

**As Introduced**

**130th General Assembly  
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**S. B. No. 349**

**Senator Seitz**

**Cosponsors: Senators Patton, Eklund**

—

**A B I L L**

To amend sections 4112.02 and 4112.05 of the Revised 1  
Code to make permissive actual damages and 2  
attorney's fees, to limit certain punitive 3  
damages, to allow respondents to recover 4  
attorney's fees in certain instances, to prohibit 5  
actual or punitive damages from being awarded to a 6  
fair housing agency, and to exempt certain 7  
landlords from the housing provisions of the Ohio 8  
Civil Rights Law. 9

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

**Section 1.** That sections 4112.02 and 4112.05 of the Revised 10  
Code be amended to read as follows: 11

**Sec. 4112.02.** It shall be an unlawful discriminatory 12  
practice: 13

(A) For any employer, because of the race, color, religion, 14  
sex, military status, national origin, disability, age, or 15  
ancestry of any person, to discharge without just cause, to refuse 16  
to hire, or otherwise to discriminate against that person with 17  
respect to hire, tenure, terms, conditions, or privileges of 18  
employment, or any matter directly or indirectly related to 19

employment. 20

(B) For an employment agency or personnel placement service, 21  
because of race, color, religion, sex, military status, national 22  
origin, disability, age, or ancestry, to do any of the following: 23

(1) Refuse or fail to accept, register, classify properly, or 24  
refer for employment, or otherwise discriminate against any 25  
person; 26

(2) Comply with a request from an employer for referral of 27  
applicants for employment if the request directly or indirectly 28  
indicates that the employer fails to comply with the provisions of 29  
sections 4112.01 to 4112.07 of the Revised Code. 30

(C) For any labor organization to do any of the following: 31

(1) Limit or classify its membership on the basis of race, 32  
color, religion, sex, military status, national origin, 33  
disability, age, or ancestry; 34

(2) Discriminate against, limit the employment opportunities 35  
of, or otherwise adversely affect the employment status, wages, 36  
hours, or employment conditions of any person as an employee 37  
because of race, color, religion, sex, military status, national 38  
origin, disability, age, or ancestry. 39

(D) For any employer, labor organization, or joint 40  
labor-management committee controlling apprentice training 41  
programs to discriminate against any person because of race, 42  
color, religion, sex, military status, national origin, 43  
disability, or ancestry in admission to, or employment in, any 44  
program established to provide apprentice training. 45

(E) Except where based on a bona fide occupational 46  
qualification certified in advance by the commission, for any 47  
employer, employment agency, personnel placement service, or labor 48  
organization, prior to employment or admission to membership, to 49

do any of the following:	50
(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;	51 52 53 54
(2) Make or keep a record of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any applicant for employment or membership;	55 56 57
(3) Use any form of application for employment, or personnel or membership blank, seeking to elicit information regarding race, color, religion, sex, military status, national origin, disability, age, or ancestry; but an employer holding a contract containing a nondiscrimination clause with the government of the United States, or any department or agency of that government, may require an employee or applicant for employment to furnish documentary proof of United States citizenship and may retain that proof in the employer's personnel records and may use photographic or fingerprint identification for security purposes;	58 59 60 61 62 63 64 65 66 67
(4) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification, or discrimination, based upon race, color, religion, sex, military status, national origin, disability, age, or ancestry;	68 69 70 71 72
(5) Announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of that group;	73 74 75 76 77
(6) Utilize in the recruitment or hiring of persons any employment agency, personnel placement service, training school or center, labor organization, or any other employee-referring source	78 79 80

known to discriminate against persons because of their race, 81  
color, religion, sex, military status, national origin, 82  
disability, age, or ancestry. 83

(F) For any person seeking employment to publish or cause to 84  
be published any advertisement that specifies or in any manner 85  
indicates that person's race, color, religion, sex, military 86  
status, national origin, disability, age, or ancestry, or 87  
expresses a limitation or preference as to the race, color, 88  
religion, sex, military status, national origin, disability, age, 89  
or ancestry of any prospective employer. 90

(G) For any proprietor or any employee, keeper, or manager of 91  
a place of public accommodation to deny to any person, except for 92  
reasons applicable alike to all persons regardless of race, color, 93  
religion, sex, military status, national origin, disability, age, 94  
or ancestry, the full enjoyment of the accommodations, advantages, 95  
facilities, or privileges of the place of public accommodation. 96

(H) For any person to do any of the following: 97

(1) Refuse to sell, transfer, assign, rent, lease, sublease, 98  
or finance housing accommodations, refuse to negotiate for the 99  
sale or rental of housing accommodations, or otherwise deny or 100  
make unavailable housing accommodations because of race, color, 101  
religion, sex, military status, familial status, ancestry, 102  
disability, or national origin; 103

(2) Represent to any person that housing accommodations are 104  
not available for inspection, sale, or rental, when in fact they 105  
are available, because of race, color, religion, sex, military 106  
status, familial status, ancestry, disability, or national origin; 107

(3) Discriminate against any person in the making or 108  
purchasing of loans or the provision of other financial assistance 109  
for the acquisition, construction, rehabilitation, repair, or 110  
maintenance of housing accommodations, or any person in the making 111

or purchasing of loans or the provision of other financial 112  
assistance that is secured by residential real estate, because of 113  
race, color, religion, sex, military status, familial status, 114  
ancestry, disability, or national origin or because of the racial 115  
composition of the neighborhood in which the housing 116  
accommodations are located, provided that the person, whether an 117  
individual, corporation, or association of any type, lends money 118  
as one of the principal aspects or incident to the person's 119  
principal business and not only as a part of the purchase price of 120  
an owner-occupied residence the person is selling nor merely 121  
casually or occasionally to a relative or friend; 122

(4) Discriminate against any person in the terms or 123  
conditions of selling, transferring, assigning, renting, leasing, 124  
or subleasing any housing accommodations or in furnishing 125  
facilities, services, or privileges in connection with the 126  
ownership, occupancy, or use of any housing accommodations, 127  
including the sale of fire, extended coverage, or homeowners 128  
insurance, because of race, color, religion, sex, military status, 129  
familial status, ancestry, disability, or national origin or 130  
because of the racial composition of the neighborhood in which the 131  
housing accommodations are located; 132

(5) Discriminate against any person in the terms or 133  
conditions of any loan of money, whether or not secured by 134  
mortgage or otherwise, for the acquisition, construction, 135  
rehabilitation, repair, or maintenance of housing accommodations 136  
because of race, color, religion, sex, military status, familial 137  
status, ancestry, disability, or national origin or because of the 138  
racial composition of the neighborhood in which the housing 139  
accommodations are located; 140

(6) Refuse to consider without prejudice the combined income 141  
of both husband and wife for the purpose of extending mortgage 142  
credit to a married couple or either member of a married couple; 143

(7) Print, publish, or circulate any statement or 144  
advertisement, or make or cause to be made any statement or 145  
advertisement, relating to the sale, transfer, assignment, rental, 146  
lease, sublease, or acquisition of any housing accommodations, or 147  
relating to the loan of money, whether or not secured by mortgage 148  
or otherwise, for the acquisition, construction, rehabilitation, 149  
repair, or maintenance of housing accommodations, that indicates 150  
any preference, limitation, specification, or discrimination based 151  
upon race, color, religion, sex, military status, familial status, 152  
ancestry, disability, or national origin, or an intention to make 153  
any such preference, limitation, specification, or discrimination; 154

(8) Except as otherwise provided in division (H)(8) or (17) 155  
of this section, make any inquiry, elicit any information, make or 156  
keep any record, or use any form of application containing 157  
questions or entries concerning race, color, religion, sex, 158  
military status, familial status, ancestry, disability, or 159  
national origin in connection with the sale or lease of any 160  
housing accommodations or the loan of any money, whether or not 161  
secured by mortgage or otherwise, for the acquisition, 162  
construction, rehabilitation, repair, or maintenance of housing 163  
accommodations. Any person may make inquiries, and make and keep 164  
records, concerning race, color, religion, sex, military status, 165  
familial status, ancestry, disability, or national origin for the 166  
purpose of monitoring compliance with this chapter. 167

(9) Include in any transfer, rental, or lease of housing 168  
accommodations any restrictive covenant, or honor or exercise, or 169  
attempt to honor or exercise, any restrictive covenant; 170

(10) Induce or solicit, or attempt to induce or solicit, a 171  
housing accommodations listing, sale, or transaction by 172  
representing that a change has occurred or may occur with respect 173  
to the racial, religious, sexual, military status, familial 174  
status, or ethnic composition of the block, neighborhood, or other 175

area in which the housing accommodations are located, or induce or 176  
solicit, or attempt to induce or solicit, a housing accommodations 177  
listing, sale, or transaction by representing that the presence or 178  
anticipated presence of persons of any race, color, religion, sex, 179  
military status, familial status, ancestry, disability, or 180  
national origin, in the block, neighborhood, or other area will or 181  
may have results including, but not limited to, the following: 182

(a) The lowering of property values; 183

(b) A change in the racial, religious, sexual, military 184  
status, familial status, or ethnic composition of the block, 185  
neighborhood, or other area; 186

(c) An increase in criminal or antisocial behavior in the 187  
block, neighborhood, or other area; 188

(d) A decline in the quality of the schools serving the 189  
block, neighborhood, or other area. 190

(11) Deny any person access to or membership or participation 191  
in any multiple-listing service, real estate brokers' 192  
organization, or other service, organization, or facility relating 193  
to the business of selling or renting housing accommodations, or 194  
discriminate against any person in the terms or conditions of that 195  
access, membership, or participation, on account of race, color, 196  
religion, sex, military status, familial status, national origin, 197  
disability, or ancestry; 198

(12) Coerce, intimidate, threaten, or interfere with any 199  
person in the exercise or enjoyment of, or on account of that 200  
person's having exercised or enjoyed or having aided or encouraged 201  
any other person in the exercise or enjoyment of, any right 202  
granted or protected by division (H) of this section; 203

(13) Discourage or attempt to discourage the purchase by a 204  
prospective purchaser of housing accommodations, by representing 205  
that any block, neighborhood, or other area has undergone or might 206

undergo a change with respect to its religious, racial, sexual,	207
military status, familial status, or ethnic composition;	208
(14) Refuse to sell, transfer, assign, rent, lease, sublease,	209
or finance, or otherwise deny or withhold, a burial lot from any	210
person because of the race, color, sex, military status, familial	211
status, age, ancestry, disability, or national origin of any	212
prospective owner or user of the lot;	213
(15) Discriminate in the sale or rental of, or otherwise make	214
unavailable or deny, housing accommodations to any buyer or renter	215
because of a disability of any of the following:	216
(a) The buyer or renter;	217
(b) A person residing in or intending to reside in the	218
housing accommodations after they are sold, rented, or made	219
available;	220
(c) Any individual associated with the person described in	221
division (H)(15)(b) of this section.	222
(16) Discriminate in the terms, conditions, or privileges of	223
the sale or rental of housing accommodations to any person or in	224
the provision of services or facilities to any person in	225
connection with the housing accommodations because of a disability	226
of any of the following:	227
(a) That person;	228
(b) A person residing in or intending to reside in the	229
housing accommodations after they are sold, rented, or made	230
available;	231
(c) Any individual associated with the person described in	232
division (H)(16)(b) of this section.	233
(17) Except as otherwise provided in division (H)(17) of this	234
section, make an inquiry to determine whether an applicant for the	235
sale or rental of housing accommodations, a person residing in or	236



intending to reside in the housing accommodations after they are 237  
sold, rented, or made available, or any individual associated with 238  
that person has a disability, or make an inquiry to determine the 239  
nature or severity of a disability of the applicant or such a 240  
person or individual. The following inquiries may be made of all 241  
applicants for the sale or rental of housing accommodations, 242  
regardless of whether they have disabilities: 243

(a) An inquiry into an applicant's ability to meet the 244  
requirements of ownership or tenancy; 245

(b) An inquiry to determine whether an applicant is qualified 246  
for housing accommodations available only to persons with 247  
disabilities or persons with a particular type of disability; 248

(c) An inquiry to determine whether an applicant is qualified 249  
for a priority available to persons with disabilities or persons 250  
with a particular type of disability; 251

(d) An inquiry to determine whether an applicant currently 252  
uses a controlled substance in violation of section 2925.11 of the 253  
Revised Code or a substantively comparable municipal ordinance; 254

(e) An inquiry to determine whether an applicant at any time 255  
has been convicted of or pleaded guilty to any offense, an element 256  
of which is the illegal sale, offer to sell, cultivation, 257  
manufacture, other production, shipment, transportation, delivery, 258  
or other distribution of a controlled substance. 259

(18)(a) Refuse to permit, at the expense of a person with a 260  
disability, reasonable modifications of existing housing 261  
accommodations that are occupied or to be occupied by the person 262  
with a disability, if the modifications may be necessary to afford 263  
the person with a disability full enjoyment of the housing 264  
accommodations. This division does not preclude a landlord of 265  
housing accommodations that are rented or to be rented to a 266  
disabled tenant from conditioning permission for a proposed 267

modification upon the disabled tenant's doing one or more of the 268  
following: 269

(i) Providing a reasonable description of the proposed 270  
modification and reasonable assurances that the proposed 271  
modification will be made in a workerlike manner and that any 272  
required building permits will be obtained prior to the 273  
commencement of the proposed modification; 274

(ii) Agreeing to restore at the end of the tenancy the 275  
interior of the housing accommodations to the condition they were 276  
in prior to the proposed modification, but subject to reasonable 277  
wear and tear during the period of occupancy, if it is reasonable 278  
for the landlord to condition permission for the proposed 279  
modification upon the agreement; 280

(iii) Paying into an interest-bearing escrow account that is 281  
in the landlord's name, over a reasonable period of time, a 282  
reasonable amount of money not to exceed the projected costs at 283  
the end of the tenancy of the restoration of the interior of the 284  
housing accommodations to the condition they were in prior to the 285  
proposed modification, but subject to reasonable wear and tear 286  
during the period of occupancy, if the landlord finds the account 287  
reasonably necessary to ensure the availability of funds for the 288  
restoration work. The interest earned in connection with an escrow 289  
account described in this division shall accrue to the benefit of 290  
the disabled tenant who makes payments into the account. 291

(b) A landlord shall not condition permission for a proposed 292  
modification upon a disabled tenant's payment of a security 293  
deposit that exceeds the customarily required security deposit of 294  
all tenants of the particular housing accommodations. 295

(19) Refuse to make reasonable accommodations in rules, 296  
policies, practices, or services when necessary to afford a person 297  
with a disability equal opportunity to use and enjoy a dwelling 298

unit, including associated public and common use areas;	299
(20) Fail to comply with the standards and rules adopted	300
under division (A) of section 3781.111 of the Revised Code;	301
(21) Discriminate against any person in the selling,	302
brokering, or appraising of real property because of race, color,	303
religion, sex, military status, familial status, ancestry,	304
disability, or national origin;	305
(22) Fail to design and construct covered multifamily	306
dwellings for first occupancy on or after June 30, 1992, in	307
accordance with the following conditions:	308
(a) The dwellings shall have at least one building entrance	309
on an accessible route, unless it is impractical to do so because	310
of the terrain or unusual characteristics of the site.	311
(b) With respect to dwellings that have a building entrance	312
on an accessible route, all of the following apply:	313
(i) The public use areas and common use areas of the	314
dwellings shall be readily accessible to and usable by persons	315
with a disability.	316
(ii) All the doors designed to allow passage into and within	317
all premises shall be sufficiently wide to allow passage by	318
persons with a disability who are in wheelchairs.	319
(iii) All premises within covered multifamily dwelling units	320
shall contain an accessible route into and through the dwelling;	321
all light switches, electrical outlets, thermostats, and other	322
environmental controls within such units shall be in accessible	323
locations; the bathroom walls within such units shall contain	324
reinforcements to allow later installation of grab bars; and the	325
kitchens and bathrooms within such units shall be designed and	326
constructed in a manner that enables an individual in a wheelchair	327
to maneuver about such rooms.	328

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

(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 implementing reasonable occupancy standards based on the number and size of sleeping areas or bedrooms and the overall size of a dwelling unit, provided that the standards are not implemented to circumvent the purposes of this chapter and are formulated, implemented, and interpreted in a manner consistent with this chapter and any applicable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy housing accommodations.

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

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

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

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

(c) Housing accommodations intended and operated for occupancy by at least one person who is fifty-five years of age or older per unit, as determined under the "Fair Housing Amendments

Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended. 392

(6) Except as otherwise provided in division (K)(6) of this 393  
section, division (H) of this section does not apply to the owner 394  
of any single-family residential dwelling sold or rented by that 395  
owner if all of the following apply: 396

(a) The owner does not own more than three such single-family 397  
residential dwellings at any one time. 398

(b) The owner does not own any interest in, nor is there 399  
owned or reserved on the owner's behalf, under any express or 400  
voluntary agreement, title to or any right to all or a portion of 401  
the proceeds from the sale or rental of more than three such 402  
single-family residential dwellings at any one time. 403

(c) The owner sells or rents the single-family residential 404  
dwelling without both of the following: 405

(i) The use, in any manner, of the sales or rental facilities 406  
or services of any real estate broker, agent, or salesperson; the 407  
facilities or services of any person in the business of selling or 408  
renting dwellings; or any employee or agent of any such broker, 409  
agent, salesperson, or person; 410

(ii) Printing, publishing, or circulating any statement or 411  
advertisement, or making or causing to be made any statement or 412  
advertisement in violation of division (H)(7) of this section. 413

In the case of the sale of any such single-family residential 414  
dwelling by an owner not residing in the dwelling at the time of 415  
the sale or who was not the most recent resident of the dwelling 416  
prior to the sale, the exemption granted by this division applies 417  
only with respect to one such sale within any twenty-four month 418  
period. Nothing in this division prohibits the use of attorneys, 419  
escrow agents, abstractors, title companies, and other such 420  
professional assistance as necessary to perfect or transfer the 421  
title of a dwelling. As used in this section, "person in the 422

business of selling or renting dwellings" has the same meaning as 423  
in 42 U.S.C. 3603. 424

(L) Nothing in divisions (A) to (E) of this section shall be 425  
construed to require a person with a disability to be employed or 426  
trained under circumstances that would significantly increase the 427  
occupational hazards affecting either the person with a 428  
disability, other employees, the general public, or the facilities 429  
in which the work is to be performed, or to require the employment 430  
or training of a person with a disability in a job that requires 431  
the person with a disability routinely to undertake any task, the 432  
performance of which is substantially and inherently impaired by 433  
the person's disability. 434

(M) Nothing in divisions (H)(1) to (18) of this section shall 435  
be construed to require any person selling or renting property to 436  
modify the property in any way or to exercise a higher degree of 437  
care for a person with a disability, to relieve any person with a 438  
disability of any obligation generally imposed on all persons 439  
regardless of disability in a written lease, rental agreement, or 440  
contract of purchase or sale, or to forbid distinctions based on 441  
the inability to fulfill the terms and conditions, including 442  
financial obligations, of the lease, agreement, or contract. 443

(N) An aggrieved individual may enforce the individual's 444  
rights relative to discrimination on the basis of age as provided 445  
for in this section by instituting a civil action, within one 446  
hundred eighty days after the alleged unlawful discriminatory 447  
practice occurred, in any court with jurisdiction for any legal or 448  
equitable relief that will effectuate the individual's rights. 449

A person who files a civil action under this division is 450  
barred, with respect to the practices complained of, from 451  
instituting a civil action under section 4112.14 of the Revised 452  
Code and from filing a charge with the commission under section 453  
4112.05 of the Revised Code. 454

(O) With regard to age, it shall not be an unlawful 455  
discriminatory practice and it shall not constitute a violation of 456  
division (A) of section 4112.14 of the Revised Code for any 457  
employer, employment agency, joint labor-management committee 458  
controlling apprenticeship training programs, or labor 459  
organization to do any of the following: 460

(1) Establish bona fide employment qualifications reasonably 461  
related to the particular business or occupation that may include 462  
standards for skill, aptitude, physical capability, intelligence, 463  
education, maturation, and experience; 464

(2) Observe the terms of a bona fide seniority system or any 465  
bona fide employee benefit plan, including, but not limited to, a 466  
retirement, pension, or insurance plan, that is not a subterfuge 467  
to evade the purposes of this section. However, no such employee 468  
benefit plan shall excuse the failure to hire any individual, and 469  
no such seniority system or employee benefit plan shall require or 470  
permit the involuntary retirement of any individual, because of 471  
the individual's age except as provided for in the "Age 472  
Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 473  
29 U.S.C.A. 623, as amended by the "Age Discrimination in 474  
Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 475  
623, as amended. 476

(3) Retire an employee who has attained sixty-five years of 477  
age who, for the two-year period immediately before retirement, is 478  
employed in a bona fide executive or a high policymaking position, 479  
if the employee is entitled to an immediate nonforfeitable annual 480  
retirement benefit from a pension, profit-sharing, savings, or 481  
deferred compensation plan, or any combination of those plans, of 482  
the employer of the employee, which equals, in the aggregate, at 483  
least forty-four thousand dollars, in accordance with the 484  
conditions of the "Age Discrimination in Employment Act Amendment 485  
of 1978," 92 Stat. 189, 29 U.S.C.A. 631, as amended by the "Age 486



Discrimination in Employment Act Amendments of 1986," 100 Stat.	487
3342, 29 U.S.C.A. 631, as amended;	488
(4) Observe the terms of any bona fide apprenticeship program	489
if the program is registered with the Ohio apprenticeship council	490
pursuant to sections 4139.01 to 4139.06 of the Revised Code and is	491
approved by the federal committee on apprenticeship of the United	492
States department of labor.	493
(P) Nothing in this chapter prohibiting age discrimination	494
and nothing in division (A) of section 4112.14 of the Revised Code	495
shall be construed to prohibit the following:	496
(1) The designation of uniform age the attainment of which is	497
necessary for public employees to receive pension or other	498
retirement benefits pursuant to Chapter 145., 742., 3307., 3309.,	499
or 5505. of the Revised Code;	500
(2) The mandatory retirement of uniformed patrol officers of	501
the state highway patrol as provided in section 5505.16 of the	502
Revised Code;	503
(3) The maximum age requirements for appointment as a patrol	504
officer in the state highway patrol established by section 5503.01	505
of the Revised Code;	506
(4) The maximum age requirements established for original	507
appointment to a police department or fire department in sections	508
124.41 and 124.42 of the Revised Code;	509
(5) Any maximum age not in conflict with federal law that may	510
be established by a municipal charter, municipal ordinance, or	511
resolution of a board of township trustees for original	512
appointment as a police officer or firefighter;	513
(6) Any mandatory retirement provision not in conflict with	514
federal law of a municipal charter, municipal ordinance, or	515
resolution of a board of township trustees pertaining to police	516

officers and firefighters; 517

(7) Until January 1, 1994, the mandatory retirement of any 518  
employee who has attained seventy years of age and who is serving 519  
under a contract of unlimited tenure, or similar arrangement 520  
providing for unlimited tenure, at an institution of higher 521  
education as defined in the "Education Amendments of 1980," 94 522  
Stat. 1503, 20 U.S.C.A. 1141(a). 523

(Q)(1)(a) Except as provided in division (Q)(1)(b) of this 524  
section, for purposes of divisions (A) to (E) of this section, a 525  
disability does not include any physiological disorder or 526  
condition, mental or psychological disorder, or disease or 527  
condition caused by an illegal use of any controlled substance by 528  
an employee, applicant, or other person, if an employer, 529  
employment agency, personnel placement service, labor 530  
organization, or joint labor-management committee acts on the 531  
basis of that illegal use. 532

(b) Division (Q)(1)(a) of this section does not apply to an 533  
employee, applicant, or other person who satisfies any of the 534  
following: 535

(i) The employee, applicant, or other person has successfully 536  
completed a supervised drug rehabilitation program and no longer 537  
is engaging in the illegal use of any controlled substance, or the 538  
employee, applicant, or other person otherwise successfully has 539  
been rehabilitated and no longer is engaging in that illegal use. 540

(ii) The employee, applicant, or other person is 541  
participating in a supervised drug rehabilitation program and no 542  
longer is engaging in the illegal use of any controlled substance. 543

(iii) The employee, applicant, or other person is erroneously 544  
regarded as engaging in the illegal use of any controlled 545  
substance, but the employee, applicant, or other person is not 546  
engaging in that illegal use. 547

(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:

(a) Adopting or administering reasonable policies or 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. 579  
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(4) Division (Q) of this section does not encourage, 581  
prohibit, or authorize, and shall not be construed as encouraging, 582  
prohibiting, or authorizing, the conduct of testing for the 583  
illegal use of any controlled substance by employees, applicants, 584  
or other persons, or the making of employment decisions based on 585  
the results of that type of testing. 586

(R) This section does not apply to a religious corporation, 587  
association, educational institution, or society with respect to 588  
the employment of an individual of a particular religion to 589  
perform work connected with the carrying on by that religious 590  
corporation, association, educational institution, or society of 591  
its activities. 592

The unlawful discriminatory practices defined in this section 593  
do not make it unlawful for a person or an appointing authority 594  
administering an examination under section 124.23 of the Revised 595  
Code to obtain information about an applicant's military status 596  
for the purpose of determining if the applicant is eligible for 597  
the additional credit that is available under that section. 598

**Sec. 4112.05.** (A) The commission, as provided in this 599  
section, shall prevent any person from engaging in unlawful 600  
discriminatory practices, provided that, before instituting the 601  
formal hearing authorized by division (B) of this section, it 602  
shall attempt, by informal methods of conference, conciliation, 603  
and persuasion, to induce compliance with this chapter. 604

(B)(1) Any person may file a charge with the commission 605  
alleging that another person has engaged or is engaging in an 606  
unlawful discriminatory practice. In the case of a charge alleging 607  
an unlawful discriminatory practice described in division (A), 608  
(B), (C), (D), (E), (F), (G), (I), or (J) of section 4112.02 or in 609

section 4112.021 or 4112.022 of the Revised Code, the charge shall 610  
be in writing and under oath and shall be filed with the 611  
commission within six months after the alleged unlawful 612  
discriminatory practice was committed. In the case of a charge 613  
alleging an unlawful discriminatory practice described in division 614  
(H) of section 4112.02 of the Revised Code, the charge shall be in 615  
writing and under oath and shall be filed with the commission 616  
within one year after the alleged unlawful discriminatory practice 617  
was committed. 618

(2) Upon receiving a charge, the commission may initiate a 619  
preliminary investigation to determine whether it is probable that 620  
an unlawful discriminatory practice has been or is being engaged 621  
in. The commission also may conduct, upon its own initiative and 622  
independent of the filing of any charges, a preliminary 623  
investigation relating to any of the unlawful discriminatory 624  
practices described in division (A), (B), (C), (D), (E), (F), (I), 625  
or (J) of section 4112.02 or in section 4112.021 or 4112.022 of 626  
the Revised Code. Prior to a notification of a complainant under 627  
division (B)(4) of this section or prior to the commencement of 628  
informal methods of conference, conciliation, and persuasion under 629  
that division, the members of the commission and the officers and 630  
employees of the commission shall not make public in any manner 631  
and shall retain as confidential all information that was obtained 632  
as a result of or that otherwise pertains to a preliminary 633  
investigation other than one described in division (B)(3) of this 634  
section. 635

(3)(a) Unless it is impracticable to do so and subject to its 636  
authority under division (B)(3)(d) of this section, the commission 637  
shall complete a preliminary investigation of a charge filed 638  
pursuant to division (B)(1) of this section that alleges an 639  
unlawful discriminatory practice described in division (H) of 640  
section 4112.02 of the Revised Code, and shall take one of the 641

following actions, within one hundred days after the filing of the charge: 642  
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(i) Notify the complainant and the respondent that it is not probable that an unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code has been or is being engaged in and that the commission will not issue a complaint in the matter; 644  
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(ii) Initiate a complaint and schedule it for informal methods of conference, conciliation, and persuasion; 649  
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(iii) Initiate a complaint and refer it to the attorney general with a recommendation to seek a temporary or permanent injunction or a temporary restraining order. If this action is taken, the attorney general shall apply, as expeditiously as possible after receipt of the complaint, to the court of common pleas of the county in which the unlawful discriminatory practice allegedly occurred for the appropriate injunction or order, and the court shall hear and determine the application as expeditiously as possible. 651  
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(b) If it is not practicable to comply with the requirements of division (B)(3)(a) of this section within the one-hundred-day period described in that division, the commission shall notify the complainant and the respondent in writing of the reasons for the noncompliance. 660  
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(c) Prior to the issuance of a complaint under division (B)(3)(a)(ii) or (iii) of this section or prior to a notification of the complainant and the respondent under division (B)(3)(a)(i) of this section, 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 of a charge filed pursuant to division 665  
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(B)(1) of this section that alleges an unlawful discriminatory practice described in division (H) of section 4112.05 of the Revised Code. 673  
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(d) Notwithstanding the types of action described in divisions (B)(3)(a)(ii) and (iii) of this section, prior to the issuance of a complaint or the referral of a complaint to the attorney general and prior to endeavoring to eliminate an unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code by informal methods of conference, conciliation, and persuasion, the commission may seek a temporary or permanent injunction or a temporary restraining order in the court of common pleas of the county in which the unlawful discriminatory practice allegedly occurred. 676  
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(4) If the commission determines after a preliminary investigation other than one described in division (B)(3) of this section that it is not probable that an unlawful discriminatory practice has been or is being engaged in, it shall notify any complainant under division (B)(1) of this section that it has so determined and that it will not issue a complaint in the matter. If the commission determines after a preliminary investigation other than the one described in division (B)(3) of this section that it is probable that an unlawful discriminatory practice has been or is being engaged in, it shall endeavor to eliminate the practice by informal methods of conference, conciliation, and persuasion. 686  
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(5) Nothing said or done during informal methods of conference, conciliation, and persuasion under this section shall be disclosed by any member of the commission or its staff or be used as evidence in any subsequent hearing or other proceeding. If, after a preliminary investigation and the use of informal methods of conference, conciliation, and persuasion under this section, the commission is satisfied that any unlawful 698  
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discriminatory practice will be eliminated, it may treat the 705  
charge involved as being conciliated and enter that disposition on 706  
the records of the commission. If the commission fails to effect 707  
the elimination of an unlawful discriminatory practice by informal 708  
methods of conference, conciliation, and persuasion under this 709  
section and to obtain voluntary compliance with this chapter, the 710  
commission shall issue and cause to be served upon any person, 711  
including the respondent against whom a complainant has filed a 712  
charge pursuant to division (B)(1) of this section, a complaint 713  
stating the charges involved and containing a notice of an 714  
opportunity for a hearing before the commission, a member of the 715  
commission, or a hearing examiner at a place that is stated in the 716  
notice and that is located within the county in which the alleged 717  
unlawful discriminatory practice has occurred or is occurring or 718  
in which the respondent resides or transacts business. The hearing 719  
shall be held not less than thirty days after the service of the 720  
complaint upon the complainant, the aggrieved persons other than 721  
the complainant on whose behalf the complaint is issued, and the 722  
respondent, unless the complainant, an aggrieved person, or the 723  
respondent elects to proceed under division (A)(2) of section 724  
4112.051 of the Revised Code when that division is applicable. If 725  
a complaint pertains to an alleged unlawful discriminatory 726  
practice described in division (H) of section 4112.02 of the 727  
Revised Code, the complaint shall notify the complainant, an 728  
aggrieved person, and the respondent of the right of the 729  
complainant, an aggrieved person, or the respondent to elect to 730  
proceed with the administrative hearing process under this section 731  
or to proceed under division (A)(2) of section 4112.051 of the 732  
Revised Code. 733

(6) The attorney general shall represent the commission at 734  
any hearing held pursuant to division (B)(5) of this section and 735  
shall present the evidence in support of the complaint. 736



(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 discriminatory practices complained of shall be permitted to appear only for the presentation of oral or written arguments, to present evidence, perform direct and cross-examination, and be represented by counsel. The commission shall adopt rules, in accordance with Chapter 119. of the Revised Code governing the authority granted under this division.

(E) In any hearing under division (B) of this section, the commission, a member of the commission, or the hearing examiner shall not be bound by the Rules of Evidence but, in ascertaining the practices followed by the respondent, shall take into account all reliable, probative, and substantial statistical or other evidence produced at the hearing that may tend to prove the existence of a predetermined pattern of employment or membership,

provided that nothing contained in this section shall be construed 769  
to authorize or require any person to observe the proportion that 770  
persons of any race, color, religion, sex, military status, 771  
familial status, national origin, disability, age, or ancestry 772  
bear to the total population or in accordance with any criterion 773  
other than the individual qualifications of the applicant. 774

(F) The testimony taken at a hearing under division (B) of 775  
this section shall be under oath and shall be reduced to writing 776  
and filed with the commission. Thereafter, in its discretion, the 777  
commission, upon the service of a notice upon the complainant and 778  
the respondent that indicates an opportunity to be present, may 779  
take further testimony or hear argument. 780

(G)(1)(a) If, upon all reliable, probative, and substantial 781  
evidence presented at a hearing under division (B) of this 782  
section, the commission determines that the respondent has engaged 783  
in, or is engaging in, any unlawful discriminatory practice, 784  
whether against the complainant or others, the commission shall 785  
state its findings of fact and conclusions of law and shall issue 786  
and, subject to the provisions of Chapter 119. of the Revised 787  
Code, cause to be served on the respondent an order requiring the 788  
respondent to ~~cease~~ do all of the following: 789

(i) Cease and desist from the unlawful discriminatory 790  
practice, ~~requiring the respondent to take;~~ 791

(ii) Take any further affirmative or other action that will 792  
effectuate the purposes of this chapter, including, but not 793  
limited to, hiring, reinstatement, or upgrading of employees with 794  
or without back pay, or admission or restoration to union 795  
membership, ~~and requiring the respondent to report;~~ 796

(iii) Report to the commission the manner of compliance. ~~If~~ 797

If the commission directs payment of back pay, it shall make 798  
allowance for interim earnings. ~~If it~~ 799

(b) If the commission finds a violation of division (H) of section 4112.02 of the Revised Code, in addition to the actions described in division (G)(1)(a) of this section, the commission additionally shall may require the respondent to pay actual damages and reasonable attorney's fees, and. If the commission determines that the respondent committed the violation with actual malice, the commission also may award to the complainant punitive damages as follows: 800-807

~~(a)(i) If division (G)(1)(b) or (e)(ii) of this section does not apply, punitive damages in an amount not to exceed ten twice the amount of actual damages, up to five thousand dollars;~~ 808-810

~~(b)(ii) If division (G)(1)(c) of this section does not apply and if the respondent has been determined by a final order of the commission or by a final judgment of a court to have committed one violation or more violations of division (H) of section 4112.02 of the Revised Code during the five-year period immediately preceding the date on which a complaint was issued pursuant to division (B) of this section, punitive damages in an amount not to exceed twenty five thousand dollars;~~ 811-818

~~(c) If the respondent has been determined by a final order of the commission or by a final judgment of a court to have committed two or more violations of division (H) of section 4112.02 of the Revised Code during the seven year period immediately preceding the date on which a complaint was issued pursuant to division (B) of this section, punitive twice the amount of actual damages in an amount not to exceed fifty thousand dollars.~~ 819-825

(c) No actual or punitive damages as provided in division (G)(1)(b) of this section shall be awarded to a state or local fair housing agency. 826-828

(2) Upon the submission of reports of compliance, the commission may issue a declaratory order stating that the 829-830

respondent has ceased to engage in particular unlawful 831  
discriminatory practices. 832

(H) If the commission finds that no probable cause exists for 833  
crediting charges of unlawful discriminatory practices or if, upon 834  
all the evidence presented at a hearing under division (B) of this 835  
section on a charge, the commission finds that a respondent has 836  
not engaged in any unlawful discriminatory practice against the 837  
complainant or others, it shall state its findings of fact and 838  
shall issue and cause to be served on the complainant an order 839  
dismissing the complaint as to the respondent. The respondent may 840  
recover reasonable attorney's fees upon such finding. A copy of 841  
the order shall be delivered in all cases to the attorney general 842  
and any other public officers whom the commission considers 843  
proper. 844

(I) Until the time period for appeal set forth in division 845  
(H) of section 4112.06 of the Revised Code expires, the 846  
commission, subject to the provisions of Chapter 119. of the 847  
Revised Code, at any time, upon reasonable notice, and in the 848  
manner it considers proper, may modify or set aside, in whole or 849  
in part, any finding or order made by it under this section. 850

**Section 2.** That existing sections 4112.02 and 4112.05 of the 851  
Revised Code are hereby repealed. 852