

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**H. B. No. 604**

**Representative Clyde**

**Cosponsors: Representatives Antonio, Ashford, Bishoff, Celebrezze, Fedor,  
Foley, Hagan, R., Heard, Phillips, Ramos, Redfern, Reece, Slesnick, Strahorn**

—

**A BILL**

To amend section 4112.02 and to enact sections 1  
1751.68 and 3923.84 of the Revised Code to require 2  
health insurers to provide coverage for 3  
contraceptive drugs and devices approved by the 4  
United States Food and Drug Administration and to 5  
prohibit employment discrimination under the Ohio 6  
Civil Rights Law on the basis of reproductive 7  
health decisions made by a person or a person's 8  
dependent or on the basis of the employer's 9  
personal beliefs about drugs, devices, and 10  
services related to reproductive health. 11

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

**Section 1.** That section 4112.02 be amended and sections 12  
1751.68 and 3923.84 of the Revised Code be enacted to read as 13  
follows: 14

**Sec. 1751.68.** (A) Notwithstanding section 3901.71 of the 15  
Revised Code, and except as provided in division (D) of this 16  
section, each individual or group health insuring corporation 17  
policy, contract, or agreement providing basic health care 18

services that is delivered, issued for delivery, or renewed in 19  
this state that provides coverage for prescription drugs shall 20  
provide coverage for both of the following: 21

(1) Prescription drugs or devices approved by the United 22  
States food and drug administration for use as a contraceptive for 23  
women; 24

(2) Consultations, examinations, procedures, and medical 25  
services provided on an outpatient basis related to the use of a 26  
contraceptive method for women. 27

(B) No insurer shall impose upon any enrollee receiving a 28  
prescription contraceptive drug, device, or service enumerated in 29  
divisions (B)(1) and (2) of this section a deductible, copayment, 30  
coinsurance payment, or other fee for the drug, device, or 31  
service. 32

(C)(1) As used in this division: 33

(a) "Religious employer" means an employer that is a 34  
nonprofit, religious organization that is excepted from filing an 35  
annual return pursuant to section 6033(a)(3)(A)(i) or (iii) of the 36  
Internal Revenue Code of 1986, as amended. 37

(b) "Eligible organization" means an organization that 38  
satisfies all of the requirements of 45 C.F.R. 147.131(b)(1) to 39  
(3), as amended. 40

(2) This section shall not apply to an individual or group 41  
health insuring corporation policy, contract, or agreement that is 42  
delivered, issued for delivery, or renewed in this state if the 43  
policy, contract, or agreement is obtained by an employer for the 44  
employer's employees and either of the following applies: 45

(a) The employer is a religious employer. 46

(b) The employer is an eligible organization, if the employer 47  
has self-certified with the secretary of the United States 48

department of health and human services as described under 45 49  
C.F.R. 147.131(b)(4), as amended. 50

(D) No corporation for profit formed under the laws of this 51  
state or another state is exempt from this section. 52

**Sec. 3923.84.** (A) Notwithstanding section 3901.71 of the 53  
Revised Code, and except as provided in division (D) of this 54  
section, each individual or group policy of sickness and accident 55  
insurance that is delivered, issued for delivery, or renewed in 56  
this state and each public employee benefit plan that is 57  
established or modified in this state shall provide coverage for 58  
both of the following: 59

(1) Prescription drugs or devices approved by the United 60  
States food and drug administration for use as a contraceptive for 61  
women; 62

(2) Consultations, examinations, procedures, and medical 63  
services provided on an outpatient basis related to the use of a 64  
contraceptive method for women. 65

(B) No insurer shall impose upon any insured receiving a 66  
prescription contraceptive drug, device, or service enumerated in 67  
divisions (B)(1) and (2) of this section a deductible, copayment, 68  
coinsurance payment, or other fee for the drug, device, or 69  
service. 70

(C)(1) As used in this division: 71

(a) "Religious employer" means an employer that is a 72  
nonprofit, religious organization that is excepted from filing an 73  
annual return pursuant to section 6033(a)(3)(A)(i) or (iii) of the 74  
Internal Revenue Code of 1986, as amended. 75

(b) "Eligible organization" means an organization that 76  
satisfies all of the requirements of 45 C.F.R. 147.131(b)(1) to 77  
(3), as amended. 78

(2) This section shall not apply to an individual or group policy of sickness and accident insurance that is delivered, issued for delivery, or renewed in this state if the policy is obtained by an employer for the employer's employees and either of the following applies:

(a) The employer is a religious employer.

(b) The employer is an eligible organization, if the employer has self-certified with the secretary of the United States department of health and human services as described under 45 C.F.R. 147.131(b)(4), as amended.

(D) No corporation for profit formed under the laws of this state or another state is exempt from this section.

**Sec. 4112.02.** It shall be an unlawful discriminatory practice:

(A) For any employer, because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any person; because of any reproductive health decisions made by a person, including any decisions made by a person or their dependent to use a particular drug, device, or medical service; or because of the employer's personal beliefs about any drugs, devices, or services related to reproductive health or the insurance coverage of such drugs, services, or devices to discharge without just cause, to refuse to hire, or otherwise to discriminate against that person with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment.

(B) For an employment agency or personnel placement service, because of race, color, religion, sex, military status, national origin, disability, age, or ancestry, to do any of the following:

(1) Refuse or fail to accept, register, classify properly, or

refer for employment, or otherwise discriminate against any person; 109  
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(2) Comply with a request from an employer for referral of applicants for employment if the request directly or indirectly indicates that the employer fails to comply with the provisions of sections 4112.01 to 4112.07 of the Revised Code. 111  
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(C) For any labor organization to do any of the following: 115

(1) Limit or classify its membership on the basis of race, color, religion, sex, military status, national origin, disability, age, or ancestry; 116  
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(2) Discriminate against, limit the employment opportunities of, or otherwise adversely affect the employment status, wages, hours, or employment conditions of any person as an employee because of race, color, religion, sex, military status, national origin, disability, age, or ancestry. 119  
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(D) For any employer, labor organization, or joint labor-management committee controlling apprentice training programs to discriminate against any person because of race, color, religion, sex, military status, national origin, disability, or ancestry in admission to, or employment in, any program established to provide apprentice training. 124  
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(E) Except where based on a bona fide occupational qualification certified in advance by the commission, for any employer, employment agency, personnel placement service, or labor organization, prior to employment or admission to membership, to do any of the following: 130  
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(1) Elicit or attempt to elicit any information concerning the race, color, religion, sex, military status, national origin, disability, age, or ancestry of an applicant for employment or membership; 135  
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(2) Make or keep a record of the race, color, religion, sex, 139  
military status, national origin, disability, age, or ancestry of 140  
any applicant for employment or membership; 141

(3) Use any form of application for employment, or personnel 142  
or membership blank, seeking to elicit information regarding race, 143  
color, religion, sex, military status, national origin, 144  
disability, age, or ancestry; but an employer holding a contract 145  
containing a nondiscrimination clause with the government of the 146  
United States, or any department or agency of that government, may 147  
require an employee or applicant for employment to furnish 148  
documentary proof of United States citizenship and may retain that 149  
proof in the employer's personnel records and may use photographic 150  
or fingerprint identification for security purposes; 151

(4) Print or publish or cause to be printed or published any 152  
notice or advertisement relating to employment or membership 153  
indicating any preference, limitation, specification, or 154  
discrimination, based upon race, color, religion, sex, military 155  
status, national origin, disability, age, or ancestry; 156

(5) Announce or follow a policy of denying or limiting, 157  
through a quota system or otherwise, employment or membership 158  
opportunities of any group because of the race, color, religion, 159  
sex, military status, national origin, disability, age, or 160  
ancestry of that group; 161

(6) Utilize in the recruitment or hiring of persons any 162  
employment agency, personnel placement service, training school or 163  
center, labor organization, or any other employee-referring source 164  
known to discriminate against persons because of their race, 165  
color, religion, sex, military status, national origin, 166  
disability, age, or ancestry. 167

(F) For any person seeking employment to publish or cause to 168  
be published any advertisement that specifies or in any manner 169

indicates that person's race, color, religion, sex, military status, national origin, disability, age, or ancestry, or expresses a limitation or preference as to the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any prospective employer.

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

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

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

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

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

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

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

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

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

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



or otherwise, for the acquisition, construction, rehabilitation, 233  
repair, or maintenance of housing accommodations, that indicates 234  
any preference, limitation, specification, or discrimination based 235  
upon race, color, religion, sex, military status, familial status, 236  
ancestry, disability, or national origin, or an intention to make 237  
any such preference, limitation, specification, or discrimination; 238

(8) Except as otherwise provided in division (H)(8) or (17) 239  
of this section, make any inquiry, elicit any information, make or 240  
keep any record, or use any form of application containing 241  
questions or entries concerning race, color, religion, sex, 242  
military status, familial status, ancestry, disability, or 243  
national origin in connection with the sale or lease of any 244  
housing accommodations or the loan of any money, whether or not 245  
secured by mortgage or otherwise, for the acquisition, 246  
construction, rehabilitation, repair, or maintenance of housing 247  
accommodations. Any person may make inquiries, and make and keep 248  
records, concerning race, color, religion, sex, military status, 249  
familial status, ancestry, disability, or national origin for the 250  
purpose of monitoring compliance with this chapter. 251

(9) Include in any transfer, rental, or lease of housing 252  
accommodations any restrictive covenant, or honor or exercise, or 253  
attempt to honor or exercise, any restrictive covenant; 254

(10) Induce or solicit, or attempt to induce or solicit, a 255  
housing accommodations listing, sale, or transaction by 256  
representing that a change has occurred or may occur with respect 257  
to the racial, religious, sexual, military status, familial 258  
status, or ethnic composition of the block, neighborhood, or other 259  
area in which the housing accommodations are located, or induce or 260  
solicit, or attempt to induce or solicit, a housing accommodations 261  
listing, sale, or transaction by representing that the presence or 262  
anticipated presence of persons of any race, color, religion, sex, 263  
military status, familial status, ancestry, disability, or 264

national origin, in the block, neighborhood, or other area will or	265
may have results including, but not limited to, the following:	266
(a) The lowering of property values;	267
(b) A change in the racial, religious, sexual, military	268
status, familial status, or ethnic composition of the block,	269
neighborhood, or other area;	270
(c) An increase in criminal or antisocial behavior in the	271
block, neighborhood, or other area;	272
(d) A decline in the quality of the schools serving the	273
block, neighborhood, or other area.	274
(11) Deny any person access to or membership or participation	275
in any multiple-listing service, real estate brokers'	276
organization, or other service, organization, or facility relating	277
to the business of selling or renting housing accommodations, or	278
discriminate against any person in the terms or conditions of that	279
access, membership, or participation, on account of race, color,	280
religion, sex, military status, familial status, national origin,	281
disability, or ancestry;	282
(12) Coerce, intimidate, threaten, or interfere with any	283
person in the exercise or enjoyment of, or on account of that	284
person's having exercised or enjoyed or having aided or encouraged	285
any other person in the exercise or enjoyment of, any right	286
granted or protected by division (H) of this section;	287
(13) Discourage or attempt to discourage the purchase by a	288
prospective purchaser of housing accommodations, by representing	289
that any block, neighborhood, or other area has undergone or might	290
undergo a change with respect to its religious, racial, sexual,	291
military status, familial status, or ethnic composition;	292
(14) Refuse to sell, transfer, assign, rent, lease, sublease,	293
or finance, or otherwise deny or withhold, a burial lot from any	294

person because of the race, color, sex, military status, familial	295
status, age, ancestry, disability, or national origin of any	296
prospective owner or user of the lot;	297
(15) Discriminate in the sale or rental of, or otherwise make	298
unavailable or deny, housing accommodations to any buyer or renter	299
because of a disability of any of the following:	300
(a) The buyer or renter;	301
(b) A person residing in or intending to reside in the	302
housing accommodations after they are sold, rented, or made	303
available;	304
(c) Any individual associated with the person described in	305
division (H)(15)(b) of this section.	306
(16) Discriminate in the terms, conditions, or privileges of	307
the sale or rental of housing accommodations to any person or in	308
the provision of services or facilities to any person in	309
connection with the housing accommodations because of a disability	310
of any of the following:	311
(a) That person;	312
(b) A person residing in or intending to reside in the	313
housing accommodations after they are sold, rented, or made	314
available;	315
(c) Any individual associated with the person described in	316
division (H)(16)(b) of this section.	317
(17) Except as otherwise provided in division (H)(17) of this	318
section, make an inquiry to determine whether an applicant for the	319
sale or rental of housing accommodations, a person residing in or	320
intending to reside in the housing accommodations after they are	321
sold, rented, or made available, or any individual associated with	322
that person has a disability, or make an inquiry to determine the	323
nature or severity of a disability of the applicant or such a	324

person or individual. The following inquiries may be made of all 325  
applicants for the sale or rental of housing accommodations, 326  
regardless of whether they have disabilities: 327

(a) An inquiry into an applicant's ability to meet the 328  
requirements of ownership or tenancy; 329

(b) An inquiry to determine whether an applicant is qualified 330  
for housing accommodations available only to persons with 331  
disabilities or persons with a particular type of disability; 332

(c) An inquiry to determine whether an applicant is qualified 333  
for a priority available to persons with disabilities or persons 334  
with a particular type of disability; 335

(d) An inquiry to determine whether an applicant currently 336  
uses a controlled substance in violation of section 2925.11 of the 337  
Revised Code or a substantively comparable municipal ordinance; 338

(e) An inquiry to determine whether an applicant at any time 339  
has been convicted of or pleaded guilty to any offense, an element 340  
of which is the illegal sale, offer to sell, cultivation, 341  
manufacture, other production, shipment, transportation, delivery, 342  
or other distribution of a controlled substance. 343

(18)(a) Refuse to permit, at the expense of a person with a 344  
disability, reasonable modifications of existing housing 345  
accommodations that are occupied or to be occupied by the person 346  
with a disability, if the modifications may be necessary to afford 347  
the person with a disability full enjoyment of the housing 348  
accommodations. This division does not preclude a landlord of 349  
housing accommodations that are rented or to be rented to a 350  
disabled tenant from conditioning permission for a proposed 351  
modification upon the disabled tenant's doing one or more of the 352  
following: 353

(i) Providing a reasonable description of the proposed 354  
modification and reasonable assurances that the proposed 355

modification will be made in a workerlike manner and that any 356  
required building permits will be obtained prior to the 357  
commencement of the proposed modification; 358

(ii) Agreeing to restore at the end of the tenancy the 359  
interior of the housing accommodations to the condition they were 360  
in prior to the proposed modification, but subject to reasonable 361  
wear and tear during the period of occupancy, if it is reasonable 362  
for the landlord to condition permission for the proposed 363  
modification upon the agreement; 364

(iii) Paying into an interest-bearing escrow account that is 365  
in the landlord's name, over a reasonable period of time, a 366  
reasonable amount of money not to exceed the projected costs at 367  
the end of the tenancy of the restoration of the interior of the 368  
housing accommodations to the condition they were in prior to the 369  
proposed modification, but subject to reasonable wear and tear 370  
during the period of occupancy, if the landlord finds the account 371  
reasonably necessary to ensure the availability of funds for the 372  
restoration work. The interest earned in connection with an escrow 373  
account described in this division shall accrue to the benefit of 374  
the disabled tenant who makes payments into the account. 375

(b) A landlord shall not condition permission for a proposed 376  
modification upon a disabled tenant's payment of a security 377  
deposit that exceeds the customarily required security deposit of 378  
all tenants of the particular housing accommodations. 379

(19) Refuse to make reasonable accommodations in rules, 380  
policies, practices, or services when necessary to afford a person 381  
with a disability equal opportunity to use and enjoy a dwelling 382  
unit, including associated public and common use areas; 383

(20) Fail to comply with the standards and rules adopted 384  
under division (A) of section 3781.111 of the Revised Code; 385

(21) Discriminate against any person in the selling, 386

brokering, or appraising of real property because of race, color, 387  
religion, sex, military status, familial status, ancestry, 388  
disability, or national origin; 389

(22) Fail to design and construct covered multifamily 390  
dwellings for first occupancy on or after June 30, 1992, in 391  
accordance with the following conditions: 392

(a) The dwellings shall have at least one building entrance 393  
on an accessible route, unless it is impractical to do so because 394  
of the terrain or unusual characteristics of the site. 395

(b) With respect to dwellings that have a building entrance 396  
on an accessible route, all of the following apply: 397

(i) The public use areas and common use areas of the 398  
dwellings shall be readily accessible to and usable by persons 399  
with a disability. 400

(ii) All the doors designed to allow passage into and within 401  
all premises shall be sufficiently wide to allow passage by 402  
persons with a disability who are in wheelchairs. 403

(iii) All premises within covered multifamily dwelling units 404  
shall contain an accessible route into and through the dwelling; 405  
all light switches, electrical outlets, thermostats, and other 406  
environmental controls within such units shall be in accessible 407  
locations; the bathroom walls within such units shall contain 408  
reinforcements to allow later installation of grab bars; and the 409  
kitchens and bathrooms within such units shall be designed and 410  
constructed in a manner that enables an individual in a wheelchair 411  
to maneuver about such rooms. 412

For purposes of division (H)(22) of this section, "covered 413  
multifamily dwellings" means buildings consisting of four or more 414  
units if such buildings have one or more elevators and ground 415  
floor units in other buildings consisting of four or more units. 416

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

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

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

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

(3) Nothing in division (H) of this section limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy housing accommodations. Nothing in that division

prohibits the owners or managers of housing accommodations from 449  
implementing reasonable occupancy standards based on the number 450  
and size of sleeping areas or bedrooms and the overall size of a 451  
dwelling unit, provided that the standards are not implemented to 452  
circumvent the purposes of this chapter and are formulated, 453  
implemented, and interpreted in a manner consistent with this 454  
chapter and any applicable local, state, or federal restrictions 455  
regarding the maximum number of occupants permitted to occupy 456  
housing accommodations. 457

(4) Nothing in division (H) of this section requires that 458  
housing accommodations be made available to an individual whose 459  
tenancy would constitute a direct threat to the health or safety 460  
of other individuals or whose tenancy would result in substantial 461  
physical damage to the property of others. 462

(5) Nothing in division (H) of this section pertaining to 463  
discrimination on the basis of familial status shall be construed 464  
to apply to any of the following: 465

(a) Housing accommodations provided under any state or 466  
federal program that have been determined under the "Fair Housing 467  
Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as 468  
amended, to be specifically designed and operated to assist 469  
elderly persons; 470

(b) Housing accommodations intended for and solely occupied 471  
by persons who are sixty-two years of age or older; 472

(c) Housing accommodations intended and operated for 473  
occupancy by at least one person who is fifty-five years of age or 474  
older per unit, as determined under the "Fair Housing Amendments 475  
Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended. 476

(L) Nothing in divisions (A) to (E) of this section shall be 477  
construed to require a person with a disability to be employed or 478  
trained under circumstances that would significantly increase the 479



occupational hazards affecting either the person with a 480  
disability, other employees, the general public, or the facilities 481  
in which the work is to be performed, or to require the employment 482  
or training of a person with a disability in a job that requires 483  
the person with a disability routinely to undertake any task, the 484  
performance of which is substantially and inherently impaired by 485  
the person's disability. 486

(M) Nothing in divisions (H)(1) to (18) of this section shall 487  
be construed to require any person selling or renting property to 488  
modify the property in any way or to exercise a higher degree of 489  
care for a person with a disability, to relieve any person with a 490  
disability of any obligation generally imposed on all persons 491  
regardless of disability in a written lease, rental agreement, or 492  
contract of purchase or sale, or to forbid distinctions based on 493  
the inability to fulfill the terms and conditions, including 494  
financial obligations, of the lease, agreement, or contract. 495

(N) An aggrieved individual may enforce the individual's 496  
rights relative to discrimination on the basis of age as provided 497  
for in this section by instituting a civil action, within one 498  
hundred eighty days after the alleged unlawful discriminatory 499  
practice occurred, in any court with jurisdiction for any legal or 500  
equitable relief that will effectuate the individual's rights. 501

A person who files a civil action under this division is 502  
barred, with respect to the practices complained of, from 503  
instituting a civil action under section 4112.14 of the Revised 504  
Code and from filing a charge with the commission under section 505  
4112.05 of the Revised Code. 506

(O) With regard to age, it shall not be an unlawful 507  
discriminatory practice and it shall not constitute a violation of 508  
division (A) of section 4112.14 of the Revised Code for any 509  
employer, employment agency, joint labor-management committee 510  
controlling apprenticeship training programs, or labor 511

organization to do any of the following: 512

(1) Establish bona fide employment qualifications reasonably 513  
related to the particular business or occupation that may include 514  
standards for skill, aptitude, physical capability, intelligence, 515  
education, maturation, and experience; 516

(2) Observe the terms of a bona fide seniority system or any 517  
bona fide employee benefit plan, including, but not limited to, a 518  
retirement, pension, or insurance plan, that is not a subterfuge 519  
to evade the purposes of this section. However, no such employee 520  
benefit plan shall excuse the failure to hire any individual, and 521  
no such seniority system or employee benefit plan shall require or 522  
permit the involuntary retirement of any individual, because of 523  
the individual's age except as provided for in the "Age 524  
Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 525  
29 U.S.C.A. 623, as amended by the "Age Discrimination in 526  
Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 527  
623, as amended. 528

(3) Retire an employee who has attained sixty-five years of 529  
age who, for the two-year period immediately before retirement, is 530  
employed in a bona fide executive or a high policymaking position, 531  
if the employee is entitled to an immediate nonforfeitable annual 532  
retirement benefit from a pension, profit-sharing, savings, or 533  
deferred compensation plan, or any combination of those plans, of 534  
the employer of the employee, which equals, in the aggregate, at 535  
least forty-four thousand dollars, in accordance with the 536  
conditions of the "Age Discrimination in Employment Act Amendment 537  
of 1978," 92 Stat. 189, 29 U.S.C.A. 631, as amended by the "Age 538  
Discrimination in Employment Act Amendments of 1986," 100 Stat. 539  
3342, 29 U.S.C.A. 631, as amended; 540

(4) Observe the terms of any bona fide apprenticeship program 541  
if the program is registered with the Ohio apprenticeship council 542  
pursuant to sections 4139.01 to 4139.06 of the Revised Code and is 543

approved by the federal committee on apprenticeship of the United States department of labor. 544  
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(P) Nothing in this chapter prohibiting age discrimination 546  
and nothing in division (A) of section 4112.14 of the Revised Code 547  
shall be construed to prohibit the following: 548

(1) The designation of uniform age the attainment of which is 549  
necessary for public employees to receive pension or other 550  
retirement benefits pursuant to Chapter 145., 742., 3307., 3309., 551  
or 5505. of the Revised Code; 552

(2) The mandatory retirement of uniformed patrol officers of 553  
the state highway patrol as provided in section 5505.16 of the 554  
Revised Code; 555

(3) The maximum age requirements for appointment as a patrol 556  
officer in the state highway patrol established by section 5503.01 557  
of the Revised Code; 558

(4) The maximum age requirements established for original 559  
appointment to a police department or fire department in sections 560  
124.41 and 124.42 of the Revised Code; 561

(5) Any maximum age not in conflict with federal law that may 562  
be established by a municipal charter, municipal ordinance, or 563  
resolution of a board of township trustees for original 564  
appointment as a police officer or firefighter; 565

(6) Any mandatory retirement provision not in conflict with 566  
federal law of a municipal charter, municipal ordinance, or 567  
resolution of a board of township trustees pertaining to police 568  
officers and firefighters; 569

(7) Until January 1, 1994, the mandatory retirement of any 570  
employee who has attained seventy years of age and who is serving 571  
under a contract of unlimited tenure, or similar arrangement 572  
providing for unlimited tenure, at an institution of higher 573

education as defined in the "Education Amendments of 1980," 94 Stat. 1503, 20 U.S.C.A. 1141(a). 574  
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(Q)(1)(a) Except as provided in division (Q)(1)(b) of this section, for purposes of divisions (A) to (E) of this section, a disability does not include any physiological disorder or condition, mental or psychological disorder, or disease or condition caused by an illegal use of any controlled substance by an employee, applicant, or other person, if an employer, employment agency, personnel placement service, labor organization, or joint labor-management committee acts on the basis of that illegal use. 576  
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(b) Division (Q)(1)(a) of this section does not apply to an employee, applicant, or other person who satisfies any of the following: 585  
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(i) The employee, applicant, or other person has successfully completed a supervised drug rehabilitation program and no longer is engaging in the illegal use of any controlled substance, or the employee, applicant, or other person otherwise successfully has been rehabilitated and no longer is engaging in that illegal use. 588  
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(ii) The employee, applicant, or other person is participating in a supervised drug rehabilitation program and no longer is engaging in the illegal use of any controlled substance. 593  
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(iii) The employee, applicant, or other person is erroneously regarded as engaging in the illegal use of any controlled substance, but the employee, applicant, or other person is not engaging in that illegal use. 596  
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(2) Divisions (A) to (E) of this section do not prohibit an employer, employment agency, personnel placement service, labor organization, or joint labor-management committee from doing any of the following: 600  
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(a) Adopting or administering reasonable policies or 604

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

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

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

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

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

(f) Exercising other authority recognized in the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101, 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, 636  
or other persons, or the making of employment decisions based on 637  
the results of that type of testing. 638

(R) This section does not apply to a religious corporation, 639  
association, educational institution, or society with respect to 640  
the employment of an individual of a particular religion to 641  
perform work connected with the carrying on by that religious 642  
corporation, association, educational institution, or society of 643  
its activities. 644

The unlawful discriminatory practices defined in this section 645  
do not make it unlawful for a person or an appointing authority 646  
administering an examination under section 124.23 of the Revised 647  
Code to obtain information about an applicant's military status 648  
for the purpose of determining if the applicant is eligible for 649  
the additional credit that is available under that section. 650

**Section 2.** That existing section 4112.02 of the Revised Code 651  
is hereby repealed. 652