

As Introduced

**128th General Assembly
Regular Session
2009-2010**

H. B. No. 488

Representatives Harris, Pillich

**Cosponsors: Representatives Hagan, Dodd, Foley, Yuko, Domenick,
Skindell, Phillips, Lehner, Letson, Okey, Dyer, Patten, Garland, Celeste,
Murray**

—

A B I L L

To amend section 4112.01 and to enact section 4113.12 1
of the Revised Code to expand the prohibition 2
against discrimination because of or on the basis 3
of sex to prohibit discrimination because of or on 4
the basis of lactation and to require employers to 5
allow an employee to express breast milk while at 6
work. 7

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

Section 1. That section 4112.01 be amended and section 8
4113.12 of the Revised Code be enacted to read as follows: 9

Sec. 4112.01. (A) As used in this chapter: 10

(1) "Person" includes one or more individuals, partnerships, 11
associations, organizations, corporations, legal representatives, 12
trustees, trustees in bankruptcy, receivers, and other organized 13
groups of persons. "Person" also includes, but is not limited to, 14
any owner, lessor, assignor, builder, manager, broker, 15
salesperson, appraiser, agent, employee, lending institution, and 16
the state and all political subdivisions, authorities, agencies, 17

boards, and commissions of the state. 18

(2) "Employer" includes the state, any political subdivision 19
of the state, any person employing four or more persons within the 20
state, and any person acting directly or indirectly in the 21
interest of an employer. 22

(3) "Employee" means an individual employed by any employer 23
but does not include any individual employed in the domestic 24
service of any person. 25

(4) "Labor organization" includes any organization that 26
exists, in whole or in part, for the purpose of collective 27
bargaining or of dealing with employers concerning grievances, 28
terms or conditions of employment, or other mutual aid or 29
protection in relation to employment. 30

(5) "Employment agency" includes any person regularly 31
undertaking, with or without compensation, to procure 32
opportunities to work or to procure, recruit, refer, or place 33
employees. 34

(6) "Commission" means the Ohio civil rights commission 35
created by section 4112.03 of the Revised Code. 36

(7) "Discriminate" includes segregate or separate. 37

(8) "Unlawful discriminatory practice" means any act 38
prohibited by section 4112.02, 4112.021, or 4112.022 of the 39
Revised Code. 40

(9) "Place of public accommodation" means any inn, 41
restaurant, eating house, barbershop, public conveyance by air, 42
land, or water, theater, store, other place for the sale of 43
merchandise, or any other place of public accommodation or 44
amusement of which the accommodations, advantages, facilities, or 45
privileges are available to the public. 46

(10) "Housing accommodations" includes any building or 47

structure, or portion of a building or structure, that is used or 48
occupied or is intended, arranged, or designed to be used or 49
occupied as the home residence, dwelling, dwelling unit, or 50
sleeping place of one or more individuals, groups, or families 51
whether or not living independently of each other; and any vacant 52
land offered for sale or lease. "Housing accommodations" also 53
includes any housing accommodations held or offered for sale or 54
rent by a real estate broker, salesperson, or agent, by any other 55
person pursuant to authorization of the owner, by the owner, or by 56
the owner's legal representative. 57

(11) "Restrictive covenant" means any specification limiting 58
the transfer, rental, lease, or other use of any housing 59
accommodations because of race, color, religion, sex, military 60
status, familial status, national origin, disability, or ancestry, 61
or any limitation based upon affiliation with or approval by any 62
person, directly or indirectly, employing race, color, religion, 63
sex, military status, familial status, national origin, 64
disability, or ancestry as a condition of affiliation or approval. 65

(12) "Burial lot" means any lot for the burial of deceased 66
persons within any public burial ground or cemetery, including, 67
but not limited to, cemeteries owned and operated by municipal 68
corporations, townships, or companies or associations incorporated 69
for cemetery purposes. 70

(13) "Disability" means a physical or mental impairment that 71
substantially limits one or more major life activities, including 72
the functions of caring for one's self, performing manual tasks, 73
walking, seeing, hearing, speaking, breathing, learning, and 74
working; a record of a physical or mental impairment; or being 75
regarded as having a physical or mental impairment. 76

(14) Except as otherwise provided in section 4112.021 of the 77
Revised Code, "age" means at least forty years old. 78

(15) "Familial status" means either of the following:	79
(a) One or more individuals who are under eighteen years of age and who are domiciled with a parent or guardian having legal custody of the individual or domiciled, with the written permission of the parent or guardian having legal custody, with a designee of the parent or guardian;	80 81 82 83 84
(b) Any person who is pregnant or in the process of securing legal custody of any individual who is under eighteen years of age.	85 86 87
(16)(a) Except as provided in division (A)(16)(b) of this section, "physical or mental impairment" includes any of the following:	88 89 90
(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine;	91 92 93 94 95 96
(ii) Any mental or psychological disorder, including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;	97 98 99
(iii) Diseases and conditions, including, but not limited to, orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction, and alcoholism.	100 101 102 103 104 105
(b) "Physical or mental impairment" does not include any of the following:	106 107
(i) Homosexuality and bisexuality;	108

(ii) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;	109 110 111
(iii) Compulsive gambling, kleptomania, or pyromania;	112
(iv) Psychoactive substance use disorders resulting from the current illegal use of a controlled substance or the current use of alcoholic beverages.	113 114 115
(17) "Dwelling unit" means a single unit of residence for a family of one or more persons.	116 117
(18) "Common use areas" means rooms, spaces, or elements inside or outside a building that are made available for the use of residents of the building or their guests, and includes, but is not limited to, hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas, and passageways among and between buildings.	118 119 120 121 122 123
(19) "Public use areas" means interior or exterior rooms or spaces of a privately or publicly owned building that are made available to the general public.	124 125 126
(20) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.	127 128
(21) "Disabled tenant" means a tenant or prospective tenant who is a person with a disability.	129 130
(22) "Military status" means a person's status in "service in the uniformed services" as defined in section 5923.05 of the Revised Code.	131 132 133
(23) "Aggrieved person" includes both of the following:	134
(a) Any person who claims to have been injured by any unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code;	135 136 137
(b) Any person who believes that the person will be injured	138

by, any unlawful discriminatory practice described in division (H) 139
of section 4112.02 of the Revised Code that is about to occur. 140

(B) For the purposes of divisions (A) to (F) of section 141
4112.02 of the Revised Code, the terms "because of sex" and "on 142
the basis of sex" include, but are not limited to, because of or 143
on the basis of pregnancy, any illness arising out of and 144
occurring during the course of a pregnancy, childbirth, lactation, 145
or related medical conditions. Women affected by pregnancy, 146
childbirth, lactation, or related medical conditions shall be 147
treated the same for all employment-related purposes, including 148
receipt of benefits under fringe benefit programs, as other 149
persons not so affected but similar in their ability or inability 150
to work, and nothing in division (B) of section 4111.17 of the 151
Revised Code shall be interpreted to permit otherwise. This 152
division shall not be construed to require an employer to pay for 153
health insurance benefits for abortion, except where the life of 154
the mother would be endangered if the fetus were carried to term 155
or except where medical complications have arisen from the 156
abortion, provided that nothing in this division precludes an 157
employer from providing abortion benefits or otherwise affects 158
bargaining agreements in regard to abortion. 159

Sec. 4113.12. (A) An employer shall provide to each lactating 160
employee reasonable, unpaid time each day to permit the lactating 161
employee to express breast milk. To the extent possible and 162
practicable, this time shall run concurrently with any break time 163
already provided to the employee. 164

(B) An employer shall permit a lactating employee to express 165
breast milk in accordance with division (A) of this section for as 166
long as the lactating employee can demonstrate that the employee 167
is lactating. 168

(C) An employer shall make a reasonable effort to provide a 169

sanitary room or other area in close proximity to the work area, 170
that is not a toilet stall, where a lactating employee can express 171
breast milk in privacy. This location may include the employee's 172
normal work area if the area meets the requirements of this 173
division. 174

(D) No employer shall violate division (A), (B), or (C) of 175
this section. A violation of division (A), (B), or (C) of this 176
section is an unlawful discriminatory practice under section 177
4112.02 of the Revised Code. A woman who believes she is injured 178
by a violation of division (A), (B), or (C) of this section may 179
file a complaint with the Ohio civil rights commission in 180
accordance with the requirements specified in section 4112.05 of 181
the Revised Code. The commission shall follow the procedures 182
specified in that section for complaints filed for violations of 183
division (A) of section 4112.02 of the Revised Code, as 184
appropriate, regarding that complaint. 185

(E) The director of development, in consultation with the 186
civil rights commission, shall provide information, whether in 187
paper, electronic, internet, or other format, to connect employers 188
with resources that provide information and assistance on 189
appropriate current methods to accommodate lactating mothers in 190
the workplace. 191

Section 2. That existing section 4112.01 of the Revised Code 192
is hereby repealed. 193