

As Introduced

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H. B. No. 424

Representatives Celeste, Foley

**Cosponsors: Representatives Hagan, R., Ramos, Driehaus, Antonio, Cera,
Clyde, Letson, Goyal, Yuko, Barnes, Reece, Garland, Murray, Patmon,
Ashford**

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A B I L L

To amend sections 4112.01, 4112.02, 4112.05, 4112.15, 1
and 4112.99 of the Revised Code to prohibit and 2
provide a penalty for posting an advertisement of 3
an employment position that discriminates on the 4
basis of an individual's unemployment status. 5

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

Section 1. That sections 4112.01, 4112.02, 4112.05, 4112.15, 6
and 4112.99 of the Revised Code be amended to read as follows: 7

Sec. 4112.01. (A) As used in this chapter: 8

(1) "Person" includes one or more individuals, partnerships, 9
associations, organizations, corporations, legal representatives, 10
trustees, trustees in bankruptcy, receivers, and other organized 11
groups of persons. "Person" also includes, but is not limited to, 12
any owner, lessor, assignor, builder, manager, broker, 13
salesperson, appraiser, agent, employee, lending institution, and 14
the state and all political subdivisions, authorities, agencies, 15
boards, and commissions of the state. 16

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

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

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

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

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

(7) "Discriminate" includes segregate or separate.

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

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

(10) "Housing accommodations" includes any building or structure, or portion of a building or structure, that is used or

occupied or is intended, arranged, or designed to be used or 47
occupied as the home residence, dwelling, dwelling unit, or 48
sleeping place of one or more individuals, groups, or families 49
whether or not living independently of each other; and any vacant 50
land offered for sale or lease. "Housing accommodations" also 51
includes any housing accommodations held or offered for sale or 52
rent by a real estate broker, salesperson, or agent, by any other 53
person pursuant to authorization of the owner, by the owner, or by 54
the owner's legal representative. 55

(11) "Restrictive covenant" means any specification limiting 56
the transfer, rental, lease, or other use of any housing 57
accommodations because of race, color, religion, sex, military 58
status, familial status, national origin, disability, or ancestry, 59
or any limitation based upon affiliation with or approval by any 60
person, directly or indirectly, employing race, color, religion, 61
sex, military status, familial status, national origin, 62
disability, or ancestry as a condition of affiliation or approval. 63

(12) "Burial lot" means any lot for the burial of deceased 64
persons within any public burial ground or cemetery, including, 65
but not limited to, cemeteries owned and operated by municipal 66
corporations, townships, or companies or associations incorporated 67
for cemetery purposes. 68

(13) "Disability" means a physical or mental impairment that 69
substantially limits one or more major life activities, including 70
the functions of caring for one's self, performing manual tasks, 71
walking, seeing, hearing, speaking, breathing, learning, and 72
working; a record of a physical or mental impairment; or being 73
regarded as having a physical or mental impairment. 74

(14) Except as otherwise provided in section 4112.021 of the 75
Revised Code, "age" means at least forty years old. 76

(15) "Familial status" means either of the following: 77

(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;

(b) Any person who is pregnant or in the process of securing legal custody of any individual who is under eighteen years of age.

(16)(a) Except as provided in division (A)(16)(b) of this section, "physical or mental impairment" includes any of the following:

(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;

(ii) Any mental or psychological disorder, including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(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.

(b) "Physical or mental impairment" does not include any of the following:

(i) Homosexuality and bisexuality;

(ii) Transvestism, transsexualism, pedophilia, exhibitionism,

voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;	108
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(iii) Compulsive gambling, kleptomania, or pyromania;	110
(iv) Psychoactive substance use disorders resulting from the current illegal use of a controlled substance or the current use of alcoholic beverages.	111
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(17) "Dwelling unit" means a single unit of residence for a family of one or more persons.	114
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(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.	116
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(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.	122
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(20) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.	125
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(21) "Disabled tenant" means a tenant or prospective tenant who is a person with a disability.	127
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(22) "Military status" means a person's status in "service in the uniformed services" as defined in section 5923.05 of the Revised Code.	129
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(23) "Aggrieved person" includes both of the following:	132
(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;	133
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(b) Any person who believes that the person will be injured by, any unlawful discriminatory practice described in division (H)	136
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of section 4112.02 of the Revised Code that is about to occur. 138

(24) "Knowingly" and "purposely" have the same meanings as in 139
section 2901.22 of the Revised Code. 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, or related 145
medical conditions. Women affected by pregnancy, childbirth, or 146
related medical conditions shall be treated the same for all 147
employment-related purposes, including receipt of benefits under 148
fringe benefit programs, as other persons not so affected but 149
similar in their ability or inability to work, and nothing in 150
division (B) of section 4111.17 of the Revised Code shall be 151
interpreted to permit otherwise. This division shall not be 152
construed to require an employer to pay for health insurance 153
benefits for abortion, except where the life of the mother would 154
be endangered if the fetus were carried to term or except where 155
medical complications have arisen from the abortion, provided that 156
nothing in this division precludes an employer from providing 157
abortion benefits or otherwise affects bargaining agreements in 158
regard to abortion. 159

Sec. 4112.02. It shall be an unlawful discriminatory 160
practice: 161

(A) For any employer, because of the race, color, religion, 162
sex, military status, national origin, disability, age, or 163
ancestry of any person, to discharge without just cause, to refuse 164
to hire, or otherwise to discriminate against that person with 165
respect to hire, tenure, terms, conditions, or privileges of 166
employment, or any matter directly or indirectly related to 167
employment. 168

(B) For an employment agency or personnel placement service,	169
because of race, color, religion, sex, military status, national	170
origin, disability, age, or ancestry, to do any of the following:	171
(1) Refuse or fail to accept, register, classify properly, or	172
refer for employment, or otherwise discriminate against any	173
person;	174
(2) Comply with a request from an employer for referral of	175
applicants for employment if the request directly or indirectly	176
indicates that the employer fails to comply with the provisions of	177
sections 4112.01 to 4112.07 of the Revised Code.	178
(C) For any labor organization to do any of the following:	179
(1) Limit or classify its membership on the basis of race,	180
color, religion, sex, military status, national origin,	181
disability, age, or ancestry;	182
(2) Discriminate against, limit the employment opportunities	183
of, or otherwise adversely affect the employment status, wages,	184
hours, or employment conditions of any person as an employee	185
because of race, color, religion, sex, military status, national	186
origin, disability, age, or ancestry.	187
(D) For any employer, labor organization, or joint	188
labor-management committee controlling apprentice training	189
programs to discriminate against any person because of race,	190
color, religion, sex, military status, national origin,	191
disability, or ancestry in admission to, or employment in, any	192
program established to provide apprentice training.	193
(E) Except where based on a bona fide occupational	194
qualification certified in advance by the commission, for any	195
employer, employment agency, personnel placement service, or labor	196
organization, prior to employment or admission to membership, to	197
do any of the following:	198

(1) Elicit or attempt to elicit any information concerning	199
the race, color, religion, sex, military status, national origin,	200
disability, age, or ancestry of an applicant for employment or	201
membership;	202
(2) Make or keep a record of the race, color, religion, sex,	203
military status, national origin, disability, age, or ancestry of	204
any applicant for employment or membership;	205
(3) Use any form of application for employment, or personnel	206
or membership blank, seeking to elicit information regarding race,	207
color, religion, sex, military status, national origin,	208
disability, age, or ancestry; but an employer holding a contract	209
containing a nondiscrimination clause with the government of the	210
United States, or any department or agency of that government, may	211
require an employee or applicant for employment to furnish	212
documentary proof of United States citizenship and may retain that	213
proof in the employer's personnel records and may use photographic	214
or fingerprint identification for security purposes;	215
(4) Print or publish or cause to be printed or published any	216
notice or advertisement relating to employment or membership	217
indicating any preference, limitation, specification, or	218
discrimination, based upon race, color, religion, sex, military	219
status, national origin, disability, age, or ancestry;	220
(5) Announce or follow a policy of denying or limiting,	221
through a quota system or otherwise, employment or membership	222
opportunities of any group because of the race, color, religion,	223
sex, military status, national origin, disability, age, or	224
ancestry of that group;	225
(6) Utilize in the recruitment or hiring of persons any	226
employment agency, personnel placement service, training school or	227
center, labor organization, or any other employee-referring source	228
known to discriminate against persons because of their race,	229

color, religion, sex, military status, national origin, 230
disability, age, or ancestry; 231

(7) Knowingly or purposely print or publish or cause to be 232
printed or published any notice or advertisement relating to 233
employment that includes any provision stating or suggesting the 234
following: 235

(a) That current employment is a job qualification; 236

(b) That an application from a job applicant who is currently 237
unemployed will not be reviewed or that the applicant will not be 238
considered for an interview or be hired; 239

(c) That only applications for employment from applicants who 240
are currently employed will be considered or reviewed. 241

Division (E)(7) of this section does not prohibit an employer 242
from printing or publishing or causing to be printed or published 243
any notice or advertisement relating to employment that includes 244
any provision granting a preference in employment decisions to 245
current employees of the employer or requiring previous experience 246
that is relevant to the employment, such as the holding of a 247
current and valid professional or occupational license or other 248
credential or a minimum level of education or training or 249
professional, occupational, or field experience. 250

(F) For any person seeking employment to publish or cause to 251
be published any advertisement that specifies or in any manner 252
indicates that person's race, color, religion, sex, military 253
status, national origin, disability, age, or ancestry, or 254
expresses a limitation or preference as to the race, color, 255
religion, sex, military status, national origin, disability, age, 256
or ancestry of any prospective employer. 257

(G) For any proprietor or any employee, keeper, or manager of 258
a place of public accommodation to deny to any person, except for 259
reasons applicable alike to all persons regardless of race, color, 260

religion, sex, military status, national origin, disability, age, 261
or ancestry, the full enjoyment of the accommodations, advantages, 262
facilities, or privileges of the place of public accommodation. 263

(H) For any person to do any of the following: 264

(1) Refuse to sell, transfer, assign, rent, lease, sublease, 265
or finance housing accommodations, refuse to negotiate for the 266
sale or rental of housing accommodations, or otherwise deny or 267
make unavailable housing accommodations because of race, color, 268
religion, sex, military status, familial status, ancestry, 269
disability, or national origin; 270

(2) Represent to any person that housing accommodations are 271
not available for inspection, sale, or rental, when in fact they 272
are available, because of race, color, religion, sex, military 273
status, familial status, ancestry, disability, or national origin; 274

(3) Discriminate against any person in the making or 275
purchasing of loans or the provision of other financial assistance 276
for the acquisition, construction, rehabilitation, repair, or 277
maintenance of housing accommodations, or any person in the making 278
or purchasing of loans or the provision of other financial 279
assistance that is secured by residential real estate, because of 280
race, color, religion, sex, military status, familial status, 281
ancestry, disability, or national origin or because of the racial 282
composition of the neighborhood in which the housing 283
accommodations are located, provided that the person, whether an 284
individual, corporation, or association of any type, lends money 285
as one of the principal aspects or incident to the person's 286
principal business and not only as a part of the purchase price of 287
an owner-occupied residence the person is selling nor merely 288
casually or occasionally to a relative or friend; 289

(4) Discriminate against any person in the terms or 290
conditions of selling, transferring, assigning, renting, leasing, 291

or subleasing any housing accommodations or in furnishing 292
facilities, services, or privileges in connection with the 293
ownership, occupancy, or use of any housing accommodations, 294
including the sale of fire, extended coverage, or homeowners 295
insurance, because of race, color, religion, sex, military status, 296
familial status, ancestry, disability, or national origin or 297
because of the racial composition of the neighborhood in which the 298
housing accommodations are located; 299

(5) Discriminate against any person in the terms or 300
conditions of any loan of money, whether or not secured by 301
mortgage or otherwise, for the acquisition, construction, 302
rehabilitation, repair, or maintenance of housing accommodations 303
because of race, color, religion, sex, military status, familial 304
status, ancestry, disability, or national origin or because of the 305
racial composition of the neighborhood in which the housing 306
accommodations are located; 307

(6) Refuse to consider without prejudice the combined income 308
of both husband and wife for the purpose of extending mortgage 309
credit to a married couple or either member of a married couple; 310

(7) Print, publish, or circulate any statement or 311
advertisement, or make or cause to be made any statement or 312
advertisement, relating to the sale, transfer, assignment, rental, 313
lease, sublease, or acquisition of any housing accommodations, or 314
relating to the loan of money, whether or not secured by mortgage 315
or otherwise, for the acquisition, construction, rehabilitation, 316
repair, or maintenance of housing accommodations, that indicates 317
any preference, limitation, specification, or discrimination based 318
upon race, color, religion, sex, military status, familial status, 319
ancestry, disability, or national origin, or an intention to make 320
any such preference, limitation, specification, or discrimination; 321

(8) Except as otherwise provided in division (H)(8) or (17) 322
of this section, make any inquiry, elicit any information, make or 323

keep any record, or use any form of application containing 324
questions or entries concerning race, color, religion, sex, 325
military status, familial status, ancestry, disability, or 326
national origin in connection with the sale or lease of any 327
housing accommodations or the loan of any money, whether or not 328
secured by mortgage or otherwise, for the acquisition, 329
construction, rehabilitation, repair, or maintenance of housing 330
accommodations. Any person may make inquiries, and make and keep 331
records, concerning race, color, religion, sex, military status, 332
familial status, ancestry, disability, or national origin for the 333
purpose of monitoring compliance with this chapter. 334

(9) Include in any transfer, rental, or lease of housing 335
accommodations any restrictive covenant, or honor or exercise, or 336
attempt to honor or exercise, any restrictive covenant; 337

(10) Induce or solicit, or attempt to induce or solicit, a 338
housing accommodations listing, sale, or transaction by 339
representing that a change has occurred or may occur with respect 340
to the racial, religious, sexual, military status, familial 341
status, or ethnic composition of the block, neighborhood, or other 342
area in which the housing accommodations are located, or induce or 343
solicit, or attempt to induce or solicit, a housing accommodations 344
listing, sale, or transaction by representing that the presence or 345
anticipated presence of persons of any race, color, religion, sex, 346
military status, familial status, ancestry, disability, or 347
national origin, in the block, neighborhood, or other area will or 348
may have results including, but not limited to, the following: 349

(a) The lowering of property values; 350

(b) A change in the racial, religious, sexual, military 351
status, familial status, or ethnic composition of the block, 352
neighborhood, or other area; 353

(c) An increase in criminal or antisocial behavior in the 354

block, neighborhood, or other area; 355

(d) A decline in the quality of the schools serving the 356
block, neighborhood, or other area. 357

(11) Deny any person access to or membership or participation 358
in any multiple-listing service, real estate brokers' 359
organization, or other service, organization, or facility relating 360
to the business of selling or renting housing accommodations, or 361
discriminate against any person in the terms or conditions of that 362
access, membership, or participation, on account of race, color, 363
religion, sex, military status, familial status, national origin, 364
disability, or ancestry; 365

(12) Coerce, intimidate, threaten, or interfere with any 366
person in the exercise or enjoyment of, or on account of that 367
person's having exercised or enjoyed or having aided or encouraged 368
any other person in the exercise or enjoyment of, any right 369
granted or protected by division (H) of this section; 370

(13) Discourage or attempt to discourage the purchase by a 371
prospective purchaser of housing accommodations, by representing 372
that any block, neighborhood, or other area has undergone or might 373
undergo a change with respect to its religious, racial, sexual, 374
military status, familial status, or ethnic composition; 375

(14) Refuse to sell, transfer, assign, rent, lease, sublease, 376
or finance, or otherwise deny or withhold, a burial lot from any 377
person because of the race, color, sex, military status, familial 378
status, age, ancestry, disability, or national origin of any 379
prospective owner or user of the lot; 380

(15) Discriminate in the sale or rental of, or otherwise make 381
unavailable or deny, housing accommodations to any buyer or renter 382
because of a disability of any of the following: 383

(a) The buyer or renter; 384

(b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;	385 386 387
(c) Any individual associated with the person described in division (H)(15)(b) of this section.	388 389
(16) Discriminate in the terms, conditions, or privileges of the sale or rental of housing accommodations to any person or in the provision of services or facilities to any person in connection with the housing accommodations because of a disability of any of the following:	390 391 392 393 394
(a) That person;	395
(b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;	396 397 398
(c) Any individual associated with the person described in division (H)(16)(b) of this section.	399 400
(17) Except as otherwise provided in division (H)(17) of this section, make an inquiry to determine whether an applicant for the sale or rental of housing accommodations, a person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available, or any individual associated with that person has a disability, or make an inquiry to determine the nature or severity of a disability of the applicant or such a person or individual. The following inquiries may be made of all applicants for the sale or rental of housing accommodations, regardless of whether they have disabilities:	401 402 403 404 405 406 407 408 409 410
(a) An inquiry into an applicant's ability to meet the requirements of ownership or tenancy;	411 412
(b) An inquiry to determine whether an applicant is qualified for housing accommodations available only to persons with	413 414

disabilities or persons with a particular type of disability;	415
(c) An inquiry to determine whether an applicant is qualified	416
for a priority available to persons with disabilities or persons	417
with a particular type of disability;	418
(d) An inquiry to determine whether an applicant currently	419
uses a controlled substance in violation of section 2925.11 of the	420
Revised Code or a substantively comparable municipal ordinance;	421
(e) An inquiry to determine whether an applicant at any time	422
has been convicted of or pleaded guilty to any offense, an element	423
of which is the illegal sale, offer to sell, cultivation,	424
manufacture, other production, shipment, transportation, delivery,	425
or other distribution of a controlled substance.	426
(18)(a) Refuse to permit, at the expense of a person with a	427
disability, reasonable modifications of existing housing	428
accommodations that are occupied or to be occupied by the person	429
with a disability, if the modifications may be necessary to afford	430
the person with a disability full enjoyment of the housing	431
accommodations. This division does not preclude a landlord of	432
housing accommodations that are rented or to be rented to a	433
disabled tenant from conditioning permission for a proposed	434
modification upon the disabled tenant's doing one or more of the	435
following:	436
(i) Providing a reasonable description of the proposed	437
modification and reasonable assurances that the proposed	438
modification will be made in a workerlike manner and that any	439
required building permits will be obtained prior to the	440
commencement of the proposed modification;	441
(ii) Agreeing to restore at the end of the tenancy the	442
interior of the housing accommodations to the condition they were	443
in prior to the proposed modification, but subject to reasonable	444
wear and tear during the period of occupancy, if it is reasonable	445

for the landlord to condition permission for the proposed 446
modification upon the agreement; 447

(iii) Paying into an interest-bearing escrow account that is 448
in the landlord's name, over a reasonable period of time, a 449
reasonable amount of money not to exceed the projected costs at 450
the end of the tenancy of the restoration of the interior of the 451
housing accommodations to the condition they were in prior to the 452
proposed modification, but subject to reasonable wear and tear 453
during the period of occupancy, if the landlord finds the account 454
reasonably necessary to ensure the availability of funds for the 455
restoration work. The interest earned in connection with an escrow 456
account described in this division shall accrue to the benefit of 457
the disabled tenant who makes payments into the account. 458

(b) A landlord shall not condition permission for a proposed 459
modification upon a disabled tenant's payment of a security 460
deposit that exceeds the customarily required security deposit of 461
all tenants of the particular housing accommodations. 462

(19) Refuse to make reasonable accommodations in rules, 463
policies, practices, or services when necessary to afford a person 464
with a disability equal opportunity to use and enjoy a dwelling 465
unit, including associated public and common use areas; 466

(20) Fail to comply with the standards and rules adopted 467
under division (A) of section 3781.111 of the Revised Code; 468

(21) Discriminate against any person in the selling, 469
brokering, or appraising of real property because of race, color, 470
religion, sex, military status, familial status, ancestry, 471
disability, or national origin; 472

(22) Fail to design and construct covered multifamily 473
dwellings for first occupancy on or after June 30, 1992, in 474
accordance with the following conditions: 475

(a) The dwellings shall have at least one building entrance 476

on an accessible route, unless it is impractical to do so because 477
of the terrain or unusual characteristics of the site. 478

(b) With respect to dwellings that have a building entrance 479
on an accessible route, all of the following apply: 480

(i) The public use areas and common use areas of the 481
dwellings shall be readily accessible to and usable by persons 482
with a disability. 483

(ii) All the doors designed to allow passage into and within 484
all premises shall be sufficiently wide to allow passage by 485
persons with a disability who are in wheelchairs. 486

(iii) All premises within covered multifamily dwelling units 487
shall contain an accessible route into and through the dwelling; 488
all light switches, electrical outlets, thermostats, and other 489
environmental controls within such units shall be in accessible 490
locations; the bathroom walls within such units shall contain 491
reinforcements to allow later installation of grab bars; and the 492
kitchens and bathrooms within such units shall be designed and 493
constructed in a manner that enables an individual in a wheelchair 494
to maneuver about such rooms. 495

For purposes of division (H)(22) of this section, "covered 496
multifamily dwellings" means buildings consisting of four or more 497
units if such buildings have one or more elevators and ground 498
floor units in other buildings consisting of four or more units. 499

(I) For any person to discriminate in any manner against any 500
other person because that person has opposed any unlawful 501
discriminatory practice defined in this section or because that 502
person has made a charge, testified, assisted, or participated in 503
any manner in any investigation, proceeding, or hearing under 504
sections 4112.01 to 4112.07 of the Revised Code. 505

(J) For any person to aid, abet, incite, compel, or coerce 506
the doing of any act declared by this section to be an unlawful 507

discriminatory practice, to obstruct or prevent any person from 508
complying with this chapter or any order issued under it, or to 509
attempt directly or indirectly to commit any act declared by this 510
section to be an unlawful discriminatory practice. 511

(K)(1) Nothing in division (H) of this section shall bar any 512
religious or denominational institution or organization, or any 513
nonprofit charitable or educational organization that is operated, 514
supervised, or controlled by or in connection with a religious 515
organization, from limiting the sale, rental, or occupancy of 516
housing accommodations that it owns or operates for other than a 517
commercial purpose to persons of the same religion, or from giving 518
preference in the sale, rental, or occupancy of such housing 519
accommodations to persons of the same religion, unless membership 520
in the religion is restricted on account of race, color, or 521
national origin. 522

(2) Nothing in division (H) of this section shall bar any 523
bona fide private or fraternal organization that, incidental to 524
its primary purpose, owns or operates lodgings for other than a 525
commercial purpose, from limiting the rental or occupancy of the 526
lodgings to its members or from giving preference to its members. 527

(3) Nothing in division (H) of this section limits the 528
applicability of any reasonable local, state, or federal 529
restrictions regarding the maximum number of occupants permitted 530
to occupy housing accommodations. Nothing in that division 531
prohibits the owners or managers of housing accommodations from 532
implementing reasonable occupancy standards based on the number 533
and size of sleeping areas or bedrooms and the overall size of a 534
dwelling unit, provided that the standards are not implemented to 535
circumvent the purposes of this chapter and are formulated, 536
implemented, and interpreted in a manner consistent with this 537
chapter and any applicable local, state, or federal restrictions 538
regarding the maximum number of occupants permitted to occupy 539

housing accommodations. 540

(4) Nothing in division (H) of this section requires that 541
housing accommodations be made available to an individual whose 542
tenancy would constitute a direct threat to the health or safety 543
of other individuals or whose tenancy would result in substantial 544
physical damage to the property of others. 545

(5) Nothing in division (H) of this section pertaining to 546
discrimination on the basis of familial status shall be construed 547
to apply to any of the following: 548

(a) Housing accommodations provided under any state or 549
federal program that have been determined under the "Fair Housing 550
Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as 551
amended, to be specifically designed and operated to assist 552
elderly persons; 553

(b) Housing accommodations intended for and solely occupied 554
by persons who are sixty-two years of age or older; 555

(c) Housing accommodations intended and operated for 556
occupancy by at least one person who is fifty-five years of age or 557
older per unit, as determined under the "Fair Housing Amendments 558
Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended. 559

(L) Nothing in divisions (A) to (E) of this section shall be 560
construed to require a person with a disability to be employed or 561
trained under circumstances that would significantly increase the 562
occupational hazards affecting either the person with a 563
disability, other employees, the general public, or the facilities 564
in which the work is to be performed, or to require the employment 565
or training of a person with a disability in a job that requires 566
the person with a disability routinely to undertake any task, the 567
performance of which is substantially and inherently impaired by 568
the person's disability. 569

(M) Nothing in divisions (H)(1) to (18) of this section shall 570

be construed to require any person selling or renting property to 571
modify the property in any way or to exercise a higher degree of 572
care for a person with a disability, to relieve any person with a 573
disability of any obligation generally imposed on all persons 574
regardless of disability in a written lease, rental agreement, or 575
contract of purchase or sale, or to forbid distinctions based on 576
the inability to fulfill the terms and conditions, including 577
financial obligations, of the lease, agreement, or contract. 578

(N) An aggrieved individual may enforce the individual's 579
rights relative to discrimination on the basis of age as provided 580
for in this section by instituting a civil action, within one 581
hundred eighty days after the alleged unlawful discriminatory 582
practice occurred, in any court with jurisdiction for any legal or 583
equitable relief that will effectuate the individual's rights. 584

A person who files a civil action under this division is 585
barred, with respect to the practices complained of, from 586
instituting a civil action under section 4112.14 of the Revised 587
Code and from filing a charge with the commission under section 588
4112.05 of the Revised Code. 589

(O) With regard to age, it shall not be an unlawful 590
discriminatory practice and it shall not constitute a violation of 591
division (A) of section 4112.14 of the Revised Code for any 592
employer, employment agency, joint labor-management committee 593
controlling apprenticeship training programs, or labor 594
organization to do any of the following: 595

(1) Establish bona fide employment qualifications reasonably 596
related to the particular business or occupation that may include 597
standards for skill, aptitude, physical capability, intelligence, 598
education, maturation, and experience; 599

(2) Observe the terms of a bona fide seniority system or any 600
bona fide employee benefit plan, including, but not limited to, a 601

retirement, pension, or insurance plan, that is not a subterfuge 602
to evade the purposes of this section. However, no such employee 603
benefit plan shall excuse the failure to hire any individual, and 604
no such seniority system or employee benefit plan shall require or 605
permit the involuntary retirement of any individual, because of 606
the individual's age except as provided for in the "Age 607
Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 608
29 U.S.C.A. 623, as amended by the "Age Discrimination in 609
Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 610
623, as amended. 611

(3) Retire an employee who has attained sixty-five years of 612
age who, for the two-year period immediately before retirement, is 613
employed in a bona fide executive or a high policymaking position, 614
if the employee is entitled to an immediate nonforfeitable annual 615
retirement benefit from a pension, profit-sharing, savings, or 616
deferred compensation plan, or any combination of those plans, of 617
the employer of the employee, which equals, in the aggregate, at 618
least forty-four thousand dollars, in accordance with the 619
conditions of the "Age Discrimination in Employment Act Amendment 620
of 1978," 92 Stat. 189, 29 U.S.C.A. 631, as amended by the "Age 621
Discrimination in Employment Act Amendments of 1986," 100 Stat. 622
3342, 29 U.S.C.A. 631, as amended; 623

(4) Observe the terms of any bona fide apprenticeship program 624
if the program is registered with the Ohio apprenticeship council 625
pursuant to sections 4139.01 to 4139.06 of the Revised Code and is 626
approved by the federal committee on apprenticeship of the United 627
States department of labor. 628

(P) Nothing in this chapter prohibiting age discrimination 629
and nothing in division (A) of section 4112.14 of the Revised Code 630
shall be construed to prohibit the following: 631

(1) The designation of uniform age the attainment of which is 632
necessary for public employees to receive pension or other 633

retirement benefits pursuant to Chapter 145., 742., 3307., 3309., 634
or 5505. of the Revised Code; 635

(2) The mandatory retirement of uniformed patrol officers of 636
the state highway patrol as provided in section 5505.16 of the 637
Revised Code; 638

(3) The maximum age requirements for appointment as a patrol 639
officer in the state highway patrol established by section 5503.01 640
of the Revised Code; 641

(4) The maximum age requirements established for original 642
appointment to a police department or fire department in sections 643
124.41 and 124.42 of the Revised Code; 644

(5) Any maximum age not in conflict with federal law that may 645
be established by a municipal charter, municipal ordinance, or 646
resolution of a board of township trustees for original 647
appointment as a police officer or firefighter; 648

(6) Any mandatory retirement provision not in conflict with 649
federal law of a municipal charter, municipal ordinance, or 650
resolution of a board of township trustees pertaining to police 651
officers and firefighters; 652

(7) Until January 1, 1994, the mandatory retirement of any 653
employee who has attained seventy years of age and who is serving 654
under a contract of unlimited tenure, or similar arrangement 655
providing for unlimited tenure, at an institution of higher 656
education as defined in the "Education Amendments of 1980," 94 657
Stat. 1503, 20 U.S.C.A. 1141(a). 658

(Q)(1)(a) Except as provided in division (Q)(1)(b) of this 659
section, for purposes of divisions (A) to (E) of this section, a 660
disability does not include any physiological disorder or 661
condition, mental or psychological disorder, or disease or 662
condition caused by an illegal use of any controlled substance by 663
an employee, applicant, or other person, if an employer, 664

employment agency, personnel placement service, labor 665
organization, or joint labor-management committee acts on the 666
basis of that illegal use. 667

(b) Division (Q)(1)(a) of this section does not apply to an 668
employee, applicant, or other person who satisfies any of the 669
following: 670

(i) The employee, applicant, or other person has successfully 671
completed a supervised drug rehabilitation program and no longer 672
is engaging in the illegal use of any controlled substance, or the 673
employee, applicant, or other person otherwise successfully has 674
been rehabilitated and no longer is engaging in that illegal use. 675

(ii) The employee, applicant, or other person is 676
participating in a supervised drug rehabilitation program and no 677
longer is engaging in the illegal use of any controlled substance. 678

(iii) The employee, applicant, or other person is erroneously 679
regarded as engaging in the illegal use of any controlled 680
substance, but the employee, applicant, or other person is not 681
engaging in that illegal use. 682

(2) Divisions (A) to (E) of this section do not prohibit an 683
employer, employment agency, personnel placement service, labor 684
organization, or joint labor-management committee from doing any 685
of the following: 686

(a) Adopting or administering reasonable policies or 687
procedures, including, but not limited to, testing for the illegal 688
use of any controlled substance, that are designed to ensure that 689
an individual described in division (Q)(1)(b)(i) or (ii) of this 690
section no longer is engaging in the illegal use of any controlled 691
substance; 692

(b) Prohibiting the illegal use of controlled substances and 693
the use of alcohol at the workplace by all employees; 694

(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, as amended, including, but not limited to, requiring employees to comply with any applicable federal standards.

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

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

Sec. 4112.05. (A) The commission, as provided in this section, shall prevent any person from engaging in unlawful discriminatory practices, provided that, before instituting the

formal hearing authorized by division (B) of this section, it 725
shall attempt, by informal methods of conference, conciliation, 726
and persuasion, to induce compliance with this chapter. 727

(B)(1) Any person may file a charge with the commission 728
alleging that another person has engaged or is engaging in an 729
unlawful discriminatory practice. In the case of a charge alleging 730
an unlawful discriminatory practice described in division (A), 731
(B), (C), (D), (E), (F), (G), (I), or (J) of section 4112.02 or in 732
section 4112.021 or 4112.022 of the Revised Code, the charge shall 733
be in writing and under oath and shall be filed with the 734
commission within six months after the alleged unlawful 735
discriminatory practice was committed. In the case of a charge 736
alleging an unlawful discriminatory practice described in division 737
(H) of section 4112.02 of the Revised Code, the charge shall be in 738
writing and under oath and shall be filed with the commission 739
within one year after the alleged unlawful discriminatory practice 740
was committed. 741

(2) Upon receiving a charge, the commission may initiate a 742
preliminary investigation to determine whether it is probable that 743
an unlawful discriminatory practice has been or is being engaged 744
in. The commission also may conduct, upon its own initiative and 745
independent of the filing of any charges, a preliminary 746
investigation relating to any of the unlawful discriminatory 747
practices described in division (A), (B), (C), (D), (E), (F), (I), 748
or (J) of section 4112.02 or in section 4112.021 or 4112.022 of 749
the Revised Code. Prior to a notification of a complainant under 750
division (B)(4) of this section or prior to the commencement of 751
informal methods of conference, conciliation, and persuasion under 752
that division, the members of the commission and the officers and 753
employees of the commission shall not make public in any manner 754
and shall retain as confidential all information that was obtained 755
as a result of or that otherwise pertains to a preliminary 756

investigation other than one described in division (B)(3) of this section. 757
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(3)(a) Unless it is impracticable to do so and subject to its authority under division (B)(3)(d) of this section, the commission shall complete a preliminary investigation of a charge filed pursuant to division (B)(1) of this section that alleges an unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code, and shall take one of the following actions, within one hundred days after the filing of the charge: 759
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(i) Notify the complainant and the respondent that it is not probable that an unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code has been or is being engaged in and that the commission will not issue a complaint in the matter; 767
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(ii) Initiate a complaint and schedule it for informal methods of conference, conciliation, and persuasion; 772
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(iii) Initiate a complaint and refer it to the attorney general with a recommendation to seek a temporary or permanent injunction or a temporary restraining order. If this action is taken, the attorney general shall apply, as expeditiously as possible after receipt of the complaint, to the court of common pleas of the county in which the unlawful discriminatory practice allegedly occurred for the appropriate injunction or order, and the court shall hear and determine the application as expeditiously as possible. 774
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(b) If it is not practicable to comply with the requirements of division (B)(3)(a) of this section within the one-hundred-day period described in that division, the commission shall notify the complainant and the respondent in writing of the reasons for the noncompliance. 783
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(c) Prior to the issuance of a complaint under division 788
(B)(3)(a)(ii) or (iii) of this section or prior to a notification 789
of the complainant and the respondent under division (B)(3)(a)(i) 790
of this section, the members of the commission and the officers 791
and employees of the commission shall not make public in any 792
manner and shall retain as confidential all information that was 793
obtained as a result of or that otherwise pertains to a 794
preliminary investigation of a charge filed pursuant to division 795
(B)(1) of this section that alleges an unlawful discriminatory 796
practice described in division (H) of section 4112.05 of the 797
Revised Code. 798

(d) Notwithstanding the types of action described in 799
divisions (B)(3)(a)(ii) and (iii) of this section, prior to the 800
issuance of a complaint or the referral of a complaint to the 801
attorney general and prior to endeavoring to eliminate an unlawful 802
discriminatory practice described in division (H) of section 803
4112.02 of the Revised Code by informal methods of conference, 804
conciliation, and persuasion, the commission may seek a temporary 805
or permanent injunction or a temporary restraining order in the 806
court of common pleas of the county in which the unlawful 807
discriminatory practice allegedly occurred. 808

(4) If the commission determines after a preliminary 809
investigation other than one described in division (B)(3) of this 810
section that it is not probable that an unlawful discriminatory 811
practice has been or is being engaged in, it shall notify any 812
complainant under division (B)(1) of this section that it has so 813
determined and that it will not issue a complaint in the matter. 814
If the commission determines after a preliminary investigation 815
other than the one described in division (B)(3) of this section 816
that it is probable that an unlawful discriminatory practice has 817
been or is being engaged in, it shall endeavor to eliminate the 818
practice by informal methods of conference, conciliation, and 819

persuasion. 820

(5) Nothing said or done during informal methods of 821
conference, conciliation, and persuasion under this section shall 822
be disclosed by any member of the commission or its staff or be 823
used as evidence in any subsequent hearing or other proceeding. 824
If, after a preliminary investigation and the use of informal 825
methods of conference, conciliation, and persuasion under this 826
section, the commission is satisfied that any unlawful 827
discriminatory practice will be eliminated, it may treat the 828
charge involved as being conciliated and enter that disposition on 829
the records of the commission. If the commission fails to effect 830
the elimination of an unlawful discriminatory practice by informal 831
methods of conference, conciliation, and persuasion under this 832
section and to obtain voluntary compliance with this chapter, the 833
commission shall issue and cause to be served upon any person, 834
including the respondent against whom a complainant has filed a 835
charge pursuant to division (B)(1) of this section, a complaint 836
stating the charges involved and containing a notice of an 837
opportunity for a hearing before the commission, a member of the 838
commission, or a hearing examiner at a place that is stated in the 839
notice and that is located within the county in which the alleged 840
unlawful discriminatory practice has occurred or is occurring or 841
in which the respondent resides or transacts business. The hearing 842
shall be held not less than thirty days after the service of the 843
complaint upon the complainant, the aggrieved persons other than 844
the complainant on whose behalf the complaint is issued, and the 845
respondent, unless the complainant, an aggrieved person, or the 846
respondent elects to proceed under division (A)(2) of section 847
4112.051 of the Revised Code when that division is applicable. If 848
a complaint pertains to an alleged unlawful discriminatory 849
practice described in division (H) of section 4112.02 of the 850
Revised Code, the complaint shall notify the complainant, an 851
aggrieved person, and the respondent of the right of the 852

complainant, an aggrieved person, or the respondent to elect to 853
proceed with the administrative hearing process under this section 854
or to proceed under division (A)(2) of section 4112.051 of the 855
Revised Code. 856

(6) The attorney general shall represent the commission at 857
any hearing held pursuant to division (B)(5) of this section and 858
shall present the evidence in support of the complaint. 859

(7) Any complaint issued pursuant to division (B)(5) of this 860
section after the filing of a charge under division (B)(1) of this 861
section shall be so issued within one year after the complainant 862
filed the charge with respect to an alleged unlawful 863
discriminatory practice. 864

(C) Any complaint issued pursuant to division (B) of this 865
section may be amended by the commission, a member of the 866
commission, or the hearing examiner conducting a hearing under 867
division (B) of this section, at any time prior to or during the 868
hearing. The respondent has the right to file an answer or an 869
amended answer to the original and amended complaints and to 870
appear at the hearing in person, by attorney, or otherwise to 871
examine and cross-examine witnesses. 872

(D) The complainant shall be a party to a hearing under 873
division (B) of this section, and any person who is an 874
indispensable party to a complete determination or settlement of a 875
question involved in the hearing shall be joined. Any aggrieved 876
person who has or claims an interest in the subject of the hearing 877
and in obtaining or preventing relief against the unlawful 878
discriminatory practices complained of shall be permitted to 879
appear only for the presentation of oral or written arguments, to 880
present evidence, perform direct and cross-examination, and be 881
represented by counsel. The commission shall adopt rules, in 882
accordance with Chapter 119. of the Revised Code governing the 883
authority granted under this division. 884

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

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

(G)(1) If, upon all reliable, probative, and substantial evidence presented at a hearing under division (B) of this section, the commission determines that the respondent has engaged in, or is engaging in, any unlawful discriminatory practice, whether against the complainant or others, the commission shall state its findings of fact and conclusions of law and shall issue and, subject to the provisions of Chapter 119. of the Revised Code, cause to be served on the respondent an order requiring the respondent to cease and desist from the unlawful discriminatory practice, requiring the respondent to take any further affirmative or other action that will effectuate the purposes of this chapter, including, but not limited to, hiring, reinstatement, or upgrading of employees with or without back pay, or admission or restoration

to union membership, and requiring the respondent to report to the 917
commission the manner of compliance. If the commission directs 918
payment of back pay, it shall make allowance for interim earnings. 919
If it finds a violation of division (E)(7) of section 4112.02 of 920
the Revised Code, the commission additionally shall require the 921
respondent to pay the fine required under division (B) of section 922
4112.99 of the Revised Code. If it finds a violation of division 923
(H) of section 4112.02 of the Revised Code, the commission 924
additionally shall require the respondent to pay actual damages 925
and reasonable attorney's fees, and may award to the complainant 926
punitive damages as follows: 927

(a) If division (G)(1)(b) or (c) of this section does not 928
apply, punitive damages in an amount not to exceed ten thousand 929
dollars; 930

(b) If division (G)(1)(c) of this section does not apply and 931
if the respondent has been determined by a final order of the 932
commission or by a final judgment of a court to have committed one 933
violation of division (H) of section 4112.02 of the Revised Code 934
during the five-year period immediately preceding the date on 935
which a complaint was issued pursuant to division (B) of this 936
section, punitive damages in an amount not to exceed twenty-five 937
thousand dollars; 938

(c) If the respondent has been determined by a final order of 939
the commission or by a final judgment of a court to have committed 940
two or more violations of division (H) of section 4112.02 of the 941
Revised Code during the seven-year period immediately preceding 942
the date on which a complaint was issued pursuant to division (B) 943
of this section, punitive damages in an amount not to exceed fifty 944
thousand dollars. 945

(2) Upon the submission of reports of compliance, the 946
commission may issue a declaratory order stating that the 947
respondent has ceased to engage in particular unlawful 948

discriminatory practices. 949

(H) If the commission finds that no probable cause exists for 950
crediting charges of unlawful discriminatory practices or if, upon 951
all the evidence presented at a hearing under division (B) of this 952
section on a charge, the commission finds that a respondent has 953
not engaged in any unlawful discriminatory practice against the 954
complainant or others, it shall state its findings of fact and 955
shall issue and cause to be served on the complainant an order 956
dismissing the complaint as to the respondent. A copy of the order 957
shall be delivered in all cases to the attorney general and any 958
other public officers whom the commission considers proper. 959

(I) Until the time period for appeal set forth in division 960
(H) of section 4112.06 of the Revised Code expires, the 961
commission, subject to the provisions of Chapter 119. of the 962
Revised Code, at any time, upon reasonable notice, and in the 963
manner it considers proper, may modify or set aside, in whole or 964
in part, any finding or order made by it under this section. 965

Sec. 4112.15. There is hereby created in the state treasury 966
the civil rights commission general reimbursement fund, which 967
shall be used to pay operating costs of the commission. All 968
amounts received by the commission, and all amounts awarded by a 969
court to the commission, for attorney's fees, court costs, expert 970
witness fees, and other litigation expenses shall be paid into the 971
state treasury to the credit of the fund. All amounts received by 972
the commission for copies of commission documents and for other 973
goods and services furnished by the commission shall be paid into 974
the state treasury to the credit of the fund. All collected fines 975
charged under division (B) of section 4112.99 of the Revised Code 976
shall be paid into the state treasury to the credit of the fund. 977

Sec. 4112.99. (A) Whoever violates this chapter is subject to 978

a civil action for damages, injunctive relief, or any other 979
appropriate relief. 980

(B) In addition to any damages and relief that may be 981
available in division (A) of this section, whoever violates 982
division (E)(7) of section 4112.02 of the Revised Code shall be 983
subject to a fine in the amount of up to one thousand dollars for 984
the first violation of one of these divisions, up to five thousand 985
dollars for a second violation, and up to ten thousand dollars for 986
each subsequent violation. 987

Section 2. That existing sections 4112.01, 4112.02, 4112.05, 988
4112.15, and 4112.99 of the Revised Code are hereby repealed. 989