

As Introduced

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S. B. No. 91

Senator Miller, R.

Cosponsors: Senators Miller, D., Morano, Smith, Kearney, Turner, Strahorn

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A B I L L

To amend sections 4112.02, 4112.05, 4112.08, and 1
4112.14 of the Revised Code to specify that 2
discrimination by an employer against any person 3
because of the person's credit history is an 4
unlawful discriminatory practice under the Ohio 5
Civil Rights Law. 6

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

Section 1. That sections 4112.02, 4112.05, 4112.08, and 7
4112.14 of the Revised Code be amended to read as follows: 8

Sec. 4112.02. It shall be an unlawful discriminatory 9
practice: 10

(A) For any employer, because of the race, color, religion, 11
sex, military status, national origin, disability, age, or 12
ancestry of any person, to discharge without just cause, to refuse 13
to hire, or otherwise to discriminate against that person with 14
respect to hire, tenure, terms, conditions, or privileges of 15
employment, or any matter directly or indirectly related to 16
employment. 17

(B) For an employment agency or personnel placement service, 18
because of race, color, religion, sex, military status, national 19

origin, disability, age, or ancestry, to do any of the following:	20
(1) Refuse or fail to accept, register, classify properly, or	21
refer for employment, or otherwise discriminate against any	22
person;	23
(2) Comply with a request from an employer for referral of	24
applicants for employment if the request directly or indirectly	25
indicates that the employer fails to comply with the provisions of	26
sections 4112.01 to 4112.07 of the Revised Code.	27
(C) For any labor organization to do any of the following:	28
(1) Limit or classify its membership on the basis of race,	29
color, religion, sex, military status, national origin,	30
disability, age, or ancestry;	31
(2) Discriminate against, limit the employment opportunities	32
of, or otherwise adversely affect the employment status, wages,	33
hours, or employment conditions of any person as an employee	34
because of race, color, religion, sex, military status, national	35
origin, disability, age, or ancestry.	36
(D) For any employer, labor organization, or joint	37
labor-management committee controlling apprentice training	38
programs to discriminate against any person because of race,	39
color, religion, sex, military status, national origin,	40
disability, or ancestry in admission to, or employment in, any	41
program established to provide apprentice training.	42
(E) Except where based on a bona fide occupational	43
qualification certified in advance by the commission, for any	44
employer, employment agency, personnel placement service, or labor	45
organization, prior to employment or admission to membership, to	46
do any of the following:	47
(1) Elicit or attempt to elicit any information concerning	48
the race, color, religion, sex, military status, national origin,	49

disability, age, or ancestry of an applicant for employment or membership; 50
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(2) Make or keep a record of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any applicant for employment or membership; 52
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(3) Use any form of application for employment, or personnel or membership blank, seeking to elicit information regarding race, color, religion, sex, military status, national origin, disability, age, or ancestry; but an employer holding a contract containing a nondiscrimination clause with the government of the United States, or any department or agency of that government, may require an employee or applicant for employment to furnish documentary proof of United States citizenship and may retain that proof in the employer's personnel records and may use photographic or fingerprint identification for security purposes; 55
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(4) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification, or discrimination, based upon race, color, religion, sex, military status, national origin, disability, age, or ancestry; 65
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(5) Announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of that group; 70
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(6) Utilize in the recruitment or hiring of persons any employment agency, personnel placement service, training school or center, labor organization, or any other employee-referring source known to discriminate against persons because of their race, color, religion, sex, military status, national origin, disability, age, or ancestry. 75
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(F) For any person seeking employment to publish or cause to be published any advertisement that specifies or in any manner indicates that person's race, color, religion, sex, military status, national origin, disability, age, or ancestry, or expresses a limitation or preference as to the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any prospective employer.

(G) For any proprietor or any employee, keeper, or manager of a place of public accommodation to deny to any person, except for reasons applicable alike to all persons regardless of race, color, religion, sex, military status, national origin, disability, age, or ancestry, the full enjoyment of the accommodations, advantages, facilities, or privileges of the place of public accommodation.

(H) For any person to do any of the following:

(1) Refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin;

(2) Represent to any person that housing accommodations are not available for inspection, sale, or rental, when in fact they are available, because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin;

(3) Discriminate against any person in the making or purchasing of loans or the provision of other financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations, or any person in the making or purchasing of loans or the provision of other financial assistance that is secured by residential real estate, because of race, color, religion, sex, military status, familial status,

ancestry, disability, or national origin or because of the racial 112
composition of the neighborhood in which the housing 113
accommodations are located, provided that the person, whether an 114
individual, corporation, or association of any type, lends money 115
as one of the principal aspects or incident to the person's 116
principal business and not only as a part of the purchase price of 117
an owner-occupied residence the person is selling nor merely 118
casually or occasionally to a relative or friend; 119

(4) Discriminate against any person in the terms or 120
conditions of selling, transferring, assigning, renting, leasing, 121
or subleasing any housing accommodations or in furnishing 122
facilities, services, or privileges in connection with the 123
ownership, occupancy, or use of any housing accommodations, 124
including the sale of fire, extended coverage, or homeowners 125
insurance, because of race, color, religion, sex, military status, 126
familial status, ancestry, disability, or national origin or 127
because of the racial composition of the neighborhood in which the 128
housing accommodations are located; 129

(5) Discriminate against any person in the terms or 130
conditions of any loan of money, whether or not secured by 131
mortgage or otherwise, for the acquisition, construction, 132
rehabilitation, repair, or maintenance of housing accommodations 133
because of race, color, religion, sex, military status, familial 134
status, ancestry, disability, or national origin or because of the 135
racial composition of the neighborhood in which the housing 136
accommodations are located; 137

(6) Refuse to consider without prejudice the combined income 138
of both husband and wife for the purpose of extending mortgage 139
credit to a married couple or either member of a married couple; 140

(7) Print, publish, or circulate any statement or 141
advertisement, or make or cause to be made any statement or 142
advertisement, relating to the sale, transfer, assignment, rental, 143

lease, sublease, or acquisition of any housing accommodations, or 144
relating to the loan of money, whether or not secured by mortgage 145
or otherwise, for the acquisition, construction, rehabilitation, 146
repair, or maintenance of housing accommodations, that indicates 147
any preference, limitation, specification, or discrimination based 148
upon race, color, religion, sex, military status, familial status, 149
ancestry, disability, or national origin, or an intention to make 150
any such preference, limitation, specification, or discrimination; 151

(8) Except as otherwise provided in division (H)(8) or (17) 152
of this section, make any inquiry, elicit any information, make or 153
keep any record, or use any form of application containing 154
questions or entries concerning race, color, religion, sex, 155
military status, familial status, ancestry, disability, or 156
national origin in connection with the sale or lease of any 157
housing accommodations or the loan of any money, whether or not 158
secured by mortgage or otherwise, for the acquisition, 159
construction, rehabilitation, repair, or maintenance of housing 160
accommodations. Any person may make inquiries, and make and keep 161
records, concerning race, color, religion, sex, military status, 162
familial status, ancestry, disability, or national origin for the 163
purpose of monitoring compliance with this chapter. 164

(9) Include in any transfer, rental, or lease of housing 165
accommodations any restrictive covenant, or honor or exercise, or 166
attempt to honor or exercise, any restrictive covenant; 167

(10) Induce or solicit, or attempt to induce or solicit, a 168
housing accommodations listing, sale, or transaction by 169
representing that a change has occurred or may occur with respect 170
to the racial, religious, sexual, military status, familial 171
status, or ethnic composition of the block, neighborhood, or other 172
area in which the housing accommodations are located, or induce or 173
solicit, or attempt to induce or solicit, a housing accommodations 174
listing, sale, or transaction by representing that the presence or 175

anticipated presence of persons of any race, color, religion, sex,	176
military status, familial status, ancestry, disability, or	177
national origin, in the block, neighborhood, or other area will or	178
may have results including, but not limited to, the following:	179
(a) The lowering of property values;	180
(b) A change in the racial, religious, sexual, military	181
status, familial status, or ethnic composition of the block,	182
neighborhood, or other area;	183
(c) An increase in criminal or antisocial behavior in the	184
block, neighborhood, or other area;	185
(d) A decline in the quality of the schools serving the	186
block, neighborhood, or other area.	187
(11) Deny any person access to or membership or participation	188
in any multiple-listing service, real estate brokers'	189
organization, or other service, organization, or facility relating	190
to the business of selling or renting housing accommodations, or	191
discriminate against any person in the terms or conditions of that	192
access, membership, or participation, on account of race, color,	193
religion, sex, military status, familial status, national origin,	194
disability, or ancestry;	195
(12) Coerce, intimidate, threaten, or interfere with any	196
person in the exercise or enjoyment of, or on account of that	197
person's having exercised or enjoyed or having aided or encouraged	198
any other person in the exercise or enjoyment of, any right	199
granted or protected by division (H) of this section;	200
(13) Discourage or attempt to discourage the purchase by a	201
prospective purchaser of housing accommodations, by representing	202
that any block, neighborhood, or other area has undergone or might	203
undergo a change with respect to its religious, racial, sexual,	204
military status, familial status, or ethnic composition;	205

(14) Refuse to sell, transfer, assign, rent, lease, sublease,	206
or finance, or otherwise deny or withhold, a burial lot from any	207
person because of the race, color, sex, military status, familial	208
status, age, ancestry, disability, or national origin of any	209
prospective owner or user of the lot;	210
(15) Discriminate in the sale or rental of, or otherwise make	211
unavailable or deny, housing accommodations to any buyer or renter	212
because of a disability of any of the following:	213
(a) The buyer or renter;	214
(b) A person residing in or intending to reside in the	215
housing accommodations after they are sold, rented, or made	216
available;	217
(c) Any individual associated with the person described in	218
division (H)(15)(b) of this section.	219
(16) Discriminate in the terms, conditions, or privileges of	220
the sale or rental of housing accommodations to any person or in	221
the provision of services or facilities to any person in	222
connection with the housing accommodations because of a disability	223
of any of the following:	224
(a) That person;	225
(b) A person residing in or intending to reside in the	226
housing accommodations after they are sold, rented, or made	227
available;	228
(c) Any individual associated with the person described in	229
division (H)(16)(b) of this section.	230
(17) Except as otherwise provided in division (H)(17) of this	231
section, make an inquiry to determine whether an applicant for the	232
sale or rental of housing accommodations, a person residing in or	233
intending to reside in the housing accommodations after they are	234
sold, rented, or made available, or any individual associated with	235

that person has a disability, or make an inquiry to determine the 236
nature or severity of a disability of the applicant or such a 237
person or individual. The following inquiries may be made of all 238
applicants for the sale or rental of housing accommodations, 239
regardless of whether they have disabilities: 240

(a) An inquiry into an applicant's ability to meet the 241
requirements of ownership or tenancy; 242

(b) An inquiry to determine whether an applicant is qualified 243
for housing accommodations available only to persons with 244
disabilities or persons with a particular type of disability; 245

(c) An inquiry to determine whether an applicant is qualified 246
for a priority available to persons with disabilities or persons 247
with a particular type of disability; 248

(d) An inquiry to determine whether an applicant currently 249
uses a controlled substance in violation of section 2925.11 of the 250
Revised Code or a substantively comparable municipal ordinance; 251

(e) An inquiry to determine whether an applicant at any time 252
has been convicted of or pleaded guilty to any offense, an element 253
of which is the illegal sale, offer to sell, cultivation, 254
manufacture, other production, shipment, transportation, delivery, 255
or other distribution of a controlled substance. 256

(18)(a) Refuse to permit, at the expense of a person with a 257
disability, reasonable modifications of existing housing 258
accommodations that are occupied or to be occupied by the person 259
with a disability, if the modifications may be necessary to afford 260
the person with a disability full enjoyment of the housing 261
accommodations. This division does not preclude a landlord of 262
housing accommodations that are rented or to be rented to a 263
disabled tenant from conditioning permission for a proposed 264
modification upon the disabled tenant's doing one or more of the 265
following: 266

(i) Providing a reasonable description of the proposed 267
modification and reasonable assurances that the proposed 268
modification will be made in a workerlike manner and that any 269
required building permits will be obtained prior to the 270
commencement of the proposed modification; 271

(ii) Agreeing to restore at the end of the tenancy the 272
interior of the housing accommodations to the condition they were 273
in prior to the proposed modification, but subject to reasonable 274
wear and tear during the period of occupancy, if it is reasonable 275
for the landlord to condition permission for the proposed 276
modification upon the agreement; 277

(iii) Paying into an interest-bearing escrow account that is 278
in the landlord's name, over a reasonable period of time, a 279
reasonable amount of money not to exceed the projected costs at 280
the end of the tenancy of the restoration of the interior of the 281
housing accommodations to the condition they were in prior to the 282
proposed modification, but subject to reasonable wear and tear 283
during the period of occupancy, if the landlord finds the account 284
reasonably necessary to ensure the availability of funds for the 285
restoration work. The interest earned in connection with an escrow 286
account described in this division shall accrue to the benefit of 287
the disabled tenant who makes payments into the account. 288

(b) A landlord shall not condition permission for a proposed 289
modification upon a disabled tenant's payment of a security 290
deposit that exceeds the customarily required security deposit of 291
all tenants of the particular housing accommodations. 292

(19) Refuse to make reasonable accommodations in rules, 293
policies, practices, or services when necessary to afford a person 294
with a disability equal opportunity to use and enjoy a dwelling 295
unit, including associated public and common use areas; 296

(20) Fail to comply with the standards and rules adopted 297

under division (A) of section 3781.111 of the Revised Code;	298
(21) Discriminate against any person in the selling,	299
brokering, or appraising of real property because of race, color,	300
religion, sex, military status, familial status, ancestry,	301
disability, or national origin;	302
(22) Fail to design and construct covered multifamily	303
dwellings for first occupancy on or after June 30, 1992, in	304
accordance with the following conditions:	305
(a) The dwellings shall have at least one building entrance	306
on an accessible route, unless it is impractical to do so because	307
of the terrain or unusual characteristics of the site.	308
(b) With respect to dwellings that have a building entrance	309
on an accessible route, all of the following apply:	310
(i) The public use areas and common use areas of the	311
dwellings shall be readily accessible to and usable by persons	312
with a disability.	313
(ii) All the doors designed to allow passage into and within	314
all premises shall be sufficiently wide to allow passage by	315
persons with a disability who are in wheelchairs.	316
(iii) All premises within covered multifamily dwelling units	317
shall contain an accessible route into and through the dwelling;	318
all light switches, electrical outlets, thermostats, and other	319
environmental controls within such units shall be in accessible	320
locations; the bathroom walls within such units shall contain	321
reinforcements to allow later installation of grab bars; and the	322
kitchens and bathrooms within such units shall be designed and	323
constructed in a manner that enables an individual in a wheelchair	324
to maneuver about such rooms.	325
For purposes of division (H)(22) of this section, "covered	326
multifamily dwellings" means buildings consisting of four or more	327

units if such buildings have one or more elevators and ground 328
floor units in other buildings consisting of four or more units. 329

(I) For any person to discriminate in any manner against any 330
other person because that person has opposed any unlawful 331
discriminatory practice defined in this section or because that 332
person has made a charge, testified, assisted, or participated in 333
any manner in any investigation, proceeding, or hearing under 334
sections 4112.01 to 4112.07 of the Revised Code. 335

(J) For any person to aid, abet, incite, compel, or coerce 336
the doing of any act declared by this section to be an unlawful 337
discriminatory practice, to obstruct or prevent any person from 338
complying with this chapter or any order issued under it, or to 339
attempt directly or indirectly to commit any act declared by this 340
section to be an unlawful discriminatory practice. 341

(K) For an employer to use a person's credit rating or score 342
or consumer credit history as a factor in making decisions 343
regarding that person's employment, including hiring, tenure, 344
terms, conditions, or privileges of employment, or any matter 345
directly or indirectly related to employment. 346

(L)(1) Nothing in division (H) of this section shall bar any 347
religious or denominational institution or organization, or any 348
nonprofit charitable or educational organization that is operated, 349
supervised, or controlled by or in connection with a religious 350
organization, from limiting the sale, rental, or occupancy of 351
housing accommodations that it owns or operates for other than a 352
commercial purpose to persons of the same religion, or from giving 353
preference in the sale, rental, or occupancy of such housing 354
accommodations to persons of the same religion, unless membership 355
in the religion is restricted on account of race, color, or 356
national origin. 357

(2) Nothing in division (H) of this section shall bar any 358

bona fide private or fraternal organization that, incidental to 359
its primary purpose, owns or operates lodgings for other than a 360
commercial purpose, from limiting the rental or occupancy of the 361
lodgings to its members or from giving preference to its members. 362

(3) Nothing in division (H) of this section limits the 363
applicability of any reasonable local, state, or federal 364
restrictions regarding the maximum number of occupants permitted 365
to occupy housing accommodations. Nothing in that division 366
prohibits the owners or managers of housing accommodations from 367
implementing reasonable occupancy standards based on the number 368
and size of sleeping areas or bedrooms and the overall size of a 369
dwelling unit, provided that the standards are not implemented to 370
circumvent the purposes of this chapter and are formulated, 371
implemented, and interpreted in a manner consistent with this 372
chapter and any applicable local, state, or federal restrictions 373
regarding the maximum number of occupants permitted to occupy 374
housing accommodations. 375

(4) Nothing in division (H) of this section requires that 376
housing accommodations be made available to an individual whose 377
tenancy would constitute a direct threat to the health or safety 378
of other individuals or whose tenancy would result in substantial 379
physical damage to the property of others. 380

(5) Nothing in division (H) of this section pertaining to 381
discrimination on the basis of familial status shall be construed 382
to apply to any of the following: 383

(a) Housing accommodations provided under any state or 384
federal program that have been determined under the "Fair Housing 385
Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as 386
amended, to be specifically designed and operated to assist 387
elderly persons; 388

(b) Housing accommodations intended for and solely occupied 389

by persons who are sixty-two years of age or older; 390

(c) Housing accommodations intended and operated for 391
occupancy by at least one person who is fifty-five years of age or 392
older per unit, as determined under the "Fair Housing Amendments 393
Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended. 394

~~(L)~~(M) Nothing in divisions (A) to (E) of this section shall 395
be construed to require a person with a disability to be employed 396
or trained under circumstances that would significantly increase 397
the occupational hazards affecting either the person with a 398
disability, other employees, the general public, or the facilities 399
in which the work is to be performed, or to require the employment 400
or training of a person with a disability in a job that requires 401
the person with a disability routinely to undertake any task, the 402
performance of which is substantially and inherently impaired by 403
the person's disability. 404

~~(M)~~(N) Nothing in divisions (H)(1) to (18) of this section 405
shall be construed to require any person selling or renting 406
property to modify the property in any way or to exercise a higher 407
degree of care for a person with a disability, to relieve any 408
person with a disability of any obligation generally imposed on 409
all persons regardless of disability in a written lease, rental 410
agreement, or contract of purchase or sale, or to forbid 411
distinctions based on the inability to fulfill the terms and 412
conditions, including financial obligations, of the lease, 413
agreement, or contract. 414

~~(N)~~(O) An aggrieved individual may enforce the individual's 415
rights relative to discrimination on the basis of age as provided 416
for in this section by instituting a civil action, within one 417
hundred eighty days after the alleged unlawful discriminatory 418
practice occurred, in any court with jurisdiction for any legal or 419
equitable relief that will effectuate the individual's rights. 420

A person who files a civil action under this division is 421
barred, with respect to the practices complained of, from 422
instituting a civil action under section 4112.14 of the Revised 423
Code and from filing a charge with the commission under section 424
4112.05 of the Revised Code. 425

~~(O)~~(P) With regard to age, it shall not be an unlawful 426
discriminatory practice and it shall not constitute a violation of 427
division (A) of section 4112.14 of the Revised Code for any 428
employer, employment agency, joint labor-management committee 429
controlling apprenticeship training programs, or labor 430
organization to do any of the following: 431

(1) Establish bona fide employment qualifications reasonably 432
related to the particular business or occupation that may include 433
standards for skill, aptitude, physical capability, intelligence, 434
education, maturation, and experience; 435

(2) Observe the terms of a bona fide seniority system or any 436
bona fide employee benefit plan, including, but not limited to, a 437
retirement, pension, or insurance plan, that is not a subterfuge 438
to evade the purposes of this section. However, no such employee 439
benefit plan shall excuse the failure to hire any individual, and 440
no such seniority system or employee benefit plan shall require or 441
permit the involuntary retirement of any individual, because of 442
the individual's age except as provided for in the "Age 443
Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 444
29 U.S.C.A. 623, as amended by the "Age Discrimination in 445
Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 446
623, as amended. 447

(3) Retire an employee who has attained sixty-five years of 448
age who, for the two-year period immediately before retirement, is 449
employed in a bona fide executive or a high policymaking position, 450
if the employee is entitled to an immediate nonforfeitable annual 451
retirement benefit from a pension, profit-sharing, savings, or 452

deferred compensation plan, or any combination of those plans, of 453
the employer of the employee, which equals, in the aggregate, at 454
least forty-four thousand dollars, in accordance with the 455
conditions of the "Age Discrimination in Employment Act Amendment 456
of 1978," 92 Stat. 189, 29 U.S.C.A. 631, as amended by the "Age 457
Discrimination in Employment Act Amendments of 1986," 100 Stat. 458
3342, 29 U.S.C.A. 631, as amended; 459

(4) Observe the terms of any bona fide apprenticeship program 460
if the program is registered with the Ohio apprenticeship council 461
pursuant to sections 4139.01 to 4139.06 of the Revised Code and is 462
approved by the federal committee on apprenticeship of the United 463
States department of labor. 464

~~(P)~~(O) Nothing in this chapter prohibiting age discrimination 465
and nothing in division (A) of section 4112.14 of the Revised Code 466
shall be construed to prohibit the following: 467

(1) The designation of uniform age the attainment of which is 468
necessary for public employees to receive pension or other 469
retirement benefits pursuant to Chapter 145., 742., 3307., 3309., 470
or 5505. of the Revised Code; 471

(2) The mandatory retirement of uniformed patrol officers of 472
the state highway patrol as provided in section 5505.16 of the 473
Revised Code; 474

(3) The maximum age requirements for appointment as a patrol 475
officer in the state highway patrol established by section 5503.01 476
of the Revised Code; 477

(4) The maximum age requirements established for original 478
appointment to a police department or fire department in sections 479
124.41 and 124.42 of the Revised Code; 480

(5) Any maximum age not in conflict with federal law that may 481
be established by a municipal charter, municipal ordinance, or 482
resolution of a board of township trustees for original 483

appointment as a police officer or firefighter; 484

(6) Any mandatory retirement provision not in conflict with 485
federal law of a municipal charter, municipal ordinance, or 486
resolution of a board of township trustees pertaining to police 487
officers and firefighters; 488

(7) Until January 1, 1994, the mandatory retirement of any 489
employee who has attained seventy years of age and who is serving 490
under a contract of unlimited tenure, or similar arrangement 491
providing for unlimited tenure, at an institution of higher 492
education as defined in the "Education Amendments of 1980," 94 493
Stat. 1503, 20 U.S.C.A. 1141(a). 494

~~(Q)~~(R)(1)(a) Except as provided in division ~~(Q)~~(R)(1)(b) of 495
this section, for purposes of divisions (A) to (E) of this 496
section, a disability does not include any physiological disorder 497
or condition, mental or psychological disorder, or disease or 498
condition caused by an illegal use of any controlled substance by 499
an employee, applicant, or other person, if an employer, 500
employment agency, personnel placement service, labor 501
organization, or joint labor-management committee acts on the 502
basis of that illegal use. 503

(b) Division ~~(Q)~~(R)(1)(a) of this section does not apply to 504
an employee, applicant, or other person who satisfies any of the 505
following: 506

(i) The employee, applicant, or other person has successfully 507
completed a supervised drug rehabilitation program and no longer 508
is engaging in the illegal use of any controlled substance, or the 509
employee, applicant, or other person otherwise successfully has 510
been rehabilitated and no longer is engaging in that illegal use. 511

(ii) The employee, applicant, or other person is 512
participating in a supervised drug rehabilitation program and no 513
longer is engaging in the illegal use of any controlled substance. 514

(iii) The employee, applicant, or other person is erroneously regarded as engaging in the illegal use of any controlled substance, but the employee, applicant, or other person is not engaging in that illegal use.

(2) Divisions (A) to (E) of this section do not prohibit an employer, employment agency, personnel placement service, labor organization, or joint labor-management committee from doing any of the following:

(a) Adopting or administering reasonable policies or procedures, including, but not limited to, testing for the illegal use of any controlled substance, that are designed to ensure that an individual described in division ~~(Q)~~(R)(1)(b)(i) or (ii) of this section no longer is engaging in the illegal use of any controlled substance;

(b) Prohibiting the illegal use of controlled substances and the use of alcohol at the workplace by all employees;

(c) Requiring that employees not be under the influence of alcohol or not be engaged in the illegal use of any controlled substance at the workplace;

(d) Requiring that employees behave in conformance with the requirements established under "The Drug-Free Workplace Act of 1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended;

(e) Holding an employee who engages in the illegal use of any controlled substance or who is an alcoholic to the same qualification standards for employment or job performance, and the same behavior, to which the employer, employment agency, personnel placement service, labor organization, or joint labor-management committee holds other employees, even if any unsatisfactory performance or behavior is related to an employee's illegal use of a controlled substance or alcoholism;

(f) Exercising other authority recognized in the "Americans

with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101, 546
as amended, including, but not limited to, requiring employees to 547
comply with any applicable federal standards. 548

(3) For purposes of this chapter, a test to determine the 549
illegal use of any controlled substance does not include a medical 550
examination. 551

(4) Division ~~(Q)~~(R) of this section does not encourage, 552
prohibit, or authorize, and shall not be construed as encouraging, 553
prohibiting, or authorizing, the conduct of testing for the 554
illegal use of any controlled substance by employees, applicants, 555
or other persons, or the making of employment decisions based on 556
the results of that type of testing. 557

Sec. 4112.05. (A) The commission, as provided in this 558
section, shall prevent any person from engaging in unlawful 559
discriminatory practices, provided that, before instituting the 560
formal hearing authorized by division (B) of this section, it 561
shall attempt, by informal methods of conference, conciliation, 562
and persuasion, to induce compliance with this chapter. 563

(B)(1) Any person may file a charge with the commission 564
alleging that another person has engaged or is engaging in an 565
unlawful discriminatory practice. In the case of a charge alleging 566
an unlawful discriminatory practice described in division (A), 567
(B), (C), (D), (E), (F), (G), (I), ~~or~~ (J), or (K) of section 568
4112.02 or in section 4112.021 or 4112.022 of the Revised Code, 569
the charge shall be in writing and under oath and shall be filed 570
with the commission within six months after the alleged unlawful 571
discriminatory practice was committed. In the case of a charge 572
alleging an unlawful discriminatory practice described in division 573
(H) of section 4112.02 of the Revised Code, the charge shall be in 574
writing and under oath and shall be filed with the commission 575
within one year after the alleged unlawful discriminatory practice 576

was committed. 577

(2) Upon receiving a charge, the commission may initiate a 578
preliminary investigation to determine whether it is probable that 579
an unlawful discriminatory practice has been or is being engaged 580
in. The commission also may conduct, upon its own initiative and 581
independent of the filing of any charges, a preliminary 582
investigation relating to any of the unlawful discriminatory 583
practices described in division (A), (B), (C), (D), (E), (F), (I), 584
~~or~~ (J), or (K) of section 4112.02 or in section 4112.021 or 585
4112.022 of the Revised Code. Prior to a notification of a 586
complainant under division (B)(4) of this section or prior to the 587
commencement of informal methods of conference, conciliation, and 588
persuasion under that division, the members of the commission and 589
the officers and employees of the commission shall not make public 590
in any manner and shall retain as confidential all information 591
that was obtained as a result of or that otherwise pertains to a 592
preliminary investigation other than one described in division 593
(B)(3) of this section. 594

(3)(a) Unless it is impracticable to do so and subject to its 595
authority under division (B)(3)(d) of this section, the commission 596
shall complete a preliminary investigation of a charge filed 597
pursuant to division (B)(1) of this section that alleges an 598
unlawful discriminatory practice described in division (H) of 599
section 4112.02 of the Revised Code, and shall take one of the 600
following actions, within one hundred days after the filing of the 601
charge: 602

(i) Notify the complainant and the respondent that it is not 603
probable that an unlawful discriminatory practice described in 604
division (H) of section 4112.02 of the Revised Code has been or is 605
being engaged in and that the commission will not issue a 606
complaint in the matter; 607

(ii) Initiate a complaint and schedule it for informal 608

methods of conference, conciliation, and persuasion; 609

(iii) Initiate a complaint and refer it to the attorney 610
general with a recommendation to seek a temporary or permanent 611
injunction or a temporary restraining order. If this action is 612
taken, the attorney general shall apply, as expeditiously as 613
possible after receipt of the complaint, to the court of common 614
pleas of the county in which the unlawful discriminatory practice 615
allegedly occurred for the appropriate injunction or order, and 616
the court shall hear and determine the application as 617
expeditiously as possible. 618

(b) If it is not practicable to comply with the requirements 619
of division (B)(3)(a) of this section within the one-hundred-day 620
period described in that division, the commission shall notify the 621
complainant and the respondent in writing of the reasons for the 622
noncompliance. 623

(c) Prior to the issuance of a complaint under division 624
(B)(3)(a)(ii) or (iii) of this section or prior to a notification 625
of the complainant and the respondent under division (B)(3)(a)(i) 626
of this section, the members of the commission and the officers 627
and employees of the commission shall not make public in any 628
manner and shall retain as confidential all information that was 629
obtained as a result of or that otherwise pertains to a 630
preliminary investigation of a charge filed pursuant to division 631
(B)(1) of this section that alleges an unlawful discriminatory 632
practice described in division (H) of section 4112.05 of the 633
Revised Code. 634

(d) Notwithstanding the types of action described in 635
divisions (B)(3)(a)(ii) and (iii) of this section, prior to the 636
issuance of a complaint or the referral of a complaint to the 637
attorney general and prior to endeavoring to eliminate an unlawful 638
discriminatory practice described in division (H) of section 639
4112.02 of the Revised Code by informal methods of conference, 640

conciliation, and persuasion, the commission may seek a temporary 641
or permanent injunction or a temporary restraining order in the 642
court of common pleas of the county in which the unlawful 643
discriminatory practice allegedly occurred. 644

(4) If the commission determines after a preliminary 645
investigation other than one described in division (B)(3) of this 646
section that it is not probable that an unlawful discriminatory 647
practice has been or is being engaged in, it shall notify any 648
complainant under division (B)(1) of this section that it has so 649
determined and that it will not issue a complaint in the matter. 650
If the commission determines after a preliminary investigation 651
other than the one described in division (B)(3) of this section 652
that it is probable that an unlawful discriminatory practice has 653
been or is being engaged in, it shall endeavor to eliminate the 654
practice by informal methods of conference, conciliation, and 655
persuasion. 656

(5) Nothing said or done during informal methods of 657
conference, conciliation, and persuasion under this section shall 658
be disclosed by any member of the commission or its staff or be 659
used as evidence in any subsequent hearing or other proceeding. 660
If, after a preliminary investigation and the use of informal 661
methods of conference, conciliation, and persuasion under this 662
section, the commission is satisfied that any unlawful 663
discriminatory practice will be eliminated, it may treat the 664
charge involved as being conciliated and enter that disposition on 665
the records of the commission. If the commission fails to effect 666
the elimination of an unlawful discriminatory practice by informal 667
methods of conference, conciliation, and persuasion under this 668
section and to obtain voluntary compliance with this chapter, the 669
commission shall issue and cause to be served upon any person, 670
including the respondent against whom a complainant has filed a 671
charge pursuant to division (B)(1) of this section, a complaint 672

stating the charges involved and containing a notice of an 673
opportunity for a hearing before the commission, a member of the 674
commission, or a hearing examiner at a place that is stated in the 675
notice and that is located within the county in which the alleged 676
unlawful discriminatory practice has occurred or is occurring or 677
in which the respondent resides or transacts business. The hearing 678
shall be held not less than thirty days after the service of the 679
complaint upon the complainant, the aggrieved persons other than 680
the complainant on whose behalf the complaint is issued, and the 681
respondent, unless the complainant, an aggrieved person, or the 682
respondent elects to proceed under division (A)(2) of section 683
4112.051 of the Revised Code when that division is applicable. If 684
a complaint pertains to an alleged unlawful discriminatory 685
practice described in division (H) of section 4112.02 of the 686
Revised Code, the complaint shall notify the complainant, an 687
aggrieved person, and the respondent of the right of the 688
complainant, an aggrieved person, or the respondent to elect to 689
proceed with the administrative hearing process under this section 690
or to proceed under division (A)(2) of section 4112.051 of the 691
Revised Code. 692

(6) The attorney general shall represent the commission at 693
any hearing held pursuant to division (B)(5) of this section and 694
shall present the evidence in support of the complaint. 695

(7) Any complaint issued pursuant to division (B)(5) of this 696
section after the filing of a charge under division (B)(1) of this 697
section shall be so issued within one year after the complainant 698
filed the charge with respect to an alleged unlawful 699
discriminatory practice. 700

(C) Any complaint issued pursuant to division (B) of this 701
section may be amended by the commission, a member of the 702
commission, or the hearing examiner conducting a hearing under 703
division (B) of this section, at any time prior to or during the 704

hearing. The respondent has the right to file an answer or an 705
amended answer to the original and amended complaints and to 706
appear at the hearing in person, by attorney, or otherwise to 707
examine and cross-examine witnesses. 708

(D) The complainant shall be a party to a hearing under 709
division (B) of this section, and any person who is an 710
indispensable party to a complete determination or settlement of a 711
question involved in the hearing shall be joined. Any person who 712
has or claims an interest in the subject of the hearing and in 713
obtaining or preventing relief against the unlawful discriminatory 714
practices complained of may be permitted, in the discretion of the 715
person or persons conducting the hearing, to appear for the 716
presentation of oral or written arguments. 717

(E) In any hearing under division (B) of this section, the 718
commission, a member of the commission, or the hearing examiner 719
shall not be bound by the Rules of Evidence but, in ascertaining 720
the practices followed by the respondent, shall take into account 721
all reliable, probative, and substantial statistical or other 722
evidence produced at the hearing that may tend to prove the 723
existence of a predetermined pattern of employment or membership, 724
provided that nothing contained in this section shall be construed 725
to authorize or require any person to observe the proportion that 726
persons of any race, color, religion, sex, military status, 727
familial status, national origin, disability, age, or ancestry 728
bear to the total population or in accordance with any criterion 729
other than the individual qualifications of the applicant. 730

(F) The testimony taken at a hearing under division (B) of 731
this section shall be under oath and shall be reduced to writing 732
and filed with the commission. Thereafter, in its discretion, the 733
commission, upon the service of a notice upon the complainant and 734
the respondent that indicates an opportunity to be present, may 735
take further testimony or hear argument. 736

(G)(1) If, upon all reliable, probative, and substantial 737
evidence presented at a hearing under division (B) of this 738
section, the commission determines that the respondent has engaged 739
in, or is engaging in, any unlawful discriminatory practice, 740
whether against the complainant or others, the commission shall 741
state its findings of fact and conclusions of law and shall issue 742
and, subject to the provisions of Chapter 119. of the Revised 743
Code, cause to be served on the respondent an order requiring the 744
respondent to cease and desist from the unlawful discriminatory 745
practice, requiring the respondent to take any further affirmative 746
or other action that will effectuate the purposes of this chapter, 747
including, but not limited to, hiring, reinstatement, or upgrading 748
of employees with or without back pay, or admission or restoration 749
to union membership, and requiring the respondent to report to the 750
commission the manner of compliance. If the commission directs 751
payment of back pay, it shall make allowance for interim earnings. 752
If it finds a violation of division (H) of section 4112.02 of the 753
Revised Code, the commission additionally shall require the 754
respondent to pay actual damages and reasonable attorney's fees, 755
and may award to the complainant punitive damages as follows: 756

(a) If division (G)(1)(b) or (c) of this section does not 757
apply, punitive damages in an amount not to exceed ten thousand 758
dollars; 759

(b) If division (G)(1)(c) of this section does not apply and 760
if the respondent has been determined by a final order of the 761
commission or by a final judgment of a court to have committed one 762
violation of division (H) of section 4112.02 of the Revised Code 763
during the five-year period immediately preceding the date on 764
which a complaint was issued pursuant to division (B) of this 765
section, punitive damages in an amount not to exceed twenty-five 766
thousand dollars; 767

(c) If the respondent has been determined by a final order of 768

the commission or by a final judgment of a court to have committed 769
two or more violations of division (H) of section 4112.02 of the 770
Revised Code during the seven-year period immediately preceding 771
the date on which a complaint was issued pursuant to division (B) 772
of this section, punitive damages in an amount not to exceed fifty 773
thousand dollars. 774

(2) Upon the submission of reports of compliance, the 775
commission may issue a declaratory order stating that the 776
respondent has ceased to engage in particular unlawful 777
discriminatory practices. 778

(H) If the commission finds that no probable cause exists for 779
crediting charges of unlawful discriminatory practices or if, upon 780
all the evidence presented at a hearing under division (B) of this 781
section on a charge, the commission finds that a respondent has 782
not engaged in any unlawful discriminatory practice against the 783
complainant or others, it shall state its findings of fact and 784
shall issue and cause to be served on the complainant an order 785
dismissing the complaint as to the respondent. A copy of the order 786
shall be delivered in all cases to the attorney general and any 787
other public officers whom the commission considers proper. 788

(I) Until the time period for appeal set forth in division 789
(H) of section 4112.06 of the Revised Code expires, the 790
commission, subject to the provisions of Chapter 119. of the 791
Revised Code, at any time, upon reasonable notice, and in the 792
manner it considers proper, may modify or set aside, in whole or 793
in part, any finding or order made by it under this section. 794

Sec. 4112.08. This chapter shall be construed liberally for 795
the accomplishment of its purposes, and any law inconsistent with 796
any provision of this chapter shall not apply. Nothing contained 797
in this chapter shall be considered to repeal any of the 798
provisions of any law of this state relating to discrimination 799

because of race, color, religion, sex, military status, familial 800
status, disability, national origin, age, or ancestry, except that 801
any person filing a charge under division (B)(1) of section 802
4112.05 of the Revised Code, with respect to the unlawful 803
discriminatory practices complained of, is barred from instituting 804
a civil action under section 4112.14 or division ~~(N)~~(O) of section 805
4112.02 of the Revised Code. 806

Sec. 4112.14. (A) No employer shall discriminate in any job 807
opening against any applicant or discharge without just cause any 808
employee aged forty or older who is physically able to perform the 809
duties and otherwise meets the established requirements of the job 810
and laws pertaining to the relationship between employer and 811
employee. 812

(B) Any person aged forty or older who is discriminated 813
against in any job opening or discharged without just cause by an 814
employer in violation of division (A) of this section may 815
institute a civil action against the employer in a court of 816
competent jurisdiction. If the court finds that an employer has 817
discriminated on the basis of age, the court shall order an 818
appropriate remedy which shall include reimbursement to the 819
applicant or employee for the costs, including reasonable 820
attorney's fees, of the action, or to reinstate the employee in 821
the employee's former position with compensation for lost wages 822
and any lost fringe benefits from the date of the illegal 823
discharge and to reimburse the employee for the costs, including 824
reasonable attorney's fees, of the action. The remedies available 825
under this section are coexistent with remedies available pursuant 826
to sections 4112.01 to 4112.11 of the Revised Code; except that 827
any person instituting a civil action under this section is, with 828
respect to the practices complained of, thereby barred from 829
instituting a civil action under division ~~(N)~~(O) of section 830
4112.02 of the Revised Code or from filing a charge with the Ohio 831

civil rights commission under section 4112.05 of the Revised Code. 832

(C) The cause of action described in division (B) of this 833
section and any remedies available pursuant to sections 4112.01 to 834
4112.11 of the Revised Code shall not be available in the case of 835
discharges where the employee has available to the employee the 836
opportunity to arbitrate the discharge or where a discharge has 837
been arbitrated and has been found to be for just cause. 838

Section 2. That existing sections 4112.02, 4112.05, 4112.08, 839
and 4112.14 of the Revised Code are hereby repealed. 840