

**As Introduced**

**130th General Assembly  
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**S. B. No. 45**

**Senator Tavares**

**Cosponsors: Senators Brown, Smith, Kearney, Sawyer, Turner**

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**A B I L L**

To amend sections 4112.02, 4112.05, 4112.08, 4112.14, 1  
4112.15, and 4112.99 of the Revised Code to 2  
prohibit employers, employment agencies, personnel 3  
placement services, and labor organizations from 4  
requiring an applicant or employee to provide 5  
access to private electronic accounts of the 6  
applicant or employee. 7

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

**Section 1.** That sections 4112.02, 4112.05, 4112.08, 4112.14, 8  
4112.15, and 4112.99 of the Revised Code be amended to read as 9  
follows: 10

**Sec. 4112.02.** It shall be an unlawful discriminatory 11  
practice: 12

(A) For any employer, because of the race, color, religion, 13  
sex, military status, national origin, disability, age, or 14  
ancestry of any person, to discharge without just cause, to refuse 15  
to hire, or otherwise to discriminate against that person with 16  
respect to hire, tenure, terms, conditions, or privileges of 17  
employment, or any matter directly or indirectly related to 18  
employment. 19

(B) For an employment agency or personnel placement service, 20  
because of race, color, religion, sex, military status, national 21  
origin, disability, age, or ancestry, to do any of the following: 22

(1) Refuse or fail to accept, register, classify properly, or 23  
refer for employment, or otherwise discriminate against any 24  
person; 25

(2) Comply with a request from an employer for referral of 26  
applicants for employment if the request directly or indirectly 27  
indicates that the employer fails to comply with the provisions of 28  
sections 4112.01 to 4112.07 of the Revised Code. 29

(C) For any labor organization to do any of the following: 30

(1) Limit or classify its membership on the basis of race, 31  
color, religion, sex, military status, national origin, 32  
disability, age, or ancestry; 33

(2) Discriminate against, limit the employment opportunities 34  
of, or otherwise adversely affect the employment status, wages, 35  
hours, or employment conditions of any person as an employee 36  
because of race, color, religion, sex, military status, national 37  
origin, disability, age, or ancestry. 38

(D) For any employer, labor organization, or joint 39  
labor-management committee controlling apprentice training 40  
programs to discriminate against any person because of race, 41  
color, religion, sex, military status, national origin, 42  
disability, or ancestry in admission to, or employment in, any 43  
program established to provide apprentice training. 44

(E) Except where based on a bona fide occupational 45  
qualification certified in advance by the commission, for any 46  
employer, employment agency, personnel placement service, or labor 47  
organization, prior to employment or admission to membership, to 48  
do any of the following: 49

(1) Elicit or attempt to elicit any information concerning 50  
the race, color, religion, sex, military status, national origin, 51  
disability, age, or ancestry of an applicant for employment or 52  
membership; 53

(2) Make or keep a record of the race, color, religion, sex, 54  
military status, national origin, disability, age, or ancestry of 55  
any applicant for employment or membership; 56

(3) Use any form of application for employment, or personnel 57  
or membership blank, seeking to elicit information regarding race, 58  
color, religion, sex, military status, national origin, 59  
disability, age, or ancestry; but an employer holding a contract 60  
containing a nondiscrimination clause with the government of the 61  
United States, or any department or agency of that government, may 62  
require an employee or applicant for employment to furnish 63  
documentary proof of United States citizenship and may retain that 64  
proof in the employer's personnel records and may use photographic 65  
or fingerprint identification for security purposes; 66

(4) Print or publish or cause to be printed or published any 67  
notice or advertisement relating to employment or membership 68  
indicating any preference, limitation, specification, or 69  
discrimination, based upon race, color, religion, sex, military 70  
status, national origin, disability, age, or ancestry; 71

(5) Announce or follow a policy of denying or limiting, 72  
through a quota system or otherwise, employment or membership 73  
opportunities of any group because of the race, color, religion, 74  
sex, military status, national origin, disability, age, or 75  
ancestry of that group; 76

(6) Utilize in the recruitment or hiring of persons any 77  
employment agency, personnel placement service, training school or 78  
center, labor organization, or any other employee-referring source 79  
known to discriminate against persons because of their race, 80

color, religion, sex, military status, national origin, 81  
disability, age, or ancestry. 82

(F) For any person seeking employment to publish or cause to 83  
be published any advertisement that specifies or in any manner 84  
indicates that person's race, color, religion, sex, military 85  
status, national origin, disability, age, or ancestry, or 86  
expresses a limitation or preference as to the race, color, 87  
religion, sex, military status, national origin, disability, age, 88  
or ancestry of any prospective employer. 89

(G) For any proprietor or any employee, keeper, or manager of 90  
a place of public accommodation to deny to any person, except for 91  
reasons applicable alike to all persons regardless of race, color, 92  
religion, sex, military status, national origin, disability, age, 93  
or ancestry, the full enjoyment of the accommodations, advantages, 94  
facilities, or privileges of the place of public accommodation. 95

(H) For any person to do any of the following: 96

(1) Refuse to sell, transfer, assign, rent, lease, sublease, 97  
or finance housing accommodations, refuse to negotiate for the 98  
sale or rental of housing accommodations, or otherwise deny or 99  
make unavailable housing accommodations because of race, color, 100  
religion, sex, military status, familial status, ancestry, 101  
disability, or national origin; 102

(2) Represent to any person that housing accommodations are 103  
not available for inspection, sale, or rental, when in fact they 104  
are available, because of race, color, religion, sex, military 105  
status, familial status, ancestry, disability, or national origin; 106

(3) Discriminate against any person in the making or 107  
purchasing of loans or the provision of other financial assistance 108  
for the acquisition, construction, rehabilitation, repair, or 109  
maintenance of housing accommodations, or any person in the making 110  
or purchasing of loans or the provision of other financial 111

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

(4) Discriminate against any person in the terms or 122  
conditions of selling, transferring, assigning, renting, leasing, 123  
or subleasing any housing accommodations or in furnishing 124  
facilities, services, or privileges in connection with the 125  
ownership, occupancy, or use of any housing accommodations, 126  
including the sale of fire, extended coverage, or homeowners 127  
insurance, because of race, color, religion, sex, military status, 128  
familial status, ancestry, disability, or national origin or 129  
because of the racial composition of the neighborhood in which the 130  
housing accommodations are located; 131

(5) Discriminate against any person in the terms or 132  
conditions of any loan of money, whether or not secured by 133  
mortgage or otherwise, for the acquisition, construction, 134  
rehabilitation, repair, or maintenance of housing accommodations 135  
because of race, color, religion, sex, military status, familial 136  
status, ancestry, disability, or national origin or because of the 137  
racial composition of the neighborhood in which the housing 138  
accommodations are located; 139

(6) Refuse to consider without prejudice the combined income 140  
of both husband and wife for the purpose of extending mortgage 141  
credit to a married couple or either member of a married couple; 142

(7) Print, publish, or circulate any statement or 143

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

(8) Except as otherwise provided in division (H)(8) or (17) 154  
of this section, make any inquiry, elicit any information, make or 155  
keep any record, or use any form of application containing 156  
questions or entries concerning race, color, religion, sex, 157  
military status, familial status, ancestry, disability, or 158  
national origin in connection with the sale or lease of any 159  
housing accommodations or the loan of any money, whether or not 160  
secured by mortgage or otherwise, for the acquisition, 161  
construction, rehabilitation, repair, or maintenance of housing 162  
accommodations. Any person may make inquiries, and make and keep 163  
records, concerning race, color, religion, sex, military status, 164  
familial status, ancestry, disability, or national origin for the 165  
purpose of monitoring compliance with this chapter. 166

(9) Include in any transfer, rental, or lease of housing 167  
accommodations any restrictive covenant, or honor or exercise, or 168  
attempt to honor or exercise, any restrictive covenant; 169

(10) Induce or solicit, or attempt to induce or solicit, a 170  
housing accommodations listing, sale, or transaction by 171  
representing that a change has occurred or may occur with respect 172  
to the racial, religious, sexual, military status, familial 173  
status, or ethnic composition of the block, neighborhood, or other 174  
area in which the housing accommodations are located, or induce or 175

solicit, or attempt to induce or solicit, a housing accommodations	176
listing, sale, or transaction by representing that the presence or	177
anticipated presence of persons of any race, color, religion, sex,	178
military status, familial status, ancestry, disability, or	179
national origin, in the block, neighborhood, or other area will or	180
may have results including, but not limited to, the following:	181
(a) The lowering of property values;	182
(b) A change in the racial, religious, sexual, military	183
status, familial status, or ethnic composition of the block,	184
neighborhood, or other area;	185
(c) An increase in criminal or antisocial behavior in the	186
block, neighborhood, or other area;	187
(d) A decline in the quality of the schools serving the	188
block, neighborhood, or other area.	189
(11) Deny any person access to or membership or participation	190
in any multiple-listing service, real estate brokers'	191
organization, or other service, organization, or facility relating	192
to the business of selling or renting housing accommodations, or	193
discriminate against any person in the terms or conditions of that	194
access, membership, or participation, on account of race, color,	195
religion, sex, military status, familial status, national origin,	196
disability, or ancestry;	197
(12) Coerce, intimidate, threaten, or interfere with any	198
person in the exercise or enjoyment of, or on account of that	199
person's having exercised or enjoyed or having aided or encouraged	200
any other person in the exercise or enjoyment of, any right	201
granted or protected by division (H) of this section;	202
(13) Discourage or attempt to discourage the purchase by a	203
prospective purchaser of housing accommodations, by representing	204
that any block, neighborhood, or other area has undergone or might	205
undergo a change with respect to its religious, racial, sexual,	206

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

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

(a) An inquiry into an applicant's ability to meet the 243  
requirements of ownership or tenancy; 244

(b) An inquiry to determine whether an applicant is qualified 245  
for housing accommodations available only to persons with 246  
disabilities or persons with a particular type of disability; 247

(c) An inquiry to determine whether an applicant is qualified 248  
for a priority available to persons with disabilities or persons 249  
with a particular type of disability; 250

(d) An inquiry to determine whether an applicant currently 251  
uses a controlled substance in violation of section 2925.11 of the 252  
Revised Code or a substantively comparable municipal ordinance; 253

(e) An inquiry to determine whether an applicant at any time 254  
has been convicted of or pleaded guilty to any offense, an element 255  
of which is the illegal sale, offer to sell, cultivation, 256  
manufacture, other production, shipment, transportation, delivery, 257  
or other distribution of a controlled substance. 258

(18)(a) Refuse to permit, at the expense of a person with a 259  
disability, reasonable modifications of existing housing 260  
accommodations that are occupied or to be occupied by the person 261  
with a disability, if the modifications may be necessary to afford 262  
the person with a disability full enjoyment of the housing 263  
accommodations. This division does not preclude a landlord of 264  
housing accommodations that are rented or to be rented to a 265  
disabled tenant from conditioning permission for a proposed 266  
modification upon the disabled tenant's doing one or more of the 267

following:	268
(i) Providing a reasonable description of the proposed modification and reasonable assurances that the proposed modification will be made in a workerlike manner and that any required building permits will be obtained prior to the commencement of the proposed modification;	269 270 271 272 273
(ii) Agreeing to restore at the end of the tenancy the interior of the housing accommodations to the condition they were in prior to the proposed modification, but subject to reasonable wear and tear during the period of occupancy, if it is reasonable for the landlord to condition permission for the proposed modification upon the agreement;	274 275 276 277 278 279
(iii) Paying into an interest-bearing escrow account that is in the landlord's name, over a reasonable period of time, a reasonable amount of money not to exceed the projected costs at the end of the tenancy of the restoration of the interior of the housing accommodations to the condition they were in prior to the proposed modification, but subject to reasonable wear and tear during the period of occupancy, if the landlord finds the account reasonably necessary to ensure the availability of funds for the restoration work. The interest earned in connection with an escrow account described in this division shall accrue to the benefit of the disabled tenant who makes payments into the account.	280 281 282 283 284 285 286 287 288 289 290
(b) A landlord shall not condition permission for a proposed modification upon a disabled tenant's payment of a security deposit that exceeds the customarily required security deposit of all tenants of the particular housing accommodations.	291 292 293 294
(19) Refuse to make reasonable accommodations in rules, policies, practices, or services when necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit, including associated public and common use areas;	295 296 297 298

(20) Fail to comply with the standards and rules adopted under division (A) of section 3781.111 of the Revised Code;	299 300
(21) Discriminate against any person in the selling, brokering, or appraising of real property because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin;	301 302 303 304
(22) Fail to design and construct covered multifamily dwellings for first occupancy on or after June 30, 1992, in accordance with the following conditions:	305 306 307
(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.	308 309 310
(b) With respect to dwellings that have a building entrance on an accessible route, all of the following apply:	311 312
(i) The public use areas and common use areas of the dwellings shall be readily accessible to and usable by persons with a disability.	313 314 315
(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.	316 317 318
(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.	319 320 321 322 323 324 325 326 327
For purposes of division (H)(22) of this section, "covered	328

multifamily dwellings" means buildings consisting of four or more 329  
units if such buildings have one or more elevators and ground 330  
floor units in other buildings consisting of four or more units. 331

(I) For any person to discriminate in any manner against any 332  
other person because that person has opposed any unlawful 333  
discriminatory practice defined in this section or because that 334  
person has made a charge, testified, assisted, or participated in 335  
any manner in any investigation, proceeding, or hearing under 336  
sections 4112.01 to 4112.07 of the Revised Code. 337

(J) For any person to aid, abet, incite, compel, or coerce 338  
the doing of any act declared by this section to be an unlawful 339  
discriminatory practice, to obstruct or prevent any person from 340  
complying with this chapter or any order issued under it, or to 341  
attempt directly or indirectly to commit any act declared by this 342  
section to be an unlawful discriminatory practice. 343

(K)(1) For any employer, employment agency, personnel 344  
placement service, or labor organization to recklessly do any of 345  
the following: 346

(a) Ask or require an applicant or employee to disclose 347  
usernames or passwords associated with a private electronic 348  
account of the applicant or employee; 349

(b) Ask or require an applicant or employee to provide the 350  
employer, employment agency, personnel placement service, or labor 351  
organization with access to a private electronic account of the 352  
applicant or employee; 353

(c) Discharge, discipline, threaten to discharge or 354  
discipline, or otherwise penalize an employee if the employee 355  
refuses to disclose usernames or passwords associated with a 356  
private electronic account of the employee, or if the employee 357  
refuses to provide the employer, employment agency, personnel 358  
placement service, or labor organization with access to a private 359

electronic account of the employee; 360

(d) Fail or refuse to hire an applicant for employment 361  
because the applicant refuses to disclose usernames or passwords 362  
associated with a private electronic account of the applicant, or 363  
because the applicant refuses to provide the employer, employment 364  
agency, personnel placement service, or labor organization with 365  
access to a private electronic account of the employee. 366

(2) Division (K)(1) of this section shall not be construed to 367  
prohibit an employer, employment agency, personnel placement 368  
service, or labor organization from monitoring the electronic 369  
accounts of employees or applicants on the electronic mail or 370  
internet system of the employer, employment agency, personnel 371  
placement service, or labor organization. 372

(3) For purposes of division (K) of this section: 373

(a) "Private electronic account" means a collection of 374  
electronically stored private information regarding an individual, 375  
including such collections stored on social media internet web 376  
sites, in electronic mail, and on electronic devices. 377

(b) "Social media internet web site" means an internet web 378  
site that allows individuals to do all of the following: 379

(i) Construct a public or semipublic profile within a bounded 380  
system created by the service; 381

(ii) Create a list of other users with whom the individual 382  
shares a connection within the system; 383

(iii) View and navigate the list of users with whom the 384  
individual shares a connection and those lists of users made by 385  
others within the system. 386

(L)(1) Nothing in division (H) of this section shall bar any 387  
religious or denominational institution or organization, or any 388  
nonprofit charitable or educational organization that is operated, 389

supervised, or controlled by or in connection with a religious 390  
organization, from limiting the sale, rental, or occupancy of 391  
housing accommodations that it owns or operates for other than a 392  
commercial purpose to persons of the same religion, or from giving 393  
preference in the sale, rental, or occupancy of such housing 394  
accommodations to persons of the same religion, unless membership 395  
in the religion is restricted on account of race, color, or 396  
national origin. 397

(2) Nothing in division (H) of this section shall bar any 398  
bona fide private or fraternal organization that, incidental to 399  
its primary purpose, owns or operates lodgings for other than a 400  
commercial purpose, from limiting the rental or occupancy of the 401  
lodgings to its members or from giving preference to its members. 402

(3) Nothing in division (H) of this section limits the 403  
applicability of any reasonable local, state, or federal 404  
restrictions regarding the maximum number of occupants permitted 405  
to occupy housing accommodations. Nothing in that division 406  
prohibits the owners or managers of housing accommodations from 407  
implementing reasonable occupancy standards based on the number 408  
and size of sleeping areas or bedrooms and the overall size of a 409  
dwelling unit, provided that the standards are not implemented to 410  
circumvent the purposes of this chapter and are formulated, 411  
implemented, and interpreted in a manner consistent with this 412  
chapter and any applicable local, state, or federal restrictions 413  
regarding the maximum number of occupants permitted to occupy 414  
housing accommodations. 415

(4) Nothing in division (H) of this section requires that 416  
housing accommodations be made available to an individual whose 417  
tenancy would constitute a direct threat to the health or safety 418  
of other individuals or whose tenancy would result in substantial 419  
physical damage to the property of others. 420

(5) Nothing in division (H) of this section pertaining to 421

discrimination on the basis of familial status shall be construed 422  
to apply to any of the following: 423

(a) Housing accommodations provided under any state or 424  
federal program that have been determined under the "Fair Housing 425  
Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as 426  
amended, to be specifically designed and operated to assist 427  
elderly persons; 428

(b) Housing accommodations intended for and solely occupied 429  
by persons who are sixty-two years of age or older; 430

(c) Housing accommodations intended and operated for 431  
occupancy by at least one person who is fifty-five years of age or 432  
older per unit, as determined under the "Fair Housing Amendments 433  
Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended. 434

~~(L)~~(M) Nothing in divisions (A) to (E) of this section shall 435  
be construed to require a person with a disability to be employed 436  
or trained under circumstances that would significantly increase 437  
the occupational hazards affecting either the person with a 438  
disability, other employees, the general public, or the facilities 439  
in which the work is to be performed, or to require the employment 440  
or training of a person with a disability in a job that requires 441  
the person with a disability routinely to undertake any task, the 442  
performance of which is substantially and inherently impaired by 443  
the person's disability. 444

~~(M)~~(N) Nothing in divisions (H)(1) to (18) of this section 445  
shall be construed to require any person selling or renting 446  
property to modify the property in any way or to exercise a higher 447  
degree of care for a person with a disability, to relieve any 448  
person with a disability of any obligation generally imposed on 449  
all persons regardless of disability in a written lease, rental 450  
agreement, or contract of purchase or sale, or to forbid 451  
distinctions based on the inability to fulfill the terms and 452

conditions, including financial obligations, of the lease, 453  
agreement, or contract. 454

~~(N)~~(O) An aggrieved individual may enforce the individual's 455  
rights relative to discrimination on the basis of age as provided 456  
for in this section by instituting a civil action, within one 457  
hundred eighty days after the alleged unlawful discriminatory 458  
practice occurred, in any court with jurisdiction for any legal or 459  
equitable relief that will effectuate the individual's rights. 460

A person who files a civil action under this division is 461  
barred, with respect to the practices complained of, from 462  
instituting a civil action under section 4112.14 of the Revised 463  
Code and from filing a charge with the commission under section 464  
4112.05 of the Revised Code. 465

~~(O)~~(P) With regard to age, it shall not be an unlawful 466  
discriminatory practice and it shall not constitute a violation of 467  
division (A) of section 4112.14 of the Revised Code for any 468  
employer, employment agency, joint labor-management committee 469  
controlling apprenticeship training programs, or labor 470  
organization to do any of the following: 471

(1) Establish bona fide employment qualifications reasonably 472  
related to the particular business or occupation that may include 473  
standards for skill, aptitude, physical capability, intelligence, 474  
education, maturation, and experience; 475

(2) Observe the terms of a bona fide seniority system or any 476  
bona fide employee benefit plan, including, but not limited to, a 477  
retirement, pension, or insurance plan, that is not a subterfuge 478  
to evade the purposes of this section. However, no such employee 479  
benefit plan shall excuse the failure to hire any individual, and 480  
no such seniority system or employee benefit plan shall require or 481  
permit the involuntary retirement of any individual, because of 482  
the individual's age except as provided for in the "Age 483

Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 484  
29 U.S.C.A. 623, as amended by the "Age Discrimination in 485  
Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 486  
623, as amended. 487

(3) Retire an employee who has attained sixty-five years of 488  
age who, for the two-year period immediately before retirement, is 489  
employed in a bona fide executive or a high policymaking position, 490  
if the employee is entitled to an immediate nonforfeitable annual 491  
retirement benefit from a pension, profit-sharing, savings, or 492  
deferred compensation plan, or any combination of those plans, of 493  
the employer of the employee, which equals, in the aggregate, at 494  
least forty-four thousand dollars, in accordance with the 495  
conditions of the "Age Discrimination in Employment Act Amendment 496  
of 1978," 92 Stat. 189, 29 U.S.C.A. 631, as amended by the "Age 497  
Discrimination in Employment Act Amendments of 1986," 100 Stat. 498  
3342, 29 U.S.C.A. 631, as amended; 499

(4) Observe the terms of any bona fide apprenticeship program 500  
if the program is registered with the Ohio apprenticeship council 501  
pursuant to sections 4139.01 to 4139.06 of the Revised Code and is 502  
approved by the federal committee on apprenticeship of the United 503  
States department of labor. 504

~~(P)~~(Q) Nothing in this chapter prohibiting age discrimination 505  
and nothing in division (A) of section 4112.14 of the Revised Code 506  
shall be construed to prohibit the following: 507

(1) The designation of uniform age the attainment of which is 508  
necessary for public employees to receive pension or other 509  
retirement benefits pursuant to Chapter 145., 742., 3307., 3309., 510  
or 5505. of the Revised Code; 511

(2) The mandatory retirement of uniformed patrol officers of 512  
the state highway patrol as provided in section 5505.16 of the 513  
Revised Code; 514

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

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

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

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

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

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

(b) Division ~~(Q)~~(R)(1)(a) of this section does not apply to an employee, applicant, or other person who satisfies any of the

following:	546
(i) The employee, applicant, or other person has successfully completed a supervised drug rehabilitation program and no longer is engaging in the illegal use of any controlled substance, or the employee, applicant, or other person otherwise successfully has been rehabilitated and no longer is engaging in that illegal use.	547 548 549 550 551
(ii) The employee, applicant, or other person is participating in a supervised drug rehabilitation program and no longer is engaging in the illegal use of any controlled substance.	552 553 554
(iii) The employee, applicant, or other person is erroneously regarded as engaging in the illegal use of any controlled substance, but the employee, applicant, or other person is not engaging in that illegal use.	555 556 557 558
(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:	559 560 561 562
(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 <del>(Q)</del> (R)(1)(b)(i) or (ii) of this section no longer is engaging in the illegal use of any controlled substance;	563 564 565 566 567 568
(b) Prohibiting the illegal use of controlled substances and the use of alcohol at the workplace by all employees;	569 570
(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;	571 572 573
(d) Requiring that employees behave in conformance with the requirements established under "The Drug-Free Workplace Act of	574 575

1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended; 576

(e) Holding an employee who engages in the illegal use of any 577  
controlled substance or who is an alcoholic to the same 578  
qualification standards for employment or job performance, and the 579  
same behavior, to which the employer, employment agency, personnel 580  
placement service, labor organization, or joint labor-management 581  
committee holds other employees, even if any unsatisfactory 582  
performance or behavior is related to an employee's illegal use of 583  
a controlled substance or alcoholism; 584

(f) Exercising other authority recognized in the "Americans 585  
with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101, 586  
as amended, including, but not limited to, requiring employees to 587  
comply with any applicable federal standards. 588

(3) For purposes of this chapter, a test to determine the 589  
illegal use of any controlled substance does not include a medical 590  
examination. 591

(4) Division ~~(Q)~~(R) of this section does not encourage, 592  
prohibit, or authorize, and shall not be construed as encouraging, 593  
prohibiting, or authorizing, the conduct of testing for the 594  
illegal use of any controlled substance by employees, applicants, 595  
or other persons, or the making of employment decisions based on 596  
the results of that type of testing. 597

**Sec. 4112.05.** (A) The commission, as provided in this 598  
section, shall prevent any person from engaging in unlawful 599  
discriminatory practices, provided that, before instituting the 600  
formal hearing authorized by division (B) of this section, it 601  
shall attempt, by informal methods of conference, conciliation, 602  
and persuasion, to induce compliance with this chapter. 603

(B)(1) Any person may file a charge with the commission 604  
alleging that another person has engaged or is engaging in an 605

unlawful discriminatory practice. In the case of a charge alleging 606  
an unlawful discriminatory practice described in division (A), 607  
(B), (C), (D), (E), (F), (G), (I), ~~or~~ (J), or (K) of section 608  
4112.02 or in section 4112.021 or 4112.022 of the Revised Code, 609  
the charge shall be in writing and under oath and shall be filed 610  
with the commission within six months after the alleged unlawful 611  
discriminatory practice was committed. In the case of a charge 612  
alleging an unlawful discriminatory practice described in division 613  
(H) of section 4112.02 of the Revised Code, the charge shall be in 614  
writing and under oath and shall be filed with the commission 615  
within one year after the alleged unlawful discriminatory practice 616  
was committed. 617

(2) Upon receiving a charge, the commission may initiate a 618  
preliminary investigation to determine whether it is probable that 619  
an unlawful discriminatory practice has been or is being engaged 620  
in. The commission also may conduct, upon its own initiative and 621  
independent of the filing of any charges, a preliminary 622  
investigation relating to any of the unlawful discriminatory 623  
practices described in division (A), (B), (C), (D), (E), (F), (I), 624  
~~or~~ (J), or (K) of section 4112.02 or in section 4112.021 or 625  
4112.022 of the Revised Code. Prior to a notification of a 626  
complainant under division (B)(4) of this section or prior to the 627  
commencement of informal methods of conference, conciliation, and 628  
persuasion under that division, the members of the commission and 629  
the officers and employees of the commission shall not make public 630  
in any manner and shall retain as confidential all information 631  
that was obtained as a result of or that otherwise pertains to a 632  
preliminary investigation other than one described in division 633  
(B)(3) of this section. 634

(3)(a) Unless it is impracticable to do so and subject to its 635  
authority under division (B)(3)(d) of this section, the commission 636  
shall complete a preliminary investigation of a charge filed 637

pursuant to division (B)(1) of this section that alleges an 638  
unlawful discriminatory practice described in division (H) of 639  
section 4112.02 of the Revised Code, and shall take one of the 640  
following actions, within one hundred days after the filing of the 641  
charge: 642

(i) Notify the complainant and the respondent that it is not 643  
probable that an unlawful discriminatory practice described in 644  
division (H) of section 4112.02 of the Revised Code has been or is 645  
being engaged in and that the commission will not issue a 646  
complaint in the matter; 647

(ii) Initiate a complaint and schedule it for informal 648  
methods of conference, conciliation, and persuasion; 649

(iii) Initiate a complaint and refer it to the attorney 650  
general with a recommendation to seek a temporary or permanent 651  
injunction or a temporary restraining order. If this action is 652  
taken, the attorney general shall apply, as expeditiously as 653  
possible after receipt of the complaint, to the court of common 654  
pleas of the county in which the unlawful discriminatory practice 655  
allegedly occurred for the appropriate injunction or order, and 656  
the court shall hear and determine the application as 657  
expeditiously as possible. 658

(b) If it is not practicable to comply with the requirements 659  
of division (B)(3)(a) of this section within the one-hundred-day 660  
period described in that division, the commission shall notify the 661  
complainant and the respondent in writing of the reasons for the 662  
noncompliance. 663

(c) Prior to the issuance of a complaint under division 664  
(B)(3)(a)(ii) or (iii) of this section or prior to a notification 665  
of the complainant and the respondent under division (B)(3)(a)(i) 666  
of this section, the members of the commission and the officers 667  
and employees of the commission shall not make public in any 668

manner and shall retain as confidential all information that was 669  
obtained as a result of or that otherwise pertains to a 670  
preliminary investigation of a charge filed pursuant to division 671  
(B)(1) of this section that alleges an unlawful discriminatory 672  
practice described in division (H) of section 4112.05 of the 673  
Revised Code. 674

(d) Notwithstanding the types of action described in 675  
divisions (B)(3)(a)(ii) and (iii) of this section, prior to the 676  
issuance of a complaint or the referral of a complaint to the 677  
attorney general and prior to endeavoring to eliminate an unlawful 678  
discriminatory practice described in division (H) of section 679  
4112.02 of the Revised Code by informal methods of conference, 680  
conciliation, and persuasion, the commission may seek a temporary 681  
or permanent injunction or a temporary restraining order in the 682  
court of common pleas of the county in which the unlawful 683  
discriminatory practice allegedly occurred. 684

(4) If the commission determines after a preliminary 685  
investigation other than one described in division (B)(3) of this 686  
section that it is not probable that an unlawful discriminatory 687  
practice has been or is being engaged in, it shall notify any 688  
complainant under division (B)(1) of this section that it has so 689  
determined and that it will not issue a complaint in the matter. 690  
If the commission determines after a preliminary investigation 691  
other than the one described in division (B)(3) of this section 692  
that it is probable that an unlawful discriminatory practice has 693  
been or is being engaged in, it shall endeavor to eliminate the 694  
practice by informal methods of conference, conciliation, and 695  
persuasion. 696

(5) Nothing said or done during informal methods of 697  
conference, conciliation, and persuasion under this section shall 698  
be disclosed by any member of the commission or its staff or be 699  
used as evidence in any subsequent hearing or other proceeding. 700

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 discriminatory practice will be eliminated, it may treat the charge involved as being conciliated and enter that disposition on the records of the commission. If the commission fails to effect the elimination of an unlawful discriminatory practice by informal methods of conference, conciliation, and persuasion under this section and to obtain voluntary compliance with this chapter, the commission shall issue and cause to be served upon any person, including the respondent against whom a complainant has filed a charge pursuant to division (B)(1) of this section, a complaint stating the charges involved and containing a notice of an opportunity for a hearing before the commission, a member of the commission, or a hearing examiner at a place that is stated in the notice and that is located within the county in which the alleged unlawful discriminatory practice has occurred or is occurring or in which the respondent resides or transacts business. The hearing shall be held not less than thirty days after the service of the complaint upon the complainant, the aggrieved persons other than the complainant on whose behalf the complaint is issued, and the respondent, unless the complainant, an aggrieved person, or the respondent elects to proceed under division (A)(2) of section 4112.051 of the Revised Code when that division is applicable. If a complaint pertains to an alleged unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code, the complaint shall notify the complainant, an aggrieved person, and the respondent of the right of the complainant, an aggrieved person, or the respondent to elect to proceed with the administrative hearing process under this section or to proceed under division (A)(2) of section 4112.051 of the Revised Code.

(6) The attorney general shall represent the commission at

any hearing held pursuant to division (B)(5) of this section and 734  
shall present the evidence in support of the complaint. 735

(7) Any complaint issued pursuant to division (B)(5) of this 736  
section after the filing of a charge under division (B)(1) of this 737  
section shall be so issued within one year after the complainant 738  
filed the charge with respect to an alleged unlawful 739  
discriminatory practice. 740

(C) Any complaint issued pursuant to division (B) of this 741  
section may be amended by the commission, a member of the 742  
commission, or the hearing examiner conducting a hearing under 743  
division (B) of this section, at any time prior to or during the 744  
hearing. The respondent has the right to file an answer or an 745  
amended answer to the original and amended complaints and to 746  
appear at the hearing in person, by attorney, or otherwise to 747  
examine and cross-examine witnesses. 748

(D) The complainant shall be a party to a hearing under 749  
division (B) of this section, and any person who is an 750  
indispensable party to a complete determination or settlement of a 751  
question involved in the hearing shall be joined. Any aggrieved 752  
person who has or claims an interest in the subject of the hearing 753  
and in obtaining or preventing relief against the unlawful 754  
discriminatory practices complained of shall be permitted to 755  
appear only for the presentation of oral or written arguments, to 756  
present evidence, perform direct and cross-examination, and be 757  
represented by counsel. The commission shall adopt rules, in 758  
accordance with Chapter 119. of the Revised Code governing the 759  
authority granted under this division. 760

(E) In any hearing under division (B) of this section, the 761  
commission, a member of the commission, or the hearing examiner 762  
shall not be bound by the Rules of Evidence but, in ascertaining 763  
the practices followed by the respondent, shall take into account 764  
all reliable, probative, and substantial statistical or other 765

evidence produced at the hearing that may tend to prove the 766  
existence of a predetermined pattern of employment or membership, 767  
provided that nothing contained in this section shall be construed 768  
to authorize or require any person to observe the proportion that 769  
persons of any race, color, religion, sex, military status, 770  
familial status, national origin, disability, age, or ancestry 771  
bear to the total population or in accordance with any criterion 772  
other than the individual qualifications of the applicant. 773

(F) The testimony taken at a hearing under division (B) of 774  
this section shall be under oath and shall be reduced to writing 775  
and filed with the commission. Thereafter, in its discretion, the 776  
commission, upon the service of a notice upon the complainant and 777  
the respondent that indicates an opportunity to be present, may 778  
take further testimony or hear argument. 779

(G)(1) If, upon all reliable, probative, and substantial 780  
evidence presented at a hearing under division (B) of this 781  
section, the commission determines that the respondent has engaged 782  
in, or is engaging in, any unlawful discriminatory practice, 783  
whether against the complainant or others, the commission shall 784  
state its findings of fact and conclusions of law and shall issue 785  
and, subject to the provisions of Chapter 119. of the Revised 786  
Code, cause to be served on the respondent an order requiring the 787  
respondent to cease and desist from the unlawful discriminatory 788  
practice, requiring the respondent to take any further affirmative 789  
or other action that will effectuate the purposes of this chapter, 790  
including, but not limited to, hiring, reinstatement, or upgrading 791  
of employees with or without back pay, or admission or restoration 792  
to union membership, and requiring the respondent to report to the 793  
commission the manner of compliance. If the commission directs 794  
payment of back pay, it shall make allowance for interim earnings. 795  
If the commission finds a violation of division (K) of section 796  
4112.02 of the Revised Code, it additionally shall require the 797

respondent to pay the fine required under division (B) of section 4112.99 of the Revised Code. If it finds a violation of division (H) of section 4112.02 of the Revised Code, the commission additionally shall require the respondent to pay actual damages and reasonable attorney's fees, and may award to the complainant punitive damages as follows:

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

(b) 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 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;

(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 damages in an amount not to exceed fifty thousand dollars.

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

(H) If the commission finds that no probable cause exists for crediting charges of unlawful discriminatory practices or if, upon all the evidence presented at a hearing under division (B) of this

section on a charge, the commission finds that a respondent has 829  
not engaged in any unlawful discriminatory practice against the 830  
complainant or others, it shall state its findings of fact and 831  
shall issue and cause to be served on the complainant an order 832  
dismissing the complaint as to the respondent. A copy of the order 833  
shall be delivered in all cases to the attorney general and any 834  
other public officers whom the commission considers proper. 835

(I) Until the time period for appeal set forth in division 836  
(H) of section 4112.06 of the Revised Code expires, the 837  
commission, subject to the provisions of Chapter 119. of the 838  
Revised Code, at any time, upon reasonable notice, and in the 839  
manner it considers proper, may modify or set aside, in whole or 840  
in part, any finding or order made by it under this section. 841

**Sec. 4112.08.** This chapter shall be construed liberally for 842  
the accomplishment of its purposes, and any law inconsistent with 843  
any provision of this chapter shall not apply. Nothing contained 844  
in this chapter shall be considered to repeal any of the 845  
provisions of any law of this state relating to discrimination 846  
because of race, color, religion, sex, military status, familial 847  
status, disability, national origin, age, or ancestry, except that 848  
any person filing a charge under division (B)(1) of section 849  
4112.05 of the Revised Code, with respect to the unlawful 850  
discriminatory practices complained of, is barred from instituting 851  
a civil action under section 4112.14 or division ~~(N)~~(O) of section 852  
4112.02 of the Revised Code. 853

**Sec. 4112.14.** (A) No employer shall discriminate in any job 854  
opening against any applicant or discharge without just cause any 855  
employee aged forty or older who is physically able to perform the 856  
duties and otherwise meets the established requirements of the job 857  
and laws pertaining to the relationship between employer and 858  
employee. 859

(B) Any person aged forty or older who is discriminated 860  
against in any job opening or discharged without just cause by an 861  
employer in violation of division (A) of this section may 862  
institute a civil action against the employer in a court of 863  
competent jurisdiction. If the court finds that an employer has 864  
discriminated on the basis of age, the court shall order an 865  
appropriate remedy which shall include reimbursement to the 866  
applicant or employee for the costs, including reasonable 867  
attorney's fees, of the action, or to reinstate the employee in 868  
the employee's former position with compensation for lost wages 869  
and any lost fringe benefits from the date of the illegal 870  
discharge and to reimburse the employee for the costs, including 871  
reasonable attorney's fees, of the action. The remedies available 872  
under this section are coexistent with remedies available pursuant 873  
to sections 4112.01 to 4112.11 of the Revised Code; except that 874  
any person instituting a civil action under this section is, with 875  
respect to the practices complained of, thereby barred from 876  
instituting a civil action under division ~~(N)~~(O) of section 877  
4112.02 of the Revised Code or from filing a charge with the Ohio 878  
civil rights commission under section 4112.05 of the Revised Code. 879

(C) The cause of action described in division (B) of this 880  
section and any remedies available pursuant to sections 4112.01 to 881  
4112.11 of the Revised Code shall not be available in the case of 882  
discharges where the employee has available to the employee the 883  
opportunity to arbitrate the discharge or where a discharge has 884  
been arbitrated and has been found to be for just cause. 885

**Sec. 4112.15.** There is hereby created in the state treasury 886  
the civil rights commission general reimbursement fund, which 887  
shall be used to pay operating costs of the commission. All 888  
amounts received by the commission, and all amounts awarded by a 889  
court to the commission, for attorney's fees, court costs, expert 890  
witness fees, and other litigation expenses shall be paid into the 891

state treasury to the credit of the fund. All amounts received by 892  
the commission for copies of commission documents and for other 893  
goods and services furnished by the commission shall be paid into 894  
the state treasury to the credit of the fund. All collected fines 895  
charged under division (B) of section 4112.99 of the Revised Code 896  
shall be paid into the state treasury to the credit of the fund. 897

**Sec. 4112.99.** (A) Whoever violates this chapter is subject to 898  
a civil action for damages, injunctive relief, or any other 899  
appropriate relief. 900

(B) In addition to any damages and relief that may be 901  
available in division (A) of this section, whoever violates 902  
division (K) of section 4112.02 of the Revised Code shall be 903  
subject to a fine in the amount of up to one thousand dollars for 904  
the first violation of that division, and up to two thousand 905  
dollars for each subsequent violation. 906

**Section 2.** That existing sections 4112.02, 4112.05, 4112.08, 907  
4112.14, 4112.15, and 4112.99 of the Revised Code are hereby 908  
repealed. 909