to allow all claims to be heard but is still only using telephonic hearings.

### **Legislation and Rules**

#### **House Bill 81 – Workers' Comp for Bodily Fluid Exposure**

Originally the bill provided workers' compensation coverage of post-exposure medical diagnostic services for a detention facility employee's exposure to blood or bodily fluids.

The House expanded the bill to include several additional workers' compensation provisions that were in its version of the workers' comp budget bill before the Senate striped the bill to budget provisions only. Included in HB 81 by the House were:

- reducing the statute of limitations for violations of a specific safety rule (VSSR) from two years to one year;
- increasing the funeral expense benefit cap for inflation;
- changing rules for final claim settlement agreements;
- continuing jurisdiction changes; and
- clarifying the voluntary abandonment doctrine.

The OMA provided proponent testimony for these changes in both the House and Senate. The bill has passed both chambers as awaits the governor's signature.

#### **House Bill 197 – Pandemic Emergency Legislation**

Earlier this year, Gov. DeWine signed into law House Bill 197 in response to the COVID-19 pandemic. Among the legislation's many provisions is one that tolls the statute of limitations for any administrative action or proceeding set to expire between March 9, 2020, and July 30, 2020. This includes workers' compensation timelines.

#### House Bill 308 – PTSD First Responders

Earlier this year, on a 74-22 vote, the Ohio House passed House Bill 308, legislation that would provide first responders with workers' compensation benefits to treat post-traumatic stress disorder (PTSD) even when there's no physical injury. Under current Ohio law, only mental conditions stemming from on-the-job physical injuries/illnesses are eligible for workers' compensation benefits.

Due to the risk of substantial premium increases for employers, the OMA has long opposed any legislation that would permit PTSD compensation or other mental claims when there is no associated physical injury or illness. As the OMA noted in its "key vote alert" to House members, HB 308, if enacted, "will inevitably result in increased workers' compensation costs for both public and private employers. The consequences of those cost increases will be felt across the Ohio economy and will negatively impact Ohio's business climate."

The OMA and other business allies crafted a competing plan that would have provided first responders with the same coverages they would receive under workers' compensation that was more streamlined.

The bill now pending in the Senate, where Senate President Larry Obhof (R-Medina) has already been quoted saying he supports the legislation. Members who are concerned with this precedent setting legislation should reach out to their Senators and urge them to vote no on the bill. The OMA and like-minded groups sent a letter to the committee chairman reiterating our opposition to the bill. The OMA provided opponent testimony this week.

#### House Bill 571 – COVID-19 Occupational Disease First Responders

The bill makes COVID-19 contracted by a peace officer, firefighter, or emergency medical worker an occupational disease under the Workers' Compensation Law under certain circumstances and declares an emergency. The bill has had one hearing.

#### House Bill 573 – COVID-19 Occupational Disease Workers

The bill makes COVID-19 contracted by any worker required to work during the pandemic an occupational disease under Ohio's workers' compensation laws. The bill has had one hearing.

#### House Bill 605 – COVID-19 Occupational Disease Food Workers

The bill makes COVID-19 contracted by a food worker including a food manufacturer during the pandemic an occupational disease. The bill has had one hearing. The bill in amendment form was included in the House passed liability bill. This is a major concern for food manufacturers as it changes current Ohio workers' comp law and would now put the burden of proof on the employer.

#### **BWC Agency Notes**

##### BWC to Send \$1.6 Billion in Dividend Payments to Employers

Gov. Mike DeWine asked the Ohio Bureau of Workers' Compensation to send up to \$1.6 billion in dividends to Ohio employers to ease the impact of the COVID-19 crisis. On April 10, the BWC board approved the governor's request in an emergency meeting. The BWC expects it will begin mailing checks to employers later this month.

According to the BWC, this dividend equals approximately 100% of the premiums employers paid in policy year 2018. The bureau will apply the dividend to an employer's outstanding balances first, including the recent installment deferrals. Any amounts exceeding outstanding balances will be sent to the employer.

#### Workers' Comp Implications of COVID-19 for Employers

OMA legal counsel Bricker & Eckler notes that the BWC has not provided a specific stance regarding compensability of COVID-19. The firm notes that claims of exposure to viruses or other potentially dangerous substances are generally not covered by workers' compensation unless an injury or occupational disease results from such exposure. Therefore, a claim of exposure to COVID-19 at work is not, in itself, a compensable injury or disease. Each claim will need to be evaluated on a case-by-case basis.

#### Industrial Commission to Hear All Issues

A special meeting of the Ohio Industrial Commission was held last week held to address additional workers' compensation issues that may be heard during Ohio's state of emergency. The hearings are all still to be conducted via telephone.

#### BWC Postpones MCO Enrollment Period

The Ohio Bureau of Workers' Compensation (BWC) recently announced that, due to the impact of the COVID-19, it would postpone this year's biennial open-enrollment period for employers to select a managed care organization (MCO) to medically manage workplace injuries. BWC will continue to publish its annual MCO Report Card, which is on BWC's website.

#### BWC Board Releases MCO Study

The board of directors recently heard a presentation on a second phase of a study of managed care organization (MCO) performance in the Ohio system.

Unlike 20 years ago when Governor Voinovich called the Ohio workers' compensation system the "silent killer of jobs," the Ohio system today is a national leader on any number of metrics, including medical.

However, that success comes at a cost. The study indicates that MCOs are paid 27% of total medical costs; meanwhile, benchmarks in from other programs are 15% of total costs for administrative costs.

That suggests a possible overpayment of \$70 to \$80 million for MCO services. Those costs, of course, are born by employers.

The BWC has established work groups to study this matter in detail.

#### Safety Issues

##### OSHA Revises Enforcement Policies

As states begin reopening their economies, OSHA has issued two revised enforcement policies to "ensure employers are taking action to protect their employees."

First, OSHA is increasing in-person inspections at all types of workplaces. Second, OSHA is revising its previous enforcement policy for recording cases of coronavirus. Under OSHA's recordkeeping requirements, coronavirus is a recordable illness, and employers are responsible for recording cases of the coronavirus, if the case:

- Is confirmed as a coronavirus illness;
- Is work-related as defined by 29 CFR 1904.5; and
- Involves one or more of the general recording criteria in 29 CFR 1904.7, such as medical treatment beyond first aid or days away from work.

#### BWC Safety Grants Expanded to \$70 Million

This week, the BWC was given approval by its board to spend \$70 million in fiscal years 2020 and 2021 on grants for Ohio employers to improve workplace safety. Funded by employer premiums, the Safety Grants program has already reached its 2020 appropriation of \$20 million.

#### Ohio's Latest Injuries and Illness Report Now Available

Ohio's 2018 Survey of Occupational Injuries and Illnesses report is now available. The report shows the number of cases involving days away from work in the private sector decreased 5% compared to the previous year. Sprains, strains, tears comprised more than 35% of reported injuries, followed by fractures (11.7%), cuts and lacerations (9%), and bruises and contusions (8.8%).

The rate of workplace injuries and illnesses for Ohio continues to be lower than the national average. Manufacturing reported a slight increase in the rate of injuries and illnesses, up from 3.1 to 3.2 cases per 100 full-time workers — but that's still less than the U.S. rate for manufacturing (3.4).

Overall in Ohio, agriculture — at 8.2 — had the highest total recordable case rate per 100 full-time workers.

**Version:** As Reported by Senate Insurance and Financial Institutions

**Primary Sponsor:** Rep. Perales

Kelly Bomba, Attorney

## SUMMARY

### Post-exposure testing

- Requires, under specified conditions, the Administrator of Workers' Compensation or a self-insuring employer to pay for services used to determine whether a detention facility employee sustained an injury or occupational disease after exposure to another person's blood or bodily fluids.
- Requires, under specified conditions, the Administrator or a self-insuring employer to pay for services used to determine whether specified safety officers, including detention facility employees, sustained an injury or occupational disease after exposure to a drug or other chemical substance.

### Voluntary abandonment doctrine

- Provides that, to be eligible to receive temporary total disability (TTD) compensation, a person must be unable to work or must suffer a wage loss as the direct result of an impairment arising from an injury or occupational disease.
- Prohibits a person from receiving TTD compensation when the person is not working or has suffered a wage loss as the direct result of reasons unrelated to an allowed injury or occupational disease.
- States that the General Assembly intends to supersede any previous judicial decision that applied the voluntary abandonment doctrine to TTD or wage loss claims.
- Prohibits a person from receiving permanent total disability compensation when the person is not working for reasons unrelated to an allowed injury or occupational disease, rather than if the person voluntarily abandoned the workforce as under current law.
- Applies the rule to claims pending on the bill's effective date and to claims arising after that date.

## **Additional award for specific safety violation**

- Requires, for claims arising on or after the bill's effective date, a claim for an additional award of compensation for a violation of a specific safety rule to be filed within one year after the injury or death or within one year after a disability due to occupational disease begins, rather than within two years as currently required.

## **Final settlement agreements**

- Prohibits an employer from refusing or withdrawing from a proposed claim settlement agreement if the employee who is the subject of the claim is no longer employed by the employer and the claim is no longer within the date of impact pursuant to the employer's industrial accident or occupational disease experience for premium calculation purposes.

## **Continuing jurisdiction over workers' compensation claims**

- Makes the rendering of medical services, rather than payment for the services as under current law, an event that continues the Industrial Commission's jurisdiction to modify or change a claim or to make a finding or award under a claim.

## **Funeral expenses**

- Increases the funeral expense benefit cap from \$5,500 to \$7,500.

## **Appealing Industrial Commission orders**

- Applies to claims pending on and arising after September 29, 2017, a provision in Sub. H.B. 27 of the 132<sup>nd</sup> General Assembly extending the time to appeal an Industrial Commission order from 60 days to 150 days when certain conditions are satisfied.

## **Employee medical examinations**

- Prohibits a private employer furnishing services for a public employer under a contract governed by the federal Service Contract Act from generally requiring an applicant or employee to pay for medical examinations that are required as a condition of employment or continued employment.

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# **DETAILED ANALYSIS**

## **Post-exposure testing**

### **Blood and bodily fluid exposure**

The bill expands the current post-exposure testing law, which covers diagnostic testing for specified safety officers under certain conditions, to include detention facility employees. Under the bill, the Administrator of Workers' Compensation, or a detention facility that is a self-insuring employer (an employer authorized to directly pay compensation and benefits in a claim), must pay for post-exposure medical diagnostic services to investigate whether a person employed by a detention facility, including a corrections officer, sustained an injury or occupational disease from coming into contact with the blood or other body fluid of another

person in the course of and arising out of the employee's employment. Under continuing law, post-exposure diagnostic tests are covered if they are consistent with the standards of medical care existing at the time of exposure and the employee came into contact with the blood or bodily fluid through any of the following means:

- A splash or spatter in the eye or mouth, including when received in the course of conducting mouth-to-mouth resuscitation;
- A puncture in the skin;
- A cut in the skin or another opening in the skin such as an open sore, wound, lesion, abrasion, or ulcer.<sup>1</sup>

The bill defines "corrections officer" as a person employed by a detention facility as a corrections officer. A "detention facility" is any public or private place used for the confinement of a person charged with or convicted of any state or federal crime or found to be a delinquent child or unruly child under any state or federal law.<sup>2</sup>

Currently, all of the following employees are covered by the post-exposure testing requirement:

- A peace officer who has arrest powers under the Arrest, Citation, and Disposition Alternatives Law (a correction officer is not considered a peace officer for this law);
- A paid or volunteer firefighter of a lawfully constituted fire department;
- A paid or volunteer emergency medical worker, which is a first responder, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under the Emergency Medical Services Law.<sup>3</sup>

According to the Industrial Commission, the administrative body that adjudicates claims under the Workers' Compensation Law,<sup>4</sup> "[t]he list of covered individuals and job classifications is extensive, but the classification of a 'corrections officer' is not [currently] included."<sup>5</sup>

### **Drug or chemical substance exposure**

Additionally, the bill requires the Administrator or a self-insuring employer to pay for the costs of conducting post-exposure medical diagnostic services to investigate whether an employee covered by the post-exposure testing requirement discussed above, under current

<sup>1</sup> R.C. 4123.026(A).

<sup>2</sup> R.C. 4123.026(C).

<sup>3</sup> R.C. 4123.026, by reference to R.C. 2935.01, not in the bill, and R.C. Chapter 4765.

<sup>4</sup> R.C. Chapters 4121, 4123, 4127, and 4131.

<sup>5</sup> Ohio Industrial Commission, Record of Proceedings, Claim 06-344388, 2007 WL 9703017.



law and the bill, sustained an injury or occupational disease after exposure to a drug or other chemical substance in the course of the employee's employment.<sup>6</sup>

## **Application**

Under continuing law, any employee who is injured or who contracts an occupational disease in the course of employment is entitled to necessary medical, nurse, and hospital services and medicines.<sup>7</sup> Thus, if an employee suffers an injury or contracts an occupational disease in the course of employment, and diagnostic tests are a necessary part of treatment, the costs currently are covered if the claim is otherwise compensable. The bill applies only to post-exposure medical tests used to investigate whether the employee sustained an injury or occupational disease.<sup>8</sup>

## **Voluntary abandonment doctrine**

### **TTD compensation**

The bill provides, for all claims pending on or arising after the bill's effective date, that an employee who is unable to work or suffers a wage loss as the direct result of an impairment arising from an injury or occupational disease is entitled to receive temporary total disability (TTD) compensation, provided the employee is otherwise qualified. If the employee is not working or has suffered a wage loss as the direct result of reasons unrelated to an allowed injury or occupational disease, the employee is not eligible to receive TTD compensation. Continuing law governing TTD compensation refers to an employee's "disability." It is unclear how the bill's reference to "impairment" will be interpreted.<sup>9</sup>

The bill states that the General Assembly intends to supersede any previous court opinion that applied the doctrine of voluntary abandonment to a TTD claim. Under the doctrine, to be eligible for TTD compensation, a claimant must be medically incapable of returning to the claimant's former position and the claimant's injury or occupational disease must be the cause of the claimant's lost earnings.<sup>10</sup>

### **PTD compensation**

The bill prohibits, for all claims pending on or arising after the bill's effective date, a person from receiving permanent total disability (PTD) compensation when the person is not working for reasons unrelated to an allowed injury or occupational disease. Current law prohibits a person from receiving PTD compensation when the person voluntarily abandons the workforce for reasons unrelated to an allowed injury or occupational disease. Under continuing

<sup>6</sup> R.C. 4123.026(B).

<sup>7</sup> R.C. 4123.54, not in the bill, and R.C. 4123.66.

<sup>8</sup> See, e.g., Ohio Industrial Commission, Record of Proceedings, Claim 08-351946, 2008 WL 11408637.

<sup>9</sup> R.C. 4123.56 and Section 3.

<sup>10</sup> See, e.g., *State ex rel. Gross v. Indus. Commission*, 115 Ohio St.3d 249, 253-255 (2007).

law, a person also may not receive PTD compensation if the person is unable to engage in sustained remunerative employment for one, or any combination, of the following reasons:

- Retirement unrelated to an allowed injury or occupational disease;
- The person's impairments are not the result of an allowed injury or occupational disease;
- Solely due to the person's age or aging;
- The person has not engaged in educational or rehabilitative efforts to enhance the person's employability, unless such efforts are determined to be in vain.<sup>11</sup>

### **Additional award for specific safety violation**

In addition to authorizing the creation of the workers' compensation system, the Workers' Compensation Amendment to the Ohio Constitution allows the filing of a claim that a person suffered an injury, contracted an occupational disease, or was killed in the course of employment because the person's employer violated a specific safety rule enacted by the General Assembly or adopted by the Administrator. The Industrial Commission has exclusive jurisdiction to hear and decide claims alleging violations of specific safety rules. If the Commission finds that the employer's violation of a specific safety rule caused an injury, disease, or death, the Commission must grant an additional award that is between 15% and 50% "of the maximum award established by law."<sup>12</sup>

Under the bill, a claim arising on or after the bill's effective date for an additional award for violation of a specific safety rule (a "VSSR" award) must be filed within one year after the date of the injury or death or within one year after the disability due to an occupational disease began.<sup>13</sup> Currently, an administrative rule requires claims for these additional awards to be filed within two years of the date of injury, death, or inception of disability due to occupational disease.<sup>14</sup>

### **Final settlement agreements**

The Worker's Compensation Law allows a state fund employer (an employer who obtains workers' compensation coverage through the State Insurance Fund), the employer's employee, or the Administrator to file an application for approval of a final settlement against the State Insurance Fund. The Law also allows a self-insuring employer and the employer's employee to enter a settlement agreement. A proposed settlement of a state fund claim takes effect 30 days after the Administrator approves the settlement. A settlement between a self-insuring employer and a claimant takes effect 30 days after the parties sign it. During the 30-

<sup>11</sup> R.C. 4123.58 and Section 3.

<sup>12</sup> Ohio Constitution, Article II, Section 35.

<sup>13</sup> R.C. 4121.471 and Section 3.

<sup>14</sup> Ohio Administrative Code 4121-3-20.

day period, a party may withdraw from a proposed settlement by sending written notice to the other interested parties.

The bill prohibits an employer, for claims pending on or arising after the bill's effective date, from refusing or withdrawing from a proposed settlement agreement if both of the following apply:

- The employee named in the claim is no longer employed by the employer;
- The claim is no longer within the date of impact pursuant to the employer's industrial accident or occupational disease experience for premium calculation purposes.<sup>15</sup>

Under continuing law, the Administrator annually revises basic premium rates so they are adequate to maintain the solvency of the State Insurance Fund and a reasonable surplus. When revising basic employer rates, the Administrator examines the oldest four of the last five policy years of combined accident and occupational disease experience.<sup>16</sup> Continuing law governing basic premium rate calculations does not appear to define the phrase "date of impact."

## **Continuing jurisdiction over workers' compensation claims**

The Industrial Commission and the Administrator have continuing jurisdiction over each workers' compensation claim, and the Commission may modify or change its former findings and orders. However, in the absence of statutorily specified events, the Commission cannot modify or change a former finding or order, nor award compensation or benefits in a claim, if more than five years have passed since the date of injury. If a statutorily specified event occurs, the Commission's authority to change or modify a finding or order, or award compensation or benefits in the claim, extends for an additional five years from the date of the event.

The bill makes the rendering of medical services, rather than payment for the services as under current law, an event that extends the Commission's authority for an additional five years. This applies to claims arising on or after July 1, 2020. Under continuing law, the following events also extend the Commission's authority for an additional five years:

- A payment of compensation for TTD, wage loss, permanent partial disability, or PTD;
- A payment of wages in lieu of compensation in accordance with continuing law;
- The claimant's death.<sup>17</sup>

## **Funeral expenses**

Under continuing law, the Administrator or a self-insuring employer is required to pay a reasonable amount to cover funeral expenses when an employee dies from a compensable

<sup>15</sup> R.C. 4123.65 and Section 3.

<sup>16</sup> R.C. 4123.34, not in the bill.

<sup>17</sup> R.C. 4123.52 and Section 3.

injury or occupational disease. The bill increases the amount the Administrator is authorized to expend from the State Insurance Fund to pay funeral expenses from \$5,500 to \$7,500. The increase applies to claims arising on or after the bill's effective date.<sup>18</sup>

## **Appealing Industrial Commission orders**

Sub. H.B. 27 of the 132<sup>nd</sup> General Assembly extended the time to appeal an Industrial Commission order to a court of common pleas from 60 days to 150 days, provided a party gives notice of intent to settle and the opposing party does not object.<sup>19</sup> The bill applies the extension to workers' compensation claims pending on or arising after September 29, 2017, the effective date of that change.<sup>20</sup>

## **Employee medical examinations**

The bill prohibits a private employer furnishing services for a public employer under a contract governed by the federal Service Contract Act of 1965 from requiring an applicant, prospective employee, or employee to pay for an initial or any subsequent medical examination that is required as a condition of employment or continued employment.<sup>21</sup> The federal Act generally applies to any contract with the federal government that has as its principal purpose the furnishing of services in the U.S. through the use of service employees, regardless of whether the employees are the contractor's employees or those of any subcontractor.<sup>22</sup>

Under continuing law, a private employer is prohibited from requiring any prospective employee or applicant for employment to pay the cost of a medical examination required by the employer as a condition of employment. A public employer cannot require an employee, prospective employee, or applicant to pay the cost of a medical examination required by the public employer as a condition of employment or continued employment. Any employer who violates these prohibitions must forfeit not more than \$100 for each violation. BWC and the Public Utilities Commission of Ohio enforce the penalty.<sup>23</sup>

<sup>18</sup> R.C. 4123.66 and Section 3.

<sup>19</sup> R.C. 4123.512, not in the bill.

<sup>20</sup> Section 4.

<sup>21</sup> R.C. 4113.21.

<sup>22</sup> 41 United States Code 6702 and 29 Code of Federal Regulations 4.150.

<sup>23</sup> R.C. 4113.21.

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## HISTORY

Action	Date
Introduced	02-19-19
Reported, H. Insurance	11-19-19
Passed House (94-0)	11-20-19
Reported, S. Insurance and Financial Institutions	02-26-20

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**BEFORE THE GENERAL GOVERNMENT AND AGENCY REVIEW COMMITTEE  
OF THE OHIO SENATE  
SENATOR KIRK SCHURING, CHAIRMAN**

**TESTIMONY  
OF  
ROB BRUNDRETT  
DIRECTOR, PUBLIC POLICY SERVICES  
THE OHIO MANUFACTURERS' ASSOCIATION**

**JUNE 3, 2020**

Mr. Chairman and members of the Committee, my name is Rob Brundrett. I am the Director of Public Policy Services for The Ohio Manufacturers' Association (OMA). Thank you for the opportunity to provide testimony today on House Bill 308. The OMA was created in 1910 to advocate for Ohio's manufacturers; today, it has nearly 1,400 members. Its mission is to protect and grow Ohio manufacturing.

Manufacturing is the largest of the Ohio's 20 industry sectors and contributes more than \$112 billion annually in GDP, according to the most recent federal data. This comprises nearly 17% of the state's economic output. More than 700,000 Ohioans work in manufacturing. Ohio manufacturing employees earn, on average, more than \$61,500 in wages, according to newly released figures.

Throughout the years, the OMA has consistently advocated for an efficient and effective workers' compensation system that benefits workers, employers, and the economy of the state.

The Ohio workers' compensation system was designed to compensate injured workers' physical injuries/illnesses and any mental conditions that arise as a result of such physical injuries/illnesses. The OMA has historically opposed proposals that would permit PTSD compensation in cases in which there is no associated physical injury or illness. The adoption of a mental-only diagnosis would mark a significant change to the Ohio workers' compensation system.

As such, we are concerned about the potential expansion of workers' compensation beyond this provision's narrow target of first responders. We recognize that peace officers, firefighters, and emergency medical workers experience traumatic events. However, they are not alone in their willingness to undertake potentially dangerous and essential jobs. If we erode the physical injury requirement for peace officers, firefighters, and emergency medical workers, it will be difficult to justify not doing the same for other professions that seek equal treatment.

Once a fundamental parameter of the workers' compensation system – like the physical injury requirement – is compromised, the potential inroads into the program are endless. The result will be increased workers' compensation costs for public and private employers alike. The implications of those cost increases will be felt across the board and will impact Ohio's business climate. The increased costs could also affect our public employers' abilities to provide essential public safety functions.

Finally, given that mental health benefits have parity with physical health benefits under health insurance plans, it is important to have a broader conversation about where

PTSD arising apart from a workplace physical injury/illness is most effectively and appropriately financed – private health insurance, a special workers' compensation insurance PTSD fund outside of the current system – of which the OMA has been a vocal supporter, a specific government fund, a collectively bargained solution or something entirely different.

Thank you for the opportunity to testify. I would be happy to answer any questions from the committee.





May 28, 2020

The Honorable Kirk Schuring  
Chairman  
General Government and Agency Review Committee  
Ohio Senate  
1 Capitol Square  
Columbus, Ohio 43215

Dear Chairman Schuring:

Our organizations, on behalf of our members, write to you today to express our opposition to Amended House Bill 308.

Collectively we have long advocated for a workers' compensation system in Ohio that benefits workers, employers, and the economy of the state. Over the past decade the Ohio Bureau of Workers' Compensation has continued to make strides in medical outcomes and actuarial soundness.

The Ohio workers' compensation system was designed to compensate injured workers' physical injuries/illnesses and any mental conditions that arise as a result of such physical injuries/illnesses. Our organizations have a history of opposing proposals that would permit PTSD compensation where there is no associated physical injury or illness. The adoption of a mental-only diagnosis would create a significant departure to longstanding and clear precedent in Ohio workers' compensation law.

Expanding PTSD coverage in the workers' compensation system will lead to cost increases to Ohio's public and private employers. In addition, given that mental health benefits have parity with physical health benefits under health insurance plans, it is important to have a broader conversation about where PTSD arising apart from a workplace physical injury/illness is most effectively and appropriately financed -- health insurance, an emergency responder fund, or a separate PTSD benefits system as advocated by our collective organizations. This separate system would establish a fund at the Department of Public Safety to provide benefits to first responders for PTSD without an accompanying physical injury. House Bill 556 was recently introduced to accomplish this goal and would ensure first responders can get the assistance they deserve, while at the same time preserving the workers' compensation system from an unintended expansion of coverage. We respectfully ask the Senate to consider this proposal.

Therefore, we would respectfully ask that the Senate Government and Agency Review Committee delay voting on House Bill 308 or in the alternative vote no on House Bill 308 in order to find a solution that all interested parties can support.

# BWC Returns up to \$1.6 Billion to Ohio Employers

## Frequently Asked Questions

### Why is BWC giving a dividend?

We are issuing a dividend of up to \$1.6 billion to ease the financial pressures your organization may be experiencing amid the coronavirus (COVID-19) pandemic. While you may be accustomed to receiving dividend checks from BWC, this year's dividend was not a foregone conclusion. Gov. DeWine has asked his agencies to do everything they can to ease the strain of COVID-19 on Ohioans. Even after the dividend, the net position of the State Insurance Fund for injured workers remains strong due to investment returns, declining injuries and decreasing reserves.

### How much will an employer receive?

BWC defines the private employer dividend as 100% of billed premium for eligible employers for the policy period of July 1, 2018, through June 30, 2019. BWC will apply the percentage to the blended premium amount. BWC defines the public employer dividend as 100% of billed premium for eligible employers for the policy period of Jan. 1, 2018, through Dec. 31, 2018. BWC will apply the percentage to the blended premium amount.

### When will I receive my dividend?

BWC will mail dividend checks to eligible employers before the end of April.

### I have an outstanding balance on my account. How will this impact my dividend?

An employer who has an outstanding balance — including but not limited to deferred installments, balances in an appeal status and balances owed resulting from a transfer of experience or liability from a predecessor entity — will have its dividend payment reduced by the amount of the outstanding balance. If an employer's outstanding balance exceeds the dividend amount, BWC will offset the employer's account by the amount of the dividend.

An employer whose dividend is applied to an outstanding balance will receive detail regarding how the dividend was applied on their next scheduled invoice. Employers will be able to see their updated account information at any time on [bwc.ohio.gov](http://bwc.ohio.gov).

### Is BWC issuing a check like they have done in the past or providing a credit on employers' policies?

We will issue paper checks as we have done in the past.

### Where will my check be sent?

We will send dividend checks to the current address we have on file. Please view the information we have on file for you to ensure we have the most current operating name of your business, tax identification number, physical location, mailing address, telephone number, e-mail and/or web site.

### Can I receive my dividend electronically?

No. We are sending paper checks by mail only. In the event you lose your check and fail to cash one we re-issue, we will credit your BWC account.

### **Who is eligible for the dividend?**

BWC defines eligibility as follows.

1. State Insurance Fund employers (private employers or public employer taxing districts only).
2. The employer must have reported payroll greater than zero for the applicable policy period.
3. The employer must have been billed premium for the applicable policy period.
4. Private employers must have completed their payroll true-up for policy year 2018 as of April 4, 2020.
5. The employer must be in an active, reinstated, combined, cancelled – business sold, or debtor-in-possession status or, in a lapsed status with a lapse date of Jan. 1, 2020 or later as of April 4, 2020.
6. Public employers must have completed their payroll True-Up for the 2018 policy year by April 4, 2020.

Private employers who do not meet all the criteria in 1, 2, 3, 4 and 5 listed above will not be eligible to receive a dividend. Public employers who do not meet all the criteria in 1, 2, 3, 5 and 6 listed above will not be eligible to receive a dividend.

### **When will BWC determine eligibility?**

Eligibility was based on an employer's status (active, lapsed) with us as of April 4. BWC will not make changes to eligibility after this date.

### **How will this impact BWC's finances and the State Insurance Fund?**

BWC and the State Insurance Fund will remain in a strong financial position after payment of this dividend.

### **I am in an individual-retrospective-rating program. How will BWC calculate my dividend?**

BWC defines premium for private, individual-retrospective-rated employers as minimum premium, plus the impact of retrospective claim-loss premium billed for policy year July 1, 2018, through June 30, 2019, as of April 4, 2020.

BWC defines premium for public, individual-retrospective-rated employers as minimum premium, plus the impact of retrospective claim-loss premium billed for policy year Jan. 1, 2018, through Dec. 31, 2018, as of April 4, 2020.

### **I paid retrospective claim-loss premium for other policy periods during the eligible policy period. Will BWC consider these payments in my dividend calculation?**

No. Payments received from private employers from July 1, 2018, through June 30, 2019, that are not applicable to that policy year will not be considered in the dividend calculation. Payments received from public taxing districts from Jan. 1, 2018, through Dec. 31, 2018, that are not applicable to that policy year will not be considered in the dividend calculation.

### **I am in a group-retrospective-rating program. How will BWC calculate my dividend?**

BWC defines premium for private and public group-retrospective-rated employers as individual, experience-rated premium.

### **I am in a Deductible Program. How will BWC calculate my dividend?**

BWC defines premium for private employers participating in a Deductible Program as discounted, blended premium.

### **I received a discount on my premium for Go-green, Lapse-free or Safety Council. Will this reduce my dividend?**

Yes, we will be reducing the dividend based on discounts already received.

### **I reported zero payroll but paid the minimum administrative charge. Will I receive a dividend?**

No. Employers reporting zero payroll are not eligible.

**I had a no coverage penalty during the period upon which the dividend is being calculated, but formally took out coverage after the conclusion of the applicable period. Will I receive a dividend?**

No. BWC will not include no coverage penalties in the premium base it uses to calculate the dividend.

**I canceled my coverage but paid premium during July 1, 2018, to June 30, 2019. Will I be eligible for a dividend?**

No. A private or public employer that cancels coverage prior to April 4, 2020, is not eligible for the dividend. BWC will not make account adjustments to give these employers the dividend.

**I purchased a company that was billed premium for the July 1, 2018, through June 30, 2019, policy year. How will this impact my dividend?**

BWC will determine eligibility based on the status of the predecessor policy. If the predecessor policy would have been eligible for the dividend, the successor will receive the applicable dividend. If the predecessor policy was canceled, the successor will not be eligible for the dividend. If the predecessor policy was in a lapsed status prior to the combination, the successor will not be eligible for a dividend. If there is existing debt on the predecessor policy, BWC will reduce the successor dividend by the amount of the outstanding balance.

**I just went self-insured. Will I receive a dividend?**

Private employers that paid premium for the policy reporting period of July 1, 2018, through June 30, 2019, but were granted the privilege of self-insurance before April 4, 2020, are eligible for the dividend based upon the billed premiums during the July 1, 2018, through June 30, 2019, policy period.

Public employer taxing districts that paid premium for the policy reporting period of Jan. 1, 2018, through Dec. 31, 2018, but were granted the privilege of self-insurance before April 4, 2020, are eligible for the dividend based upon the billed premiums during the Jan. 1, 2018, through Dec. 31, 2018, policy period.

**I used a Professional Employer Organization (PEO) during the July 1, 2018, through June 30, 2019, policy period. Will I receive a dividend?**

PEOs that receive a dividend must provide notice of the dividend to their client employers of record for the July 1, 2018, through June 30, 2019, policy period. BWC will also notify PEO client employers that it sent a dividend to their PEO. The amount PEOs pay to their client employers must be equal to 100% of the blended premium paid by the PEO to BWC on behalf of the client employer for the July 1, 2018, to June 30, 2019, policy period less the permissible administrative fee discussed herein.

The PEO shall calculate the client employers' share of the dividend based on the full amount of the dividend BWC issued it. The PEO shall not reduce the employers' share of the dividend by any credit applied to the PEO policy as a result of non-pending, outstanding balances. The PEO may retain up to 6% of the client employers' dividend as an administrative fee. PEOs must issue dividends to clients within 30 days of BWC's issuance of the dividends.

The PEO may not withhold or offset payment of the dividend based on any contractual obligation and must issue the dividend regardless of whether the client employer continues as a client employer of the PEO.

**I now use a Professional Employer Organization. Will I receive a dividend?**

Private employers that paid premium for the policy period of July 1, 2018, through June 30, 2019, but entered into a PEO relationship before April 4, 2020, will be eligible for the dividend based upon the billed premiums during the July 1, 2018, through June 30, 2019, policy period. BWC will send these dividends directly to the employer, not to the current PEO.

**I made payments from July 1, 2018, through June 30, 2019, for other coverage periods. Will BWC consider these payments in the dividend calculation?**

No. BWC will not consider payments it received from private employers from July 1, 2018, through June 30, 2019, that are not applicable to that policy year in the dividend calculation. Payments received by BWC from public employer taxing districts from Jan. 1, 2018, through Dec. 31, 2018, that are not applicable to that policy year will not be considered in the dividend calculation.

### **I am on a payment plan. How will this impact my dividend?**

BWC will reduce the dividend payment to an employer that has a non-pending, outstanding balance including, but not limited to, balances in an appeal status and balances owed resulting from a transfer of experience or liability from a predecessor entity, by the amount of the outstanding balance. If an employer's non-pending, outstanding balance exceeds the dividend amount, BWC will offset the employer's account by the amount of the dividend.

An employer whose dividend is applied to an outstanding balance will receive detail regarding how the dividend was applied on their next scheduled invoice. Employers will be able to see their updated account information at any time on [bwc.ohio.gov](http://bwc.ohio.gov).

### **Will BWC adjust the dividend if it audits me in the future or if it adjusts my rate?**

The dividend is a one-time payment. BWC will not make adjustments to the dividend amount for any reason, including, but not limited to, audits, rate adjustments, appealed balances, changes in lapse status retrospective claim billings, etc. after April 4, 2020.

## **BWC extends premium due date until Sept. 1**

Second deferral in COVID-19 pandemic

NEWS RELEASE

May 28, 2020

COLUMBUS – Ohio Governor Mike DeWine announced today the Ohio Bureau of Workers' Compensation (BWC) is deferring the due date for employers to pay their June, July, and August premium installments until Sept. 1.

Governor DeWine said the deferral is designed to help employers focus resources on re-opening their businesses under his [Responsible Restart Ohio Plan](#), the state's effort to restart the economy while keeping Ohioans safe amid the ongoing COVID-19 pandemic. "By extending the premium due date, businesses can continue to focus on the safety and well-being of their employees and customers during this health pandemic," said Governor DeWine.

BWC Administrator/CEO Stephanie McCloud noted the deferral is the second deadline extension given to employers since COVID-19 emerged in Ohio in March.

"We've said since the beginning of this pandemic we would do our best to relieve the financial pressures employers are facing in this unprecedented time," said Administrator McCloud. "This is our latest step, and I'm grateful to Ohio's employer community, our stakeholders, and our staff for putting us in a strong position to help."

Among several actions to help the business community's bottom line, BWC sent Ohio's private and public employers nearly \$1.6 billion in dividends in late April thanks to strong investment returns, declining injury claims, and other costs savings. The agency is also sending at least 2 million face coverings to employers and their workforce to weaken the spread of the coronavirus under its [Protecting Ohio's Workforce — We've Got You Covered](#) plan.

For more on BWC as it relates to COVID-19, please visit [bwc.ohio.gov](http://bwc.ohio.gov) or email us at [BWCCOVID19@bwc.state.oh.us](mailto:BWCCOVID19@bwc.state.oh.us).

For more on COVID-19, including prevention guidelines and its impact on Ohio, visit the Ohio Department of Health website [coronavirus.ohio.gov](http://coronavirus.ohio.gov).

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### Media Contacts:

Tony Gottschlich, 614-644-4940 or 614-296-1734, [tony.gottschlich@bwc.state.oh.us](mailto:tony.gottschlich@bwc.state.oh.us)

Kim Norris, 614-728-8045 or 614-361-0202, [kimberly.norris@bwc.state.oh.us](mailto:kimberly.norris@bwc.state.oh.us)

Established in 1912, the Ohio Bureau of Workers' Compensation is the exclusive provider of workers' compensation insurance in Ohio and serves 249,000 public and private employers. With 1,800 employees and assets of approximately \$28 billion, BWC is the largest state-run insurance system in the United States. Our mission is to protect Ohio's workers and employers through the prevention, care and management of workplace injuries and illnesses at fair rates. For more, visit [www.bwc.ohio.gov](http://www.bwc.ohio.gov).

## **Legislative Actions:**

### **HB 197 Emergency COVID-19 Response Bill**

Enacts a number of emergency measures for Ohioans coping with the fallout from the COVID-19 pandemic. The legislation includes a tolling of certain limitation periods and deadlines set to expire between March 9, 2020 and July 30, 2020, specifically including workers' compensation claims and cases.

The Ohio Supreme Court responded to the passage of H.B. 197 issuing an administrative "Tolling Order." Among other things, the Tolling Order:

- permits courts to waive any requirement imposed by rule for an "in-person appearance" or "in-person service;"
- tolls the time requirements set by any rule, which were set to expire during the term of the Order; and
- clarifies that any order issued on or after March 9, 2020, shall supersede the tolling provisions of the Tolling Order, unless otherwise noted in the Order.

### **HB 308: Concerns workers' compensation and disability retirement for PTSD**

The proposed legislation would provide first responders with workers' compensation benefits for post-traumatic stress disorder without an accompanying physical injury.

### **HB 573: Concerns workers' compensation coverage for COVID-19 contracted by employees required to work outside the home during the COVID-19 emergency**

The proposed legislation would add COVID-19 to the list of recognized occupational diseases for those employees who were required by their employer to work outside of the home during the emergency.

**HB 605: Concerns workers’ compensation coverage for COVID-19 contracted by food workers**

**HB 606: Concerns civil immunity for essential workers who transmit COVID-19**

The proposed legislation seeks to grant civil immunity to persons who provide services for essential businesses and operations for injury, death, or loss, to persons or property, which was caused by the transmission of COVID-19 during the declared emergency. The proposed legislation also provides for an exception to the immunity granted, if the person who person who provides services for essential businesses and operations acts manifestly outside the scope of that person's responsibilities, with malicious purpose, in bad faith, or in a wanton or reckless manner.

Amended on the House floor to include language granting a presumption to specific classes of workers that they contracted COVID-19 at work if contracted through December 31, 2020. This language was eventually removed.

**HB 667: Make correction officer's COVID-19 case an occupational disease**

**HB 668: Make first responder’s COVID-19 case and occupational disease**

**Regulatory Actions:**

<b>RULE NUMBER</b>	<b>RULE TITLE (CHANGES)</b>	<b>STATUS / EFFECTIVE DATE</b>
<b>4123:1-5 (WORKSHOPS AND FACTORIES)</b>		
<b>4123:1-5-24</b>	Poles (updates requirements concerning unsafe poles, foreign attachments and tag or hand lines)	Filed: 3/9/20
<b>4123-6 (HEALTH PARTNERSHIP PROGRAM)</b>		
<b>4123-6-02.2</b>	Provider access to the HPP – provider certification criteria (changes made to the provider certification criteria, for clarity and consistency; removes language which makes a provider ineligible to participate in the HPP if their license is under revocation or suspension in any state; adds language which makes a provider ineligible to participate if Ohio has denied the provider’s application for a professional license or the provider’s license in Ohio is suspended or revoked; removes specific reference to provider ineligibility for disciplinary restrictions related to chemical dependency or substance abuse, and alters the ineligibility periods for criminal convictions)	Hearing Date: 7/1/20



<b>4123-6-05.2</b>	Employer access to the HPP – employer enrollment Received Notice of Rule Change (adds language that allows the BWC administrator to waive the open enrollment period during a state of emergency or disaster declared by the governor of Ohio or the president of the U.S.)	Emergency Amendment Filed: 4/9/20 Effective Date: 4/9/20 Expiration Date: 8/8/20 (COVID-19) Hearing Date: 7/1/20
<b>4123-6-08</b>	Bureau fee schedule (annual amendments to the fee schedule; adoption of 2020 Current Procedural Terminology and Health Care Procedural Coding Systems and 2019 Medicare Professional Provider and Medical Services rule; modification and maintenance of Medicare base rates based on inflation; clarification of terms and additional codes to benefit plans)	Effective Date: 5/16/20
<b>4123-6-21.3</b>	Outpatient medication formulary (adds language clarifying the appendix (formulary) is a complete list of BWC approved medications for reimbursement; revises language requiring the BWC to develop policies to address timely review processes for drugs; adds language providing for reimbursement of antineoplastic drugs not listed in the appendix when prescribed for the allowed cancer conditions; and revises the appendix to add medications)	Hearing Date: 7/1/20
<b>4123-6-21.7</b>	Reimbursement of opioids in the treatment of pain for a work related injury or occupational disease (replaces current rule with a rule that allows the BWC to reimburse for opioid prescriptions used to treat a work related injury or occupational disease only in claims where current best medical practices are implemented by the Ohio State Medical board Rule 4731-21-02 and proposed OAC 4123-6-21.7)	Hearing Date: 7/1/20
<b>34123-6-21.8</b>	Reimbursement for Services to Assist in the Discontinuation of Medication (provides reimbursement for services to assist in the discontinuation of medications in a claim which may increase the risk of dependency, misuse, and substance use disorder if continued; creates control requirements for reimbursement; allows the BWC to reimburse for in-patient treatment up to forty-two (42) days and outpatient treatment up to eighteen (18) months)	Hearing Date: 7/1/20
<b>4123-6-37.2</b>	Payment of hospital outpatient services (adopts 2020 hospital outpatient service reimbursement rates; removal of total hip joint replacements as approved hospital	Effective Date: 5/16/20

	procedures; updated fees for hospital joint replacement procedure; addition of language allowing the BWC to request information from any facility billing the BWC to determine if the facility meets the criteria for provider-based status)	
<b>4123-6-37.3</b>	Payment of ambulatory surgical center services (adopts 2020 Medicare ASC rates; removal of total knee joint replacement from approved ASC joint replacement procedures)	Effective Date: 5/16/20
<b>4123-6-54</b>	Employer participation in the QHP system - QHP certification application (adds QHP language to clarify that the QHP application for certification must include a list of BWC certified providers in the QHP's provider network; clarifies that the BWC will hold vendors' information confidential and proprietary to the extent it qualifies as a "trade secret" under Ohio law)	*Update to Notice of Public Hearing Date: 4/3/20 (update filed 3/30/20) (COVID-19)
<b>4123-6-59</b>	Provider access to the QHP system - QHP provider selection (updates to statutory references and language regarding compliance with non-discrimination laws)	*Update to Notice of Public Hearing Date: 4/3/20 (update filed 3/30/20) (COVID-19)
<b>4123-6-69</b>	QHP dispute resolution process (changes to the QHP dispute resolution process, including professional review requirements, notification requirements and removal of a 7-day notice of appeal)	*Update to Notice of Public Hearing Date: 4/3/20 (update filed 3/30/20) (COVID-19)
<b>4123-17 (GENERAL RATING FOR THE STATE INSURANCE FUND)</b>		
<b>4123-17-08</b>	Classifications according to national council on compensation insurance (adds language regarding distribution of payroll and the proper classification of employees when businesses are required to work by executive order of the governor; addresses working from home)	Effective Date: 5/3/20
<b>4123-17-56</b>	Safety grant programs (removed language regarding the grant of safety grant applications on conditional basis and adds language allowing employers to purchase and implement safety interventions prior to the approval of the safety grant)	Effective Date: 3/18/20
<b>4123-21 (COAL-WORKERS' PNEUMOCONIOSIS FUND)</b>		
<b>4123-21-09</b>	Rule to transfer funds from coal-workers	Hearing Date:

pneumoconiosis fund to mining regulation and safety fund (proposed new rule provides that the BWC Administrator may transfer a portion of the funds (up to \$1M) from the net position of the Coal-Workers' Pneumoconiosis fund to the ODNR Mining Regulation and Safety fund (created in RC 1513.20)) 6/10/20

## **Judicial Decisions**

### **Supreme Court:**

#### **State ex rel. Neitzelt v. Indus. Comm., 2020-Ohio-1453, 2020 WL 1868207.**

The Claimant appealed to the Supreme Court of Ohio (“Supreme Court”) seeking to reverse the Tenth District Court of Appeals of Ohio (“Tenth District”) decision that the Industrial Commission (“Commission”) abused its discretion in exercising continuing jurisdiction.

Claimant sustained a lumbar strain in July 2015. Her claim was later additionally allowed for L4-L5 disc herniation based upon an MRI. The employer did not appeal the Commission’s order to court, within 60 days, and the appeal period lapsed. In 2016, Claimant had an operation for the herniation, but none was found during surgery. Thereafter, the employer requested the Commission invoke continuing jurisdiction under R.C. 4123.52 to vacate the herniation, on the grounds of new and changed circumstances. The District Hearing Officer (“DHO”) agreed with the employer and disallowed the herniation, and the Staff Hearing Officer (“SHO”) affirmed.

The Claimant appealed to the Tenth District seeking a writ of mandamus directing the Commission to vacate its order disallowing the L4-L5 disc herniation from claimant's claim. The Tenth District granted the writ and vacated the order, finding the Commission had abused its discretion in exercising continuing jurisdiction to disallow the herniation. Further, the Tenth District concluded that continuing jurisdiction ceased after the 60-day appeal period had passed.

The employer ultimately appealed the decision to the Supreme Court. The Supreme Court held that the plain language of R.C. 4123.52 made clear the Commission did not abuse its discretion by invoking continuing jurisdiction after the expiration of the 60 days to appeal the Commission’s order. In doing so, the Supreme Court disapproved of the holdings in *State ex rel. Prayner v. Indus. Comm.*, *Todd v. Gen. Motors Corp.*, and *State ex rel. Gatlin v. Yellow Freight*

*Sys., Inc.*<sup>1</sup>. Further, in denying the writ, the Supreme Court found the Commission relied upon “some evidence” of new and changed circumstances in the medical.

**State ex rel. Navistar, Inc. v. Indus. Comm., 2020-Ohio-712, 2020 WL 1042182.**

The employer appealed to the Supreme Court of Ohio (“Supreme Court”) seeking to overturn a Tenth District Court of Appeals of Ohio (“Tenth District”) decision that the Industrial Commission (“Commission”) had not abused its discretion in refusing to consider the employer’s argument that Claimant had voluntarily abandoned employment, because the employer had not raised the argument prior to the Staff Hearing Officer (“SHO”) hearing.

The Claimant sustained two work-related injuries while working as an assembler with the employer for 30 years. Subsequently, Claimant worked a part-time job at a gun store. In 2015, Claimant applied for PTD compensation. A SHO of the Commission granted Claimant’s application.

The employer ultimately appealed the application to the Tenth District which referred the case to a magistrate. The magistrate initially recommended the Tenth District grant a limited writ ordering the Commission to consider whether Claimant had voluntarily abandoned his employment. The Commission objected to the magistrate’s recommendation and the Tenth District sustained the objection, holding that the employer had failed to raise the issue of voluntary abandonment prior to the SHO Hearing. The magistrate again considered all the issues presented by the employer and recommended the Tenth District deny writ. The employer objected, but the Tenth District overruled the objection and adopted the magistrate’s decision.

The employer appealed the application to the Supreme Court of Ohio (“Supreme Court”). During the pendency of the case, however, Claimant died. After briefing was complete, Claimant’s counsel filed a suggestion of death indicating Claimant had died. The Supreme Court ordered the employer to show cause why the case should not be dismissed as moot. The employer filed a motion to continue the case, while the Commission and Claimant filed responses. The employer asserted two grounds upon which the Supreme Court should continue the case: (i) an employer’s appeal from an adverse decision by the Commission is not subject to dismissal due to a claimant’s death; and (ii) that “the case should continue due to the precedential value of the two issues to be determined.” The Supreme Court addressed the first argument, citing to *Youghioghenny*<sup>2</sup>, and stating that while a claim for benefits abates upon Claimant’s death, “[a]n employer’s appeal, pursuant to R.C. 4123.519, from an adverse ruling by the \* \* \* Commission is not subject to dismissal due to the death of the employee during the pendency of the appeal.” The Supreme Court noted the reasoning in *Youghioghenny* that the employer was entitled to

<sup>1</sup> Full citations: *State ex rel. Prayner v. Indus. Comm.*, 2 Ohio St.2d 120, 206 N.E.2d 911; *Todd v. Gen. Motors Corp.*, 65 Ohio St.2d 18, 417 N.E.2d 1017; *State ex rel. Gatlin v. Yellow Freight Sys., Inc.*, 18 Ohio St.3d 246, 249, 480 N.E.2d 487.

<sup>2</sup> *Youghiogeny & Ohio Coal Co. v. Mayfield*, 11 Ohio St.3d 70, 464 N.E.2d 133 (1984).

recover from the state surplus fund any benefits that had been improperly disbursed to the Claimant before death. The Supreme Court held the second argument was without merit, and it does not issue advisory opinions.

The Commission argued that *Youghioghenny* does not apply here because that case involved a direct appeal to the court of common pleas under R.C. 4123.512, while this case involves an original action in mandamus. The Supreme Court held the reasoning underlying the conclusion in *Youghioghenny* applies equally to a mandamus action.

Before the Supreme Court, the employer asserted three arguments: (i) the Commission abused its discretion by failing to address evidence of the claimant's voluntary retirement; (ii) the reports of Drs. Rutherford and Grunstein showed that the Claimant could have worked four hours a day and that the commission abused its discretion by failing to consider various nonmedical factors (e.g. age, education, and work record) in concluding he could not work; and, (iii) that Dr. Rutherford's opinion is conclusory and contradictory and that the Commission abused its discretion by relying on it. The Supreme Court rejected the first two arguments and did not address the third. It held that the employer has the burden to raise and produce evidence of voluntary abandonment, which it failed to do here, by introducing evidence of voluntary abandonment at the SHO Hearing, for the first time. Further, the Supreme Court reasoned that the Claimant had no opportunity to present evidence against the employer's assertion. Thus, the Supreme Court held that the employer had failed to evidence the Commission abused its discretion and affirmed the Tenth District's judgment denying writ of mandamus.

#### **10<sup>th</sup> District Court of Appeals:**

***State ex rel. Welsh Enterprises, Inc., v. Indus. Comm.*, 10th Dist. Franklin No. 19AP-127, 2020-Ohio-2801.**

The employer appealed to the Tenth District Court of Appeals of Ohio ("Tenth District") seeking a writ of mandamus ordering the Industrial Commission ("Commission") to vacate its order awarding Claimant temporary total disability ("TTD") compensation and instead find that Claimant had voluntarily abandoned his employment. The Tenth District referred the case to a magistrate who found that the court should deny the employer's request for a writ.

The Claimant sustained a work-related injury on March 28, 2017, and his claim was initially allowed for closed head injury and syncopal episode secondary to paint fume exposure. On August 27, 2018, a District Hearing Officer ("DHO") additionally allowed the claim for the conditions of traumatic brain injury, neurocognitive disorder, and adjustment disorder with mixed anxiety and depressed mood. On the same date, the DHO also considered whether Claimant was entitled to TTD compensation. The employer asserted that Claimant had voluntarily abandoned his employment and was terminated on September 14, 2017 for an altercation at work, but provided no specific documentation regarding the details of Claimant's termination. Therefore, the DHO found the employer failed to meet its burden of proof with respect to Claimant's voluntarily abandonment. On October 18, 2018, the employer's appeal was

heard by a Staff Hearing Officer (“SHO”) along with additional evidence in support of the employer’s position. The employer provided the the employee handbook, which provides that fighting on the employer’s property and conviction of a criminal offense may result in termination. Additionally, the employer provided evidence that the Claimant was subsequently found guilty of assault, denied unemployment compensation due to the circumstances of his termination, and had a protective order issued against him. The SHO upheld the DHO’s determination, relying on the medical to find Claimant could not return to his former position of employment. The SHO also held that the employer did not meet its burden of proving voluntary abandonment.

The employer ultimately appealed the application to the Tenth District, which referred the case to a magistrate. The magistrate recommended the Tenth District deny Claimant’s requested writ ordering the Commission to vacate its order awarding Claimant temporary total disability (“TTD”) compensation and instead find that Claimant had voluntarily abandoned his employment. The magistrate stated that although the employer presented some evidence of voluntary abandonment, none of it was in writing or contemporaneous with the date of discharge. The employer objected to the magistrate’s recommendation on four grounds: for (i) “failing to incorporate pertinent and necessary facts;” (ii) making or upholding a “decision that is inconsistent with the objective, non-self-serving stipulated evidence of the record;” (iii) “failing to appropriately apply applicable legal standards regarding voluntary abandonment of employment to the stipulated evidence of the record;” and (iv) upholding the Commission’s determination “even though [Claimant’s] separation from service on September 14, 2017 constituted voluntary abandonment of employment.” The Tenth District again considered all the issues presented by the employer and overruled the objections and adopted the magistrate’s decision.

**State ex rel. Christopher W. Hart v. Indus. Comm., 10th Dist. Franklin No. 19AP-118, 2020-Ohio-1396.**

The Claimant appealed to the Tenth District Court of Appeals of Ohio (“Tenth District”) seeking to vacate the Industrial Commission’s (“Commission”) order denying Claimant’s request for permanent partial disability (“PPD”) compensation and instead order the Commission to exclude the report of Steven Wunder, MD.

The Claimant was not awarded PPD compensation by a BWC Administrator on June 13, 2018, based upon the report of Dr. Wunder. On August 29, 2018, a District Hearing Officer (“DHO”) affirmed the Administrator’s finding that Claimant was not entitled to PPD compensation. The Claimant appealed and filed additional medical evidence, a report by Donato Borillo, MD, which assessed a 10% PPD rating. On December 4, 2018, a Staff Hearing Officer (“SHO”) affirmed the DHO and found that the Claimant had not demonstrated he had a percentage of PPD, again relying on Dr. Wunder’s report.

The Claimant ultimately appealed the Commission’s decision to the Tenth District which referred the case to a magistrate. The Claimant asserted that the magistrate erred in finding the

report of Dr. Wunder contains internal inconsistencies relevant to the medical impairment assessment. The magistrate found the report was not equivocal or consistent because (i) there was no explanation in the report for relator's complaints of pain in the right chest wall and (ii), no medical testing was performed by Dr. Wunder. Further, the magistrate found Claimant's challenges to Dr. Wunder's report were unsubstantiated from a review of the medical reports in the claim. The magistrate also notes that Claimant presented varying subjective complaints to the various doctors who examined him, and his only complaint to Dr. Wunder was that of minor tenderness to palpation. Accordingly, the magistrate found that the Commission did not abuse its discretion when it relied upon Dr. Wunder's report as evidence to find Claimant was not entitled to TTD compensation. The Tenth District agreed with the magistrate's decision and adopted the decision as its own.

**State ex rel. Dana W. Burns v. Indus. Comm., 10th Dist. Franklin No. 18AP-785, 2020-Ohio-588.**

The Claimant appealed to the Tenth District Court of Appeals of Ohio ("Tenth District") seeking to vacate the Industrial Commission's ("Commission") order denying Claimant's request for temporary total disability ("TTD") compensation and instead find she is entitled to TTD compensation.

The Claimant asserts that the report of Michael Murphy, Ph.D., was not proper evidence to be relied upon by the Commission in finding Claimant was not entitled to TTD compensation because the report did not consider all of the relevant medical evidence generated prior to his psychological examination of the Claimant.

Claimant was awarded TTD compensation for his allowed anxiety disorder condition, from June 23, 2014 to May 12, 2016. On May 12, 2016, a District Hearing Officer ("DHO") terminated the Claimant's TTD compensation based upon a finding that the anxiety disorder condition had reached maximum medical improvement ("MMI"). In June 2017, a DHO additionally allowed the claim for unspecified depressive disorder. Based on the new allowance, the Claimant then requested TTD compensation from May 15, 2016, the prior TTD termination, to present. In support, Claimant provided the report of Scott Donaldson, Ph.D., which opined it was unrealistic for Claimant to return to any form of gainful employment. In light of the TTD request, Dr. Murphy performed an independent forensic psychological report. Dr. Murphy found no objective evidence to warrant a new period of TTD compensation and found Claimant MMI on the newly allowed condition. The Commission denied Claimant's request for TTD compensation on the newly allowed condition, relying in part on Dr. Murphy's report.

Claimant ultimately appealed the Commission's decision to the Tenth District, which referred the case to a magistrate. The magistrate found Dr. Murphy did not indicate he reviewed all of Dr. Donaldson's treatment notes or Dr. Odor's report, and that this constituted relevant medical evidence regarding the newly allowed condition. However, the magistrate found that any opinion reached by Dr. Murphy in regards to whether Claimant was TTD during the time period preceding his examination was not relied upon by the Commission in finding Claimant failed to

prove he was entitled to TTD compensation for the newly allowed condition. The Commission concluded Burns failed to meet his burden of proof and, therefore, the Commission did not abuse its discretion in denying TTD compensation. The magistrate noted that the Commission considered that Claimant's treatment with Dr. Donaldson was consistent despite the additional allowance, and found no evidence Claimant's daily living activities had been impaired as a result of the newly allowed condition. The magistrate concluded this evidence was sufficient for the Commission to find Claimant was not entitled to TTD compensation. Accordingly, the magistrate found that the Commission did not abuse its discretion when it relied upon this evidence to find Claimant was not entitled to TTD compensation. The Tenth District agreed with the magistrate's decision and adopted the decision as its own.

**State ex rel. Christopher T. Merritt v. Indus. Comm., 10th Dist. Franklin No. 18AP-234, 2020-Ohio-682.**

The Claimant appealed to the Tenth District Court of Appeals of Ohio ("Tenth District") seeking to vacate the Industrial Commission's ("Commission") order denying Claimant's application for temporary total disability ("TTD") compensation and instead find he is entitled to TTD compensation.

Claimant sustained a work-related injury on February 1, 2015 and was prescribed opioid medications for the allowed conditions of lumbar strain, substantial aggravation of pre-existing L4-5 disc bulge/tear, and substantial aggravation of pre-existing L5-S1 disc bulge/tear. On June 23, 2015, Claimant submitted to a drug screen and tested positive for marijuana. Further, the employer had a drug-free workplace policy of which Claimant was aware.

Claimant was terminated effective August 24, 2015, per an employee status change form; however, the form does not indicate a reason for the discharge. Claimant filed a request for TTD compensation beginning August 19, 2015 and ongoing. On September 20, 2016, a District Hearing Officer ("DHO") granted Claimant's TTD compensation based upon the medical evidence. However, Claimant failed to inform the DHO that he had been terminated for a positive drug test in violation of a written work rule. On December 1, 2016, a Staff Hearing Officer ("SHO") vacated the DHO order and denied Claimant's request for TTD compensation finding he had been terminated for violation of a written work rule of which he had knowledge. Further, the SHO noted the Claimant had not returned to work in any capacity since his termination. The Commission denied Claimant's appeal of the SHO order.

Claimant ultimately appealed the Commission's decision to the Tenth District which referred the case to a magistrate. The magistrate found that the Claimant was given a copy of the drug-free workplace policy and, therefore knew or should have known testing positive to certain substances would result in discipline up to and including termination. Further, the magistrate found it undisputed that Claimant tested positive for marijuana, despite the objection that the termination form indicated no reason for termination (including a failed drug test). Accordingly, the magistrate found that the Commission did not abuse its discretion in denying Claimant's TTD compensation, based upon his voluntary abandonment of his former position of



employment due to his termination for violating a written drug-free workplace policy and the absence of any evidence that Claimant returned to the workforce after his termination. The Tenth District agreed with the magistrate's decision and adopted the decision as its own.

2018-19

OMA Public Policy  
**COMPETITIVENESS**  
*Agenda*



## Competitiveness Agenda

Manufacturing is responsible for 17% – \$106 billion – of Ohio’s Gross Domestic Product; this is greater than the contribution of any other Ohio industry sector. Manufacturing is the engine that drives Ohio’s economy.

In the competitive domestic and global economies, every public policy decision that affects Ohio’s business climate affects Ohio’s manufacturing competitiveness. In turn, Ohio’s manufacturing competitiveness determines the ability of the state to grow its economy and create jobs.

Ohio manufacturers require public policies that attract investment and protect the state’s manufacturing legacy and advantage. These policies apply to a wide variety of issues that shape the business environment within which manufacturers operate.

### **MAJOR POLICY GOALS INCLUDE THE FOLLOWING:**

- **An Efficient, Competitive Ohio Tax System**
- **A Lean, Productive Workers’ Compensation System**
- **Access to Reliable, Economical Energy Resources**
- **A Fair, Stable, Predictable Civil Justice System**
- **Science-based, Technologically Achievable, and Economically Reasonable Environmental Regulations**
- **A Modern, Job-Supporting Infrastructure**
- **An Adequate, Educated, Highly-Skilled Workforce**



# PolicyGoal:

## An Efficient, Competitive Ohio Tax System

For Ohio to be successful in a global economy, the state's tax system must encourage investment and growth. It must be competitive nationally and internationally. A globally competitive tax system is characterized by (a) certainty, (b) equity, (c) simplicity and (d) transparency. Economy of collections and convenience of payment also are important attributes.

Generally, manufacturers support efforts to broaden the tax base, which enables lower rates. To preserve the integrity of the broad tax base and ensure fairness, credits and exemptions should be reduced and discouraged. Where needed, government incentives are best structured as grants rather than as tax credits. And, in general, earmarking and dedicating tax revenues should be discouraged.

Government should instead create incentives for capital investment in Ohio. Productivity gains, which keep Ohio manufacturers competitive, are driven by capital investment in technology and equipment. Such investment is necessary for Ohio manufacturers to remain competitive and tax policies which encourage investment should be a priority.

Good tax policy also generates necessary revenues to support the essential functions of government. Good budgeting and spending restraint at all levels of government are vital to a competitive tax environment.

Major tax reforms approved by the Ohio General Assembly in 2005 and additional reforms in 2011 through 2015 led to significant improvements to a tax system that was for many years widely regarded as uncompetitive and obsolete. These reforms reduced overall tax rates, eliminated tax on investment, and broadened the tax base, all of which provide more stable and predictable revenues and simplify compliance.

The elimination of the tangible personal property tax, the corporate franchise tax, and the estate tax has strengthened the competitiveness of Ohio's tax system. So has the reduction of the personal income tax rate, as well as the creation of a broad-based, low-rate commercial activity tax.

Going forward, these tax policy gains must be protected. Tax bases should be protected against erosion caused by granting credits and carve-outs to narrow special interests, in order to protect the productivity of the taxes. Where possible and reasonable, tax bases should be expanded and tax rates reduced.

Finally, the state's tax system would also benefit from a reduction in the number and type of taxing jurisdictions. Because of its complex layering of local and state taxes, Ohio's tax system is at a competitive disadvantage compared to other states.

### **ABOUT OHIO'S UNEMPLOYMENT INSURANCE TRUST FUND**

To avoid costly borrowing from federal funds, Ohio's Unemployment Insurance Trust Fund must be made solvent before the next recession. The state must align benefits with contributions to build an adequate unemployment trust fund balance. The best solvency plan is one that also includes a focus on job creation because increased employment not only increases fund contributions but also reduces benefit payouts. For that reason, unemployment compensation tax rates also should be in line with surrounding states and states with which Ohio competes to attract and retain business.

# PolicyGoal:



## A Lean, Productive Workers' Compensation System

An efficient and effective workers' compensation system benefits workers, employers, and the economy of the state and is built on the following principles:

- Safety is the number one priority for Ohio's manufacturers.
- Injured workers receive prompt benefits that are adequate for returning to work quickly and safely.
- Rates are established by sound actuarial principles, so that employers pay workers' compensation rates commensurate with the risk they bring to the system.
- The system is financed with well-functioning insurance mechanisms, including reserving and investment practices that assure fund solvency and stability.
- The benefit delivery system deploys best-in-class disability management practices that drive down costs for employers and improve service and outcomes for injured parties.
- The system consistently roots out fraud, whether by employers, workers or providers.

### **FUNDAMENTAL PRIORITIES FOR FUTURE ACTION:**

The Bureau of Workers' Compensation (BWC) should continue to reform its medical management system to lower cost and improve medical quality through better coordination of care and development of a payment system that creates incentives for best clinical practices. In doing this, the BWC should build on emerging best practices in the private sector health care system.

The Ohio General Assembly should enact statutory reforms of benefit definitions, so that the claims adjudication process is more predictable, less susceptible to fraud and manipulation, and less costly, both for workers and employers.

The Industrial Commission should record hearings, so that the hearing process is more transparent and any appeals have a record on which to build.

### **A WORD ABOUT WORKPLACE GUN POLICY**

Manufacturers remain concerned with weapons violence and the erosion of private property laws at the expense of more relaxed gun rights. Ohio needs to ensure that business is in the driver's seat and can make decisions about whether or not an individual can bring a concealed weapon onto their private property.

# PolicyGoal:

## Access to Reliable, Economical Energy Resources

Energy policy can enhance—or hinder—Ohio’s ability to attract business investment, stimulate economic growth and spur job creation, especially in manufacturing. State and federal energy policies must (a) ensure access to reliable, economical sources of energy, and (b) promote energy efficiency that lowers costs for manufacturers and strengthens grid resiliency.

The OMA’s energy policy advocacy efforts are guided by these principles:

- Energy markets free from market manipulation allow consumers to access the cost and innovation benefits of competition.
- Ohio’s traditional industrial capabilities enable global leadership in energy product innovation and manufacturing.
- Sustainable energy systems support the long-term viability of Ohio manufacturing.
- Effective government regulation recognizes technical and economic realities.

Shaping energy policy in Ohio that aligns with these principles will support manufacturing competitiveness, stimulate economic expansion and job creation, and foster environmental stewardship.

### **ENERGY POLICY PRIORITIES ARE:**

Assure an open and fair electricity generation marketplace, in which competition enables consumer choice, which, in turn, drives innovation.

Reform Public Utilities Commission of Ohio (PUCO) rate-making processes by eliminating electric security plans (ESPs) to protect manufacturers from above-market generation charges.

Correct Ohio case law that denies electric customers refunds from electric utilities for charges that are later determined to be improper by the Supreme Court of Ohio.

Design an economically sound policy framework for discounted rates for energy-intensive manufacturers that makes Ohio competitive with other states.

Oppose legislation and regulation that force customers to subsidize uneconomical generation, including nuclear and certain coal power plants.

Support deployment of customer-sited generation technologies, such as cogeneration, energy efficiency and demand-side management, in order to achieve least-cost and sustainable energy resources.

# PolicyGoal:



## A Fair, Stable, Predictable Civil Justice System

For manufacturers to invest and grow in Ohio, and to compete globally, Ohio's civil justice system must be rational, fair and predictable. Manufacturers must be free to innovate and pursue market opportunities without fear of unreasonable exposure to costly lawsuits, while injured parties must have full recourse to appropriate measures of justice.

The OMA supports policy reforms that protect consumers without overly burdening businesses, while also positioning Ohio advantageously relative to other states. The association encourages policymakers to evaluate all proposed civil justice reforms by considering these questions:

- Will the policy fairly and appropriately protect and compensate injured parties without creating a "lottery mentality"?
- Will the policy increase—or decrease—litigation burdens and costs?
- Will the policy promote—or reduce—innovation?
- Will the policy attract—or discourage—investment?
- Will the policy stimulate—or stifle—growth and job creation?

Ohio has made great strides in reforming its civil justice system over the past decade, and longer. The primary aim of the state should be to preserve those tort reform gains, in areas such as punitive damages, successor liability, collateral sources and statute of repose, which are protecting consumers without unduly burdening businesses, while positioning Ohio as an attractive state for business investment.

# PolicyGoal:



## Science-based, Technologically Achievable, and Economically Reasonable Environmental Regulations

### EFFECTIVE ENVIRONMENTAL STANDARDS AND REGULATIONS:

- Provide clarity, predictability and consistency
- Are based on scientific consensus
- Provide for common sense enforcement
- Incorporate careful cost-benefit analysis as part of the policymaking process

Manufacturers urge policymakers to exercise restraint in establishing state environmental regulations that exceed federal standards, and to avoid doing so altogether without clear and convincing evidence that more stringent regulations are necessary. At the same time, manufacturers understand that fair and reasonable regulations must be balanced with responsible stewardship of our natural resources.

Manufacturing leads the way in innovation in solid waste reduction and recycling. Industry is an enormous consumer of recycled materials, such as metals, glass, paper and plastics; manufacturers thus are strong advocates for improving recycling systems in Ohio and the nation.

The state should expand opportunities for industry to reuse non-harmful waste streams. Beneficial reuse policies can result in less waste and more recycling of industrial byproducts. Likewise, Ohio should continue to expand recycling programs that provide feedstock for the state's industrial processes.

The Ohio Environment Protection Agency, in designing state implementation plans for any new federal regulations, should use a transparent process of stakeholder involvement, supplemented by investment in independent research to determine least cost, scientifically sound and technologically feasible implementation plans.



# PolicyGoal:



## A Modern, Job-Supporting Infrastructure

Modern infrastructure is critical for today's advanced manufacturing economy. To remain competitive and maximize the economic benefits of Ohio's manufacturing strength, the state must invest in updating and expanding Ohio's multi-modal transportation infrastructure, including roads, bridges, rails and ports. Continued investment in these resources is critical to providing Ohio manufacturers with flexible, efficient, cost-effective shipping options.

Ohio's transportation infrastructure fund is declining at a time when traffic is increasing, construction and maintenance costs are escalating and fuel efficiency is climbing. Coupled with a fixed per gallon fuel tax that has not been adjusted since 2002, Ohio may not be able to sufficiently support its transportation infrastructure unless a long-term budget mechanism is created.

The state also must continue to support the development of a pipeline infrastructure that delivers the abundant energy resources from the Utica and Marcellus shale formations to Ohio manufacturers in all parts of the state and markets outside the state. This infrastructure produces a job-creating competitive advantage for Ohio.

### **INFRASTRUCTURE POLICY PRIORITIES INCLUDE THE FOLLOWING:**

Support the creation of an Ohio Division of Freight to focus regulatory attention on the logistics needs of manufacturers.

Support state and federal legislation, rules and regulations that safely provide greater flexibility and efficiency in truck movements.

Provide for funding sustainability of Ohio's transportation budget.

Support technology and workforce solutions that address the shortage of truck drivers.

Ensure Ohio's freshwater ports remain competitive and state-of-the-art in functionality. Advocate for appropriate facility maintenance including dredging to ensure navigability.

Preserve access to, and provide responsible management of, Ohio's sources of water.

Protect cyber infrastructure to safeguard data used by manufacturers and their customers and suppliers.

# PolicyGoal:

## An Educated, Highly Skilled Workforce

A robust economy requires a reliable supply of workers who have the technical knowledge and skills required to meet global standards for quality, and who are able to think critically and work collaboratively. Sustained growth in manufacturing productivity will require not only a new generation of globally competent workers, but also workers willing to embrace lifelong learning to keep pace with technological advancements and global competition.

### **WORKFORCE DEVELOPMENT POLICY PRIORITIES INCLUDE THE FOLLOWING:**

Focus state government and industry efforts on industry-led regional sector partnerships, guided by a statewide OMA-led Workforce Leadership Committee. The committee will identify industry-specific workforce priorities, set standards for collaboration, align funding streams to minimize duplication of workforce programs and services, and evaluate program and service efficacy.

Provide financial support for sector partnerships that have 1) demonstrated industry leadership in their organizational structure and, 2) gained meaningful commitments by way of financial and volunteer contributions to ensure they are truly demand-driven.

Expand the use of cooperative education, internships and apprenticeships. Experiential learning programs enhance talent recruitment and retention because participating students are exposed to company-specific, real-world job expectations and experiences. Students develop job-specific and management skills by working closely with company staff members who serve as their mentors/supervisors; participating companies benefit from reduced recruitment and training costs.

Expand the use of the National Association of Manufacturers' 'Manufacturing Skills Certification System.' This system of nationally portable, industry recognized, "stackable" credentials is applicable to all sectors of the manufacturing industry. The credentials validate foundational skills and competencies needed to be productive and successful in entry-level positions in manufacturing environments. Credentials can be earned from both secondary and postsecondary educational programs.

Incentivize K-12 and two- and four-year higher education institutions to coordinate outcomes-based education and training programs. Multiple on- and off-ramps for entry-to leadership-level careers will be mapped to real industry needs and jobs. Industry-recognized credentials and certificate programs will be standardized across institutions to increase stackable and transferable credentials from classroom to workplace. Investment in demand-driven training programs will offer internal pathways to retain incumbent workers and allow them to acquire new skills as jobs shift.



Support statewide “Making Ohio” manufacturing image campaign, managed by the OMA, to create a consistent, positive perception among audiences of Ohio manufacturing career opportunities and pathways.


Urge state agency administrators to accurately measure and communicate the outcomes of recruitment and training efforts while protecting individual privacy concerns. Having systems in place to produce these data will allow policymakers and industry leaders to better understand outcomes and create more informed policies.

Address the school funding disincentive for school districts to refer students to career and technical centers, a vital source of the skill training needed to fill the manufacturing workforce pipeline.

Ensure schools have career counselors whose sole focus is career planning – not just college planning – and equip them with an understanding of the career opportunities within manufacturing and the various options for acquiring the skills necessary for success; task them with sharing this information in meaningful ways with students, parents, teachers, and others within the districts to better inform student career path choices.

Provide meaningful professional development opportunities for educators to have exposure to industry and be able to incorporate real life exercises into lesson plans and classroom activities.

Ensure career counselors within the network of OhioMeansJobs centers have a modern and accurate understanding of manufacturing career pathway opportunities to be able to share with adult job seekers and career switchers.



**The mission of  
The Ohio Manufacturers'  
Association is to protect and  
grow Ohio manufacturing**

For more information about the  
services and activities of the OMA, contact us  
at (800) 662-4463 or [oma@ohiomfg.com](mailto:oma@ohiomfg.com)  
or visit [ohiomfg.com](http://ohiomfg.com).



The Ohio Manufacturers' Association  
33 N. High Street, 6th floor  
Columbus, Ohio 43215

(800) 662-4463  
[oma@ohiomfg.com](mailto:oma@ohiomfg.com)  
[ohiomfg.com](http://ohiomfg.com)

 [@OHIOMFG](https://twitter.com/OHIOMFG)

## Safety & Workers' Compensation

### Cleaning Tips for Frequently Touched Electronic Devices

June 5, 2020

The COVID-19 pandemic has made us acutely aware that electronic devices are among the most frequently touched surfaces by employees — and an easy way to spread the coronavirus. *USA Today* recently published this handy list of cleaning tips for phones, tablets and other electronic devices with surfaces on which the coronavirus can survive for up to 72 hours. 6/3/2020

### OMA Updates Face Coverings Guidance Document

June 5, 2020

Following the release of Ohio's latest public health order late last Friday, May 29, the OMA has updated its guidance document on masks and face coverings. The OMA worked to include exceptions on the use of masks in the manufacturing workplace due to high temperatures, or employees separated by more than six feet or by a barrier. Mask exceptions should still be documented to explain why an employee is not wearing a face covering. 6/4/2020

### OMA Testifies Against PTSD Bill

June 5, 2020

This week, the OMA provided opponent testimony on House Bill 308, legislation to allow first responders to receive PTSD benefits through workers' compensation in the absence of a physical injury. In its testimony, the OMA stated that it has historically opposed proposals to permit PTSD compensation in cases in which there is no associated physical injury or illness — and that “the adoption of a mental-only diagnosis would mark a significant change to the Ohio workers' compensation system.” The OMA outlined other potential avenues to provide benefits to first responders for lawmakers' consideration. 6/4/2020

### BWC's Next Employer Webinar Set for June 9

June 5, 2020

The Ohio Bureau of Workers' Compensation will hold its monthly 25-minute employer update webinar at 1:30 p.m. (ET) on Tuesday, June 9, as well as at 11:30 a.m. (ET) on Thursday, June 25. This month's webinar will cover updates on COVID-19, policy year 2020 renewal, the annual true-up report, and reminders of important BWC dates. The webinar will last about 25 minutes. To attend this month's webinar, or to see recordings of previous webinars, click [here](#). 6/3/2020

### BWC Offers Free Safety Webinars: June Lineup

June 5, 2020

Several free safety webinars are being offered by the Ohio Bureau of Workers' Compensation this month. Details and registration links can be found [here](#). 6/2/2020

### Ohio BWC Defers Premiums for Next Three Months

May 29, 2020

The Ohio Bureau of Workers' Compensation (BWC) is **deferring employers' premium installments** for the months of June, July and August. Businesses will have the option to defer the monthly premium payments with no financial penalties. This is the second payment deferral BWC has authorized since the start of the COVID-19 pandemic. The deferral is designed to help employers focus financial resources on re-opening their businesses under the **Responsible RestartOhio Plan**. 5/28/2020

### Business Groups Send Letter Opposing PTSD Legislation

May 29, 2020

The OMA and allied business associations this week **sent a letter** to the members of the Senate General Government and Agency Review Committee, outlining their opposition to **House Bill 308** — legislation that would allow first responders to receive Ohio workers' compensation benefits if diagnosed with post-traumatic stress disorder (PTSD), even without

an accompanying physical injury. The coalition urged lawmakers to consider alternatives to provide PTSD benefits to first responders. *5/28/2020*

### **How Automakers are Bringing Back Factory Workers** **May 29, 2020**

Tech-focused Techzimo.com has published **this article** examining U.S. automakers' efforts to prevent workers from contracting COVID-19 or spreading it. Some key takeaways:

- Ford requires employees to complete a daily, online survey assessing their ability to report to work. They're required to show an email or text message confirmation that they filled out the survey when they arrive for their shift.
- GM is asking that doors be propped open to increase airflow and reduce the number of surfaces workers need to touch. The company recommends that workers use body parts other than their hands to open doors, when possible.
- Fiat Chrysler is giving employees a reusable temperature strip to use before they come to work, and the company has implemented a start-of-shift sanitation process for each factory workstation. The company has suspended meetings of more than eight employees.

Also, the National Association of Manufacturers and the Manufacturing Leadership Council have published **this summary** of a briefing held this week to share policies designed to keep auto industry employees safe. *5/27/2020*

### **Understanding Contact Tracing in the Workplace During COVID-19** **May 29, 2020**

Perhaps the most challenging aspect of encountering a suspected or confirmed case of COVID-19 among employees is identifying those

with whom the infected worker has had contact. OMA Connections Partner Fisher Phillips has published **this new insight** into the CDC's contact tracing guidelines for general businesses. *5/27/2020*

### **Industrial Commission to Hold Special Meeting, June 3** **May 29, 2020**

A special meeting of the Ohio Industrial Commission **will be held** Wednesday, June 3, at 10 a.m. to address additional workers' compensation issues that may be heard during Ohio's state of emergency. Currently, a limited number of issues can be heard by the Commission. The meeting will be live streamed via the Industrial Commission's **YouTube channel**. *5/27/2020*

### **Gov. DeWine Issues "Ohioans Protecting Ohioans" Health Advisory** **May 22, 2020**

This week the DeWine administration released details of a new "**Ohioans Protecting Ohioans Urgent Health Advisory**" which **rescinds and modifies the Stay Safe Ohio order** that was issued by the Ohio Department of Health on April 30, 2020.

The health order replaces language requiring Ohioans to stay at home with limited exceptions with language that strongly recommends that citizens, especially those who are high-risk, stay at home as much as possible.

The new health advisory still prohibits public or private gatherings of 10 or more persons. And it lifts overall travel restrictions and the requirement to quarantine if someone travels to or returns to Ohio. Unnecessary travel within or outside of Ohio is not encouraged.

Under the advisory, businesses, and in particular manufacturers, are still required to follow the operational rules, protocols, and guidelines contained in previous Orders. Therefore, manufacturers should not see many changes in either operational requirements or the enforcement of mandates. Here is a **summary of the advisory** from OMA general counsel Bricker & Eckler. *5/21/2020*

**Senate Passes Favorable Workers' Compensation Bill**  
**May 22, 2020**

This week the Senate unanimously passed **House Bill 81**. Supported by the OMA, the bill is a workers' compensation catch-all that **makes a variety of positive changes** to the system for manufacturers. The House will need to concur with the Senate amendments before the bill goes to the governor to be signed. *5/21/2020*

**Senate Continues Hearings to Allow PTSD Coverage**  
**May 22, 2020**

This week, the Senate's General Government and Agency Review Committee continued hearings on **House Bill 308** — legislation that would allow first responders to receive Ohio workers' compensation benefits if diagnosed with post-traumatic stress disorder (PTSD), even without an accompanying physical injury. Proponents lined up to throw in their support for the precedent changing legislation. The bill would allow mental claims without an accompanying physical harm for the first time in Ohio's workers' compensation system history. The business community including the OMA remains opposed to the bill. More hearings are expected. *5/21/2020*

**OSHA Revises Enforcement Policies**  
**May 22, 2020**

As states begin reopening their economies, **OSHA has issued two revised enforcement policies** to "ensure employers are taking action to protect their employees." First, OSHA is increasing in-person inspections at all types of workplaces. Second, OSHA is revising its previous enforcement policy for recording cases of coronavirus. Under OSHA's recordkeeping requirements, coronavirus is a recordable illness, and employers are responsible for recording cases of the coronavirus, if the case:

- Is confirmed as a coronavirus illness;
- Is work-related as defined by 29 CFR 1904.5; and

- Involves one or more of the general recording criteria in 29 CFR 1904.7, such as medical treatment beyond first aid or days away from work.

*5/20/2020*

**BWC to Ship 2 Million Face Coverings to Employers**  
**May 22, 2020**

The Ohio Bureau of Workers' Compensation (BWC) will **distribute two million face coverings** to Ohio state fund employers. Fifty face coverings will be sent to each state fund employer; distribution started this week. The face coverings are funded by the BWC budget and will not affect employer premiums. The governor asks that if you cannot use them, please share them with others who may need them. *5/20/2020*

**Posters and Signs from Responsible RestartOhio**  
**May 22, 2020**

These **free, printable resources** from Responsible RestartOhio can be used by anyone in Ohio to display common symptoms, protocols, or guidelines during the reopening of business throughout Ohio during the COVID-19 pandemic. *5/19/2020*

**Solutions to Common Face Mask Frustrations**  
**May 22, 2020**

According to OhioHealth, while you should wear a mask, wearing a face mask changes your routine: how you breathe, how you hold your jaw, how you talk, even how you eat and drink. OhioHealth **offers these tips** to clear up some mask misconceptions and alleviate common frustrations you may have when wearing masks. *5/19/2020*

**NAM: Manufacturers Share COVID-19-Related Best Practices**  
**May 22, 2020**

On a recent National Association of Manufacturers (NAM) Manufacturing Leadership Council town hall meeting, two manufacturers—The Bradbury Group and Greene Tweed—

shared their experiences and spoke with council members about what's worked and what hasn't for protecting the health and safety of their employees and workplaces.

You can listen to the [call here](#) and [read a blog post](#) summarizing the information here. The conversation included information on communication, return-to-work guidelines, and travel and visitor policies. *5/19/2020*

### **Important Program Deadline for Employers in BWC DFSP** **May 22, 2020**

Attention Drug-Free Safety Program (DFSP) participants: Your **annual report** is due to be submitted to the BWC on or before June 1, 2020. *5/18/2020*

### **More Guidance on Face Coverings** **May 15, 2020**

If you still have questions regarding the use of face coverings and face shields, you aren't alone. To help provide some clarity, [watch this video](#) in which Dr. Bill Gegas, medical director at Worthington Industries, explains the differences between various masks/coverings, as well as their advantages and disadvantages. Under the current "Stay Safe Ohio" order, employees are required to wear face coverings, **with exceptions**. The order (**Section 8**) specifically states that, at a minimum, facial coverings should be cloth/fabric and cover an individual's nose, mouth and chin. If you opt to use a different kind of face covering (including a face shield), document why that decision was made as a better/safer option for your employees. Be prepared to show the documentation to local health authorities, if requested.

Here are the **Ohio Department of Health's FAQs** on face coverings in the workplace, as well as the **OMA's FAQ document**. Also, here is **CDC guidance on using cloth face coverings**. *5/14/2020*

### **CDC Updates Safety Guidance for Manufacturers** **May 15, 2020**

The CDC has updated its **guidance for manufacturing workers and employers**. The guidance includes an **infographic on workstations**, as well as sections on

administrative controls, educating workers and supervisors, cleaning and disinfecting, use of PPE, and screening and monitoring employees. *5/13/2020*

### **Listen to OMA's Infectious Disease Webinar** **May 15, 2020**

With manufacturers focused on preventing the spread of COVID-19 at their workplaces, **this link** to the OMA's May 12 webinar will help employers develop an infectious disease preparedness and response plan. Presented by Safex President Dianne Grote Adams, the webinar includes more than 30 minutes of Q&A. *5/13/2020*

### **Ohio-Made Masks, Face Shields Available for Manufacturers** **May 15, 2020**

The Ohio Manufacturing Alliance to Fight COVID-19 has secured Ohio-made cotton masks and face shields to help Ohio manufacturers stay open and safe. These supplies are now available for purchase by Ohio manufacturers, and all prices are direct pass-throughs at cost from manufacturers in our state. **Click here** to order. Orders will ship via FedEx shortly after they are received. *5/12/2020*

### **ODH Offers Customizable Welcome 'Stop Sign' for Businesses** **May 15, 2020**

The Ohio Department of Health has made available **this editable sign** — in Microsoft Word format — for businesses to post as a reminder to customers to stay home if sick. Click the "download" button on the right side of the page to view the document. Also, check out the **Ohio Emergency PPE Makers' Exchange** if your business is in search of safety signage. *5/13/2020*

### **University Hospitals Launches COVID-19 Safety 'Playbook' for Businesses** **May 15, 2020**

**University Hospitals** has published the "**UH Healthy Restart Playbook**" to provide businesses with guidance to help keep their workforce, facilities and customers safe. The playbook includes a website with important, up-to-date content; a downloadable version of the



playbook; and an opportunity to ask UH experts for advice. 5/11/2020

### Steps Meatpackers Are Taking to Stop the Spread May 15, 2020

Meatpacking plants have been forced to take some of the most aggressive steps to stop the spread of the coronavirus. This **playbook and checklist** was developed by University of Nebraska Medical Center public health specialists to help meat plants fight COVID-19. It includes sections on factory ventilation and physical barriers. 5/11/2020

### Senate Begins Hearings on Workers' Comp PTSD Bill May 15, 2020

This week, the Senate's General Government and Agency Review Committee heard **sponsor testimony** on **House Bill 308** — legislation that would allow first responders to receive Ohio workers' compensation benefits if diagnosed with post-traumatic stress disorder (PTSD), even without an accompanying physical injury. Were HB 308 enacted, it would mark the first time that Ohio would allow a mental claim without accompanying physical harm. Current law prohibits so-called "mental-mental claims." There is concern that Ohio lawmakers are aiming to pass the bill before year's end. 5/14/2020

### What Ohio House Bill 197 Means for Workers' Compensation May 15, 2020

In late March, the Ohio Legislature passed and the governor signed **House Bill 197** as a direct response to the COVID-19 pandemic. OMA Connections Partner Dinsmore has published **this insight** into how HB 197 changed Ohio workers' compensation system in two key ways: permitting public meetings and "tolling" deadlines. 5/12/2020

### More Safety Guidance for Manufacturers May 8, 2020

This week, government agencies and OMA Connections Partners published more helpful COVID-19-related guidance for manufacturers, including:

- The state's **guidance on Ohio travel, checklist for businesses and employers**, and **guidance for re-opening**.
- The Ohio Department of Health's **updated checklist** for employers regarding potentially exposed workers.
- OSHA's **new video** and **poster** on how to properly wear and remove a mask/respirator.
- CDC's updated guidance on **strategies to optimize the supply of PPE**, as well as the **use of cloth face coverings**.
- Fisher Phillips' guidance on factors that employers should consider **when taking employees' temperatures**, as well as guidance on **developing a proactive workplace safety plan**.

Meanwhile, the OMA has updated its **FAQ document**, which addresses concerns raised by members (new questions are in green text). Also, the OMA has published **this document** called "Safety Guidance & Resources for Manufacturers During the COVID-19 Emergency." 5/7/2020

### Reminder: Read the 'Stay Safe Ohio' Order May 8, 2020

The "Stay Safe Ohio" order, issued a week ago, replaced Ohio's stay-at-home order and contains the safety protocols of the DeWine administration's re-opening plan. Manufacturers should pay special attention to **Sections 8, 10, 16, 20, and 21(a)**.

For additional guidance, the Ohio Department of Health has published **this FAQ document**. Also, **here is analysis** from OMA general counsel Bricker & Eckler. 5/5/2020

### OSHA Poster to Prevent Workplace Coronavirus Exposure Available in Multiple Languages May 8, 2020

OSHA's poster to prevent workplace coronavirus exposure has been published in 11 additional languages. The **poster highlights 10 infection prevention measures** every employer should implement to protect workers' safety and health during the pandemic. *5/6/2020*

### **State-by-State Re-Opening Information** **May 8, 2020**

The National Association of Manufacturers has refreshed its **state tracker** to provide the latest re-opening information across all 50 states. Also, the U.S. Chamber has launched an **interactive map** comparing state-by-state re-opening guidelines for employers. *5/6/2020*

### **BWC Hosts Employer Webinar; Two Dates Offered** **May 8, 2020**

This month, the Ohio BWC's Employer Update Webinar will include updates on COVID-19, employer dividends, the importance of reviewing your estimated annual premium notice, BWC program options, key dates, and the monthly safety tip. The webinar will last 25 minutes. Registration links are available for the following dates:

- **Tuesday, May 12** at 1:30 p.m.
- **Thursday, May 28** at 11:30 a.m.

The BWC will record this webinar and make it available for future viewing **here**. *5/4/2020*

### **Face Coverings Required for Manufacturing Employees Beginning May 4** **May 1, 2020**

The DeWine administration this week clarified that use of face coverings by employees will be mandatory under Ohio's re-opening plan. This clarification came after incorrect information was posted by the governor's staff earlier in the week.

**For manufacturers, this requirement begins May 4.** Fortunately, there are exceptions to the mandate. (The OMA engaged the administration to secure additional exceptions to address manufacturers' concerns.)

The exceptions are:

- An employee in a particular position is prohibited by a law or regulation from wearing a mask while on the job.
- Wearing a mask on the job is against documented industry best practices.
- Wearing a mask is a violation of a company's safety policy.
- Wearing a mask is not advisable for health purposes.
- An employee is alone in an enclosed workspace.
- There is a practical or safety reason a mask cannot be worn by an employee (e.g., extreme heat, wet conditions, need to communicate).

The administration has said that if any of these exceptions apply to a business — or one of its employees — written justification must be provided upon request. In other words, be prepared to show your written justification to local health care officials or law enforcement. *4/30/2020*

### **Face Coverings: Questions, Answers, Guidance** **May 1, 2020**

The Ohio Department of Health has published an FAQ document — in both a **web version** and **PDF** — regarding the use of cloth masks/face coverings in the workplace. The CDC has also **published guidance** on how to wear face coverings and make cloth face coverings at home.

To help clear confusion surrounding Ohio's face coverings requirement, **the OMA has published this document**.

Also, the OMA has updated **this collection of safety-related resources** to support Ohio manufacturers, whether they are re-opening their facilities or continuing essential operations. *4/30/2020*

### **OMA Webinar Addresses Best Practices During COVID-19 and Ohio's Re-Opening Period** **May 1, 2020**

On Wednesday, April 29, the OMA hosted a comprehensive COVID-19 briefing with subject-matter experts who addressed key issues facing manufacturers, including:

- Ohio's re-opening plan;
- Workplace safety;
- The use of PPE by employees;
- Unemployment insurance provisions; and
- Federal loan programs.

Numerous questions from members were answered, so we hope you are able to listen to **this recorded webinar**. (The event begins at the 3:20 mark.) *4/30/2020*

### **Guidance for Food & Beverage Manufacturers During COVID-19** **May 1, 2020**

Because food and beverage processors face unique safety challenges in protecting workers from COVID-19, OMA Connections Partner Plante Moran has published **this guidance**. *4/28/2020*

### **OMA Webinar: Infectious Disease Planning for Employers**

**May 1, 2020**

On Tuesday, May 12, at 10 a.m. (ET), the OMA will host a 60-minute webinar to help employers develop an Infectious Disease Preparedness and Response Plan, as recommended by OSHA. **Register or learn more here**. *4/30/2020*

### **Find PPE for Your Business on the Ohio Makers' Exchange** **May 1, 2020**

Here is a reminder for members searching for face coverings, masks, or other personal protective equipment (PPE). The Ohio Manufacturing Alliance to Fight COVID-19 recently launched the **Ohio Emergency PPE Makers' Exchange**, an online marketplace that features PPE offered by Ohio manufacturers and makers. At last check, some of the products listed include:

- assembly line partitions;
- face shields/masks/coverings;

- temperature testing stations;
- distancing signage;
- hand sanitizer;
- shoe coverings; and
- aprons/gowns.

Keep in mind that this is an exchange — more like Craigslist than eBay, so the transaction will be directly between you and the seller. The Alliance has screened vendors to the best of its ability to include only Ohio manufacturers, but it cannot vouch for sellers or products. *4/29/2020*

### **Reserve Cotton Face Masks, Plastic Shields Through OMA** **May 1, 2020**

The OMA, along with Northeast Ohio's MEP MAGNET, has earmarked stockpiles of cotton face masks and plastic face shields for Ohio manufacturers to purchase.

Approximately 200,000 cotton masks and 200,000 face shields will be ready to start to ship in about three weeks at a price of approximately \$4 per cotton mask or plastic face shield. Each product will be sold in lots of 25 pieces. Final prices will be determined by demand and will be at cost.

Fill out **this form** if you'd like us to reserve a quantity for you. No orders will be placed until we contact you with a final price and estimated delivery date. We will make every attempt to fulfill as many orders as possible — and we may limit quantities in order to serve as many manufacturers as possible. Products are manufactured in Ohio. *4/30/2020*

### **Ohio's Stay-At-Home Order Extended** **May 1, 2020**

The DeWine administration has extended Ohio's stay-at-home order to 11:59 p.m. May 29, 2020. The **new order** has major exceptions, including for people to shop, exercise outside and go to work. The order allows certain businesses to open, provided they follow recommended workplace safety precautions.

Today, May 1, non-essential medical procedures at hospitals that do not require an overnight stay are allowed to resume, as are dental and veterinary visits. On Monday, May 4, construction, manufacturing and distribution

operations can resume, and offices can re-open. On May 12, non-essential retail stores can re-open. Schools, bars and restaurants, appearance and beauty enterprises, child care, entertainment, and gyms must remain closed. *5/1/2020*

### **BWC Waives Two-Hour Safety Training Requirement for 2019 Program Year** **May 1, 2020**

Normally, the Ohio Bureau of Workers' Compensation (BWC) requires Group-Experience and Group-Retrospective rating participants that had a claim occurring in the "green period" to complete a two-hour training class by June 30, 2020. However, due to the pandemic, the BWC is waiving this safety requirement for the 2019 program year.

The BWC encourages employers to take advantage of its **online training opportunities**. And, as a reminder, the OMA will continue to offer its monthly schedule of **safety webinars**. *4/30/2020*

### **2020 Employer Dividend Impact on 2018 Group-Retrospective Rating Participants** **May 1, 2020**

As **reported earlier**, the BWC is issuing a 100% dividend of premiums employers paid in the 2018 policy year. How will this impact 2018 Group-Retrospective Rating participants? Private employers included in a 2018 Group-Retrospective program will receive as a rebate 100% of their experience-rated premium as of April 4, 2020. No further financial transactions impacting the 2018 policy year will be paid to, or assessed from, those employers' policies. In other words, the group-retrospective rating cycle will be complete upon payment of the dividend. For more, see the **BWC's dividend Q&A**. *4/30/2020*

### **Safety Guidance for Manufacturers During COVID-19** **April 24, 2020**

Recently, OSHA published safety tips for manufacturers to help protect employees from exposure to the coronavirus. The new alert is available in both **English** and **Spanish**. With safe workplaces on everyone's mind, the OMA has compiled **this collection of safety-**

**related resources** to support Ohio manufacturers, whether they are re-opening their facilities or continuing essential operations. *4/22/2020*

### **Develop an Infectious Disease Plan for Your Business** **April 24, 2020**

On Tuesday, May 12, at 10 a.m. (ET), the OMA will host a 60-minute webinar to address OSHA's recommendation that employers develop an Infectious Disease Preparedness and Response Plan in response to the COVID19 pandemic. The webinar will be presented by Safex's Dianne Grote Adams, a board-certified industrial hygienist with 40 years of experience. **Register or learn more**. *4/22/2020*

### **BWC Dividend Checks Are on the Way** **April 24, 2020**

If you have not already received it, your company's dividend check from the Ohio Bureau of Workers' Compensation (BWC) should be in the mail soon. This week, it was **announced** the BWC had begun sending 170,000 checks — worth a combined \$1.6 billion — to employers as a means of easing the economic damage caused by COVID-19. **Click here for FAQs**. The BWC has also allowed employers to defer monthly premium installment payments for March, April and May until June 1, and has waived or postponed some requirements and deadlines for **several programs**. *4/22/2020*

### **Ohio Manufacturing Alliance Launches Exchange to Help Employers Access PPE** **April 24, 2020**

Is your business seeking personal protective equipment (PPE) for employees? The Ohio Manufacturing Alliance to Fight COVID-19 recently launched the **Ohio Emergency PPE Makers' Exchange**, an online marketplace where organizations that need PPE and related equipment can find a selection offered by Ohio manufacturers and makers — many of which have retooled to produce in-demand products. Read the Alliance's **news release**. *4/24/2020*

### **The New Normal in Manufacturing** **April 17, 2020**

With plans being made to gradually reopen the economy, **The Wall Street Journal** (subscription) reports on what the new normal will look like across various industries. “Manufacturers have redrawn factory floor plans and implemented processes, such as staggering shift workers or asking employees to take turns eating lunch in their cars to avoid cafeteria crowding, practices that may become standard as more plants come back online.” The Journal spotlights Tyson Foods, which has installed walk-through temperature scanners at its plants, sending home workers who show potential COVID-19 symptoms.

Yesterday, April 16, Gov. Mike DeWine said the “new reality” is that the workplace will look very different — with masks, sanitizing of surfaces, and employee distancing — until a vaccine is developed.

Meanwhile, the CDC this week updated its **guidance on cleaning and disinfecting facilities** — and **vehicles** — as well as its **guidance on using face coverings**. 4/17/2020

#### **COVID-19 Safety: How Manufacturers are Responding** April 17, 2020

According to **this article** in *Forbes*, a recent national survey found the three most common ways manufacturers are keeping employees safe during the COVID-19 outbreak are:

- Health screening prior to the start of shifts;
- Maintaining distance within the factory; and
- Sanitization procedures (not enough manufacturers are doing this, according to the survey organizers).

The article provides examples of how companies are carrying out their protocols. 4/15/2020

#### **Guidance on COVID-19 Safety** April 17, 2020

OMA Connections Partners have provided valuable insight on a broad range of topics during the pandemic. Below is safety-related guidance published in recent days.

- Fisher Phillips on **how to avoid wrongful death and injury claims** for workplace COVID-19 exposure.
- Fisher Phillips on **how measuring worker temperatures** could lead to wage and hour claims.
- Benesch on **planning for a return to normal operations** after COVID-19.
- Fisher Phillips on the **CDC’s relaxed return-to-work standards** after COVID-19 exposure.

For a comprehensive list of OMA Connections Partners who offer coronavirus-related resources, visit the **OMA’s COVID-19 Resources Page**. 4/16/2020

#### **BWC Postpones MCO Enrollment Period** April 17, 2020

The Ohio Bureau of Workers’ Compensation (BWC) recently **announced** that, due to the impact of the COVID-19, it would postpone this year’s biennial open-enrollment period for employers to select a managed care organization (MCO) to medically manage workplace injuries. BWC will continue to publish its annual MCO Report Card, which will be available by the end of April on **BWC’s website**. 4/13/2020

#### **BWC Issues Payroll Reporting Guidance** April 17, 2020

The BWC Employer Services Division has announced it will implement two changes in payroll reporting requirements as a result of COVID-19. These changes may impact how you will report payroll for the upcoming (policy year 2019) true-up period.

*Q: Is emergency sick leave and expanded FMLA paid to employees under the Families First Coronavirus Response Act reportable when submitting true-up payroll?*

A: No. Emergency sick leave and expanded FMLA paid to employees under the Families First Coronavirus Response Act will not be reportable to BWC for premium purposes

*Q: How will employers report wages at true-up for operational employees who are teleworking as a result of Gov. DeWine's stay-at-home order while receiving wages from the employer?*

A: Employers are permitted to report operational staff currently teleworking to class code 8871-Clerical Telecommuter during a declared state of emergency. This will ease the economic impact of the COVID-19 state of emergency on the Ohio business community.

See the **BWC FAQs page**. 4/16/2020

### **OSHA Issues Revised COVID-19 Recordkeeping Requirement** **April 17, 2020**

OSHA recently **announced** it will not enforce recordkeeping requirements for COVID-19 in most industries where there is ongoing community transmission. As **reported**, this announcement reverses previous guidance provided by the agency in March when the agency said COVID-19 transmission in the workplace, unlike the flu or common cold, would be considered a recordable injury. OMA Connections Partner Frantz Ward has published **guidance** following the announcement, as has **Fisher Phillips**. 4/13/2020

### **HR Expert: Take Steps Now on Workplace Safety to Avoid Potential Lawsuits** **April 17, 2020**

This week, News Radio 610 WTVN (Columbus) host Joel Riley **interviewed** human resources expert Adam Calli, owner and founder of Arc Human Capital, LLC. Calli discussed a possible "tidal wave of lawsuits" against employers due to inadequate protective measures taken during the COVID-19 outbreak. He urged employers to take the necessary steps — including providing protective gear such as face masks — to lessen exposure risk and avoid possible lawsuits. 4/13/2020

### **BWC to Send \$1.6 Billion in Dividend Payments to Employers** **April 10, 2020**

Gov. Mike DeWine **this week asked** the Ohio Bureau of Workers' Compensation to send up to \$1.6 billion in dividends to Ohio employers to

ease the impact of the COVID-19 crisis. On Friday morning, April 10, the BWC board approved the governor's request in an emergency meeting. The BWC expects it will begin mailing checks to employers later this month. (For more, see this updated **FAQ list**.) According to the BWC, this dividend equals approximately 100% of the premiums employers paid in policy year 2018. The bureau will apply the dividend to an employer's outstanding balances first, including the recent installment deferrals. Any amounts exceeding outstanding balances will be sent to the employer. 4/10/2020

### **Another COVID-19 Workers' Compensation Bill Introduced** **April 10, 2020**

State Rep. **Tom Patton** (R-Strongsville) has **proposed** a new legislation to expand Ohio's workers' compensation coverage by granting food packaging, food processing, and grocery store employees benefits if they contract COVID19 while at their place of employment. The Patton bill comes on the heels of the recent introduction of other legislation that would expand workers' compensation benefits to employees who are infected by the virus. 4/9/2020

### **Guidance on Face Coverings for Manufacturers** **April 10, 2020**

Both the CDC and the DeWine administration **now recommend** wearing face coverings (not N-95s or surgical masks needed for health care workers) when social distancing measures are difficult to maintain. This includes at workplace environments. For the benefit of OMA members, here is the **CDC's guidance** for use of cloth face coverings, as well as **guidance from the Ohio Department of Health**. (Note: Face coverings are not a substitute for distancing.)

Also, here is **helpful insight** from OMA Connections Partner Fisher Phillips on two common questions regarding DIY cloth face coverings.

If your business is having difficulty procuring face masks for employees, the Alliance has **launched an initiative** to source the materials necessary to potentially produce non-surgical-grade "**loop masks**." Respond to our **brief survey** so we can assess the need for

— and appropriate potential quantities of — these masks. *4/9/2020*

### **Minimizing Risk of Exposure to Coronavirus** **April 10, 2020**

OSHA has released three new animated videos to provide quick tips on **social distancing, disinfecting workplaces, and industry risk factors** to keep workers safe from COVID-19. And check out **OSHA's new chart** that outlines safety steps to take based on worker exposure risk by industry. The CDC has updated **its page for businesses and employers** to prepare and respond to the coronavirus. *4/8/2020*

### **OSHA Extends March 14 Guidance on Use of Respirators** **April 10, 2020**

OSHA has **expanded temporary guidance** provided in a March 14, 2020, memo regarding supply shortages of N95s or other filtering respirators (FFRs) due to the COVID-19 pandemic. This expanded guidance applies to all workplaces covered by OSHA where there is required respirator use. OSHA field offices will exercise enforcement discretion concerning annual fit-testing requirements, as long as employers have made good-faith efforts to comply with the requirements of the Respiratory Protection standard and to follow the steps outlined in the March 14 memo. *4/8/2020*

### **OSHA Warns Against Employer Retaliation During Pandemic** **April 10, 2020**

OSHA this week issued a **press release** reminding employers that it is “illegal to retaliate against workers because they report unsafe and unhealthful working conditions during the coronavirus pandemic.” According to OSHA, acts of retaliation can include terminations, demotions, denials of overtime or promotion, or reductions in pay or hours. *4/8/2020*

### **CDC Updates Guidance for Disinfecting Facilities** **April 3, 2020**

Manufacturers have questions about how best to “deep clean” their facilities to prevent COVID-19

infection, or how to disinfect after an employee becomes ill. At this time, the best guidance comes from the **CDC's revised cleaning and disinfection page**, as well as this CDC instruction on **how to clean and disinfect your facility when someone is sick**. Both CDC pages were updated this week. *4/2/2020*

### **BWC Temporarily Waiving Safety Education Requirements for Some Programs** **April 3, 2020**

On March 30, the Ohio Bureau of Workers' Compensation (BWC) **announced** it is waiving all safety education and training requirements through June 30, 2020 for private employers enrolled in the following programs:

- Drug-Free Safety Program;
- EM Cap Program;
- Grow Ohio;
- Industry-Specific Safety Program;
- One Claim Program; and
- Policy Activity Rebate Program.

**See more** from OMA legal counsel Bricker & Eckler. *4/1/2020*

### **Ohio's COVID-19 Legislation Extends Deadline to File Workers' Comp Claims** **April 3, 2020**

Late last week, Gov. DeWine signed into law **House Bill 197** in response to the COVID-19 pandemic. Among the legislation's many provisions is one that tolls the statute of limitations for any administrative action or proceeding set to expire between March 9, 2020, and July 30, 2020.

According to **this insight** by OMA legal counsel Bricker & Eckler, this change impacts any relevant statute of limitations related to Ohio's workers' compensation claims. For new claims — which normally have a one-year window from date of injury for filing — HB 197 extends the statute of limitations to at least July 30, 2020 for claims of alleged injuries that occurred between March 9, 2019 and July 30, 2019. *4/1/2020*

### **COVID-19 Workers' Comp Bill in Ohio House** **March 27, 2020**

Ohio House Democrats this week introduced workers' compensation legislation (**House Bill**

**573)** that would make COVID-19 an occupational disease under Ohio workers' compensation law. Neither the bill nor its provisions were included in the emergency legislation (HB 197) passed this week. At this time, it does not appear that the workers' compensation expansion bill will move through the legislature, but the OMA will continue to monitor the bill and update members as needed. *3/26/2020*

**FDA Issues Guidance on Making Hand Sanitizers**  
**March 27, 2020**

The FDA has provided **emergency guidance** to communicate its policy for the temporary manufacture of certain alcohol-based hand sanitizing products. In short, the agency does not intend to take action against manufacturing firms that prepare such products for use by consumers and health care personnel during this public health emergency. Upon completion of registration and listing, firms will receive automatic confirmation and do not need to wait for a further communication before producing and distributing such products. **Email the FDA** if you need help with facilitating this process. *3/26/2020*

**Ohio State Study Shows Difficulty in Achieving Virus-Free Surfaces**  
**March 27, 2020**

Wiping surfaces with disinfectants might not be enough to protect against COVID-19 coronavirus because cleaning practices tend to be spotty, according to a **new study** from Ohio State University. The study's author, Jason Stull, said the results serve as a warning, and that "regardless of where you visit, it's also best to assume surfaces may be contaminated." He pointed to another study showing the COVID-19 coronavirus can survive for up to three days on a plastic or doorknob.

Stull recommends people concentrate on cleaning surfaces that are commonly touched, such as doorknobs and countertops, and urges that these efforts continue even after the COVID-19 crisis. *3/26/2020*

**BWC Publishes List of FAQs**  
**March 20, 2020**

Recent events have raised many questions from employers regarding workers' compensation. The Ohio Bureau of Workers' Compensation (BWC) has prepared **this list of frequently asked questions** to provide information about the coronavirus' impact on its operations. *3/19/2020*

**BWC Sees Investment Losses of About \$3.4 Billion for Month**  
**March 20, 2020**

The BWC has seen its investments drop by about 12.5% for the month due to the COVID-19 outbreak and its effect on the stock market. The BWC board, which met Thursday, March 19, was informed that the total stock and bond market value of the State Insurance Fund has dropped about \$3.1 billion, and across all funds, the value is down about \$3.4 billion, according to Gongwer News.

The board approved an emergency rule change to allow BWC Administrator/CEO Stephanie McCloud to postpone the managed care open enrollment period, perhaps until as late as May 2021. *3/19/2020*

**Workers' Comp Implications of COVID-19 for Employers**  
**March 20, 2020**

OMA legal counsel Bricker & Eckler notes that the BWC has not provided a specific stance regarding compensability of COVID-19. The firm notes that claims of exposure to viruses or other potentially dangerous substances are generally not covered by workers' compensation unless an injury or occupational disease results from such exposure. Therefore, a claim of exposure to COVID-19 at work is not, in itself, a compensable injury or disease. Each claim will need to be evaluated on a case-by-case basis. **See more here.** *3/19/2020*

**Industrial Commission Now Holding Hearings Via Phone; OMA Workers' Comp Team is Ready**  
**March 20, 2020**

This week, the Ohio Industrial Commission switched to conducting all workers' compensation hearings **by phone only**. Should you have an Industrial Commission hearing, the OMA's Workers' Compensation Services team is



prepared to defend the claim, or continue the hearing, whatever is in your best interests. If you have questions, email **Brian Jackson** or your account manager — **Karen James, Melissa Ross** or **Juliet Walker**. *3/18/2020*

### **U.S. EPA Expands List of COVID-19**

#### **Disinfectants**

**March 20, 2020**

The U.S. Environmental Protection Agency has **expanded its list of disinfectant products** qualified for use against COVID-19. The list has nearly 200 additional products. Meanwhile, the American Chemistry Council has a similar list of **products to fight COVID-19**. *3/18/2020*

### **Important BWC Deadlines Approaching**

**March 13, 2020**

This is a reminder that on Tuesday, March 31, program requirements are due for employers participating in the following Ohio Bureau of Workers' Compensation (BWC) programs:

- Drug-Free Safety Program participants must submit their annual report.
- One Claim Program participants must complete education requirements.
- EM Cap Program participants must complete education requirements.

The OMA has prepared **this guide** to remind members of important 2020 BWC deadlines, as well as key dates for **OMA Workers' Compensation Services** customers. *3/12/2020*

### **OSHA Reminds Employers COVID-19 is a Recordable Illness**

**March 13, 2020**

This week, OSHA **issued guidance** to help employers prepare their workplaces for the COVID-19 outbreak, along with a reminder that any incidents of employees contracting the coronavirus at work are recordable illnesses, subject to the same rules and failure-to-record fines as other workplace injuries and illnesses. *3/12/2020*

### **Thinking About a Health-and-Wellness Program for Your Employees?**

**March 13, 2020**

The BWC will be conducting a **free, 25-minute webinar** on Wednesday, March 25 for employers to learn more about Better You, Better Ohio!® — the free health-and-wellness program for businesses with 150 or fewer employees engaged in higher-risk industries, including manufacturing. The program gives employers a great opportunity to start an employee wellness program with no cost or paperwork hassle. *3/12/2020*

### **Helping Employers Prepare for Severe Weather Season**

**March 13, 2020**

According to the National Weather Service, Ohio recorded **59 tornadoes** last year, putting the Buckeye State in the top 10 tornado states for 2019. Just in time for severe weather season, OSHA has updated its **emergency preparedness and response page** — complete with employer responsibilities. *3/12/2020*

### **Analysis of Ohio's PTSD Legislation**

**March 13, 2020**

Read OMA Connections Partner **Dismore's take on House Bill 308**, costly legislation that would significantly expand Ohio's workers' compensation benefits and expenses. Last month, the Ohio House voted 74-22 to pass HB 308, which would provide first responders with workers' compensation benefits to treat PTSD, even when there is no physical injury. The OMA **opposes** the bill, which is currently pending in the Ohio Senate. *3/11/2020*

### **AG Blocks First Attempt of Recreational Pot Plan**

**March 13, 2020**

Attorney General Dave Yost this week **rejected** the summary language for a proposed constitutional amendment to legalize the recreational use of marijuana. According to the AG, the summary did not constitute a "fair and truthful" representation of the issue. If supporters successfully resubmit a new summary with 1,000 valid signatures and eventually get the green light from the AG and Ballot Board, they will need to gather roughly 443,000 valid signatures from registered voters by July 1 to get the issue on the November 2020 ballot. In 2015, Ohioans rejected legalizing

recreational use of marijuana (State Issue 3) by a 64% to 36% margin. *3/11/2020*

**Ohio Employers to See Another Workers' Comp Premium Cut**  
**March 6, 2020**

The Ohio Bureau of Workers' Compensation (BWC) board of directors has approved a \$132 million, 13% average premium rate cut for private employers. Effective July 1, the reduction will mark BWC's third-largest cut in 60 years. It follows last year's 20% rate cut. Actual premiums paid will depend on several factors. For information on steps you can take to reduce your premiums, contact the OMA Workers' Compensation Services team by emailing **Brian Jackson** or your account manager — **Karen James, Melissa Ross** or **Juliet Walker**. *3/4/2020*

**Retaining Workers Who Are Injured Outside the Workplace**  
**March 6, 2020**

Talent retention is more important than ever, especially after an injury or illness. A new federally funded program — called **Ohio RETAIN** — is exploring strategies to get individuals who have suffered a non-work-related health problem back on the job promptly and safely. Managed by the Ohio Department of Job and Family Services in coordination with Mercy Health, the program is currently in its pilot phase in Columbiana, Mahoning and Trumbull counties, with a planned expansion into Northwest and Southwest Ohio this fall. **Learn more** or **email Ohio RETAIN** to request a consultation. *3/2/2020*

**Workers' Compensation Legislation**  
Prepared by: The Ohio Manufacturers' Association  
Report created on June 8, 2020

- HB79**      **INDUSTRIAL COMMISSION BUDGET** (OELSLAGER S) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of Commission programs.  
*Current Status:* 6/27/2019 - **SIGNED BY GOVERNOR**; eff. 6/27/19  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-79>
- HB80**      **BWC BUDGET** (OELSLAGER S) To make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of the bureau's programs.  
*Current Status:* 7/22/2019 - **SIGNED BY GOVERNOR**; Eff. Immediately  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-80>
- HB81**      **WORKERS COMP-BODILY FLUID EXPOSURE** (PERALES R) Regarding Workers' Compensation coverage of post-exposure medical diagnostic services for a detention facility employee's exposure to another person's blood or bodily fluids.  
*Current Status:* 5/28/2020 - Consideration of Senate Amendments; House Does Concur, Vote 93-0  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-81>
- HB167**      **OCCUPATIONAL LUNG CONDITIONS** (CERA J) To modify workers' compensation benefit amounts for occupational pneumoconiosis claims and to create the Occupational Pneumoconiosis Board to determine medical findings for such claims.  
*Current Status:* 2/12/2020 - House Commerce and Labor, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-167>
- HB308**      **PTSD COVERAGE - FIRST RESPONDERS** (PATTON T) Concerning workers' compensation and disability retirement for peace officers, firefighters, and emergency medical workers diagnosed with posttraumatic stress disorder arising from employment without an accompanying physical injury.  
*Current Status:* 6/3/2020 - Senate General Government and Agency Review , (Third Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-308>
- HB330**      **FIREFIGHTER CANCER CLAIMS** (PATTON T) Regarding charging workers' compensation experience in firefighter cancer claims.  
*Current Status:* 6/3/2020 - House Insurance, (Third Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-330>
- HB571**      **COVID-19 - OCCUPATIONAL DISEASE** (BOGGS K) To make COVID-19 contracted by a peace officer, firefighter, or emergency medical worker an occupational disease under the Workers' Compensation Law under certain circumstances and to declare an emergency.  
*Current Status:* 5/19/2020 - House Insurance, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-571>

**HB573 COVID-19 - OCCUPATIONAL DISEASE (SOBECKI L, BOGGS K)** To make COVID-19 an occupational disease under the Workers' Compensation Law under certain circumstances and to declare an emergency.

**Current Status:** 5/12/2020 - House Insurance, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-573>

**HB605 COVID-19 - OCCUPATIONAL DISEASE (KELLY B, PATTON T)** To make COVID-19 contracted by an employee of a retail food establishment or food processing establishment an occupational disease under the Workers' Compensation Law under certain circumstances and to declare an emergency.

**Current Status:** 5/28/2020 - House Insurance, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-605>

**HB633 COVID-19 - OCCUPATIONAL DISEASE (BOGGS K)** To make COVID-19 contracted by specified types of employees an occupational disease under the Workers' Compensation Law under certain circumstances and to declare an emergency.

**Current Status:** 5/19/2020 - Referred to Committee House Insurance

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-633>

**HB667 COVID-19 OCCUPATIONAL DISEASE - CORRECTIONS OFFICER (BALDRIDGE B)** To make COVID-19 contracted by a corrections officer an occupational disease under the Workers' Compensation Law and to declare an emergency.

**Current Status:** 5/27/2020 - Referred to Committee House Insurance

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-667>

**HB668 COVID-19 OCCUPATIONAL DISEASE - EMERGENCY WORKER (BALDRIDGE B)** To make COVID-19 contracted by a peace officer, firefighter, or emergency medical worker an occupational disease under the Workers' Compensation Law and to declare an emergency.

**Current Status:** 5/27/2020 - Referred to Committee House Insurance

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-668>