

As Introduced

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S. B. No. 355

Senators Tavares, Turner

Cosponsors: Senators Cafaro, Schiavoni, Smith, Sawyer

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A B I L L

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

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

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

Sec. 1751.68. (A) Notwithstanding section 3901.71 of the 15
Revised Code, and except as provided in division (D) of this 16
section, each individual or group health insuring corporation 17
policy, contract, or agreement providing basic health care 18
services that is delivered, issued for delivery, or renewed in 19

this state that provides coverage for prescription drugs shall 20
provide coverage for both of the following: 21

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

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

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

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

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

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

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

(a) The employer is a religious employer. 46

(b) The employer is an eligible organization, if the employer 47
has self-certified with the secretary of the United States 48
department of health and human services as described under 45 49

C.F.R. 147.131(b)(4), as amended. 50

(D) No corporation for profit formed under the laws of this state or another state is exempt from this section. 51
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Sec. 3923.84. (A) Notwithstanding section 3901.71 of the Revised Code, and except as provided in division (D) of this section, each individual or group policy of sickness and accident insurance that is delivered, issued for delivery, or renewed in this state and each public employee benefit plan that is established or modified in this state shall provide coverage for both of the following: 53
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(1) Prescription drugs or devices approved by the United States food and drug administration for use as a contraceptive for women; 60
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(2) Consultations, examinations, procedures, and medical services provided on an outpatient basis related to the use of a contraceptive method for women. 63
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(B) No insurer shall impose upon any insured receiving a prescription contraceptive drug, device, or service enumerated in divisions (B)(1) and (2) of this section a deductible, copayment, coinsurance payment, or other fee for the drug, device, or service. 66
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(C)(1) As used in this division: 71

(a) "Religious employer" means an employer that is a nonprofit, religious organization that is excepted from filing an annual return pursuant to section 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code of 1986, as amended. 72
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(b) "Eligible organization" means an organization that satisfies all of the requirements of 45 C.F.R. 147.131(b)(1) to (3), as amended. 76
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(2) This section shall not apply to an individual or group 79

policy of sickness and accident insurance that is delivered, 80
issued for delivery, or renewed in this state if the policy is 81
obtained by an employer for the employer's employees and either of 82
the following applies: 83

(a) The employer is a religious employer. 84

(b) The employer is an eligible organization, if the employer 85
has self-certified with the secretary of the United States 86
department of health and human services as described under 45 87
C.F.R. 147.131(b)(4), as amended. 88

(D) No corporation for profit formed under the laws of this 89
state or another state is exempt from this section. 90

Sec. 4112.02. It shall be an unlawful discriminatory 91
practice: 92

(A) For any employer, because of the race, color, religion, 93
sex, military status, national origin, disability, age, or 94
ancestry of any person; because of any reproductive health 95
decisions made by a person, including any decisions made by a 96
person or their dependent to use a particular drug, device, or 97
medical service; or because of the employer's personal beliefs 98
about any drugs, devices, or services related to reproductive 99
health or the insurance coverage of such drugs, services, or 100
devices to discharge without just cause, to refuse to hire, or 101
otherwise to discriminate against that person with respect to 102
hire, tenure, terms, conditions, or privileges of employment, or 103
any matter directly or indirectly related to employment. 104

(B) For an employment agency or personnel placement service, 105
because of race, color, religion, sex, military status, national 106
origin, disability, age, or ancestry, to do any of the following: 107

(1) Refuse or fail to accept, register, classify properly, or 108
refer for employment, or otherwise discriminate against any 109

person;	110
(2) Comply with a request from an employer for referral of applicants for employment if the request directly or indirectly indicates that the employer fails to comply with the provisions of sections 4112.01 to 4112.07 of the Revised Code.	111 112 113 114
(C) For any labor organization to do any of the following:	115
(1) Limit or classify its membership on the basis of race, color, religion, sex, military status, national origin, disability, age, or ancestry;	116 117 118
(2) Discriminate against, limit the employment opportunities of, or otherwise adversely affect the employment status, wages, hours, or employment conditions of any person as an employee because of race, color, religion, sex, military status, national origin, disability, age, or ancestry.	119 120 121 122 123
(D) For any employer, labor organization, or joint labor-management committee controlling apprentice training programs to discriminate against any person because of race, color, religion, sex, military status, national origin, disability, or ancestry in admission to, or employment in, any program established to provide apprentice training.	124 125 126 127 128 129
(E) Except where based on a bona fide occupational qualification certified in advance by the commission, for any employer, employment agency, personnel placement service, or labor organization, prior to employment or admission to membership, to do any of the following:	130 131 132 133 134
(1) Elicit or attempt to elicit any information concerning the race, color, religion, sex, military status, national origin, disability, age, or ancestry of an applicant for employment or membership;	135 136 137 138
(2) Make or keep a record of the race, color, religion, sex,	139

military status, national origin, disability, age, or ancestry of 140
any applicant for employment or membership; 141

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

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

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

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

(F) For any person seeking employment to publish or cause to 168
be published any advertisement that specifies or in any manner 169
indicates that person's race, color, religion, sex, military 170

status, national origin, disability, age, or ancestry, or 171
expresses a limitation or preference as to the race, color, 172
religion, sex, military status, national origin, disability, age, 173
or ancestry of any prospective employer. 174

(G) For any proprietor or any employee, keeper, or manager of 175
a place of public accommodation to deny to any person, except for 176
reasons applicable alike to all persons regardless of race, color, 177
religion, sex, military status, national origin, disability, age, 178
or ancestry, the full enjoyment of the accommodations, advantages, 179
facilities, or privileges of the place of public accommodation. 180

(H) For any person to do any of the following: 181

(1) Refuse to sell, transfer, assign, rent, lease, sublease, 182
or finance housing accommodations, refuse to negotiate for the 183
sale or rental of housing accommodations, or otherwise deny or 184
make unavailable housing accommodations because of race, color, 185
religion, sex, military status, familial status, ancestry, 186
disability, or national origin; 187

(2) Represent to any person that housing accommodations are 188
not available for inspection, sale, or rental, when in fact they 189
are available, because of race, color, religion, sex, military 190
status, familial status, ancestry, disability, or national origin; 191

(3) Discriminate against any person in the making or 192
purchasing of loans or the provision of other financial assistance 193
for the acquisition, construction, rehabilitation, repair, or 194
maintenance of housing accommodations, or any person in the making 195
or purchasing of loans or the provision of other financial 196
assistance that is secured by residential real estate, because of 197
race, color, religion, sex, military status, familial status, 198
ancestry, disability, or national origin or because of the racial 199
composition of the neighborhood in which the housing 200
accommodations are located, provided that the person, whether an 201

individual, corporation, or association of any type, lends money 202
as one of the principal aspects or incident to the person's 203
principal business and not only as a part of the purchase price of 204
an owner-occupied residence the person is selling nor merely 205
casually or occasionally to a relative or friend; 206

(4) Discriminate against any person in the terms or 207
conditions of selling, transferring, assigning, renting, leasing, 208
or subleasing any housing accommodations or in furnishing 209
facilities, services, or privileges in connection with the 210
ownership, occupancy, or use of any housing accommodations, 211
including the sale of fire, extended coverage, or homeowners 212
insurance, because of race, color, religion, sex, military status, 213
familial status, ancestry, disability, or national origin or 214
because of the racial composition of the neighborhood in which the 215
housing accommodations are located; 216

(5) Discriminate against any person in the terms or 217
conditions of any loan of money, whether or not secured by 218
mortgage or otherwise, for the acquisition, construction, 219
rehabilitation, repair, or maintenance of housing accommodations 220
because of race, color, religion, sex, military status, familial 221
status, ancestry, disability, or national origin or because of the 222
racial composition of the neighborhood in which the housing 223
accommodations are located; 224

(6) Refuse to consider without prejudice the combined income 225
of both husband and wife for the purpose of extending mortgage 226
credit to a married couple or either member of a married couple; 227

(7) Print, publish, or circulate any statement or 228
advertisement, or make or cause to be made any statement or 229
advertisement, relating to the sale, transfer, assignment, rental, 230
lease, sublease, or acquisition of any housing accommodations, or 231
relating to the loan of money, whether or not secured by mortgage 232
or otherwise, for the acquisition, construction, rehabilitation, 233

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

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

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

(10) Induce or solicit, or attempt to induce or solicit, a 255
housing accommodations listing, sale, or transaction by 256
representing that a change has occurred or may occur with respect 257
to the racial, religious, sexual, military status, familial 258
status, or ethnic composition of the block, neighborhood, or other 259
area in which the housing accommodations are located, or induce or 260
solicit, or attempt to induce or solicit, a housing accommodations 261
listing, sale, or transaction by representing that the presence or 262
anticipated presence of persons of any race, color, religion, sex, 263
military status, familial status, ancestry, disability, or 264
national origin, in the block, neighborhood, or other area will or 265

may have results including, but not limited to, the following:	266
(a) The lowering of property values;	267
(b) A change in the racial, religious, sexual, military status, familial status, or ethnic composition of the block, neighborhood, or other area;	268 269 270
(c) An increase in criminal or antisocial behavior in the block, neighborhood, or other area;	271 272
(d) A decline in the quality of the schools serving the block, neighborhood, or other area.	273 274
(11) Deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting housing accommodations, or discriminate against any person in the terms or conditions of that access, membership, or participation, on account of race, color, religion, sex, military status, familial status, national origin, disability, or ancestry;	275 276 277 278 279 280 281 282
(12) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person's having exercised or enjoyed or having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by division (H) of this section;	283 284 285 286 287
(13) Discourage or attempt to discourage the purchase by a prospective purchaser of housing accommodations, by representing that any block, neighborhood, or other area has undergone or might undergo a change with respect to its religious, racial, sexual, military status, familial status, or ethnic composition;	288 289 290 291 292
(14) Refuse to sell, transfer, assign, rent, lease, sublease, or finance, or otherwise deny or withhold, a burial lot from any person because of the race, color, sex, military status, familial	293 294 295

status, age, ancestry, disability, or national origin of any	296
prospective owner or user of the lot;	297
(15) Discriminate in the sale or rental of, or otherwise make	298
unavailable or deny, housing accommodations to any buyer or renter	299
because of a disability of any of the following:	300
(a) The buyer or renter;	301
(b) A person residing in or intending to reside in the	302
housing accommodations after they are sold, rented, or made	303
available;	304
(c) Any individual associated with the person described in	305
division (H)(15)(b) of this section.	306
(16) Discriminate in the terms, conditions, or privileges of	307
the sale or rental of housing accommodations to any person or in	308
the provision of services or facilities to any person in	309
connection with the housing accommodations because of a disability	310
of any of the following:	311
(a) That person;	312
(b) A person residing in or intending to reside in the	313
housing accommodations after they are sold, rented, or made	314
available;	315
(c) Any individual associated with the person described in	316
division (H)(16)(b) of this section.	317
(17) Except as otherwise provided in division (H)(17) of this	318
section, make an inquiry to determine whether an applicant for the	319
sale or rental of housing accommodations, a person residing in or	320
intending to reside in the housing accommodations after they are	321
sold, rented, or made available, or any individual associated with	322
that person has a disability, or make an inquiry to determine the	323
nature or severity of a disability of the applicant or such a	324
person or individual. The following inquiries may be made of all	325

applicants for the sale or rental of housing accommodations,	326
regardless of whether they have disabilities:	327
(a) An inquiry into an applicant's ability to meet the	328
requirements of ownership or tenancy;	329
(b) An inquiry to determine whether an applicant is qualified	330
for housing accommodations available only to persons with	331
disabilities or persons with a particular type of disability;	332
(c) An inquiry to determine whether an applicant is qualified	333
for a priority available to persons with disabilities or persons	334
with a particular type of disability;	335
(d) An inquiry to determine whether an applicant currently	336
uses a controlled substance in violation of section 2925.11 of the	337
Revised Code or a substantively comparable municipal ordinance;	338
(e) An inquiry to determine whether an applicant at any time	339
has been convicted of or pleaded guilty to any offense, an element	340
of which is the illegal sale, offer to sell, cultivation,	341
manufacture, other production, shipment, transportation, delivery,	342
or other distribution of a controlled substance.	343
(18)(a) Refuse to permit, at the expense of a person with a	344
disability, reasonable modifications of existing housing	345
accommodations that are occupied or to be occupied by the person	346
with a disability, if the modifications may be necessary to afford	347
the person with a disability full enjoyment of the housing	348
accommodations. This division does not preclude a landlord of	349
housing accommodations that are rented or to be rented to a	350
disabled tenant from conditioning permission for a proposed	351
modification upon the disabled tenant's doing one or more of the	352
following:	353
(i) Providing a reasonable description of the proposed	354
modification and reasonable assurances that the proposed	355
modification will be made in a workerlike manner and that any	356

required building permits will be obtained prior to the 357
commencement of the proposed modification; 358

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

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

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

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

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

(21) Discriminate against any person in the selling, 386
brokering, or appraising of real property because of race, color, 387

religion, sex, military status, familial status, ancestry,
disability, or national origin;

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

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

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

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

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

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

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 418
discriminatory practice defined in this section or because that 419
person has made a charge, testified, assisted, or participated in 420
any manner in any investigation, proceeding, or hearing under 421
sections 4112.01 to 4112.07 of the Revised Code. 422

(J) For any person to aid, abet, incite, compel, or coerce 423
the doing of any act declared by this section to be an unlawful 424
discriminatory practice, to obstruct or prevent any person from 425
complying with this chapter or any order issued under it, or to 426
attempt directly or indirectly to commit any act declared by this 427
section to be an unlawful discriminatory practice. 428

(K)(1) Nothing in division (H) of this section shall bar any 429
religious or denominational institution or organization, or any 430
nonprofit charitable or educational organization that is operated, 431
supervised, or controlled by or in connection with a religious 432
organization, from limiting the sale, rental, or occupancy of 433
housing accommodations that it owns or operates for other than a 434
commercial purpose to persons of the same religion, or from giving 435
preference in the sale, rental, or occupancy of such housing 436
accommodations to persons of the same religion, unless membership 437
in the religion is restricted on account of race, color, or 438
national origin. 439

(2) Nothing in division (H) of this section shall bar any 440
bona fide private or fraternal organization that, incidental to 441
its primary purpose, owns or operates lodgings for other than a 442
commercial purpose, from limiting the rental or occupancy of the 443
lodgings to its members or from giving preference to its members. 444

(3) Nothing in division (H) of this section limits the 445
applicability of any reasonable local, state, or federal 446
restrictions regarding the maximum number of occupants permitted 447
to occupy housing accommodations. Nothing in that division 448
prohibits the owners or managers of housing accommodations from 449

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

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

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

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

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

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

(L) Nothing in divisions (A) to (E) of this section shall be 477
construed to require a person with a disability to be employed or 478
trained under circumstances that would significantly increase the 479
occupational hazards affecting either the person with a 480

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

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

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

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

(O) With regard to age, it shall not be an unlawful 507
discriminatory practice and it shall not constitute a violation of 508
division (A) of section 4112.14 of the Revised Code for any 509
employer, employment agency, joint labor-management committee 510
controlling apprenticeship training programs, or labor 511
organization to do any of the following: 512

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

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

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

(4) Observe the terms of any bona fide apprenticeship program if the program is registered with the Ohio apprenticeship council pursuant to sections 4139.01 to 4139.06 of the Revised Code and is approved by the federal committee on apprenticeship of the United

States department of labor. 545

(P) Nothing in this chapter prohibiting age discrimination 546
and nothing in division (A) of section 4112.14 of the Revised Code 547
shall be construed to prohibit the following: 548

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

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

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

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

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

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

(7) Until January 1, 1994, the mandatory retirement of any 570
employee who has attained seventy years of age and who is serving 571
under a contract of unlimited tenure, or similar arrangement 572
providing for unlimited tenure, at an institution of higher 573
education as defined in the "Education Amendments of 1980," 94 574

Stat. 1503, 20 U.S.C.A. 1141(a). 575

(Q)(1)(a) Except as provided in division (Q)(1)(b) of this 576
section, for purposes of divisions (A) to (E) of this section, a 577
disability does not include any physiological disorder or 578
condition, mental or psychological disorder, or disease or 579
condition caused by an illegal use of any controlled substance by 580
an employee, applicant, or other person, if an employer, 581
employment agency, personnel placement service, labor 582
organization, or joint labor-management committee acts on the 583
basis of that illegal use. 584

(b) Division (Q)(1)(a) of this section does not apply to an 585
employee, applicant, or other person who satisfies any of the 586
following: 587

(i) The employee, applicant, or other person has successfully 588
completed a supervised drug rehabilitation program and no longer 589
is engaging in the illegal use of any controlled substance, or the 590
employee, applicant, or other person otherwise successfully has 591
been rehabilitated and no longer is engaging in that illegal use. 592

(ii) The employee, applicant, or other person is 593
participating in a supervised drug rehabilitation program and no 594
longer is engaging in the illegal use of any controlled substance. 595

(iii) The employee, applicant, or other person is erroneously 596
regarded as engaging in the illegal use of any controlled 597
substance, but the employee, applicant, or other person is not 598
engaging in that illegal use. 599

(2) Divisions (A) to (E) of this section do not prohibit an 600
employer, employment agency, personnel placement service, labor 601
organization, or joint labor-management committee from doing any 602
of the following: 603

(a) Adopting or administering reasonable policies or 604
procedures, including, but not limited to, testing for the illegal 605

use of any controlled substance, that are designed to ensure that 606
an individual described in division (Q)(1)(b)(i) or (ii) of this 607
section no longer is engaging in the illegal use of any controlled 608
substance; 609

(b) Prohibiting the illegal use of controlled substances and 610
the use of alcohol at the workplace by all employees; 611

(c) Requiring that employees not be under the influence of 612
alcohol or not be engaged in the illegal use of any controlled 613
substance at the workplace; 614

(d) Requiring that employees behave in conformance with the 615
requirements established under "The Drug-Free Workplace Act of 616
1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended; 617

(e) Holding an employee who engages in the illegal use of any 618
controlled substance or who is an alcoholic to the same 619
qualification standards for employment or job performance, and the 620
same behavior, to which the employer, employment agency, personnel 621
placement service, labor organization, or joint labor-management 622
committee holds other employees, even if any unsatisfactory 623
performance or behavior is related to an employee's illegal use of 624
a controlled substance or alcoholism; 625

(f) Exercising other authority recognized in the "Americans 626
with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101, 627
as amended, including, but not limited to, requiring employees to 628
comply with any applicable federal standards. 629

(3) For purposes of this chapter, a test to determine the 630
illegal use of any controlled substance does not include a medical 631
examination. 632

(4) Division (Q) of this section does not encourage, 633
prohibit, or authorize, and shall not be construed as encouraging, 634
prohibiting, or authorizing, the conduct of testing for the 635
illegal use of any controlled substance by employees, applicants, 636

or other persons, or the making of employment decisions based on 637
the results of that type of testing. 638

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

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

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