

**As Introduced**

**128th General Assembly  
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**H. B. No. 340**

**Representative Yates**

—

**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 refer for employment, or otherwise discriminate against any person;

(2) Comply with a request from an employer for referral of applicants for employment if the request directly or indirectly indicates that the employer fails to comply with the provisions of sections 4112.01 to 4112.07 of the Revised Code.

(C) For any labor organization to do any of the following:

(1) Limit or classify its membership on the basis of race, color, religion, sex, military status, national origin, disability, age, or ancestry;

(2) Discriminate against, limit the employment opportunities of, or otherwise adversely affect the employment status, wages, hours, or employment conditions of any person as an employee because of race, color, religion, sex, military status, national origin, disability, age, or ancestry.

(D) For any employer, labor organization, or joint labor-management committee controlling apprentice training programs to discriminate against any person because of race, color, religion, sex, military status, national origin, disability, or ancestry in admission to, or employment in, any program established to provide apprentice training.

(E) Except where based on a bona fide occupational qualification certified in advance by the commission, for any employer, employment agency, personnel placement service, or labor organization, prior to employment or admission to membership, to do any of the following:

(1) Elicit or attempt to elicit any information concerning the race, color, religion, sex, military status, national origin, disability, age, or ancestry of an applicant for employment or membership;

(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;

(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;

(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;

(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;

(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.

(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 composition of the neighborhood in which the housing

accommodations are located, provided that the person, whether an individual, corporation, or association of any type, lends money as one of the principal aspects or incident to the person's principal business and not only as a part of the purchase price of an owner-occupied residence the person is selling nor merely casually or occasionally to a relative or friend;

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

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

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

(7) Print, publish, or circulate any statement or advertisement, or make or cause to be made any statement or advertisement, relating to the sale, transfer, assignment, rental, lease, sublease, or acquisition of any housing accommodations, or relating to the loan of money, whether or not secured by mortgage

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 other person because that person has opposed any discriminatory practice defined in this section or because that person has made a charge, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under sections 4112.01 to 4112.07 of the Revised Code.

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

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

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

(2) Nothing in division (H) of this section shall bar any bona fide private or fraternal organization that, incidental to its primary purpose, owns or operates lodgings for other than a commercial purpose, from limiting the rental or occupancy of the

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 Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended.

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

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

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

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

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 515  
regarded as engaging in the illegal use of any controlled 516  
substance, but the employee, applicant, or other person is not 517

engaging in that illegal use. 518

(2) Divisions (A) to (E) of this section do not prohibit an 519  
employer, employment agency, personnel placement service, labor 520  
organization, or joint labor-management committee from doing any 521  
of the following: 522

(a) Adopting or administering reasonable policies or 523  
procedures, including, but not limited to, testing for the illegal 524  
use of any controlled substance, that are designed to ensure that 525  
an individual described in division ~~(Q)~~(R)(1)(b)(i) or (ii) of 526  
this section no longer is engaging in the illegal use of any 527  
controlled substance; 528

(b) Prohibiting the illegal use of controlled substances and 529  
the use of alcohol at the workplace by all employees; 530

(c) Requiring that employees not be under the influence of 531  
alcohol or not be engaged in the illegal use of any controlled 532  
substance at the workplace; 533

(d) Requiring that employees behave in conformance with the 534  
requirements established under "The Drug-Free Workplace Act of 535  
1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended; 536

(e) Holding an employee who engages in the illegal use of any 537  
controlled substance or who is an alcoholic to the same 538  
qualification standards for employment or job performance, and the 539  
same behavior, to which the employer, employment agency, personnel 540  
placement service, labor organization, or joint labor-management 541  
committee holds other employees, even if any unsatisfactory 542  
performance or behavior is related to an employee's illegal use of 543  
a controlled substance or alcoholism; 544

(f) Exercising other authority recognized in the "Americans 545  
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