



## *Final Analysis*

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### **Sub. H.B. 372**

127th General Assembly  
(As Passed by the General Assembly)

**Reps. R. McGregor and Ujvagi, Bulp, Wachtmann, Combs, Aslanides, White, Domenick, Healy, Reinhard, Bacon, Barrett, Batchelder, Beatty, Blessing, Bolon, Book, Boyd, Brady, Brown, Budish, Carmichael, Celeste, Chandler, Coley, Collier, Daniels, DeBose, DeGeeter, DeWine, Distel, Dodd, Dolan, Driehaus, Dyer, Evans, Fende, Flowers, Foley, Garrison, Gerberry, Gibbs, Goodwin, Goyal, J. Hagan, R. Hagan, Harwood, Heard, Hite, Hottinger, Huffman, Hughes, Jones, Latta, Letson, Luckie, Lundy, Mallory, J. McGregor, Mecklenborg, Oelslager, Okey, Otterman, Patton, Peterson, Raussen, Redfern, Sayre, Schindel, Schlichter, Schneider, Setzer, Skindell, Stebelton, D. Stewart, J. Stewart, Strahorn, Sykes, Szollosi, Uecker, Wagner, Wagoner, Widener, B. Williams, S. Williams, Wolpert, Yates, Yuko, Zehringer**

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**Effective date:** \*

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### **ACT SUMMARY**

- Exempts from certain probate fees the estate of a decedent who died while in active service as a United States armed forces or National Guard member serving in a combat zone.
- Exempts from the Ohio income tax, retired military personnel pay for service in the United States Army, Navy, Air Force, Coast Guard, or Marine Corps or a reserve component thereof, or the National Guard.
- Requires a state or local licensing agency to renew an expired occupational or professional license or certificate held by a member of

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\* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

the National Guard or the reserves that expired because of the member's service.

- Allows a licensee who has been called to active duty upon the order of the Governor to have an extension of time in which to fulfill continuing education requirements.
- Requires a licensing agency to consider relevant military experience in determining whether a licensee has fulfilled continuing education requirements.
- Prohibits discrimination based on military status with respect to the Ohio Civil Rights Act and various other anti-discrimination laws regarding employment and work related issues, housing and real estate acquisition, health care, and insurance.
- Requires the Attorney General to appoint a staff member of the Consumer Protection Division to expedite certain cases or issues raised by a person, or the person's immediate family, who is deployed on active duty.
- Extends the 20% credit available to certain military persons on civil service examinations to any member of the National Guard or a reserve component of the United States armed forces who has completed more than 180 days of active duty service pursuant to an order of the President or an act of Congress.
- Creates the Incumbent Worker Training Program to make grants to certain Ohio businesses and trainers to increase employee occupational skills.
- Allows a person who was awarded a battle star for engagement in actual combat against the enemy to request the display of the combat battle star on a special combat or military license plate.
- Requires the Registrar of Motor Vehicles to adopt rules to determine (1) the specific combat or military license plates that are appropriate for the display of battle stars and (2) the documentary evidence necessary as proof of the battle star award.
- Creates Civil Air Patrol license plates, available to members in good standing of the Civil Air Patrol.

- Eliminates all fees and taxes charged for "Purple Heart" license plates except for the additional fees charged for initial reserve and personalized "Purple Heart" license plates, which are reduced by 25%.
- Designates Interstate Routes 70 and 71 in Ohio as the "Purple Heart Trail."

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## CONTENT AND OPERATION

### **Probate fees exemption**

(R.C. 2101.16 and 2101.164; Section 4)

Continuing law sets forth a list of fees to be collected by a probate judge for a wide variety of services, many of them related to the estates of decedents. The fees range from \$1 for providing a certified copy of a page of a journal entry, record, or proceeding to \$60 for relieving an estate from administration or granting an order for a summary release from administration.

The act exempts from certain probate fees the estate of a decedent who dies while in active service as a member of the United States armed forces or the National Guard if the death occurred while the decedent was serving in a combat zone<sup>1</sup> or as a result of wounds, disease, or injury incurred while serving in a combat zone. The exempted probate fees are the following: (1) any fee for or associated with the filing of the decedent's will for probate, (2) any fee for any service rendered by the probate court that is associated with the administration of the decedent's estate, and (3) any fee for releasing the decedent's estate from administration<sup>2</sup> or granting an order for a summary release from administration.<sup>3</sup>

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<sup>1</sup> "Combat zone" means an area that the President, by executive order, designates as an area in which the United States armed forces or the National Guard are engaging or have been engaged in combat for the purposes of an exemption of certain combat-zone pay from the federal income tax.

<sup>2</sup> The probate court is authorized to release an estate from administration (1) if the value of the estate's assets is \$35,000 or less or (2) if the value of the estate's assets is \$100,000 or less and all of the assets will go to a surviving spouse pursuant to a will or by operation of law (R.C. 2113.03, not in the act).

<sup>3</sup> The probate court is authorized to grant a summary release from administration to: (1) a surviving spouse if (a) the estate's value does not exceed the allowance for the surviving spouse and minor children plus funeral and burial expenses of up to \$5,000 and (b) either the decedent's funeral and burial expenses have been prepaid or the surviving spouse has paid or is obligated in writing to pay the funeral and burial expenses or (2) to a person other than the surviving spouse if the estate's value does not exceed the lesser of \$5,000

(By releasing a small estate from administration, a probate court directs the distribution of the decedent's property without all the formalities required in the case of larger estates.) The estates of decedents who die on or after the act's effective date are entitled to the exemption.

The probate judge, in determining whether a decedent died in a place or manner that exempts the decedent's estate from the foregoing fees, may consider a casualty report issued pursuant to Army Regulation 600-8-1 or the regulations of any of the United States armed services or the National Guard; the list of combat zones set forth in Publication 3, "The Armed Forces' Tax Guide," of the Internal Revenue Service; or any other form of documentation satisfactory to the judge.

### **Income tax deduction for military retirement pay**

(R.C. 5747.01(A)(26); Section 5)

The act permits taxpayers receiving retired military personnel pay to deduct that pay in computing their Ohio income tax liability. To be deductible, the retired military personnel pay ("retirement pay") must be for service in the United States Army, Navy, Air Force, Coast Guard, or Marine Corps or a reserve component thereof, or the National Guard. The retirement pay is deductible only to the extent it is included in the taxpayer's federal adjusted gross income (FAGI), which is the starting point for computing the taxpayer's Ohio taxable income. In other words, if the retirement pay was deducted in deriving the taxpayer's FAGI, it cannot be deducted twice, once on the federal return and once on the state return.

If a taxpayer receives retirement pay under federal law that combines retired pay for both military service and federal civil service or federal employees retirement service, the taxpayer is entitled to deduct only the part of the retirement pay attributable to the military service, to the extent that part of the pay is included in FAGI and is not otherwise taken as an income tax deduction.

Law not amended by the act grants taxpayers a credit of up to \$200 per year if they receive income from or pursuant to a pension, retirement, or profit-sharing plan (R.C. 5747.055). The act's retired military personnel pay deduction may reduce the value of the credit for some taxpayers because any amount deducted cannot also be included in retirement income for purposes of computing the credit. And conversely, amounts on the basis of which the credit was claimed cannot be deducted under the act's retirement pay deduction.

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or the amount of the decedent's funeral and burial expenses and the person has paid or is obligated in writing to pay the funeral and burial expenses (R.C. 2113.031, not in the act).

The deduction is available for taxable years beginning on or after January 1, 2008.

**Renewal of occupational or professional license or certificate**

(R.C. 5903.10)

Under continuing law, any holder of an expired license or certificate from Ohio or any Ohio political subdivision or agency to practice a trade or profession, whose license or certificate was not renewed because of the holder's service in the United States armed forces, has six months from a discharge to present satisfactory evidence of honorable discharge or separation under honorable conditions. The issuing board or authority must then grant the license or certificate holder a renewal of the holder's license or certificate at the usual cost without penalty and without re-examination if the license or certificate holder is not otherwise disqualified because of mental or physical disability. The act extends this renewal option to members of the National Guard and reservists.

**Continuing education requirement extension**

(R.C. 5903.12)

Continuing law requires a number of professional licensing boards to provide extensions for completion of continuing education requirements for their licensees who have been called to active duty as a member of the Ohio National Guard, the Ohio Military Reserve, the Ohio Naval Militia, or a reserve component of the armed forces of the United States. The extension must be equal to the number of months the licensee spent on active duty. The duty may have occurred in either the current or a prior continuing education reporting period. The licensee must submit proper documentation certifying that the licensee has been called to active duty for more than 31 days because of an executive order issued by the President or an act of Congress.

The act specifies that the extension also applies if a licensee submits proper documentation certifying that the licensee has been called to active duty for more than 31 days because of an order of the Governor.

**Military experience to be considered with regard to continuing education**

(R.C. 5903.121)

The act requires a licensing agency to consider relevant education, training, and service completed by a licensee as a member of the armed forces of the United States, the reserves, the National Guard, the Ohio Military Reserve, and the Ohio

Naval Militia in determining whether the licensee has fulfilled continuing education requirements.

### **Civil Rights Commission Laws**

The Ohio Civil Rights Commission is required to prevent any person from engaging in unlawful discriminatory practices. These practices cover a wide range of areas in which discrimination can occur, including public places of accommodation, housing, real estate, employment, and credit practices. In addition to informal means of preventing unlawful discriminatory practices, which include conference, conciliation, and persuasion, the commission can take formal action based on the filing, by any person, of a charge that another person is engaging in or has engaged in an unlawful discriminatory practice. The formal process can include investigation, hearing, and eventually issuance of various orders, including cease and desist orders and orders to pay actual damages and reasonable attorney fees. A court can review as well as enforce commission orders.

In addition to its duties to stop unlawful discriminatory practices, the commission has other duties, including surveying the existence and effect of discrimination on civil rights in Ohio, preparing educational plans designed to eliminate prejudice, receiving reports regarding affirmative housing accommodation programs, studying problems of discrimination, and issuing publications and research and investigative results aimed at reducing or eliminating discrimination.<sup>4</sup>

The following are situations relating to the commission and its duties in which the act adds military status to the prohibited discriminatory factors.

### **Unlawful discriminatory practices**

(R.C. 4112.01, 4112.02, and 4112.021)

Continuing law generally protects an individual from discrimination based on a factor such as the individual's race, color, religion, sex, age, national origin, ancestry, or disability.<sup>5</sup> The act amends the laws with respect to unlawful discriminatory practices and other unlawful discrimination to add military status to

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<sup>4</sup> See R.C. Chapter 4112. regarding Ohio's civil rights laws, some of which are included in the act.

<sup>5</sup> The statutory lists of discriminatory factors vary, depending on the law. For example, some laws include age as a prohibited factor while others do not.



the factors that cannot be used to discriminate.<sup>6</sup> The act also amends certain other laws to add military status to the factors that cannot be used to discriminate regarding employment and work-related situations, housing and real estate acquisition, and insurance and health care.

In explaining the act's provisions, this analysis does not recite the continuing list of prohibited discriminatory factors in each law to which military status is being added; those factors are unaffected by the act and should be understood as being present along with the added factor of military status.

**Employment.** Under the act, it is an unlawful discriminatory practice:

- For any employer, because of military status, to discharge without just cause, refuse to hire, or otherwise discriminate against a person regarding employment;
- For an employment agency or personnel placement service, because of military status, to (1) refuse or fail to accept, register, classify properly, or refer for employment, or otherwise discriminate against any person, or (2) comply with requests from employers asking for employee applicants in violation of the Ohio Civil Rights Act;
- For any labor organization to limit or classify its membership on the basis of military status;
- For any labor organization to discriminate against, limit the employment opportunities of, or otherwise adversely affect the employment status,

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<sup>6</sup> "Military status" is defined by the act to mean a person's status in "service in the uniformed services" (R.C. 4112.01). "Service in the uniformed services" means the performance of duty, on a voluntary or involuntary basis, in a uniformed service, under competent authority, and includes active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard Duty, and performance of duty or training by a member of the Ohio Organized Militia. "Service in the uniformed services" includes the period of time for which a person is absent from a position of public employment for the purpose of an examination to determine the fitness of a person to perform any duty described above (R.C. 5903.01, not in the act). "Uniformed service" means the armed forces, the Ohio Organized Militia when engaged in active duty for training, inactive duty training, or full-time national guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency (R.C. 5903.01). "Ohio Organized Militia" means members of the Ohio Air National Guard, Ohio Army National Guard, Ohio Naval Militia, and Ohio Military Reserve who are Ohio citizens 17 to 66 years of age and who are not permanently handicapped (R.C. 5923.01, not in the act).



wages, hours, or employment conditions of any person as an employee based on military status;

- For any employer, labor organization, or joint labor-management committee controlling apprentice training programs to discriminate against a person because of military status in admission to, or employment in, any apprentice training program;
- Except when certified by the commission in advance as a bona fide occupational qualification, for any employer, employment agency, personnel placement service, or labor organization, prior to employment or admission to membership, to: (1) elicit or attempt to elicit any information concerning the military status of an applicant for employment or membership, (2) make or keep a record of the military status of an applicant for employment or membership, (3) use an employment application, or a personnel or membership blank, that seeks to elicit information regarding military status, (4) print or publish, or cause to be printed or published, any notice or advertisement relating to employment or membership indicating any preference, limitation, specification, or discrimination based on military status, (5) announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities for any group because of military status, or (6) use to recruit or hire persons, any employment agency, personnel placement service, training school or center, labor organization, or any other employee-referring source that is known to discriminate against persons because of military status;
- For any person seeking employment to publish or cause to be published any advertisement that specifies or in any manner indicates that person's military status or that expresses a limitation or preference as to the military status of any prospective employer.

**Public accommodations.** Under the act, it is an unlawful discriminatory practice:

- For any proprietor or employee, keeper, or manager of a place of public accommodation to deny any person, except for reasons applicable alike to all persons regardless of military status, the full enjoyment of the accommodations, advantages, facilities, or privileges of the place of public accommodation.

**Housing accommodations and real estate.** Under the act, it is an unlawful discriminatory practice for any person to:

- Refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise to deny or make unavailable housing accommodations because of military status;
- Represent to any person that housing accommodations are not available for inspection, sale, or rental, when in fact they are available, because of military status;
- Discriminate against any person in the making or purchasing of loans or the provision of other financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations, or against any person in the making or purchasing of loans or the provision of other financial assistance that is secured by residential real estate, because of military status;<sup>7</sup>
- Discriminate against any person in the terms or conditions of selling, transferring, assigning, renting, leasing, or subleasing any housing accommodations or in furnishing facilities, services, or privileges in connection with the ownership, occupancy, or use of any housing accommodations, including the sale of fire, extended coverage, or homeowners insurance, because of military status;
- Discriminate against any person in the terms or conditions of any loan, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations because of military status;
- Print, publish, or circulate any statement or advertisement, or make or cause to be made any statement or advertisement, relating to the sale, transfer, assignment, rental, lease, sublease, or acquisition of any housing accommodations, or relating to the loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations, that indicates any preference, limitation, specification, or discrimination based on military status, or an intention to make any such preference, limitation, specification, or discrimination;

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<sup>7</sup> This provision applies to business situations, and does not apply to lending that is part of the purchase price of an owner-occupied residence a person is selling, or to residential lending that is "merely casually or occasionally to a relative or friend."

- Make any inquiry, elicit any information, make or keep any record, or use any form of application containing questions or entries concerning military status in connection with the sale or lease of any housing accommodations or the loan of any money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations;<sup>8</sup>
- Include in any transfer, rental, or lease of housing accommodations any restrictive covenant, or honor or exercise, or attempt to honor or exercise, any restrictive covenant limiting the transfer, rental, lease, or other use of any housing accommodations because of military status, or including any limitation based upon affiliation with or approval by any person, directly or indirectly, employing military status as a condition of affiliation or approval;
- Induce or solicit, or attempt to induce or solicit, a housing accommodations listing, sale, or transaction by representing that a change has occurred or may occur with respect to the military status composition of the block, neighborhood, or other area in which the housing accommodations are located, or induce or solicit, or attempt to induce or solicit, a housing accommodations listing, sale, or transaction by representing that the presence or anticipated presence of persons of any military status in the block, neighborhood, or other area will or may have results including the following: (1) the lowering of property values, (2) a change in the military status composition of the block, neighborhood, or other area, (3) an increase in criminal or antisocial behavior in the block, neighborhood, or other area, or (4) a decline in the quality of the schools serving the block, neighborhood, or other area;
- 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 military status;
- 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 military status composition;

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<sup>8</sup> Any person may make inquiries, and may make and keep records, concerning military status for the purpose of monitoring compliance with the Ohio Civil Rights Act.

- Refuse to sell, transfer, assign, rent, lease, sublease, or finance, or otherwise deny or withhold, a burial lot from any person because of the military status of any prospective owner or user of the lot;
- Discriminate against any person in the selling, brokering, or appraising of real property because of military status;
- Refuse to consider without prejudice the combined income of both husband and wife for the purpose of extending mortgage credit to a married couple or either member of a married couple, which impliedly would include persons having military status who are married;
- Discriminate in the sale or rental of housing accommodations to, make unavailable or deny housing accommodations to, discriminate in the terms, conditions, or privileges of the sale or rental of housing accommodations to, or discriminate in the provision of services or facilities in connection with housing accommodations to a buyer or renter, a person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available, or any individual associated with the latter person because of disability, which impliedly would include disabled persons having military status;<sup>9</sup>
- 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 of enjoyment of, any right with regard to housing accommodations that the act extends to persons having military status.

**Creditor practices.** Under the act, it is an unlawful discriminatory practice for any creditor to:

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<sup>9</sup> It also is an unlawful discriminatory practice (1) to make an inquiry to determine whether any of the enumerated persons has a disability or to determine the nature or severity of a disability, (2) to refuse to permit, at the expense of a disabled person, reasonable modifications of existing housing accommodations that are occupied by a disabled person, if the modifications may be necessary to afford the disabled person full enjoyment of the housing accommodations, or (3) to refuse to make reasonable accommodations in rules, policies, practices, or services when necessary to afford a disabled person equal opportunity to use and enjoy a dwelling unit, including associated public and common use areas. These discriminatory practices also appear to cover persons who are disabled because of present or former military status.

- Discriminate against any applicant for credit in the granting, withholding, extending, or renewing of credit, or in the fixing of the rates, terms, or conditions of any form of credit, on the basis of military status;
- Use or make any inquiry as to military status for the purpose of limiting or specifying those persons to whom credit will be granted, except with respect to any inquiry, elicitation of information, record, or form of application required of a particular creditor by any instrumentality or agency of the federal government;
- Refuse to consider the sources of income of an applicant for credit, or disregard or ignore the income of an applicant, in whole or in part, on the basis of military status;
- Impose any special requirements or conditions, including, but not limited to, a requirement for co-obligors or reapplication, upon any applicant or class of applicants on the basis of military status in circumstances where similar requirements or conditions are not imposed on other applicants similarly situated;<sup>10</sup>
- Fail or refuse on the basis of military status to maintain, upon the request of the individual, a separate account for each individual to whom credit is extended;
- Fail or refuse on the basis of military status to maintain records on any account established after November 1, 1976, to furnish information on the accounts to credit reporting agencies in a manner that clearly designates the contractual liability for repayment as indicated on the application for the account, and, if more than one individual is contractually liable for repayment, to maintain records and furnish information in the name of each individual.<sup>11</sup>

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<sup>10</sup> In two provisions that impliedly would apply to persons having military status, the Civil Rights Act makes it an unlawful discriminatory practice for a creditor to refuse to grant credit to an individual in any name the individual customarily uses if it has been determined in the normal course of business that credit will be granted, and to fail or refuse to provide an applicant for credit with a written statement of the specific reasons for rejecting the application if the applicant requests such a statement within 60 days after the rejection.

<sup>11</sup> This provision is not applicable to individuals who are contractually liable only if the primary party defaults.

**Credit reporting agency practices.** Under the act, it is an unlawful discriminatory practice for any credit reporting agency to:

- Fail or refuse on the basis of military status to maintain, upon the request of the individual, a separate file on each individual about whom information is assembled or evaluated;
- Fail or refuse on the basis of military status to clearly note, maintain, and report any information furnished it from a creditor regarding repayment liability.

**Civil Rights Commission duties under the act**

(R.C. 4112.04 and 4112.05)

**Discrimination surveys.** The Commission must make periodic surveys of the existence and effect of discrimination because of military status on the enjoyment of civil rights by persons in Ohio.

**Comprehensive educational program.** The Commission must prepare a comprehensive educational program, in cooperation with the Department of Education, for Ohio residents and the students in Ohio public schools that is designed to eliminate prejudice on the basis of military status in Ohio and to emphasize the origin of prejudice against military status, its harmful effects, and its incompatibility with American principles of equality and fair play;

**Affirmative action employment and housing accommodation program reports.** The Commission must also receive progress reports from state agencies, instrumentalities, institutions, boards, commissions, and other entities or any political subdivisions and their agencies, instrumentalities, institutions, boards, commissions, and other entities regarding affirmative action programs for the employment of persons against whom discrimination has occurred because of military status, or regarding any affirmative housing accommodations programs developed to eliminate or reduce an imbalance of persons of military status. All state and local governmental entities that have undertaken affirmative action programs pursuant to a conciliation agreement with the Commission, an executive order of the Governor, any federal statute or rule, or an executive order of the President must file progress reports with the Commission annually on or before November 1. The Commission must analyze and evaluate the progress reports and report its findings annually to the General Assembly on or before January 30 of the year immediately following the receipt of the reports.

**Study of discrimination problems.** The Commission may study the problems of discrimination in all fields of human relationships when based on

military status, or can empower local or statewide advisory agencies and conciliation councils it creates to do so.

**Publications, investigations, and research about discrimination.** The Commission may issue any publications and the results of investigations and research that in its judgment will tend to promote good will and minimize or eliminate discrimination because of military status.

**Commission hearings.** When the Commission conducts a hearing on an alleged unlawful discriminatory practice, the Commission, its members, and the hearing examiner are not bound by the Rules of Evidence, but in ascertaining the practices followed by the respondent, must take into account all reliable, probative, and substantial statistical or other evidence produced at the hearing that may tend to prove the existence of a predetermined pattern of employment or membership, provided that nothing in the Ohio Civil Rights Act governing Commission hearings authorizes or requires any person to observe the proportion that persons of military status bear to the total population or in accordance with any criterion other than the individual qualifications of the applicant.

**Ohio Civil Rights Act affect on other laws**

(R.C. 4112.08)

The act provides that nothing contained in the Civil Rights Act may be construed to repeal any of the provisions of any Ohio law relating to discrimination based on military status, except that any person filing a charge of discrimination under the Civil Rights Act based on military status is barred from instituting a civil action in any court for any legal or equitable relief that will effectuate the individual's rights.

**Pursuit of employment discrimination claims based on military status**

(R.C. 4112.023)

It is a rule of federal law that if a person's civilian job is inherently military, the person must pursue military, rather than civilian, channels when pursuing an employment discrimination claim. The act specifies that this rule is to be applied when construing the employment-related unlawful discriminatory practices it defines on the basis of a person's military status.



### **Employment and work-related discrimination**<sup>12</sup>

The following are situations that are employment and work-related in which the act adds military status to the factors that cannot be used to discriminate or that can be used to include an individual in a protected or covered class for participation in a special program, or for special benefit or protection.

#### **Health insuring corporation contracts with physicians**

(R.C. 124.93)

The act prohibits health insuring corporations that enter into or renew a contract with the Department of Administrative Services (DAS) to provide health care for state employees from refusing to contract with a physician to provide that health care, if the refusal is based on the physician's military status.

#### **Hiring and treatment of employees under state or political subdivision purchase contracts**

(R.C. 125.111)

Every contract for or on behalf of the state or its political subdivisions for any purchase must contain provisions under which the contractor agrees: (1) that when hiring employees to perform work under the contract or any subcontract, the contractor or subcontractor must not discriminate against any citizen of Ohio because of military status if the person is qualified and available to do the work under the contract, and (2) that a contractor, subcontractor, or person acting on their behalf must not discriminate against, intimidate, or retaliate against any employee hired to perform work under the contract based on military status.

#### **Hiring and treatment of employees under public building or works contracts**

(R.C. 153.59)

Every state, township, county, or municipal contract to construct, alter, or repair any public building or public work must contain provisions by which the contractor agrees: (1) that when hiring employees to perform work under the contract or any subcontract, the contractor, subcontractor, or a person acting on their behalf may not discriminate against any citizen of Ohio based on military

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<sup>12</sup> The act codifies the Sixth Circuit decision in *Fisher v. Peters*, 249 F.3d 433 (2001), which requires persons whose civilian job is inherently military to use military, rather than civilian, channels when pursuing employment discrimination claims (R.C. 4112.023).

status if the person is qualified and available to perform the work under the contract or subcontract to which the employment relates, and (2) that a contractor, subcontractor, or person acting on their behalf may not discriminate against, or intimidate, any employee hired to perform work under the contract based on the employee's military status.

**Affirmative action programs regarding public building and works contracts; equal consideration of minority business enterprises**

(R.C. 153.59)

DAS must ensure that no capital money appropriated by the General Assembly for any purpose can be expended unless the project for which the money is appropriated provides for an affirmative action program for the employment and effective utilization of disadvantaged persons whose disadvantage may arise from military status. DAS must also ensure, when awarding contracts for capital improvement projects, that equal consideration be given to contractors, subcontractors, or joint venturers who qualify as a minority business enterprise. Under the act, a minority business enterprise may be an enterprise that is owned or controlled by one or more persons who are Ohio residents and who are disadvantaged because of military status.

**Hiring hall agreements**

(R.C. 153.591)

Any provision of a hiring hall contract or agreement that obligates a contractor to hire, if available, only employees referred to the contractor by a labor organization are void as against public policy and unenforceable with respect to employment under any public works contract unless at the date of execution of the contract or agreement, or within 30 days thereafter, the labor organization has in effect procedures for referring qualified employees regardless of military status.

**Public employee union anti-discrimination pledge**

(R.C. 4117.19)

As part of its annual report filed with the State Employment Relations Board, each employee organization certified or recognized to represent public employees must include a pledge, in a form prescribed by the Board, that the organization complies with the laws of Ohio and that it will accept members without regard to military status.

### **Housing and real estate acquisition discrimination**

The following are situations relating to housing and real estate acquisition in which the act adds military status to the factors that cannot be used to discriminate or that can be used to include an individual in a protected or covered class for participation in a special program, or for special benefit or protection.

#### **Affirmative marketing plans as condition to issuance of housing general obligations**

(R.C. 176.04)

No municipal corporation, county, or township is permitted to issue general obligations to provide or assist in providing housing unless it has, among other requirements, submitted to the housing advisory board serving it, a plan for affirmative marketing to persons who are members of groups that may be disadvantaged by discrimination because of military status.

#### **Reporting of mortgage loan information**

(R.C. 176.06)

Each municipal corporation, county, and township must compile and make available to the public for inspection or copying for a period of five years the number and total dollar amount of mortgage loans that were originated, for which completed applications were received and applicants were rejected, and that were purchased by that municipal corporation, county, or township during each fiscal year. The information must be itemized to clearly and conspicuously disclose, among other things, the number and dollar amount of mortgage loans involving mortgagors and mortgage applicants grouped according to military status.

#### **Denial of municipal housing to elderly or low- to moderate-income persons**

(R.C. 717.01)

A municipal corporation may construct or rehabilitate, equip, maintain, operate, and lease facilities for housing elderly and low- and moderate-income persons. No municipal corporation, with respect to those housing accommodations, may deny them to or withhold them from an elderly or low- or moderate-income person based on military status. If such a denial or withholding occurs, the elderly or low- or moderate-income person may file a charge with the Civil Rights Commission.

**Crime of interference with fair housing rights**

(R.C. 2927.03)

A person, even if acting under color of law, is prohibited by force or threat of force from willfully injuring, intimidating, or interfering with, and from attempting to injure, intimidate, or interfere with, any person because of the person's military status and because the person is or has been selling, purchasing, renting, financing, occupying, negotiating, or contracting for the sale, purchase, rental, financing, or occupation of any housing accommodations, or is or has been applying for or participating in any service, organization, or facility that is related to the business of selling or renting housing accommodations. A person, even if acting under color of law, also is prohibited by force or threat of force from willfully injuring, intimidating, or interfering with, and from attempting to injure, intimidate, or interfere with, any person or class of persons because the person or class of persons is or has been participating, without discrimination because of military status, in any of the activities, services, organizations, or facilities relating to housing accommodations as just described.

A person is entitled to lawfully aid or encourage other persons to participate, without discrimination because of military status, in any of the activities, services, organizations, or facilities relating to housing accommodations as just described, or to participate lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate. A person, even if acting under color of law, is prohibited, by force or threat of force, from willfully injuring, intimidating, or interfering with, and from attempting to injure, intimidate, or interfere with, any person because that person is or has been exercising the right just described or to discourage that person or any other person from exercising the right just described.

Violation of any of these prohibitions is a first degree misdemeanor.

**Display of notice about illegal discrimination regarding real estate transactions**

(R.C. 4735.16)

Every real estate broker's office must prominently display in the same immediate area as licenses are displayed a statement that it is illegal to discriminate against any person because of military status in the sale or rental of housing or residential lots, in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokering services.

### **Real estate transaction agency agreements**

(R.C. 4735.55)

Each written real estate transaction agency agreement must contain, among other things, a statement that it is illegal under federal and state law to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or deny or otherwise make unavailable housing accommodations because of military status, or to so discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services.

### **Insurance and health care**

The following are situations relating to insurance and health care in which the act adds military status to the factors that may not be used to discriminate.

#### **Health insurance and care**

(R.C. 1751.18)

Unless otherwise required by state or federal law, a health insuring corporation, or a health care facility or provider through which a health insuring corporation has made arrangements to provide health care services, may not discriminate against any individual regarding enrollment, disenrollment, or the quality of health care services rendered based on the individual's military status.

#### **Insurance agent consumer fee**

(R.C. 3905.55)

An insurance agent may charge a consumer a fee if, among other requirements, the agent, in charging the fee, does not discriminate based on military status.

### **Expedition of consumer protection and other cases or issues**

(R.C. 1349.04)

The act requires the Attorney General to appoint a member of the staff of the Consumer Protection Division to expedite cases or issues raised by a person, or by the immediate family of the person, who is deployed on active duty, which cases or issues relate to Ohio laws regulating consumer protection.<sup>13</sup> The

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<sup>13</sup> "Active duty" means active duty pursuant to a presidential order, a Congressional act, or a gubernatorial order.

expedition of cases and issues applies specifically to laws addressing the following:

- DAS authority to contract for state agencies regarding telephone, telecommunication, and computer services;
- A prohibition against a county recorder charging fees for recording a military power of attorney;
- Interest and finance charges regarding a person or spouse deployed on active duty;
- Termination of motor vehicle leases and cellular telephone contracts when a person or spouse is deployed on active duty;
- Military leave of absence from state and private institutions of higher education and career colleges and universities;
- Authority of courts when ability to pay agreed rent is materially affected by deployment on active duty;
- Free public schooling when a parent is on active duty;
- Provisions of life insurance contracts when a reservist is on active duty;
- Prohibiting gas and electric service shut off for the residential premises of a residential customer who is on active duty.

**Civil service examination credit for National Guard and Reservists**

(R.C. 124.23(B))

Generally, ongoing law specifies that all applicants for classified civil service positions are subject to examination. Any person who has completed service in the uniformed services, who has been honorably discharged from the uniformed services or transferred to the reserve with evidence of satisfactory service, and who is a resident of Ohio may file with the Director of Administrative Services a certificate of service or honorable discharge, and, upon this filing, the person must receive additional credit of 20% of the person's total grade given in the regular examination in which the person receives a passing grade.

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"Immediate family" means a person's spouse residing in the person's household; brothers and sisters of the whole or half blood; children, including adopted children and stepchildren; parents; and grandparents.

The act extends this 20% credit to any member of the National Guard or a reserve component of the United States armed forces who has completed more than 180 days of active duty service pursuant to an order of the President or an act of Congress.

### **Incumbent Worker Training Program**

(Section 3)

The act requires the Department of Development to create an Incumbent Worker Training Program to be administered by the department's Workforce and Talent Division. The division may make grants under the program to Ohio businesses and to trainers that provide training to a consortium of businesses from funds received pursuant to the federal Workforce Investment Act of 1998. The purpose of the grants is to assist Ohio businesses in increasing employees' occupational skills and in remaining competitive and for increasing investment in incumbent worker training, retaining employees, advancing wages over time, and acquiring generally recognized credentials to document skill gains.

Grants cannot exceed \$1,000 per employee, and cannot exceed \$200,000 per business or trainer. Grants are on a reimbursement basis. Grants made for fiscal year 2008 must be at least \$6 million and grants made for fiscal year 2009 must be at least \$9 million. The division must make at least 25% of the grants each fiscal year to businesses engaged primarily in activities other than manufacturing and that have fewer than 500 employees.

The department must adopt rules under the Administrative Procedure Act establishing procedures according to which the program is to be operated. The act also requires, on or before December 31, 2008, and biannually thereafter, the Director of Development and the Director of Job and Family Services to submit a joint report to the President of the Senate and the Speaker of the House of Representatives describing the training activities and outcomes provided through the program during the prior fiscal year.

The program expires two years after its effective date.

### **Battle star display on license plates**

(R.C. 4503.433)

Continuing law authorizes the issuance of a variety of special combat or military license plates, including World Wars I and II, Pearl Harbor, Korea, Vietnam, Grenada, Lebanon, Panama, Persian Gulf, Purple Heart recipient, Bronze and Silver Star Medal recipient, and Armed Forces Expeditionary Medal recipient. Special military license plates also are available for active duty



members of each branch of the United States military, honorably discharged veterans, and Marine Corps League, Military Reserve, Military Retired, National Defense, and National Guard personnel. Different criteria apply for the issuance of each special combat or military license plate.

Under the act, any person who is eligible for a combat or military license plate of the type approved by the Registrar of Motor Vehicles, who also has been awarded a battle star, may request the issuance of the approved combat or military license plate displaying the combat battle stars the person received. The act defines "battle star" to mean a military award approved by the Chairman of the Joint Chiefs of Staff for service members who were engaged in actual combat against the enemy under certain circumstances.<sup>14</sup>

Not later than six months after the act's effective date, the Registrar must adopt rules to do both of the following: (1) determine the combat and military license plates that are appropriate for the display of battle stars and select an additional design for each approved combat or military license plate that includes the display of one or more battle stars, and (2) establish the documentary evidence that an applicant must present as proof of the battle star award upon requesting the display of a battle star on an approved combat or military license plate.

The Registrar must issue the combat or military license plates displaying the appropriate battle stars to an applicant upon application and compliance with the requirements for issuance of the specific approved combat or military license plate, presentation of satisfactory evidence of the battle star award, and compliance with all other applicable laws relating to the registration of motor vehicles.

### **Civil Air Patrol license plates**

(R.C. 4503.731)

Under the act, the owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or vehicle of a class approved by the Registrar of Motor Vehicles who is a member in good standing of the Civil Air Patrol may apply to the Registrar for the issuance of Civil Air Patrol license plates. The request for Civil Air Patrol license plates may be combined with a request for a special reserved license plate. Upon receipt of the completed application,

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<sup>14</sup> While the Chairman of the Joint Chiefs of Staff is the approving authority for specific battle stars, the award of a battle star must be requested by a combatant commander and may be awarded only to service members who were engaged in actual combat against the enemy under circumstances involving grave danger of death or serious bodily injury from enemy action. See generally 32 C.F.R. § 578 and 70 Fed. Reg. 66602-01.

presentation by the applicant of the required evidence that the applicant is a member in good standing of the Civil Air Patrol, payment of all applicable taxes and fees, and compliance with other applicable registration requirements, the Registrar must issue to the applicant the appropriate vehicle registration, a set of Civil Air Patrol license plates, and a validation sticker, or a validation sticker alone when required by continuing law.

In addition to the letters and numbers ordinarily inscribed on license plates, Civil Air Patrol license plates must be inscribed with identifying words and a symbol or logo designed by the Civil Air Patrol and approved by the Registrar. Civil Air Patrol license plates must display county identification stickers that identify the county of registration by name or number.

Civil Air Patrol license plates and validation stickers are to be issued upon payment of the regular license tax, any applicable local motor vehicle tax, any applicable additional special reserved license plate fee, and a Bureau of Motor Vehicles fee of \$10, and compliance with all other applicable laws relating to the registration of motor vehicles.

The Registrar must deposit the \$10 fee into the state treasury to the credit of the existing State Bureau of Motor Vehicles Fund, for the purpose of compensating the Bureau for additional services required in issuing Civil Air Patrol license plates.

#### **Fees and taxes for Purple Heart license plates**

(R.C. 4503.571)

Under continuing law, any person who has been awarded the Purple Heart may apply to the Registrar of Motor Vehicles for the registration of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the Registrar that the person owns or leases. The application must be accompanied by such documentary evidence in support of the award as the Registrar requires. The application may be combined with a request for a special license plate known as an "initial reserve" license plate or a special license plate known as a "personalized" license plate. There is an additional fee of \$10 for an initial reserve license plate of any type and an additional fee of \$35 for any type of personalized license plate. Purple Heart license plates and validation stickers are issued upon payment of the regular license tax, payment of any local motor vehicle license tax, and compliance with all other applicable laws relating to motor vehicle registration. If the application for Purple Heart license plates is combined with a request for initial reserve or personalized license plates, the applicant also must pay the additional fee of \$10 or \$35. Finally, the applicant also must pay to

the Registrar or deputy registrar a service fee of \$3.50 (R.C. 4503.10 and 4503.102, not in the act).

Under the act, Purple Heart license plates and validation stickers are issued without the payment of any registration tax and service fee and without the payment of any local motor vehicle license tax. If an application for Purple Heart license plates is combined with a request for initial reserve or personalized license plates, the applicant must pay only 75% of the additional fee of \$10 or \$35, which is \$7.50 or \$26.25, respectively. The applicant still must comply with all other applicable laws relating to motor vehicle registration.

### **Purple Heart Trail**

(R.C. 5533.09)

Continuing law designates part of Interstate 76 (from its intersection with Interstate 71 in Medina County to its intersection with Interstate 80 in Mahoning County) as "The Military Order of the Purple Heart Memorial Highway." Continuing law also designates the entire length of Interstate 70 in Ohio as the "Veterans of Foreign Wars Memorial Highway" and the entire length of Interstate 71 in Ohio as the "Disabled American Veterans' Highway." Part of Interstate 71 in Ashland County also is known as the "Trooper James R. Gross Memorial Highway." (R.C. 5533.30, 5533.32, and 5533.33, not in the act.)

In addition to the respective designations in continuing law, the act designates the entire lengths of Interstate Routes 70 and 71 within the state as the "Purple Heart Trail" and authorizes the Director of Transportation to erect suitable markers along each highway indicating its name.

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## **HISTORY**

ACTION	DATE
Introduced	10-30-07
Reported, H. Infrastructure, Homeland Security, and Veterans Affairs	11-07-07
Passed House (96-1)	11-07-07
Reported, S. Ways & Means & Economic Development	12-12-07
Passed Senate (28-0)	12-12-07
House concurred in Senate amendments (92-0)	12-12-07

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