

As Introduced

**129th General Assembly
Regular Session
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S. B. No. 349

Senators Turner, Tavares

**Cosponsors: Senators Kearney, Sawyer, Brown, Schiavoni, Gentile, Cafaro,
Skindell**

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A B I L L

To amend sections 3314.03, 3326.11, 4111.04, 4111.05, 1
4111.06, 4111.07, 4111.09, 4111.11, 4111.12, 2
4111.13, 4111.17, 4111.99, and 4112.01, to amend, 3
for the purpose of adopting a new section number 4
as indicated in parentheses, section 4111.17 5
(4112.16) of the Revised Code to enact the "Fair 6
and Acceptable Income Required (FAIR) Act" and to 7
revise the enforcement of the prohibitions against 8
discrimination in the payment of wages. 9

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

Section 1. That sections 3314.03, 3326.11, 4111.04, 4111.05, 10
4111.06, 4111.07, 4111.09, 4111.11, 4111.12, 4111.13, 4111.17, 11
4111.99, and 4112.01 be amended, and section 4111.17 (4112.16) of 12
the Revised Code be amended for the purpose of adopting a new 13
section number as indicated in parentheses, to read as follows: 14

Sec. 3314.03. A copy of every contract entered into under 15
this section shall be filed with the superintendent of public 16
instruction. 17

(A) Each contract entered into between a sponsor and the 18

governing authority of a community school shall specify the	19
following:	20
(1) That the school shall be established as either of the	21
following:	22
(a) A nonprofit corporation established under Chapter 1702.	23
of the Revised Code, if established prior to April 8, 2003;	24
(b) A public benefit corporation established under Chapter	25
1702. of the Revised Code, if established after April 8, 2003.	26
(2) The education program of the school, including the	27
school's mission, the characteristics of the students the school	28
is expected to attract, the ages and grades of students, and the	29
focus of the curriculum;	30
(3) The academic goals to be achieved and the method of	31
measurement that will be used to determine progress toward those	32
goals, which shall include the statewide achievement assessments;	33
(4) Performance standards by which the success of the school	34
will be evaluated by the sponsor;	35
(5) The admission standards of section 3314.06 of the Revised	36
Code and, if applicable, section 3314.061 of the Revised Code;	37
(6)(a) Dismissal procedures;	38
(b) A requirement that the governing authority adopt an	39
attendance policy that includes a procedure for automatically	40
withdrawing a student from the school if the student without a	41
legitimate excuse fails to participate in one hundred five	42
consecutive hours of the learning opportunities offered to the	43
student.	44
(7) The ways by which the school will achieve racial and	45
ethnic balance reflective of the community it serves;	46
(8) Requirements for financial audits by the auditor of	47
state. The contract shall require financial records of the school	48

to be maintained in the same manner as are financial records of 49
school districts, pursuant to rules of the auditor of state. 50
Audits shall be conducted in accordance with section 117.10 of the 51
Revised Code. 52

(9) The facilities to be used and their locations; 53

(10) Qualifications of teachers, including the following: 54

(a) A requirement that the school's classroom teachers be 55
licensed in accordance with sections 3319.22 to 3319.31 of the 56
Revised Code, except that a community school may engage 57
noncertificated persons to teach up to twelve hours per week 58
pursuant to section 3319.301 of the Revised Code; 59

(b) A requirement that each classroom teacher initially hired 60
by the school on or after July 1, 2013, and employed to provide 61
instruction in physical education hold a valid license issued 62
pursuant to section 3319.22 of the Revised Code for teaching 63
physical education. 64

(11) That the school will comply with the following 65
requirements: 66

(a) The school will provide learning opportunities to a 67
minimum of twenty-five students for a minimum of nine hundred 68
twenty hours per school year. 69

(b) The governing authority will purchase liability 70
insurance, or otherwise provide for the potential liability of the 71
school. 72

(c) The school will be nonsectarian in its programs, 73
admission policies, employment practices, and all other 74
operations, and will not be operated by a sectarian school or 75
religious institution. 76

(d) The school will comply with sections 9.90, 9.91, 109.65, 77
121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 3301.0711, 78

3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.608, 79
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.643, 3313.648, 80
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 81
3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 82
3313.718, 3313.719, 3313.80, 3313.814, 3313.816, 3313.817, 83
3313.86, 3313.96, 3319.073, 3319.321, 3319.39, 3319.391, 3319.41, 84
3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 85
3321.191, 3327.10, ~~4111.17~~ 4112.16, 4113.52, and 5705.391 and 86
Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., 87
and 4167. of the Revised Code as if it were a school district and 88
will comply with section 3301.0714 of the Revised Code in the 89
manner specified in section 3314.17 of the Revised Code. 90

(e) The school shall comply with Chapter 102. and section 91
2921.42 of the Revised Code. 92

(f) The school will comply with sections 3313.61, 3313.611, 93
and 3313.614 of the Revised Code, except that for students who 94
enter ninth grade for the first time before July 1, 2010, the 95
requirement in sections 3313.61 and 3313.611 of the Revised Code 96
that a person must successfully complete the curriculum in any 97
high school prior to receiving a high school diploma may be met by 98
completing the curriculum adopted by the governing authority of 99
the community school rather than the curriculum specified in Title 100
XXXIII of the Revised Code or any rules of the state board of 101
education. Beginning with students who enter ninth grade for the 102
first time on or after July 1, 2010, the requirement in sections 103
3313.61 and 3313.611 of the Revised Code that a person must 104
successfully complete the curriculum of a high school prior to 105
receiving a high school diploma shall be met by completing the 106
Ohio core curriculum prescribed in division (C) of section 107
3313.603 of the Revised Code, unless the person qualifies under 108
division (D) or (F) of that section. Each school shall comply with 109
the plan for awarding high school credit based on demonstration of 110

subject area competency, adopted by the state board of education 111
under division (J) of section 3313.603 of the Revised Code. 112

(g) The school governing authority will submit within four 113
months after the end of each school year a report of its 114
activities and progress in meeting the goals and standards of 115
divisions (A)(3) and (4) of this section and its financial status 116
to the sponsor and the parents of all students enrolled in the 117
school. 118

(h) The school, unless it is an internet- or computer-based 119
community school, will comply with sections 3313.674 and 3313.801 120
of the Revised Code as if it were a school district. 121

(i) If the school is the recipient of moneys from a grant 122
awarded under the federal race to the top program, Division (A), 123
Title XIV, Sections 14005 and 14006 of the "American Recovery and 124
Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the 125
school will pay teachers based upon performance in accordance with 126
section 3317.141 and will comply with section 3319.111 of the 127
Revised Code as if it were a school district. 128

(12) Arrangements for providing health and other benefits to 129
employees; 130

(13) The length of the contract, which shall begin at the 131
beginning of an academic year. No contract shall exceed five years 132
unless such contract has been renewed pursuant to division (E) of 133
this section. 134

(14) The governing authority of the school, which shall be 135
responsible for carrying out the provisions of the contract; 136

(15) A financial plan detailing an estimated school budget 137
for each year of the period of the contract and specifying the 138
total estimated per pupil expenditure amount for each such year. 139
The plan shall specify for each year the base formula amount that 140
will be used for purposes of funding calculations under section 141

3314.08 of the Revised Code. This base formula amount for any year 142
shall not exceed the formula amount defined under section 3317.02 143
of the Revised Code. The plan may also specify for any year a 144
percentage figure to be used for reducing the per pupil amount of 145
the subsidy calculated pursuant to section 3317.029 of the Revised 146
Code the school is to receive that year under section 3314.08 of 147
the Revised Code. 148

(16) Requirements and procedures regarding the disposition of 149
employees of the school in the event the contract is terminated or 150
not renewed pursuant to section 3314.07 of the Revised Code; 151

(17) Whether the school is to be created by converting all or 152
part of an existing public school or educational service center 153
building or is to be a new start-up school, and if it is a 154
converted public school or service center building, specification 155
of any duties or responsibilities of an employer that the board of 156
education or service center governing board that operated the 157
school or building before conversion is delegating to the 158
governing authority of the community school with respect to all or 159
any specified group of employees provided the delegation is not 160
prohibited by a collective bargaining agreement applicable to such 161
employees; 162

(18) Provisions establishing procedures for resolving 163
disputes or differences of opinion between the sponsor and the 164
governing authority of the community school; 165

(19) A provision requiring the governing authority to adopt a 166
policy regarding the admission of students who reside outside the 167
district in which the school is located. That policy shall comply 168
with the admissions procedures specified in sections 3314.06 and 169
3314.061 of the Revised Code and, at the sole discretion of the 170
authority, shall do one of the following: 171

(a) Prohibit the enrollment of students who reside outside 172

the district in which the school is located;	173
(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;	174 175
(c) Permit the enrollment of students who reside in any other district in the state.	176 177
(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;	178 179 180 181
(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;	182 183 184
(22) A provision recognizing both of the following:	185
(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;	186 187 188 189
(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action.	190 191 192 193 194 195 196
(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised Code;	197 198 199 200 201 202

(24) The school will comply with sections 3302.04 and 203
3302.041 of the Revised Code, except that any action required to 204
be taken by a school district pursuant to those sections shall be 205
taken by the sponsor of the school. However, the sponsor shall not 206
be required to take any action described in division (F) of 207
section 3302.04 of the Revised Code. 208

(25) Beginning in the 2006-2007 school year, the school will 209
open for operation not later than the thirtieth day of September 210
each school year, unless the mission of the school as specified 211
under division (A)(2) of this section is solely to serve dropouts. 212
In its initial year of operation, if the school fails to open by 213
the thirtieth day of September, or within one year after the 214
adoption of the contract pursuant to division (D) of section 215
3314.02 of the Revised Code if the mission of the school is solely 216
to serve dropouts, the contract shall be void. 217

(B) The community school shall also submit to the sponsor a 218
comprehensive plan for the school. The plan shall specify the 219
following: 220

(1) The process by which the governing authority of the 221
school will be selected in the future; 222

(2) The management and administration of the school; 223

(3) If the community school is a currently existing public 224
school or educational service center building, alternative 225
arrangements for current public school students who choose not to 226
attend the converted school and for teachers who choose not to 227
teach in the school or building after conversion; 228

(4) The instructional program and educational philosophy of 229
the school; 230

(5) Internal financial controls. 231

(C) A contract entered into under section 3314.02 of the 232

Revised Code between a sponsor and the governing authority of a 233
community school may provide for the community school governing 234
authority to make payments to the sponsor, which is hereby 235
authorized to receive such payments as set forth in the contract 236
between the governing authority and the sponsor. The total amount 237
of such payments for oversight and monitoring of the school shall 238
not exceed three per cent of the total amount of payments for 239
operating expenses that the school receives from the state. 240

(D) The contract shall specify the duties of the sponsor 241
which shall be in accordance with the written agreement entered 242
into with the department of education under division (B) of 243
section 3314.015 of the Revised Code and shall include the 244
following: 245

(1) Monitor the community school's compliance with all laws 246
applicable to the school and with the terms of the contract; 247

(2) Monitor and evaluate the academic and fiscal performance 248
and the organization and operation of the community school on at 249
least an annual basis; 250

(3) Report on an annual basis the results of the evaluation 251
conducted under division (D)(2) of this section to the department 252
of education and to the parents of students enrolled in the 253
community school; 254

(4) Provide technical assistance to the community school in 255
complying with laws applicable to the school and terms of the 256
contract; 257

(5) Take steps to intervene in the school's operation to 258
correct problems in the school's overall performance, declare the 259
school to be on probationary status pursuant to section 3314.073 260
of the Revised Code, suspend the operation of the school pursuant 261
to section 3314.072 of the Revised Code, or terminate the contract 262
of the school pursuant to section 3314.07 of the Revised Code as 263

determined necessary by the sponsor; 264

(6) Have in place a plan of action to be undertaken in the 265
event the community school experiences financial difficulties or 266
closes prior to the end of a school year. 267

(E) Upon the expiration of a contract entered into under this 268
section, the sponsor of a community school may, with the approval 269
of the governing authority of the school, renew that contract for 270
a period of time determined by the sponsor, but not ending earlier 271
than the end of any school year, if the sponsor finds that the 272
school's compliance with applicable laws and terms of the contract 273
and the school's progress in meeting the academic goals prescribed 274
in the contract have been satisfactory. Any contract that is 275
renewed under this division remains subject to the provisions of 276
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 277

(F) If a community school fails to open for operation within 278
one year after the contract entered into under this section is 279
adopted pursuant to division (D) of section 3314.02 of the Revised 280
Code or permanently closes prior to the expiration of the 281
contract, the contract shall be void and the school shall not 282
enter into a contract with any other sponsor. A school shall not 283
be considered permanently closed because the operations of the 284
school have been suspended pursuant to section 3314.072 of the 285
Revised Code. 286

Sec. 3326.11. Each science, technology, engineering, and 287
mathematics school established under this chapter and its 288
governing body shall comply with sections 9.90, 9.91, 109.65, 289
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 290
3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 291
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 292
3313.536, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 293
3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 3313.648, 294

3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 295
3313.671, 3313.672, 3313.673, 3313.674, 3313.69, 3313.71, 296
3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 297
3313.816, 3313.817, 3313.86, 3313.88, 3313.96, 3319.073, 3319.21, 298
3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 299
3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 300
3321.191, 3327.10, ~~4111.17~~ 4112.16, 4113.52, and 5705.391 and 301
Chapters 102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 302
4112., 4123., 4141., and 4167. of the Revised Code as if it were a 303
school district. 304

Sec. 4111.04. The director of commerce may: 305

(A) Investigate and ascertain the wages of persons employed 306
in any occupation in the state; 307

(B) Enter and inspect the place of business or employment of 308
any employer for the purpose of inspecting any books, registers, 309
payrolls, or other records of the employer that in any way relate 310
to the question of wages, hours, and other conditions of 311
employment of any employees, and may question the employees for 312
the purpose of ascertaining whether sections 4111.01 to ~~4111.17~~ 313
4111.14 and 4112.16 of the Revised Code, and the rules adopted 314
thereunder, have been and are being obeyed. In conducting an 315
inspection of the records of an employer, the director shall make 316
every effort to coordinate the inspection with those conducted by 317
the federal agency responsible for enforcement of the "Fair Labor 318
Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 201, as 319
amended. If the federal agency has completed an audit or 320
examination of the employer's records within the sixty days prior 321
to the date the director notifies the employer of the director's 322
intent to examine the employer's records, the director shall 323
accept in lieu of the director's own inspection, a report from the 324
federal agency that the employer is in compliance with the federal 325

act, unless the director has reasonable grounds for believing that 326
the report is inaccurate or incomplete for the purposes of 327
sections 4111.01 to 4111.13 of the Revised Code, or that events 328
occurring since the audit give the director reasonable grounds for 329
believing that a violation of sections 4111.01 to 4111.13 of the 330
Revised Code has occurred. 331

(C) In the event the director is prohibited by any employer 332
from carrying out the intent of this section, the director may 333
issue subpoenas and compel attendance of witnesses and production 334
of papers, books, accounts, payrolls, documents, records, and 335
testimony relating and relevant to the director's investigation. 336

Sec. 4111.05. The director of commerce shall adopt rules in 337
accordance with Chapter 119. of the Revised Code as the director 338
considers appropriate to carry out the purposes of sections 339
4111.01 to ~~4111.17~~ 4111.14 of the Revised Code. The rules may be 340
amended from time to time and may include, but are not limited to, 341
rules defining and governing apprentices, their number, 342
proportion, and length of service; bonuses and special pay for 343
special or extra work; permitted deductions or charges to 344
employees for board, lodging, apparel, or other facilities or 345
services customarily furnished by employers to employees; 346
inclusion of ascertainable gratuities in wages paid; allowances 347
for unascertainable gratuities or for other special conditions or 348
circumstances which may be usual in particular employer-employee 349
relationships; and the method of computation or the period of time 350
over which wages may be averaged to determine whether the minimum 351
wage or overtime rate has been paid. 352

Sec. 4111.06. In order to prevent curtailment of 353
opportunities for employment, to avoid undue hardship, and to 354
safeguard the minimum wage rates under sections 4111.01 to ~~4111.17~~ 355
4111.14 of the Revised Code, the director of commerce shall adopt 356

rules under section 4111.05 of the Revised Code, permitting 357
employment in any occupation at wages lower than the wage rates 358
applicable under sections 4111.01 to ~~4111.17~~ 4111.14 of the 359
Revised Code, of individuals whose earning capacity is impaired by 360
physical or mental deficiencies or injuries. The rules shall 361
provide for licenses to be issued authorizing employment at the 362
wages of specific individuals or groups of employees, or by 363
specific employers or groups of employers, pursuant to the rules. 364
The rules shall not conflict with the "Americans with Disabilities 365
Act of 1990," 104 Stat. 328, 42 U.S.C.A. 12111, et seq. 366

Sec. 4111.07. The director of commerce may adopt rules under 367
section 4111.05 of the Revised Code, permitting employment of 368
apprentices at a wage rate not less than eighty-five per cent of 369
the minimum wage rate applicable under sections 4111.01 to ~~4111.17~~ 370
4111.14 of the Revised Code. The rules shall provide for licenses 371
to be issued for periods not to exceed ninety days and authorizing 372
employment at the wages of specific individuals or groups of 373
employees, or by specific employers or groups of employers, 374
pursuant to the rules. 375

Sec. 4111.09. Every employer subject to sections 4111.01 to 376
~~4111.17~~ 4111.14 and 4112.16 of the Revised Code, or to any rules 377
issued thereunder, shall keep a summary of the sections, approved 378
by the director of commerce, and copies of any applicable rules 379
issued thereunder, or a summary of the rules, posted in a 380
conspicuous and accessible place in or about the premises wherein 381
any person subject thereto is employed. The director of commerce 382
shall make the summary described in this section available on the 383
web site of the department of commerce. The director shall update 384
this summary as necessary, but not less than annually, in order to 385
reflect changes in the minimum wage rate as required under Section 386
34a of Article II, Ohio Constitution. Employees and employers 387

shall be furnished copies of the summaries and rules by the state, 388
on request, without charge. 389

Sec. 4111.11. Any standards relating to minimum wages, 390
overtime compensation, or other working conditions in effect under 391
any other law of this state on the effective date of sections 392
4111.01 to ~~4111.17~~ 4111.14 of the Revised Code, which are more 393
favorable to employees than those applicable to employees under 394
sections or regulations issued hereunder, are not amended, 395
rescinded, or otherwise affected by said sections, but continue in 396
full force and effect, and may be enforced as provided by law 397
until they are specifically superseded by standards more favorable 398
to the employees by operation of or in accordance with regulations 399
issued under said sections. 400

Sec. 4111.12. Nothing in sections 4111.01 to ~~4111.17~~ 4111.14 401
of the Revised Code interferes with, impedes, or in any way 402
diminishes the right of employees to bargain collectively with 403
their employers through representatives of their own choosing in 404
order to establish wages or other conditions of work in excess of 405
the applicable minimum under sections 4111.01 to ~~4111.17~~ 4111.14 406
of the Revised Code. 407

Sec. 4111.13. (A) No employer shall hinder or delay the 408
director of commerce in the performance of the director's duties 409
in the enforcement of sections 4111.01 to ~~4111.17~~ 4111.14 of the 410
Revised Code, or refuse to admit the director to any place of 411
employment, or fail to make, keep, and preserve any records as 412
required under those sections, or falsify any of those records, or 413
refuse to make them accessible to the director upon demand, or 414
refuse to furnish them or any other information required for the 415
proper enforcement of those sections to the director upon demand, 416
or fail to post a summary of those sections or a copy of any 417

applicable rules as required by section 4111.09 of the Revised Code. Each day of violation constitutes a separate offense.

(B) No employer shall discharge or in any other manner discriminate against any employee because the employee has made any complaint to the employee's employer, or to the director, that the employee has not been paid wages in accordance with sections 4111.01 to ~~4111.17~~ 4111.14 of the Revised Code, or because the employee has made any complaint or is about to cause to be instituted any proceeding under or related to those sections, or because the employee has testified or is about to testify in any proceeding.

(C) No employer shall pay or agree to pay wages at a rate less than the rate applicable under sections 4111.01 to ~~4111.17~~ 4111.14 of the Revised Code. Each week or portion thereof for which the employer pays any employee less than the rate applicable under those sections constitutes a separate offense as to each employer.

(D) No employer shall otherwise violate sections 4111.01 to ~~4111.17~~ 4111.14 of the Revised Code, or any rule adopted thereunder. Each day of violation constitutes a separate offense.

Sec. 4111.99. (A) Whoever violates division (A) or (D) of section 4111.13 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates division (B) or (C) of section 4111.13 of the Revised Code is guilty of a misdemeanor of the third degree.

~~(C) Whoever violates section 4111.17 of the Revised Code is guilty of a minor misdemeanor.~~

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

(1) "Person" includes one or more individuals, partnerships, 447
associations, organizations, corporations, legal representatives, 448
trustees, trustees in bankruptcy, receivers, and other organized 449
groups of persons. "Person" also includes, but is not limited to, 450
any owner, lessor, assignor, builder, manager, broker, 451
salesperson, appraiser, agent, employee, lending institution, and 452
the state and all political subdivisions, authorities, agencies, 453
boards, and commissions of the state. 454

(2) "Employer" includes the state, any political subdivision 455
of the state, any person employing four or more persons within the 456
state, and any person acting directly or indirectly in the 457
interest of an employer. 458

(3) "Employee" means an individual employed by any employer 459
but does not include any individual employed in the domestic 460
service of any person. 461

(4) "Labor organization" includes any organization that 462
exists, in whole or in part, for the purpose of collective 463
bargaining or of dealing with employers concerning grievances, 464
terms or conditions of employment, or other mutual aid or 465
protection in relation to employment. 466

(5) "Employment agency" includes any person regularly 467
undertaking, with or without compensation, to procure 468
opportunities to work or to procure, recruit, refer, or place 469
employees. 470

(6) "Commission" means the Ohio civil rights commission 471
created by section 4112.03 of the Revised Code. 472

(7) "Discriminate" includes segregate or separate. 473

(8) "Unlawful discriminatory practice" means any act 474
prohibited by section 4112.02, 4112.021, or 4112.022 of the 475
Revised Code. 476

(9) "Place of public accommodation" means any inn, 477
restaurant, eating house, barbershop, public conveyance by air, 478
land, or water, theater, store, other place for the sale of 479
merchandise, or any other place of public accommodation or 480
amusement of which the accommodations, advantages, facilities, or 481
privileges are available to the public. 482

(10) "Housing accommodations" includes any building or 483
structure, or portion of a building or structure, that is used or 484
occupied or is intended, arranged, or designed to be used or 485
occupied as the home residence, dwelling, dwelling unit, or 486
sleeping place of one or more individuals, groups, or families 487
whether or not living independently of each other; and any vacant 488
land offered for sale or lease. "Housing accommodations" also 489
includes any housing accommodations held or offered for sale or 490
rent by a real estate broker, salesperson, or agent, by any other 491
person pursuant to authorization of the owner, by the owner, or by 492
the owner's legal representative. 493

(11) "Restrictive covenant" means any specification limiting 494
the transfer, rental, lease, or other use of any housing 495
accommodations because of race, color, religion, sex, military 496
status, familial status, national origin, disability, or ancestry, 497
or any limitation based upon affiliation with or approval by any 498
person, directly or indirectly, employing race, color, religion, 499
sex, military status, familial status, national origin, 500
disability, or ancestry as a condition of affiliation or approval. 501

(12) "Burial lot" means any lot for the burial of deceased 502
persons within any public burial ground or cemetery, including, 503
but not limited to, cemeteries owned and operated by municipal 504
corporations, townships, or companies or associations incorporated 505
for cemetery purposes. 506

(13) "Disability" means a physical or mental impairment that 507
substantially limits one or more major life activities, including 508

the functions of caring for one's self, performing manual tasks, 509
walking, seeing, hearing, speaking, breathing, learning, and 510
working; a record of a physical or mental impairment; or being 511
regarded as having a physical or mental impairment. 512

(14) Except as otherwise provided in section 4112.021 of the 513
Revised Code, "age" means at least forty years old. 514

(15) "Familial status" means either of the following: 515

(a) One or more individuals who are under eighteen years of 516
age and who are domiciled with a parent or guardian having legal 517
custody of the individual or domiciled, with the written 518
permission of the parent or guardian having legal custody, with a 519
designee of the parent or guardian; 520

(b) Any person who is pregnant or in the process of securing 521
legal custody of any individual who is under eighteen years of 522
age. 523

(16)(a) Except as provided in division (A)(16)(b) of this 524
section, "physical or mental impairment" includes any of the 525
following: 526

(i) Any physiological disorder or condition, cosmetic 527
disfigurement, or anatomical loss affecting one or more of the 528
following body systems: neurological; musculoskeletal; special 529
sense organs; respiratory, including speech organs; 530
cardiovascular; reproductive; digestive; genito-urinary; hemic and 531
lymphatic; skin; and endocrine; 532

(ii) Any mental or psychological disorder, including, but not 533
limited to, mental retardation, organic brain syndrome, emotional 534
or mental illness, and specific learning disabilities; 535

(iii) Diseases and conditions, including, but not limited to, 536
orthopedic, visual, speech, and hearing impairments, cerebral 537
palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, 538

cancer, heart disease, diabetes, human immunodeficiency virus 539
infection, mental retardation, emotional illness, drug addiction, 540
and alcoholism. 541

(b) "Physical or mental impairment" does not include any of 542
the following: 543

(i) Homosexuality and bisexuality; 544

(ii) Transvestism, transsexualism, pedophilia, exhibitionism, 545
voyeurism, gender identity disorders not resulting from physical 546
impairments, or other sexual behavior disorders; 547

(iii) Compulsive gambling, kleptomania, or pyromania; 548

(iv) Psychoactive substance use disorders resulting from the 549
current illegal use of a controlled substance or the current use 550
of alcoholic beverages. 551

(17) "Dwelling unit" means a single unit of residence for a 552
family of one or more persons. 553

(18) "Common use areas" means rooms, spaces, or elements 554
inside or outside a building that are made available for the use 555
of residents of the building or their guests, and includes, but is 556
not limited to, hallways, lounges, lobbies, laundry rooms, refuse 557
rooms, mail rooms, recreational areas, and passageways among and 558
between buildings. 559

(19) "Public use areas" means interior or exterior rooms or 560
spaces of a privately or publicly owned building that are made 561
available to the general public. 562

(20) "Controlled substance" has the same meaning as in 563
section 3719.01 of the Revised Code. 564

(21) "Disabled tenant" means a tenant or prospective tenant 565
who is a person with a disability. 566

(22) "Military status" means a person's status in "service in 567
the uniformed services" as defined in section 5923.05 of the 568

Revised Code. 569

(23) "Aggrieved person" includes both of the following: 570

(a) Any person who claims to have been injured by any 571
unlawful discriminatory practice described in division (H) of 572
section 4112.02 of the Revised Code; 573

(b) Any person who believes that the person will be injured 574
by, any unlawful discriminatory practice described in division (H) 575
of section 4112.02 of the Revised Code that is about to occur. 576

(B) For the purposes of divisions (A) to (F) of section 577
4112.02 of the Revised Code, the terms "because of sex" and "on 578
the basis of sex" include, but are not limited to, because of or 579
on the basis of pregnancy, any illness arising out of and 580
occurring during the course of a pregnancy, childbirth, or related 581
medical conditions. Women affected by pregnancy, childbirth, or 582
related medical conditions shall be treated the same for all 583
employment-related purposes, including receipt of benefits under 584
fringe benefit programs, as other persons not so affected but 585
similar in their ability or inability to work, and nothing in 586
division (B) of section ~~4111.17~~ 4112.16 of the Revised Code shall 587
be interpreted to permit otherwise. This division shall not be 588
construed to require an employer to pay for health insurance 589
benefits for abortion, except where the life of the mother would 590
be endangered if the fetus were carried to term or except where 591
medical complications have arisen from the abortion, provided that 592
nothing in this division precludes an employer from providing 593
abortion benefits or otherwise affects bargaining agreements in 594
regard to abortion. 595

Sec. ~~4111.17~~ 4112.16. (A) No employer, including the state 596
and political subdivisions thereof, shall discriminate in the 597
payment of wages on the basis of race, color, religion, sex, age, 598
national origin, sexual orientation, gender identity, or ancestry 599

by paying wages to any employee at a rate less than the rate at 600
which the employer pays wages to another employee for equal work 601
on jobs the performance of which requires equal skill, effort, and 602
responsibility, and which are performed under similar conditions. 603

(B) Nothing in this section prohibits an employer from paying 604
wages to one employee at a rate different from that at which the 605
employer pays another employee for the performance of equal work 606
under similar conditions on jobs requiring equal skill, effort, 607
and responsibility, when the payment is made pursuant to any of 608
the following: 609

(1) A seniority system; 610

(2) A merit system; 611

(3) A system which measures earnings by the quantity or 612
quality of production; 613

(4) A wage rate differential determined by any bona fide 614
~~factor other than race, color, religion, sex, age, national~~ 615
~~origin, or ancestry, such as education, training, or experience~~ 616
that meets the criteria described in division (C) of this section. 617

(C)(1) An employer may defend a wage rate differential made 618
under division (B)(4) of this section only if the employer can 619
demonstrate all of the following: 620

(a) The difference is based on a factor substantially related 621
to the employee's position and performance, such as education, 622
training, or experience. 623

(b) The difference is not related to the employee's race, 624
color, religion, sex, age, national origin, sexual orientation, 625
gender identity, or ancestry. 626

(c) The difference is consistent with business necessity. 627

(2) The defense described in division (C)(1) of this section 628
shall be rebutted if an employee making an allegation of wage 629

discrimination or the commission demonstrates both of the 630
following: 631

(a) An alternative employment practice exists that would 632
serve the same business purpose without producing the wage rate 633
differential; 634

(b) The employer has refused to adopt the alternative 635
practice. 636

(D) No employer shall reduce the wage rate of any employee in 637
order to comply with this section. 638

~~(D)~~(E) The ~~director of commerce~~ commission shall carry out, 639
administer, and enforce this section. Any employee discriminated 640
against in violation of this section may sue in any court of 641
competent jurisdiction to recover two times the amount of the 642
difference between the wages actually received and the wages 643
received by a person performing equal work for the employer, from 644
the date of the commencement of the violation, and for costs, 645
including attorney fees. Notwithstanding the definitions of "tort 646
action" in sections 2315.18 to 2315.21 of the Revised Code, such 647
an action shall be considered a tort action for the purposes of 648
those sections and shall be subject to sections 2315.18 to 2315.21 649
of the Revised Code, except to the extent those sections conflict 650
with this section. The ~~director~~ commission may take an assignment 651
of any such wage claim in trust for such employee and sue in the 652
employee's behalf. In any civil action under this section, two or 653
more employees of the same employer may join as co-plaintiffs in 654
one action. The ~~director~~ commission may sue in one action for 655
claims assigned to the ~~director~~ commission by two or more 656
employees of the same employer. No agreement to work for a 657
discriminatory wage constitutes a defense for any civil or 658
criminal action to enforce this section. No employer shall 659
discriminate against any employee because such employee makes a 660
complaint or institutes, or testifies in, any proceeding under 661

this section. 662

~~(E)~~(F) Any action arising under this section shall be 663
initiated within one year after the date of violation. 664

(G)(1) No employer shall discriminate against any employee 665
because the employee makes a complaint, or institutes or testifies 666
in any proceeding, under this section. 667

(2) No employer shall discriminate against an employee for 668
inquiring about, discussing, or disclosing the wages of the 669
employee or another employee in response to a complaint or charge, 670
or in furtherance of a discrimination investigation, proceeding, 671
hearing, or action, or an investigation conducted by the employer. 672

(3) Any person discriminated against in violation of division 673
(G)(1) or (G)(2) of this section may sue in any court of competent 674
jurisdiction to recover damages, injunctive relief, or any other 675
appropriate relief. 676

(H) In addition to any other award made under this section, 677
the court or jury may award punitive or exemplary damages in 678
accordance with section 2315.21 of the Revised Code in an amount 679
sufficient to deter future violations. 680

(I) As used in this section: 681

(1) "Sexual orientation" means heterosexuality, 682
homosexuality, or bisexuality, whether actual or perceived. 683

(2) "Gender identity" means an individual's self-perception, 684
or perception of that person by another, of the individual's 685
identity as male or female as realized through the person's 686
appearance, behavior, or physical characteristics, regardless of 687
whether such appearance, behavior, or physical characteristics are 688
in accord with or opposed to the person's physical anatomy, 689
chromosomal sex, or sex at birth. 690

Section 2. That existing sections 3314.03, 3326.11, 4111.04, 691

4111.05, 4111.06, 4111.07, 4111.09, 4111.11, 4111.12, 4111.13, 692
4111.17, 4111.99, and 4112.01 of the Revised Code are hereby 693
repealed. 694

Section 3. The General Assembly, in enacting this 695
legislation, hereby declares its intent to ensure equal pay for 696
women in Ohio and to correct the historical wage disparity that 697
has occurred between the sexes. 698

Section 4. This act shall be known as the "Fair and 699
Acceptable Income Required (FAIR) Act." 700