

As Introduced

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

S. B. No. 119

Senator Tavares

Cosponsors: Senators Skindell, Turner, Smith

—

A B I L L

To amend sections 4111.02, 4111.08, 4111.10, 4111.14, 1
4112.01, and 4112.05 and to enact sections 2
4111.031 and 4112.024 of the Revised Code to 3
require that domestic workers be paid the minimum 4
wage, as provided in Section 34a of Article II, 5
Ohio Constitution, to require that domestic 6
workers be paid overtime wages, to make certain 7
conduct directed toward a domestic worker an 8
unlawful discriminatory practice, and to require a 9
weekly day of rest for domestic workers. 10

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

Section 1. That sections 4111.02, 4111.08, 4111.10, 4111.14, 11
4112.01, and 4112.05 be amended and sections 4111.031 and 4112.024 12
of the Revised Code be enacted to read as follows: 13

Sec. 4111.02. Every employer, as defined in Section 34a of 14
Article II, Ohio Constitution, shall pay each of the employer's 15
employees at a wage rate of not less than the wage rate specified 16
in Section 34a of Article II, Ohio Constitution except that every 17
domestic worker, as defined in section 4112.01 of the Revised 18
Code, shall be paid at a wage rate of not less than the greater of 19

the two wage rates calculated pursuant to or specified in Section 34a of Article II, Ohio Constitution. 20
21

The director of commerce annually shall adjust the wage rate as specified in Section 34a of Article II, Ohio Constitution. 22
23

As used in this section, "employee" has the same meaning as in section 4111.14 of the Revised Code. 24
25

Sec. 4111.031. (A) As used in this section: 26

(1) "Domestic worker" has the same meaning as in section 4112.01 of the Revised Code. 27
28

(2) "Employer" means any person employing a domestic worker. 29

(B) No domestic worker shall be required to work more than eight hours in a day for an employer. A domestic worker may work for more than eight hours in a day if the domestic worker agrees to work and is paid at an increased rate agreed upon by the employer and the domestic worker for any amount of time worked in that day in excess of eight hours. 30
31
32
33
34
35

(C) No domestic worker shall be required to work more than forty hours in any week, or forty-four hours in a week if the domestic worker resides in the home of the domestic worker's employer, unless the domestic worker's employer compensates the domestic worker at a rate that is at least one and one-half times the worker's normal wage rate for any additional hours of work in excess of forty hours or forty-four hours, as applicable. 36
37
38
39
40
41
42

(D) Every domestic worker shall be allowed at least twenty-four consecutive hours of rest every calendar week. During that period of rest the domestic worker shall not be required to work for the employer. This rest period shall, whenever possible, coincide with the traditional day reserved by the domestic worker for religious worship. Except as provided in division (E) of this section, a domestic worker's employer shall not be required to pay 43
44
45
46
47
48
49

the domestic worker for a period of rest described in this 50
section. 51

(E) In addition to the periods of rest required by division 52
(D) of this section, a domestic worker who has worked for the 53
domestic worker's employer for more than a year shall be entitled 54
to at least three days of rest in each calendar year for which the 55
domestic worker shall be compensated by the employer at the 56
domestic worker's normal wage rate. 57

(F) Nothing in division (D) of this section shall be 58
construed to prohibit a domestic worker from agreeing to work 59
during the domestic worker's period of rest as described in that 60
division, provided that the worker receives compensation for the 61
work at a rate of at least one and one-half times the domestic 62
worker's normal wage rate. 63

Sec. 4111.08. Every employer subject to section 4111.03 or 64
4111.031 of the Revised Code, or to any rule adopted thereunder, 65
shall make and keep for a period of not less than three years a 66
record of the name, address, and occupation of each of the 67
employer's employees or domestic workers, the rate of pay and the 68
amount paid each pay period to each employee or domestic worker, 69
the hours worked each day and each work week by the employee or 70
domestic worker, and other information as the director of commerce 71
prescribes by rule as necessary or appropriate for the enforcement 72
of ~~section~~ sections 4111.03 and 4111.031 of the Revised Code, or 73
of the rules thereunder. Records may be opened for inspection or 74
copying by the director at any reasonable time. 75

Sec. 4111.10. (A) Any employer who pays any employee or 76
domestic worker less than wages to which the employee or domestic 77
worker is entitled under section 4111.03 or 4111.031 of the 78
Revised Code, is liable to the employee or domestic worker 79

affected for the full amount of the overtime wage rate, less any amount actually paid to the employee or domestic worker by the employer, and for costs and reasonable attorney's fees as may be allowed by the court. Any agreement between the employee or domestic worker and the employer to work for less than the overtime wage rate is no defense to an action.

(B) At the written request of any employee or domestic worker paid less than the wages to which the employee or domestic worker is entitled under section 4111.03 or 4111.031 of the Revised Code, the director of commerce may take an assignment of a wage claim in trust for the assigning employee or domestic worker and may bring any legal action necessary to collect the claim. The employer shall pay the costs and reasonable attorney's fees allowed by the court.

Sec. 4111.14. (A) Pursuant to the general assembly's authority to establish a minimum wage under Section 34 of Article II, Ohio Constitution, this section is in implementation of Section 34a of Article II, Ohio Constitution. In implementing Section 34a of Article II, Ohio Constitution, the general assembly hereby finds that the purpose of Section 34a of Article II, Ohio Constitution, is to:

(1) Ensure that Ohio employees, as defined in division (B)(1) of this section, are paid the wage rate required by Section 34a of Article II, Ohio Constitution;

(2) Ensure that covered Ohio employers maintain certain records that are directly related to the enforcement of the wage rate requirements in Section 34a of Article II, Ohio Constitution;

(3) Ensure that Ohio employees who are paid the wage rate required by Section 34a of Article II, Ohio Constitution, may enforce their right to receive that wage rate in the manner set forth in Section 34a of Article II, Ohio Constitution; and

(4) Protect the privacy of Ohio employees' pay and personal information specified in Section 34a of Article II, Ohio Constitution, by restricting an employee's access, and access by a person acting on behalf of that employee, to the employee's own pay and personal information.

(B) In accordance with Section 34a of Article II, Ohio Constitution, the terms "employer," "employee," "employ," "person," and "independent contractor" have the same meanings as in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 203, as amended. In construing the meaning of these terms, due consideration and great weight shall be given to the United States department of labor's and federal courts' interpretations of those terms under the Fair Labor Standards Act and its regulations. As used in division (B) of this section:

(1) "Employee" means individuals employed in Ohio, but does not mean individuals who are excluded from the definition of "employee" under 29 U.S.C. 203(e) or individuals who are exempted from the minimum wage requirements in 29 U.S.C. 213 and from the definition of "employee" in this chapter.

(2) "Employ" and "employee" do not include any person acting as a volunteer. In construing who is a volunteer, "volunteer" shall have the same meaning as in sections 553.101 to 553.106 of Title 29 of the Code of Federal Regulations, as amended, and due consideration and great weight shall be given to the United States department of labor's and federal courts' interpretations of the term "volunteer" under the Fair Labor Standards Act and its regulations.

(C) In accordance with Section 34a of Article II, Ohio Constitution, the state may issue licenses to employers authorizing payment of a wage below that required by Section 34a of Article II, Ohio Constitution, to individuals with mental or physical disabilities that may otherwise adversely affect their

opportunity for employment. In issuing such licenses, the state 143
shall abide by the rules adopted pursuant to section 4111.06 of 144
the Revised Code. 145

(D)(1) In accordance with Section 34a of Article II, Ohio 146
Constitution, individuals employed in or about the property of an 147
employer or an individual's residence on a casual basis are not 148
included within the coverage of Section 34a of Article II, Ohio 149
Constitution. As used in division (D) of this section: 150

(a) "Casual basis" means employment that is irregular or 151
intermittent and that is not performed by an individual whose 152
vocation is to be employed in or about the property of the 153
employer or individual's residence. In construing who is employed 154
on a "casual basis," due consideration and great weight shall be 155
given to the United States department of labor's and federal 156
courts' interpretations of the term "casual basis" under the Fair 157
Labor Standards Act and its regulations. 158

(b) "An individual employed in or about the property of an 159
employer or individual's residence" means an individual employed 160
on a casual basis or an individual employed in or about a 161
residence on a casual basis, respectively. 162

(2) In accordance with Section 34a of Article II, Ohio 163
Constitution, employees of a solely family-owned and operated 164
business who are family members of an owner are not included 165
within the coverage of Section 34a of Article II, Ohio 166
Constitution. As used in division (D)(2) of this section, "family 167
member" means a parent, spouse, child, stepchild, sibling, 168
grandparent, grandchild, or other member of an owner's immediate 169
family. 170

(E) In accordance with Section 34a of Article II, Ohio 171
Constitution, an employer shall at the time of hire provide an 172
employee with the employer's name, address, telephone number, and 173

other contact information and update such information when it 174
changes. As used in division (E) of this section: 175

(1) "Other contact information" may include, where 176
applicable, the address of the employer's internet site on the 177
world wide web, the employer's electronic mail address, fax 178
number, or the name, address, and telephone number of the 179
employer's statutory agent. "Other contact information" does not 180
include the name, address, telephone number, fax number, internet 181
site address, or electronic mail address of any employee, 182
shareholder, officer, director, supervisor, manager, or other 183
individual employed by or associated with an employer. 184

(2) "When it changes" means that the employer shall provide 185
its employees with the change in its name, address, telephone 186
number, or other contact information within sixty business days 187
after the change occurs. The employer shall provide the changed 188
information by using any of its usual methods of communicating 189
with its employees, including, but not limited to, listing the 190
change on the employer's internet site on the world wide web, 191
internal computer network, or a bulletin board where it commonly 192
posts employee communications or by insertion or inclusion with 193
employees' paychecks or pay stubs. 194

(F) In accordance with Section 34a of Article II, Ohio 195
Constitution, an employer shall maintain a record of the name, 196
address, occupation, pay rate, hours worked for each day worked, 197
and each amount paid an employee for a period of not less than 198
three years following the last date the employee was employed by 199
that employer. As used in division (F) of this section: 200

(1) "Address" means an employee's home address as maintained 201
in the employer's personnel file or personnel database for that 202
employee. 203

(2)(a) With respect to employees who are not exempt from the 204

overtime pay requirements of the Fair Labor Standards Act or this 205
chapter, "pay rate" means an employee's base rate of pay. 206

(b) With respect to employees who are exempt from the 207
overtime pay requirements of the Fair Labor Standards Act or this 208
chapter, "pay rate" means an employee's annual base salary or 209
other rate of pay by which the particular employee qualifies for 210
that exemption under the Fair Labor Standards Act or this chapter, 211
but does not include bonuses, stock options, incentives, deferred 212
compensation, or any other similar form of compensation. 213

(3) "Record" means the name, address, occupation, pay rate, 214
hours worked for each day worked, and each amount paid an employee 215
in one or more documents, databases, or other paper or electronic 216
forms of record-keeping maintained by an employer. No one 217
particular method or form of maintaining such a record or records 218
is required under this division. An employer is not required to 219
create or maintain a single record containing only the employee's 220
name, address, occupation, pay rate, hours worked for each day 221
worked, and each amount paid an employee. An employer shall 222
maintain a record or records from which the employee or person 223
acting on behalf of that employee could reasonably review the 224
information requested by the employee or person. 225

An employer is not required to maintain the records specified 226
in division (F)(3) of this section for any period before January 227
1, 2007. On and after January 1, 2007, the employer shall maintain 228
the records required by division (F)(3) of this section for three 229
years from the date the hours were worked by the employee and for 230
three years after the date the employee's employment ends. 231

(4)(a) Except for individuals specified in division (F)(4)(b) 232
of this section, "hours worked for each day worked" means the 233
total amount of time worked by an employee in whatever increments 234
the employer uses for its payroll purposes during a day worked by 235
the employee. An employer is not required to keep a record of the 236

time of day an employee begins and ends work on any given day. As 237
used in division (F)(4) of this section, "day" means a fixed 238
period of twenty-four consecutive hours during which an employee 239
performs work for an employer. 240

(b) An employer is not required to keep records of "hours 241
worked for each day worked" for individuals for whom the employer 242
is not required to keep those records under the Fair Labor 243
Standards Act and its regulations or individuals who are not 244
subject to the overtime pay requirements specified in ~~section~~ 245
sections 4111.03 and 4111.031 of the Revised Code. 246

(5) "Each amount paid an employee" means the total gross 247
wages paid to an employee for each pay period. As used in division 248
(F)(5) of this section, "pay period" means the period of time 249
designated by an employer to pay an employee the employee's gross 250
wages in accordance with the employer's payroll practices under 251
section 4113.15 of the Revised Code. 252

(G) In accordance with Section 34a of Article II, Ohio 253
Constitution, an employer must provide such information without 254
charge to an employee or person acting on behalf of an employee 255
upon request. As used in division (G) of this section: 256

(1) "Such information" means the name, address, occupation, 257
pay rate, hours worked for each day worked, and each amount paid 258
for the specific employee who has requested that specific 259
employee's own information and does not include the name, address, 260
occupation, pay rate, hours worked for each day worked, or each 261
amount paid of any other employee of the employer. "Such 262
information" does not include hours worked for each day worked by 263
individuals for whom an employer is not required to keep that 264
information under the Fair Labor Standards Act and its regulations 265
or individuals who are not subject to the overtime pay 266
requirements specified in ~~section~~ sections 4111.03 and 4111.031 of 267
the Revised Code. 268

(2) "Acting on behalf of an employee" means a person acting on behalf of an employee as any of the following:

(a) The certified or legally recognized collective bargaining representative for that employee under the applicable federal law or Chapter 4117. of the Revised Code;

(b) The employee's attorney;

(c) The employee's parent, guardian, or legal custodian.

A person "acting on behalf of an employee" must be specifically authorized by an employee in order to make a request for that employee's own name, address, occupation, pay rate, hours worked for each day worked, and each amount paid to that employee.

(3) "Provide" means that an employer shall provide the requested information within thirty business days after the date the employer receives the request, unless either of the following occurs:

(a) The employer and the employee or person acting on behalf of the employee agree to some alternative time period for providing the information.

(b) The thirty-day period would cause a hardship on the employer under the circumstances, in which case the employer must provide the requested information as soon as practicable.

(4) A "request" made by an employee or a person acting on behalf of an employee means a request by an employee or a person acting on behalf of an employee for the employee's own information. The employer may require that the employee provide the employer with a written request that has been signed by the employee and notarized and that reasonably specifies the particular information being requested. The employer may require that the person acting on behalf of an employee provide the employer with a written request that has been signed by the

employee whose information is being requested and notarized and 299
that reasonably specifies the particular information being 300
requested. 301

(H) In accordance with Section 34a of Article II, Ohio 302
Constitution, an employee, person acting on behalf of one or more 303
employees, and any other interested party may file a complaint 304
with the state for a violation of any provision of Section 34a of 305
Article II, Ohio Constitution, or any law or regulation 306
implementing its provisions. Such complaint shall be promptly 307
investigated and resolved by the state. The employee's name shall 308
be kept confidential unless disclosure is necessary to resolution 309
of a complaint and the employee consents to disclosure. As used in 310
division (H) of this section: 311

(1) "Complaint" means a complaint of an alleged violation 312
pertaining to harm suffered by the employee filing the complaint, 313
by a person acting on behalf of one or more employees, or by an 314
interested party. 315

(2) "Acting on behalf of one or more employees" has the same 316
meaning as "acting on behalf of an employee" in division (G)(2) of 317
this section. Each employee must provide a separate written and 318
notarized authorization before the person acting on that 319
employee's or those employees' behalf may request the name, 320
address, occupation, pay rate, hours worked for each day worked, 321
and each amount paid for the particular employee. 322

(3) "Interested party" means a party who alleges to be 323
injured by the alleged violation and who has standing to file a 324
complaint under common law principles of standing. 325

(4) "Resolved by the state" means that the complaint has been 326
resolved to the satisfaction of the state. 327

(5) "Shall be kept confidential" means that the state shall 328
keep the name of the employee confidential as required by division 329

(H) of this section. 330

(I) In accordance with Section 34a of Article II, Ohio 331
Constitution, the state may on its own initiative investigate an 332
employer's compliance with Section 34a of Article II, Ohio 333
Constitution, and any law or regulation implementing Section 34a 334
of Article II, Ohio Constitution. The employer shall make 335
available to the state any records related to such investigation 336
and other information required for enforcement of Section 34a of 337
Article II, Ohio Constitution or any law or regulation 338
implementing Section 34a of Article II, Ohio Constitution. The 339
state shall investigate an employer's compliance with this section 340
in accordance with the procedures described in section 4111.04 of 341
the Revised Code. All records and information related to 342
investigations by the state are confidential and are not a public 343
record subject to section 149.43 of the Revised Code. This 344
division does not prevent the state from releasing to or 345
exchanging with other state and federal wage and hour regulatory 346
authorities information related to investigations. 347

(J) In accordance with Section 34a of Article II, Ohio 348
Constitution, damages shall be calculated as an additional two 349
times the amount of the back wages and in the case of a violation 350
of an anti-retaliation provision an amount set by the state or 351
court sufficient to compensate the employee and deter future 352
violations, but not less than one hundred fifty dollars for each 353
day that the violation continued. The "not less than one hundred 354
fifty dollar" penalty specified in division (J) of this section 355
shall be imposed only for violations of the anti-retaliation 356
provision in Section 34a of Article II, Ohio Constitution. 357

(K) In accordance with Section 34a of Article II, Ohio 358
Constitution, an action for equitable and monetary relief may be 359
brought against an employer by the attorney general and/or an 360
employee or person acting on behalf of an employee or all 361

similarly situated employees in any court of competent 362
jurisdiction, including the court of common pleas of an employee's 363
county of residence, for any violation of Section 34a of Article 364
II, Ohio Constitution, or any law or regulation implementing its 365
provisions within three years of the violation or of when the 366
violation ceased if it was of a continuing nature, or within one 367
year after notification to the employee of final disposition by 368
the state of a complaint for the same violation, whichever is 369
later. 370

(1) As used in division (K) of this section, "notification" 371
means the date on which the notice was sent to the employee by the 372
state. 373

(2) No employee shall join as a party plaintiff in any civil 374
action that is brought under division (K) of this section by an 375
employee, person acting on behalf of an employee, or person acting 376
on behalf of all similarly situated employees unless that employee 377
first gives written consent to become such a party plaintiff and 378
that consent is filed with the court in which the action is 379
brought. 380

(3) A civil action regarding an alleged violation of this 381
section shall be maintained only under division (K) of this 382
section. This division does not preclude the joinder in a single 383
civil action of an action under this division and an action under 384
section 4111.10 of the Revised Code. 385

(4) Any agreement between an employee and employer to work 386
for less than the wage rate specified in Section 34a of Article 387
II, Ohio Constitution, is no defense to an action under this 388
section. 389

(L) In accordance with Section 34a of Article II, Ohio 390
Constitution, there shall be no exhaustion requirement, no 391
procedural, pleading, or burden of proof requirements beyond those 392

that apply generally to civil suits in order to maintain such 393
action and no liability for costs or attorney's fees on an 394
employee except upon a finding that such action was frivolous in 395
accordance with the same standards that apply generally in civil 396
suits. Nothing in division (L) of this section affects the right 397
of an employer and employee to agree to submit a dispute under 398
this section to alternative dispute resolution, including, but not 399
limited to, arbitration, in lieu of maintaining the civil suit 400
specified in division (K) of this section. Nothing in this 401
division limits the state's ability to investigate or enforce this 402
section. 403

(M) An employer who provides such information specified in 404
Section 34a of Article II, Ohio Constitution, shall be immune from 405
any civil liability for injury, death, or loss to person or 406
property that otherwise might be incurred or imposed as a result 407
of providing that information to an employee or person acting on 408
behalf of an employee in response to a request by the employee or 409
person, and the employer shall not be subject to the provisions of 410
Chapters 1347. and 1349. of the Revised Code to the extent that 411
such provisions would otherwise apply. As used in division (M) of 412
this section, "such information," "acting on behalf of an 413
employee," and "request" have the same meanings as in division (G) 414
of this section. 415

(N) As used in this section, "the state" means the director 416
of commerce. 417

Sec. 4112.01. (A) As used in this chapter: 418

(1) "Person" includes one or more individuals, partnerships, 419
associations, organizations, corporations, legal representatives, 420
trustees, trustees in bankruptcy, receivers, and other organized 421
groups of persons. "Person" also includes, but is not limited to, 422
any owner, lessor, assignor, builder, manager, broker, 423

salesperson, appraiser, agent, employee, lending institution, and 424
the state and all political subdivisions, authorities, agencies, 425
boards, and commissions of the state. 426

(2) "Employer" includes the state, any political subdivision 427
of the state, any person employing four or more persons within the 428
state, any person employing a domestic worker, for purposes of 429
section 4112.024 of the Revised Code, and any person acting 430
directly or indirectly in the interest of an employer. 431

(3) "Employee" means an individual employed by any employer 432
but does not include, except for purposes of section 4112.024 of 433
the Revised Code, any individual employed in the domestic service 434
of any person. 435

(4) "Labor organization" includes any organization that 436
exists, in whole or in part, for the purpose of collective 437
bargaining or of dealing with employers concerning grievances, 438
terms or conditions of employment, or other mutual aid or 439
protection in relation to employment. 440

(5) "Employment agency" includes any person regularly 441
undertaking, with or without compensation, to procure 442
opportunities to work or to procure, recruit, refer, or place 443
employees. 444

(6) "Commission" means the Ohio civil rights commission 445
created by section 4112.03 of the Revised Code. 446

(7) "Discriminate" includes segregate or separate. 447

(8) "Unlawful discriminatory practice" means any act 448
prohibited by section 4112.02, 4112.021, ~~or~~ 4112.022, or 4112.024 449
of the Revised Code. 450

(9) "Place of public accommodation" means any inn, 451
restaurant, eating house, barbershop, public conveyance by air, 452
land, or water, theater, store, other place for the sale of 453

merchandise, or any other place of public accommodation or 454
amusement of which the accommodations, advantages, facilities, or 455
privileges are available to the public. 456

(10) "Housing accommodations" includes any building or 457
structure, or portion of a building or structure, that is used or 458
occupied or is intended, arranged, or designed to be used or 459
occupied as the home residence, dwelling, dwelling unit, or 460
sleeping place of one or more individuals, groups, or families 461
whether or not living independently of each other; and any vacant 462
land offered for sale or lease. "Housing accommodations" also 463
includes any housing accommodations held or offered for sale or 464
rent by a real estate broker, salesperson, or agent, by any other 465
person pursuant to authorization of the owner, by the owner, or by 466
the owner's legal representative. 467

(11) "Restrictive covenant" means any specification limiting 468
the transfer, rental, lease, or other use of any housing 469
accommodations because of race, color, religion, sex, military 470
status, familial status, national origin, disability, or ancestry, 471
or any limitation based upon affiliation with or approval by any 472
person, directly or indirectly, employing race, color, religion, 473
sex, military status, familial status, national origin, 474
disability, or ancestry as a condition of affiliation or approval. 475

(12) "Burial lot" means any lot for the burial of deceased 476
persons within any public burial ground or cemetery, including, 477
but not limited to, cemeteries owned and operated by municipal 478
corporations, townships, or companies or associations incorporated 479
for cemetery purposes. 480

(13) "Disability" means a physical or mental impairment that 481
substantially limits one or more major life activities, including 482
the functions of caring for one's self, performing manual tasks, 483
walking, seeing, hearing, speaking, breathing, learning, and 484
working; a record of a physical or mental impairment; or being 485

regarded as having a physical or mental impairment. 486

(14) Except as otherwise provided in section 4112.021 of the 487
Revised Code, "age" means at least forty years old. 488

(15) "Familial status" means either of the following: 489

(a) One or more individuals who are under eighteen years of 490
age and who are domiciled with a parent or guardian having legal 491
custody of the individual or domiciled, with the written 492
permission of the parent or guardian having legal custody, with a 493
designee of the parent or guardian; 494

(b) Any person who is pregnant or in the process of securing 495
legal custody of any individual who is under eighteen years of 496
age. 497

(16)(a) Except as provided in division (A)(16)(b) of this 498
section, "physical or mental impairment" includes any of the 499
following: 500

(i) Any physiological disorder or condition, cosmetic 501
disfigurement, or anatomical loss affecting one or more of the 502
following body systems: neurological; musculoskeletal; special 503
sense organs; respiratory, including speech organs; 504
cardiovascular; reproductive; digestive; genito-urinary; hemic and 505
lymphatic; skin; and endocrine; 506

(ii) Any mental or psychological disorder, including, but not 507
limited to, mental retardation, organic brain syndrome, emotional 508
or mental illness, and specific learning disabilities; 509

(iii) Diseases and conditions, including, but not limited to, 510
orthopedic, visual, speech, and hearing impairments, cerebral 511
palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, 512
cancer, heart disease, diabetes, human immunodeficiency virus 513
infection, mental retardation, emotional illness, drug addiction, 514
and alcoholism. 515

(b) "Physical or mental impairment" does not include any of	516
the following:	517
(i) Homosexuality and bisexuality;	518
(ii) Transvestism, transsexualism, pedophilia, exhibitionism,	519
voyeurism, gender identity disorders not resulting from physical	520
impairments, or other sexual behavior disorders;	521
(iii) Compulsive gambling, kleptomania, or pyromania;	522
(iv) Psychoactive substance use disorders resulting from the	523
current illegal use of a controlled substance or the current use	524
of alcoholic beverages.	525
(17) "Dwelling unit" means a single unit of residence for a	526
family of one or more persons.	527
(18) "Common use areas" means rooms, spaces, or elements	528
inside or outside a building that are made available for the use	529
of residents of the building or their guests, and includes, but is	530
not limited to, hallways, lounges, lobbies, laundry rooms, refuse	531
rooms, mail rooms, recreational areas, and passageways among and	532
between buildings.	533
(19) "Public use areas" means interior or exterior rooms or	534
spaces of a privately or publicly owned building that are made	535
available to the general public.	536
(20) "Controlled substance" has the same meaning as in	537
section 3719.01 of the Revised Code.	538
(21) "Disabled tenant" means a tenant or prospective tenant	539
who is a person with a disability.	540
(22) "Military status" means a person's status in "service in	541
the uniformed services" as defined in section 5923.05 of the	542
Revised Code.	543
(23) "Aggrieved person" includes both of the following:	544

(a) Any person who claims to have been injured by any 545
unlawful discriminatory practice described in division (H) of 546
section 4112.02 of the Revised Code; 547

(b) Any person who believes that the person will be injured 548
by, any unlawful discriminatory practice described in division (H) 549
of section 4112.02 of the Revised Code that is about to occur. 550

(24) "Domestic worker" means a person employed in a home or 551
residence for the purpose of caring for a child; serving as a 552
companion for a sick, convalescing, or elderly person; 553
housekeeping; or for any other domestic service purpose. "Domestic 554
worker" does not include any of the following: 555

(a) An individual who is working on a casual basis, as 556
defined in section 4114.14 of the Revised Code; 557

(b) An individual who is engaged in providing companionship 558
services, as defined in the "Fair Labor Standards Act of 1938," 52 559
Stat. 1060, 29 U.S.C. 203, as amended, and who is employed by an 560
employer or agency other than the family or household for which 561
the individual is providing services; 562

(c) An individual who is a relative through blood, marriage, 563
or adoption of either of the following: 564

(i) The employer; 565

(ii) The person for whom the individual is providing services 566
under a program funded or administered by the federal or state 567
government or a local government. 568

(B) For the purposes of divisions (A) to (F) of section 569
4112.02 of the Revised Code, the terms "because of sex" and "on 570
the basis of sex" include, but are not limited to, because of or 571
on the basis of pregnancy, any illness arising out of and 572
occurring during the course of a pregnancy, childbirth, or related 573
medical conditions. Women affected by pregnancy, childbirth, or 574

related medical conditions shall be treated the same for all 575
employment-related purposes, including receipt of benefits under 576
fringe benefit programs, as other persons not so affected but 577
similar in their ability or inability to work, and nothing in 578
division (B) of section 4111.17 of the Revised Code shall be 579
interpreted to permit otherwise. This division shall not be 580
construed to require an employer to pay for health insurance 581
benefits for abortion, except where the life of the mother would 582
be endangered if the fetus were carried to term or except where 583
medical complications have arisen from the abortion, provided that 584
nothing in this division precludes an employer from providing 585
abortion benefits or otherwise affects bargaining agreements in 586
regard to abortion. 587

Sec. 4112.024. It shall be an unlawful discriminatory 588
practice for an employer to do any of the following: 589

(A) Make unwelcome sexual advances, requests for sexual 590
favours, or engage in other verbal or physical conduct of a sexual 591
nature toward a domestic worker when any of the following apply: 592

(1) The domestic worker's submission to the conduct is made 593
either explicitly or implicitly a term or condition of the 594
domestic worker's employment. 595

(2) The domestic worker's submission to or rejection of the 596
conduct is used as the basis for employment decisions affecting 597
the domestic worker. 598

(3) The conduct is intended to unreasonably interfere, or has 599
the effect of unreasonably interfering, with the domestic worker's 600
work performance by creating an intimidating, hostile, or 601
offensive work environment. 602

(B) Subject a domestic worker to unwelcome harassment based 603
on race, religion, sex, or national origin if the harassment is 604

intended to unreasonably interfere, or has the effect of 605
unreasonably interfering, with the domestic worker's work 606
performance by creating an intimidating, hostile, or offensive 607
working environment. 608

Sec. 4112.05. (A) The commission, as provided in this 609
section, shall prevent any person from engaging in unlawful 610
discriminatory practices, provided that, before instituting the 611
formal hearing authorized by division (B) of this section, it 612
shall attempt, by informal methods of conference, conciliation, 613
and persuasion, to induce compliance with this chapter. 614

(B)(1) Any person may file a charge with the commission 615
alleging that another person has engaged or is engaging in an 616
unlawful discriminatory practice. In the case of a charge alleging 617
an unlawful discriminatory practice described in division (A), 618
(B), (C), (D), (E), (F), (G), (I), or (J) of section 4112.02 or in 619
section 4112.021 ~~or~~, 4112.022, or 4112.024 of the Revised Code, 620
the charge shall be in writing and under oath and shall be filed 621
with the commission within six months after the alleged unlawful 622
discriminatory practice was committed. In the case of a charge 623
alleging an unlawful discriminatory practice described in division 624
(H) of section 4112.02 of the Revised Code, the charge shall be in 625
writing and under oath and shall be filed with the commission 626
within one year after the alleged unlawful discriminatory practice 627
was committed. 628

(2) Upon receiving a charge, the commission may initiate a 629
preliminary investigation to determine whether it is probable that 630
an unlawful discriminatory practice has been or is being engaged 631
in. The commission also may conduct, upon its own initiative and 632
independent of the filing of any charges, a preliminary 633
investigation relating to any of the unlawful discriminatory 634
practices described in division (A), (B), (C), (D), (E), (F), (I), 635

or (J) of section 4112.02 or in section 4112.021 ~~or~~, 4112.022, or
4112.024 of the Revised Code. Prior to a notification of a
complainant under division (B)(4) of this section or prior to the
commencement of informal methods of conference, conciliation, and
persuasion under that division, the members of the commission and
the officers and employees of the commission shall not make public
in any manner and shall retain as confidential all information
that was obtained as a result of or that otherwise pertains to a
preliminary investigation other than one described in division
(B)(3) of this section.

(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:

(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;

(ii) Initiate a complaint and schedule it for informal
methods of conference, conciliation, and persuasion;

(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 668
expeditiously as possible. 669

(b) If it is not practicable to comply with the requirements 670
of division (B)(3)(a) of this section within the one-hundred-day 671
period described in that division, the commission shall notify the 672
complainant and the respondent in writing of the reasons for the 673
noncompliance. 674

(c) Prior to the issuance of a complaint under division 675
(B)(3)(a)(ii) or (iii) of this section or prior to a notification 676
of the complainant and the respondent under division (B)(3)(a)(i) 677
of this section, the members of the commission and the officers 678
and employees of the commission shall not make public in any 679
manner and shall retain as confidential all information that was 680
obtained as a result of or that otherwise pertains to a 681
preliminary investigation of a charge filed pursuant to division 682
(B)(1) of this section that alleges an unlawful discriminatory 683
practice described in division (H) of section 4112.05 of the 684
Revised Code. 685

(d) Notwithstanding the types of action described in 686
divisions (B)(3)(a)(ii) and (iii) of this section, prior to the 687
issuance of a complaint or the referral of a complaint to the 688
attorney general and prior to endeavoring to eliminate an unlawful 689
discriminatory practice described in division (H) of section 690
4112.02 of the Revised Code by informal methods of conference, 691
conciliation, and persuasion, the commission may seek a temporary 692
or permanent injunction or a temporary restraining order in the 693
court of common pleas of the county in which the unlawful 694
discriminatory practice allegedly occurred. 695

(4) If the commission determines after a preliminary 696
investigation other than one described in division (B)(3) of this 697
section that it is not probable that an unlawful discriminatory 698
practice has been or is being engaged in, it shall notify any 699

complainant under division (B)(1) of this section that it has so 700
determined and that it will not issue a complaint in the matter. 701
If the commission determines after a preliminary investigation 702
other than the one described in division (B)(3) of this section 703
that it is probable that an unlawful discriminatory practice has 704
been or is being engaged in, it shall endeavor to eliminate the 705
practice by informal methods of conference, conciliation, and 706
persuasion. 707

(5) Nothing said or done during informal methods of 708
conference, conciliation, and persuasion under this section shall 709
be disclosed by any member of the commission or its staff or be 710
used as evidence in any subsequent hearing or other proceeding. 711
If, after a preliminary investigation and the use of informal 712
methods of conference, conciliation, and persuasion under this 713
section, the commission is satisfied that any unlawful 714
discriminatory practice will be eliminated, it may treat the 715
charge involved as being conciliated and enter that disposition on 716
the records of the commission. If the commission fails to effect 717
the elimination of an unlawful discriminatory practice by informal 718
methods of conference, conciliation, and persuasion under this 719
section and to obtain voluntary compliance with this chapter, the 720
commission shall issue and cause to be served upon any person, 721
including the respondent against whom a complainant has filed a 722
charge pursuant to division (B)(1) of this section, a complaint 723
stating the charges involved and containing a notice of an 724
opportunity for a hearing before the commission, a member of the 725
commission, or a hearing examiner at a place that is stated in the 726
notice and that is located within the county in which the alleged 727
unlawful discriminatory practice has occurred or is occurring or 728
in which the respondent resides or transacts business. The hearing 729
shall be held not less than thirty days after the service of the 730
complaint upon the complainant, the aggrieved persons other than 731
the complainant on whose behalf the complaint is issued, and the 732

respondent, unless the complainant, an aggrieved person, or the respondent elects to proceed under division (A)(2) of section 4112.051 of the Revised Code when that division is applicable. If a complaint pertains to an alleged unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code, the complaint shall notify the complainant, an aggrieved person, and the respondent of the right of the complainant, an aggrieved person, or the respondent to elect to proceed with the administrative hearing process under this section or to proceed under division (A)(2) of section 4112.051 of the Revised Code.

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

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

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

(D) The complainant shall be a party to a hearing under division (B) of this section, and any person who is an indispensable party to a complete determination or settlement of a question involved in the hearing shall be joined. Any aggrieved person who has or claims an interest in the subject of the hearing

and in obtaining or preventing relief against the unlawful 765
discriminatory practices complained of shall be permitted to 766
appear only for the presentation of oral or written arguments, to 767
present evidence, perform direct and cross-examination, and be 768
represented by counsel. The commission shall adopt rules, in 769
accordance with Chapter 119. of the Revised Code governing the 770
authority granted under this division. 771

(E) In any hearing under division (B) of this section, the 772
commission, a member of the commission, or the hearing examiner 773
shall not be bound by the Rules of Evidence but, in ascertaining 774
the practices followed by the respondent, shall take into account 775
all reliable, probative, and substantial statistical or other 776
evidence produced at the hearing that may tend to prove the 777
existence of a predetermined pattern of employment or membership, 778
provided that nothing contained in this section shall be construed 779
to authorize or require any person to observe the proportion that 780
persons of any race, color, religion, sex, military status, 781
familial status, national origin, disability, age, or ancestry 782
bear to the total population or in accordance with any criterion 783
other than the individual qualifications of the applicant. 784

(F) The testimony taken at a hearing under division (B) of 785
this section shall be under oath and shall be reduced to writing 786
and filed with the commission. Thereafter, in its discretion, the 787
commission, upon the service of a notice upon the complainant and 788
the respondent that indicates an opportunity to be present, may 789
take further testimony or hear argument. 790

(G)(1) If, upon all reliable, probative, and substantial 791
evidence presented at a hearing under division (B) of this 792
section, the commission determines that the respondent has engaged 793
in, or is engaging in, any unlawful discriminatory practice, 794
whether against the complainant or others, the commission shall 795
state its findings of fact and conclusions of law and shall issue 796

and, subject to the provisions of Chapter 119. of the Revised 797
Code, cause to be served on the respondent an order requiring the 798
respondent to cease and desist from the unlawful discriminatory 799
practice, requiring the respondent to take any further affirmative 800
or other action that will effectuate the purposes of this chapter, 801
including, but not limited to, hiring, reinstatement, or upgrading 802
of employees or domestic workers with or without back pay, or 803
admission or restoration to union membership, and requiring the 804
respondent to report to the commission the manner of compliance. 805
If the commission directs payment of back pay, it shall make 806
allowance for interim earnings. If it finds a violation of 807
division (H) of section 4112.02 of the Revised Code, the 808
commission additionally shall require the respondent to pay actual 809
damages and reasonable attorney's fees, and may award to the 810
complainant punitive damages as follows: 811

(a) If division (G)(1)(b) or (c) of this section does not 812
apply, punitive damages in an amount not to exceed ten thousand 813
dollars; 814

(b) If division (G)(1)(c) of this section does not apply and 815
if the respondent has been determined by a final order of the 816
commission or by a final judgment of a court to have committed one 817
violation of division (H) of section 4112.02 of the Revised Code 818
during the five-year period immediately preceding the date on 819
which a complaint was issued pursuant to division (B) of this 820
section, punitive damages in an amount not to exceed twenty-five 821
thousand dollars; 822

(c) If the respondent has been determined by a final order of 823
the commission or by a final judgment of a court to have committed 824
two or more violations of division (H) of section 4112.02 of the 825
Revised Code during the seven-year period immediately preceding 826
the date on which a complaint was issued pursuant to division (B) 827
of this section, punitive damages in an amount not to exceed fifty 828

thousand dollars. 829

(2) Upon the submission of reports of compliance, the 830
commission may issue a declaratory order stating that the 831
respondent has ceased to engage in particular unlawful 832
discriminatory practices. 833

(H) If the commission finds that no probable cause exists for 834
crediting charges of unlawful discriminatory practices or if, upon 835
all the evidence presented at a hearing under division (B) of this 836
section on a charge, the commission finds that a respondent has 837
not engaged in any unlawful discriminatory practice against the 838
complainant or others, it shall state its findings of fact and 839
shall issue and cause to be served on the complainant an order 840
dismissing the complaint as to the respondent. A copy of the order 841
shall be delivered in all cases to the attorney general and any 842
other public officers whom the commission considers proper. 843

(I) Until the time period for appeal set forth in division 844
(H) of section 4112.06 of the Revised Code expires, the 845
commission, subject to the provisions of Chapter 119. of the 846
Revised Code, at any time, upon reasonable notice, and in the 847
manner it considers proper, may modify or set aside, in whole or 848
in part, any finding or order made by it under this section. 849

Section 2. That existing sections 4111.02, 4111.08, 4111.10, 850
4111.14, 4112.01, and 4112.05 of the Revised Code are hereby 851
repealed. 852

Section 3. The Director of Commerce shall prepare a report on 853
the feasibility and practicality of allowing domestic workers to 854
organize for purposes of collective bargaining. In preparing the 855
report, the Director shall consult with representatives of 856
domestic workers and individuals and agencies that employ domestic 857
workers, and with relevant state agencies including the State 858
Employment Relations Board. Upon completion of the report, and 859

prior to December 1, 2014, the Director shall submit the report	860
the Governor, the Speaker of the House of Representatives, and the	861
President of the Senate.	862