

As Introduced

132nd General Assembly

Regular Session

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S. B. No. 14

Senator Tavares

Cosponsors: Senators Thomas, Skindell

A BILL

To amend sections 4111.02, 4111.08, 4111.10, 1
4111.13, 4111.14, 4111.99, 4112.01, and 4112.05 2
and to enact sections 4111.021, 4111.031, and 3
4112.025 of the Revised Code to require that 4
domestic workers be paid the higher of the 5
minimum wage provided in Section 34a of Article 6
II, Ohio Constitution, or the minimum wage 7
provided in the Fair Labor Standards Act, to 8
require that domestic workers be paid overtime 9
wages, to make certain conduct directed toward a 10
domestic worker an unlawful discriminatory 11
practice, and to require a weekly day of rest 12
for domestic workers. 13

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

Section 1. That sections 4111.02, 4111.08, 4111.10, 14
4111.13, 4111.14, 4111.99, 4112.01, and 4112.05 be amended and 15
sections 4111.021, 4111.031, and 4112.025 of the Revised Code be 16
enacted to read as follows: 17

Sec. 4111.02. ~~Every~~ Except as provided in section 18

4111.021, every employer, as defined in Section 34a of Article 19
II, Ohio Constitution, shall pay each of the employer's 20
employees at a wage rate of not less than the wage rate 21
specified in Section 34a of Article II, Ohio Constitution. 22

The director of commerce annually shall adjust the wage 23
rate as specified in Section 34a of Article II, Ohio 24
Constitution. 25

No political subdivision shall establish a minimum wage 26
rate different from the wage rate required under this section. 27

As used in this section, "employee" has the same meaning 28
as in section 4111.14 of the Revised Code. 29

Sec. 4111.021. (A) As used in this section: 30

(1) "Domestic worker" has the same meaning as in section 31
4112.01 of the Revised Code. 32

(2) "Employer" means any person employing a domestic 33
worker. 34

(B) Every employer shall pay each of the employer's 35
domestic workers at a wage rate that is not less than the higher 36
of the following: 37

(1) The highest wage rate calculated by the director of 38
commerce in accordance with Section 34a of Article II, Ohio 39
Constitution, and section 4111.02 of the Revised Code; 40

(2) The hourly basic minimum wage specified in section 41
206(a)(1) of the "Fair Labor Standards Act of 1938," 29 U.S.C. 42
206(a)(1), as amended. 43

Sec. 4111.031. (A) As used in this section: 44

(1) "Domestic worker" has the same meaning as in section 45

4112.01 of the Revised Code. 46

(2) "Employer" means any person employing a domestic 47
worker. 48

(B) No domestic worker shall be required to work more than 49
eight hours in a day for an employer. A domestic worker may work 50
for more than eight hours in a day if the domestic worker agrees 51
to work and is paid at an increased rate agreed upon by the 52
employer and the domestic worker for any amount of time worked 53
in that day in excess of eight hours. 54

(C) No domestic worker shall be required to work more than 55
forty hours in any week, or forty-four hours in a week if the 56
domestic worker resides in the home of the domestic worker's 57
employer, unless the domestic worker's employer compensates the 58
domestic worker at a rate that is at least one and one-half 59
times the worker's normal wage rate for any additional hours of 60
work in excess of forty hours or forty-four hours, as 61
applicable. 62

(D) Every domestic worker shall be allowed at least 63
twenty-four consecutive hours of rest every calendar week. 64
During that period of rest the domestic worker shall not be 65
required to work for the employer. This rest period shall, 66
whenever possible, coincide with the traditional day reserved by 67
the domestic worker for religious worship. Except as provided in 68
division (E) of this section, a domestic worker's employer shall 69
not be required to pay the domestic worker for a period of rest 70
described in this section. 71

(E) In addition to the rest period required by division 72
(D) of this section, a domestic worker who has worked for the 73
domestic worker's employer for more than a year shall be 74

entitled to at least three days of rest in each calendar year 75
for which the domestic worker shall be compensated by the 76
employer at the domestic worker's normal wage rate. 77

(F) Nothing in division (D) of this section shall be 78
construed to prohibit a domestic worker from agreeing to work 79
during the domestic worker's rest period as described in that 80
division, provided that the worker receives compensation for the 81
work at a rate of at least one and one-half times the domestic 82
worker's normal wage rate. 83

Sec. 4111.08. Every employer subject to section 4111.03 of 84
the Revised Code with respect to employees, and every employer 85
subject to section 4111.031 of the Revised Code with respect to 86
domestic workers, or to any rule adopted ~~thereunder~~ under those 87
sections, shall make and keep for a period of not less than 88
three years a record of the name, address, and occupation of 89
each of the employer's employees or domestic workers, the rate 90
of pay and the amount paid each pay period to each employee or 91
domestic worker, the hours worked each day and each work week by 92
the employee or domestic worker, and other information as the 93
director of commerce prescribes by rule as necessary or 94
appropriate for the enforcement of ~~section~~ sections 4111.03 and 95
4111.031 of the Revised Code, or of the rules thereunder. 96
Records may be opened for inspection or copying by the director 97
at any reasonable time. 98

Sec. 4111.10. (A) Any employer who pays any employee less 99
than wages to which the employee is entitled under section 100
4111.03 of the Revised Code, and any employer who pays a 101
domestic worker less than wages to which the domestic worker is 102
entitled under section 4111.031 of the Revised Code, is liable 103
to the employee or domestic worker affected for the full amount 104

of the overtime wage rate, less any amount actually paid to the 105
employee or domestic worker by the employer, and for costs and 106
reasonable attorney's fees as may be allowed by the court. Any 107
agreement between the employee or domestic worker and ~~the~~an 108
employer to work for less than the overtime wage rate is no 109
defense to an action. 110

(B) At the written request of any employee or domestic 111
worker paid less than the wages to which the employee or 112
domestic worker is entitled under section 4111.03 or 4111.031 of 113
the Revised Code, respectively, the director of commerce may 114
take an assignment of a wage claim in trust for the assigning 115
employee or domestic worker and may bring any legal action 116
necessary to collect the claim. The employer shall pay the costs 117
and reasonable attorney's fees allowed by the court. 118

Sec. 4111.13. (A) No employer shall ~~hinder~~do any of the 120
following: 121

(1) Hinder or delay the director of commerce in the 122
performance of the director's duties in the enforcement of 123
sections 4111.01 to 4111.17 of the Revised Code, or refuse to 124
admit the director to any place of employment, or fail to make, 125
keep, and preserve any records as required under those sections, 126
or falsify any of those records, or refuse to make them 127
accessible to the director upon demand, or refuse to furnish 128
them or any other information required for the proper 129
enforcement of those sections to the director upon demand, or 130
fail to post a summary of those sections or a copy of any 131
applicable rules as required by section 4111.09 of the Revised 132
Code. Each day of violation constitutes a separate offense. 133

~~(B) No employer shall discharge~~ (2) Discharge or in any 134
other manner discriminate against any employee or domestic 135
worker because the employee or domestic worker has made any 136
complaint to the ~~employee's~~ employer, or to the director, that 137
the employee or domestic worker has not been paid wages in 138
accordance with sections 4111.01 to 4111.17 of the Revised Code, 139
or because the employee or domestic worker has made any 140
complaint or is about to cause to be instituted any proceeding 141
under or related to those sections, or because the employee or 142
domestic worker has testified or is about to testify in any 143
proceeding. 144

~~(C) No employer shall pay~~ (3) Pay or agree to pay wages at 145
a rate less than the rate applicable under sections 4111.01 to 146
4111.17 of the Revised Code. Each week or portion thereof for 147
which the employer pays any employee or domestic worker less 148
than the rate applicable under those sections constitutes a 149
separate offense as to each employer. 150

~~(D) No employer shall otherwise~~ (4) Otherwise violate 151
sections 4111.01 to 4111.17 of the Revised Code, or any rule 152
adopted thereunder. Each day of violation constitutes a separate 153
offense. 154

(B) The culpability sufficient to commit a violation of 155
division (A) of this section is as follows: 156

(1) Negligence if the violation involves a domestic 157
worker; 158

(2) Reckless if the violation involves an employee. 159

Sec. 4111.14. (A) Pursuant to the general assembly's 160
authority to establish a minimum wage under Section 34 of 161
Article II, Ohio Constitution, this section is in implementation 162

of Section 34a of Article II, Ohio Constitution. In implementing 163
Section 34a of Article II, Ohio Constitution, the general 164
assembly hereby finds that the purpose of Section 34a of Article 165
II, Ohio Constitution, is to: 166

(1) Ensure that Ohio employees, as defined in division (B) 167
(1) of this section, are paid the wage rate required by Section 168
34a of Article II, Ohio Constitution; 169

(2) Ensure that covered Ohio employers maintain certain 170
records that are directly related to the enforcement of the wage 171
rate requirements in Section 34a of Article II, Ohio 172
Constitution; 173

(3) Ensure that Ohio employees who are paid the wage rate 174
required by Section 34a of Article II, Ohio Constitution, may 175
enforce their right to receive that wage rate in the manner set 176
forth in Section 34a of Article II, Ohio Constitution; and 177

(4) Protect the privacy of Ohio employees' pay and 178
personal information specified in Section 34a of Article II, 179
Ohio Constitution, by restricting an employee's access, and 180
access by a person acting on behalf of that employee, to the 181
employee's own pay and personal information. 182

(B) In accordance with Section 34a of Article II, Ohio 183
Constitution, the terms "employer," "employee," "employ," 184
"person," and "independent contractor" have the same meanings as 185
in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 186
U.S.C. 203, as amended. In construing the meaning of these 187
terms, due consideration and great weight shall be given to the 188
United States department of labor's and federal courts' 189
interpretations of those terms under the Fair Labor Standards 190
Act and its regulations. As used in division (B) of this 191

section:	192
(1) "Employee" means individuals employed in Ohio, but	193
does not mean individuals who are excluded from the definition	194
of "employee" under 29 U.S.C. 203(e) or individuals who are	195
exempted from the minimum wage requirements in 29 U.S.C. 213 and	196
from the definition of "employee" in this chapter.	197
(2) "Employ" and "employee" do not include any person	198
acting as a volunteer. In construing who is a volunteer,	199
"volunteer" shall have the same meaning as in sections 553.101	200
to 553.106 of Title 29 of the Code of Federal Regulations, as	201
amended, and due consideration and great weight shall be given	202
to the United States department of labor's and federal courts'	203
interpretations of the term "volunteer" under the Fair Labor	204
Standards Act and its regulations.	205
<u>(3) "Employer" includes any person employing a domestic</u>	206
<u>worker as defined in section 4112.01 of the Revised Code.</u>	207
(C) In accordance with Section 34a of Article II, Ohio	208
Constitution, the state may issue licenses to employers	209
authorizing payment of a wage below that required by Section 34a	210
of Article II, Ohio Constitution, to individuals with mental or	211
physical disabilities that may otherwise adversely affect their	212
opportunity for employment. In issuing such licenses, the state	213
shall abide by the rules adopted pursuant to section 4111.06 of	214
the Revised Code.	215
(D) (1) In accordance with Section 34a of Article II, Ohio	216
Constitution, individuals employed in or about the property of	217
an employer or an individual's residence on a casual basis are	218
not included within the coverage of Section 34a of Article II,	219
Ohio Constitution. As used in division (D) of this section:	220

(a) "Casual basis" means employment that is irregular or 221
intermittent and that is not performed by an individual whose 222
vocation is to be employed in or about the property of the 223
employer or individual's residence. In construing who is 224
employed on a "casual basis," due consideration and great weight 225
shall be given to the United States department of labor's and 226
federal courts' interpretations of the term "casual basis" under 227
the Fair Labor Standards Act and its regulations. 228

(b) "An individual employed in or about the property of an 229
employer or individual's residence" means an individual employed 230
on a casual basis or an individual employed in or about a 231
residence on a casual basis, respectively. 232

(2) In accordance with Section 34a of Article II, Ohio 233
Constitution, employees of a solely family-owned and operated 234
business who are family members of an owner are not included 235
within the coverage of Section 34a of Article II, Ohio 236
Constitution. As used in division (D) (2) of this section, 237
"family member" means a parent, spouse, child, stepchild, 238
sibling, grandparent, grandchild, or other member of an owner's 239
immediate family. 240

(E) In accordance with Section 34a of Article II, Ohio 241
Constitution, an employer shall at the time of hire provide an 242
employee with the employer's name, address, telephone number, 243
and other contact information and update such information when 244
it changes. As used in division (E) of this section: 245

(1) "Other contact information" may include, where 246
applicable, the address of the employer's internet site on the 247
world wide web, the employer's electronic mail address, fax 248
number, or the name, address, and telephone number of the 249
employer's statutory agent. "Other contact information" does not 250

include the name, address, telephone number, fax number, 251
internet site address, or electronic mail address of any 252
employee, shareholder, officer, director, supervisor, manager, 253
or other individual employed by or associated with an employer. 254

(2) "When it changes" means that the employer shall 255
provide its employees with the change in its name, address, 256
telephone number, or other contact information within sixty 257
business days after the change occurs. The employer shall 258
provide the changed information by using any of its usual 259
methods of communicating with its employees, including, but not 260
limited to, listing the change on the employer's internet site 261
on the world wide web, internal computer network, or a bulletin 262
board where it commonly posts employee communications or by 263
insertion or inclusion with employees' paychecks or pay stubs. 264

(F) In accordance with Section 34a of Article II, Ohio 265
Constitution, an employer shall maintain a record of the name, 266
address, occupation, pay rate, hours worked for each day worked, 267
and each amount paid an employee for a period of not less than 268
three years following the last date the employee was employed by 269
that employer. As used in division (F) of this section: 270

(1) "Address" means an employee's home address as 271
maintained in the employer's personnel file or personnel 272
database for that employee. 273

(2) (a) With respect to employees who are not exempt from 274
the overtime pay requirements of the Fair Labor Standards Act or 275
this chapter, "pay rate" means an employee's base rate of pay. 276

(b) With respect to employees who are exempt from the 277
overtime pay requirements of the Fair Labor Standards Act or 278
this chapter, "pay rate" means an employee's annual base salary 279

or other rate of pay by which the particular employee qualifies 280
for that exemption under the Fair Labor Standards Act or this 281
chapter, but does not include bonuses, stock options, 282
incentives, deferred compensation, or any other similar form of 283
compensation. 284

(3) "Record" means the name, address, occupation, pay 285
rate, hours worked for each day worked, and each amount paid an 286
employee in one or more documents, databases, or other paper or 287
electronic forms of record-keeping maintained by an employer. No 288
one particular method or form of maintaining such a record or 289
records is required under this division. An employer is not 290
required to create or maintain a single record containing only 291
the employee's name, address, occupation, pay rate, hours worked 292
for each day worked, and each amount paid an employee. An 293
employer shall maintain a record or records from which the 294
employee or person acting on behalf of that employee could 295
reasonably review the information requested by the employee or 296
person. 297

An employer is not required to maintain the records 298
specified in division (F) (3) of this section for any period 299
before January 1, 2007. On and after January 1, 2007, the 300
employer shall maintain the records required by division (F) (3) 301
of this section for three years from the date the hours were 302
worked by the employee and for three years after the date the 303
employee's employment ends. 304

(4) (a) Except for individuals specified in division (F) (4) 305
(b) of this section, "hours worked for each day worked" means 306
the total amount of time worked by an employee in whatever 307
increments the employer uses for its payroll purposes during a 308
day worked by the employee. An employer is not required to keep 309

a record of the time of day an employee begins and ends work on 310
any given day. As used in division (F) (4) of this section, "day" 311
means a fixed period of twenty-four consecutive hours during 312
which an employee performs work for an employer. 313

(b) An employer is not required to keep records of "hours 314
worked for each day worked" for individuals for whom the 315
employer is not required to keep those records under the Fair 316
Labor Standards Act and its regulations or individuals who are 317
not subject to the overtime pay requirements specified in 318
~~section~~ sections 4111.03 and 4111.031 of the Revised Code. 319

(5) "Each amount paid an employee" means the total gross 320
wages paid to an employee for each pay period. As used in 321
division (F) (5) of this section, "pay period" means the period 322
of time designated by an employer to pay an employee the 323
employee's gross wages in accordance with the employer's payroll 324
practices under section 4113.15 of the Revised Code. 325

(G) In accordance with Section 34a of Article II, Ohio 326
Constitution, an employer must provide such information without 327
charge to an employee or person acting on behalf of an employee 328
upon request. As used in division (G) of this section: 329

(1) "Such information" means the name, address, 330
occupation, pay rate, hours worked for each day worked, and each 331
amount paid for the specific employee who has requested that 332
specific employee's own information and does not include the 333
name, address, occupation, pay rate, hours worked for each day 334
worked, or each amount paid of any other employee of the 335
employer. "Such information" does not include hours worked for 336
each day worked by individuals for whom an employer is not 337
required to keep that information under the Fair Labor Standards 338
Act and its regulations or individuals who are not subject to 339

the overtime pay requirements specified in ~~section~~sections 340
4111.03 and 4111.031 of the Revised Code. 341

(2) "Acting on behalf of an employee" means a person 342
acting on behalf of an employee as any of the following: 343

(a) The certified or legally recognized collective 344
bargaining representative for that employee under the applicable 345
federal law or Chapter 4117. of the Revised Code; 346

(b) The employee's attorney; 347

(c) The employee's parent, guardian, or legal custodian. 348

A person "acting on behalf of an employee" must be 349
specifically authorized by an employee in order to make a 350
request for that employee's own name, address, occupation, pay 351
rate, hours worked for each day worked, and each amount paid to 352
that employee. 353

(3) "Provide" means that an employer shall provide the 354
requested information within thirty business days after the date 355
the employer receives the request, unless either of the 356
following occurs: 357

(a) The employer and the employee or person acting on 358
behalf of the employee agree to some alternative time period for 359
providing the information. 360

(b) The thirty-day period would cause a hardship on the 361
employer under the circumstances, in which case the employer 362
must provide the requested information as soon as practicable. 363

(4) A "request" made by an employee or a person acting on 364
behalf of an employee means a request by an employee or a person 365
acting on behalf of an employee for the employee's own 366
information. The employer may require that the employee provide 367

the employer with a written request that has been signed by the 368
employee and notarized and that reasonably specifies the 369
particular information being requested. The employer may require 370
that the person acting on behalf of an employee provide the 371
employer with a written request that has been signed by the 372
employee whose information is being requested and notarized and 373
that reasonably specifies the particular information being 374
requested. 375

(H) In accordance with Section 34a of Article II, Ohio 376
Constitution, an employee, person acting on behalf of one or 377
more employees, and any other interested party may file a 378
complaint with the state for a violation of any provision of 379
Section 34a of Article II, Ohio Constitution, or any law or 380
regulation implementing its provisions. Such complaint shall be 381
promptly investigated and resolved by the state. The employee's 382
name shall be kept confidential unless disclosure is necessary 383
to resolution of a complaint and the employee consents to 384
disclosure. As used in division (H) of this section: 385

(1) "Complaint" means a complaint of an alleged violation 386
pertaining to harm suffered by the employee filing the 387
complaint, by a person acting on behalf of one or more 388
employees, or by an interested party. 389

(2) "Acting on behalf of one or more employees" has the 390
same meaning as "acting on behalf of an employee" in division 391
(G) (2) of this section. Each employee must provide a separate 392
written and notarized authorization before the person acting on 393
that employee's or those employees' behalf may request the name, 394
address, occupation, pay rate, hours worked for each day worked, 395
and each amount paid for the particular employee. 396

(3) "Interested party" means a party who alleges to be 397

injured by the alleged violation and who has standing to file a 398
complaint under common law principles of standing. 399

(4) "Resolved by the state" means that the complaint has 400
been resolved to the satisfaction of the state. 401

(5) "Shall be kept confidential" means that the state 402
shall keep the name of the employee confidential as required by 403
division (H) of this section. 404

(I) In accordance with Section 34a of Article II, Ohio 405
Constitution, the state may on its own initiative investigate an 406
employer's compliance with Section 34a of Article II, Ohio 407
Constitution, and any law or regulation implementing Section 34a 408
of Article II, Ohio Constitution. The employer shall make 409
available to the state any records related to such investigation 410
and other information required for enforcement of Section 34a of 411
Article II, Ohio Constitution or any law or regulation 412
implementing Section 34a of Article II, Ohio Constitution. The 413
state shall investigate an employer's compliance with this 414
section in accordance with the procedures described in section 415
4111.04 of the Revised Code. All records and information related 416
to investigations by the state are confidential and are not a 417
public record subject to section 149.43 of the Revised Code. 418
This division does not prevent the state from releasing to or 419
exchanging with other state and federal wage and hour regulatory 420
authorities information related to investigations. 421

(J) In accordance with Section 34a of Article II, Ohio 422
Constitution, damages shall be calculated as an additional two 423
times the amount of the back wages and in the case of a 424
violation of an anti-retaliation provision an amount set by the 425
state or court sufficient to compensate the employee and deter 426
future violations, but not less than one hundred fifty dollars 427

for each day that the violation continued. The "not less than 428
one hundred fifty dollar" penalty specified in division (J) of 429
this section shall be imposed only for violations of the anti- 430
retaliation provision in Section 34a of Article II, Ohio 431
Constitution. 432

(K) In accordance with Section 34a of Article II, Ohio 433
Constitution, an action for equitable and monetary relief may be 434
brought against an employer by the attorney general and/or an 435
employee or person acting on behalf of an employee or all 436
similarly situated employees in any court of competent 437
jurisdiction, including the court of common pleas of an 438
employee's county of residence, for any violation of Section 34a 439
of Article II, Ohio Constitution, or any law or regulation 440
implementing its provisions within three years of the violation 441
or of when the violation ceased if it was of a continuing 442
nature, or within one year after notification to the employee of 443
final disposition by the state of a complaint for the same 444
violation, whichever is later. 445

(1) As used in division (K) of this section, 446
"notification" means the date on which the notice was sent to 447
the employee by the state. 448

(2) No employee shall join as a party plaintiff in any 449
civil action that is brought under division (K) of this section 450
by an employee, person acting on behalf of an employee, or 451
person acting on behalf of all similarly situated employees 452
unless that employee first gives written consent to become such 453
a party plaintiff and that consent is filed with the court in 454
which the action is brought. 455

(3) A civil action regarding an alleged violation of this 456
section shall be maintained only under division (K) of this 457

section. This division does not preclude the joinder in a single 458
civil action of an action under this division and an action 459
under section 4111.10 of the Revised Code. 460

(4) Any agreement between an employee and employer to work 461
for less than the wage rate specified in Section 34a of Article 462
II, Ohio Constitution, is no defense to an action under this 463
section. 464

(L) In accordance with Section 34a of Article II, Ohio 465
Constitution, there shall be no exhaustion requirement, no 466
procedural, pleading, or burden of proof requirements beyond 467
those that apply generally to civil suits in order to maintain 468
such action and no liability for costs or attorney's fees on an 469
employee except upon a finding that such action was frivolous in 470
accordance with the same standards that apply generally in civil 471
suits. Nothing in division (L) of this section affects the right 472
of an employer and employee to agree to submit a dispute under 473
this section to alternative dispute resolution, including, but 474
not limited to, arbitration, in lieu of maintaining the civil 475
suit specified in division (K) of this section. Nothing in this 476
division limits the state's ability to investigate or enforce 477
this section. 478

(M) An employer who provides such information specified in 479
Section 34a of Article II, Ohio Constitution, shall be immune 480
from any civil liability for injury, death, or loss to person or 481
property that otherwise might be incurred or imposed as a result 482
of providing that information to an employee or person acting on 483
behalf of an employee in response to a request by the employee 484
or person, and the employer shall not be subject to the 485
provisions of Chapters 1347. and 1349. of the Revised Code to 486
the extent that such provisions would otherwise apply. As used 487

in division (M) of this section, "such information," "acting on 488
behalf of an employee," and "request" have the same meanings as 489
in division (G) of this section. 490

(N) As used in this section, "the state" means the 491
director of commerce. 492

Sec. 4111.99. (A) Whoever violates division (A) (1) or ~~(D)~~ 493
(4) of section 4111.13 of the Revised Code is guilty of a 494
misdemeanor of the fourth degree. 495

(B) Whoever violates division ~~(B)~~ (A) (2) or ~~(C)~~ (3) of 496
section 4111.13 of the Revised Code is guilty of a misdemeanor 497
of the third degree. 498

(C) Whoever violates section 4111.17 of the Revised Code 499
is guilty of a minor misdemeanor. 500

Sec. 4112.01. (A) As used in this chapter: 501

(1) "Person" includes one or more individuals, 502
partnerships, associations, organizations, corporations, legal 503
representatives, trustees, trustees in bankruptcy, receivers, 504
and other organized groups of persons. "Person" also includes, 505
but is not limited to, any owner, lessor, assignor, builder, 506
manager, broker, salesperson, appraiser, agent, employee, 507
lending institution, and the state and all political 508
subdivisions, authorities, agencies, boards, and commissions of 509
the state. 510

(2) "Employer" includes the state, any political 511
subdivision of the state, any person employing four or more 512
persons within the state, any person employing a domestic 513
worker, for purposes of section 4112.025 of the Revised Code, 514
and any person acting directly or indirectly in the interest of 515
an employer. 516

(3) "Employee" means an individual employed by any 517
employer but does not include, except for purposes of section 518
4112.025 of the Revised Code, any individual employed in the 519
domestic service of any person. 520

(4) "Labor organization" includes any organization that 521
exists, in whole or in part, for the purpose of collective 522
bargaining or of dealing with employers concerning grievances, 523
terms or conditions of employment, or other mutual aid or 524
protection in relation to employment. 525

(5) "Employment agency" includes any person regularly 526
undertaking, with or without compensation, to procure 527
opportunities to work or to procure, recruit, refer, or place 528
employees. 529

(6) "Commission" means the Ohio civil rights commission 530
created by section 4112.03 of the Revised Code. 531

(7) "Discriminate" includes segregate or separate. 532

(8) "Unlawful discriminatory practice" means any act 533
prohibited by section 4112.02, 4112.021, ~~or 4112.022~~, or 534
4112.025 of the Revised Code. 535

(9) "Place of public accommodation" means any inn, 536
restaurant, eating house, barbershop, public conveyance by air, 537
land, or water, theater, store, other place for the sale of 538
merchandise, or any other place of public accommodation or 539
amusement of which the accommodations, advantages, facilities, 540
or privileges are available to the public. 541

(10) "Housing accommodations" includes any building or 542
structure, or portion of a building or structure, that is used 543
or occupied or is intended, arranged, or designed to be used or 544
occupied as the home residence, dwelling, dwelling unit, or 545

sleeping place of one or more individuals, groups, or families 546
whether or not living independently of each other; and any 547
vacant land offered for sale or lease. "Housing accommodations" 548
also includes any housing accommodations held or offered for 549
sale or rent by a real estate broker, salesperson, or agent, by 550
any other person pursuant to authorization of the owner, by the 551
owner, or by the owner's legal representative. 552

(11) "Restrictive covenant" means any specification 553
limiting the transfer, rental, lease, or other use of any 554
housing accommodations because of race, color, religion, sex, 555
military status, familial status, national origin, disability, 556
or ancestry, or any limitation based upon affiliation with or 557
approval by any person, directly or indirectly, employing race, 558
color, religion, sex, military status, familial status, national 559
origin, disability, or ancestry as a condition of affiliation or 560
approval. 561

(12) "Burial lot" means any lot for the burial of deceased 562
persons within any public burial ground or cemetery, including, 563
but not limited to, cemeteries owned and operated by municipal 564
corporations, townships, or companies or associations 565
incorporated for cemetery purposes. 566

(13) "Disability" means a physical or mental impairment 567
that substantially limits one or more major life activities, 568
including the functions of caring for one's self, performing 569
manual tasks, walking, seeing, hearing, speaking, breathing, 570
learning, and working; a record of a physical or mental 571
impairment; or being regarded as having a physical or mental 572
impairment. 573

(14) Except as otherwise provided in section 4112.021 of 574
the Revised Code, "age" means at least forty years old. 575

(15) "Familial status" means either of the following:	576
(a) One or more individuals who are under eighteen years of age and who are domiciled with a parent or guardian having legal custody of the individual or domiciled, with the written permission of the parent or guardian having legal custody, with a designee of the parent or guardian;	577 578 579 580 581
(b) Any person who is pregnant or in the process of securing legal custody of any individual who is under eighteen years of age.	582 583 584
(16) (a) Except as provided in division (A) (16) (b) of this section, "physical or mental impairment" includes any of the following:	585 586 587
(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine;	588 589 590 591 592 593
(ii) Any mental or psychological disorder, including, but not limited to, intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities;	594 595 596
(iii) Diseases and conditions, including, but not limited to, orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, intellectual disability, emotional illness, drug addiction, and alcoholism.	597 598 599 600 601 602
(b) "Physical or mental impairment" does not include any of the following:	603 604

(i) Homosexuality and bisexuality;	605
(ii) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;	606 607 608 609
(iii) Compulsive gambling, kleptomania, or pyromania;	610
(iv) Psychoactive substance use disorders resulting from the current illegal use of a controlled substance or the current use of alcoholic beverages.	611 612 613
(17) "Dwelling unit" means a single unit of residence for a family of one or more persons.	614 615
(18) "Common use areas" means rooms, spaces, or elements inside or outside a building that are made available for the use of residents of the building or their guests, and includes, but is not limited to, hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas, and passageways among and between buildings.	616 617 618 619 620 621
(19) "Public use areas" means interior or exterior rooms or spaces of a privately or publicly owned building that are made available to the general public.	622 623 624
(20) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.	625 626
(21) "Disabled tenant" means a tenant or prospective tenant who is a person with a disability.	627 628
(22) "Military status" means a person's status in "service in the uniformed services" as defined in section 5923.05 of the Revised Code.	629 630 631

(23) "Aggrieved person" includes both of the following: 632

(a) Any person who claims to have been injured by any 633
unlawful discriminatory practice described in division (H) of 634
section 4112.02 of the Revised Code; 635

(b) Any person who believes that the person will be 636
injured by, any unlawful discriminatory practice described in 637
division (H) of section 4112.02 of the Revised Code that is 638
about to occur. 639

(24) "Domestic worker" means a person employed in a home 640
or residence for the purpose of caring for a child; serving as a 641
companion for a sick, convalescing, or elderly person; or 642
housekeeping; or for any other domestic service purpose. 643
"Domestic worker" does not include any of the following: 644

(a) An individual who is working on a casual basis, as 645
defined in section 4111.14 of the Revised Code; 646

(b) An individual who is engaged in providing 647
companionship services, as defined in 29 C.F.R. 552.6, as 648
amended, and who is employed by an employer or agency other than 649
the family or household for which the individual is providing 650
services; 651

(c) An individual who is a relative through blood, 652
marriage, or adoption of either of the following: 653

(i) The employer; 654

(ii) The person for whom the individual is providing 655
services under a program funded or administered by the federal 656
or state government or a local government. 657

(B) For the purposes of divisions (A) to (F) of section 658
4112.02 of the Revised Code, the terms "because of sex" and "on 659

the basis of sex" include, but are not limited to, because of or 660
on the basis of pregnancy, any illness arising out of and 661
occurring during the course of a pregnancy, childbirth, or 662
related medical conditions. Women affected by pregnancy, 663
childbirth, or related medical conditions shall be treated the 664
same for all employment-related purposes, including receipt of 665
benefits under fringe benefit programs, as other persons not so 666
affected but similar in their ability or inability to work, and 667
nothing in division (B) of section 4111.17 of the Revised Code 668
shall be interpreted to permit otherwise. This division shall 669
not be construed to require an employer to pay for health 670
insurance benefits for abortion, except where the life of the 671
mother would be endangered if the fetus were carried to term or 672
except where medical complications have arisen from the 673
abortion, provided that nothing in this division precludes an 674
employer from providing abortion benefits or otherwise affects 675
bargaining agreements in regard to abortion. 676

Sec. 4112.025. It shall be an unlawful discriminatory 677
practice for an employer to do any of the following: 678

(A) Make unwelcome sexual advances, requests for sexual 679
favours, or engage in other verbal or physical conduct of a 680
sexual nature toward a domestic worker when any of the following 681
apply: 682

(1) The domestic worker's submission to the conduct is 683
made either explicitly or implicitly a term or condition of the 684
domestic worker's employment. 685

(2) The domestic worker's submission to or rejection of 686
the conduct is used as the basis for employment decisions 687
affecting the domestic worker. 688

(3) The conduct is intended to unreasonably interfere, or 689
has the effect of unreasonably interfering, with the domestic 690
worker's work performance by creating an intimidating, hostile, 691
or offensive work environment. 692

(B) Subject a domestic worker to unwelcome harassment 693
based on race, religion, sex, or national origin if the 694
harassment is intended to unreasonably interfere, or has the 695
effect of unreasonably interfering, with the domestic worker's 696
work performance by creating an intimidating, hostile, or 697
offensive working environment. 698

Sec. 4112.05. (A) (1) The commission, as provided in this 699
section, shall prevent any person from engaging in unlawful 700
discriminatory practices. 701

(2) The commission may at any time attempt to resolve 702
allegations of unlawful discriminatory practices by the use of 703
alternative dispute resolution, provided that, before 704
instituting the formal hearing authorized by division (B) of 705
this section, it shall attempt, by informal methods of 706
conference, conciliation, and persuasion, to induce compliance 707
with this chapter. 708

(B) (1) Any person may file a charge with the commission 709
alleging that another person has engaged or is engaging in an 710
unlawful discriminatory practice. In the case of a charge 711
alleging an unlawful discriminatory practice described in 712
division (A), (B), (C), (D), (E), (F), (G), (I), or (J) of 713
section 4112.02 or in section 4112.021 ~~or~~, 4112.022, or 714
4112.025 of the Revised Code, the charge shall be in writing and 715
under oath and shall be filed with the commission within six 716
months after the alleged unlawful discriminatory practice was 717
committed. In the case of a charge alleging an unlawful 718

discriminatory practice described in division (H) of section 719
4112.02 of the Revised Code, the charge shall be in writing and 720
under oath and shall be filed with the commission within one 721
year after the alleged unlawful discriminatory practice was 722
committed. 723

(a) An oath under this chapter may be made in any form of 724
affirmation the person deems binding on the person's conscience. 725
Acceptable forms include, but are not limited to, declarations 726
made under penalty of perjury. 727

(b) Any charge timely received, via facsimile, postal 728
mail, electronic mail, or otherwise, may be signed under oath 729
after the limitations period for filing set forth under division 730
(B) (1) of this section and will relate back to the original 731
filing date. 732

(2) Upon receiving a charge, the commission may initiate a 733
preliminary investigation to determine whether it is probable 734
that an unlawful discriminatory practice has been or is being 735
engaged in. The commission also may conduct, upon its own 736
initiative and independent of the filing of any charges, a 737
preliminary investigation relating to any of the unlawful 738
discriminatory practices described in division (A), (B), (C), 739
(D), (E), (F), (I), or (J) of section 4112.02 or in section 740
4112.021 ~~or~~, 4112.022, or 4112.025 of the Revised Code. Prior 741
to a notification of a complainant under division (B) (4) of this 742
section or prior to the commencement of informal methods of 743
conference, conciliation, and persuasion, or alternative dispute 744
resolution, under that division, the members of the commission 745
and the officers and employees of the commission shall not make 746
public in any manner and shall retain as confidential all 747
information that was obtained as a result of or that otherwise 748

pertains to a preliminary investigation other than one described 749
in division (B) (3) of this section. 750

(3) (a) Unless it is impracticable to do so and subject to 751
its authority under division (B) (3) (d) of this section, the 752
commission shall complete a preliminary investigation of a 753
charge filed pursuant to division (B) (1) of this section that 754
alleges an unlawful discriminatory practice described in 755
division (H) of section 4112.02 of the Revised Code, and shall 756
take one of the following actions, within one hundred days after 757
the filing of the charge: 758

(i) Notify the complainant and the respondent that it is 759
not probable that an unlawful discriminatory practice described 760
in division (H) of section 4112.02 of the Revised Code has been 761
or is being engaged in and that the commission will not issue a 762
complaint in the matter; 763

(ii) Initiate a complaint and schedule it for informal 764
methods of conference, conciliation, and persuasion, or 765
alternative dispute resolution; 766

(iii) Initiate a complaint and refer it to the attorney 767
general with a recommendation to seek a temporary or permanent 768
injunction or a temporary restraining order. If this action is 769
taken, the attorney general shall apply, as expeditiously as 770
possible after receipt of the complaint, to the court of common 771
pleas of the county in which the unlawful discriminatory 772
practice allegedly occurred for the appropriate injunction or 773
order, and the court shall hear and determine the application as 774
expeditiously as possible. 775

(b) If it is not practicable to comply with the 776
requirements of division (B) (3) (a) of this section within the 777

one-hundred-day period described in that division, the 778
commission shall notify the complainant and the respondent in 779
writing of the reasons for the noncompliance. 780

(c) Prior to the issuance of a complaint under division 781
(B) (3) (a) (ii) or (iii) of this section or prior to a 782
notification of the complainant and the respondent under 783
division (B) (3) (a) (i) of this section, the members of the 784
commission and the officers and employees of the commission 785
shall not make public in any manner and shall retain as 786
confidential all information that was obtained as a result of or 787
that otherwise pertains to a preliminary investigation of a 788
charge filed pursuant to division (B) (1) of this section that 789
alleges an unlawful discriminatory practice described in 790
division (H) of section 4112.02 of the Revised Code. 791

(d) Notwithstanding the types of action described in 792
divisions (B) (3) (a) (ii) and (iii) of this section, prior to the 793
issuance of a complaint or the referral of a complaint to the 794
attorney general and prior to endeavoring to eliminate an 795
unlawful discriminatory practice described in division (H) of 796
section 4112.02 of the Revised Code by informal methods of 797
conference, conciliation, and persuasion, or by alternative 798
dispute resolution, the commission may seek a temporary or 799
permanent injunction or a temporary restraining order in the 800
court of common pleas of the county in which the unlawful 801
discriminatory practice allegedly occurred. 802

(4) If the commission determines after a preliminary 803
investigation other than one described in division (B) (3) of 804
this section that it is not probable that an unlawful 805
discriminatory practice has been or is being engaged in, it 806
shall notify any complainant under division (B) (1) of this 807

section that it has so determined and that it will not issue a 808
complaint in the matter. If the commission determines after a 809
preliminary investigation other than the one described in 810
division (B) (3) of this section that it is probable that an 811
unlawful discriminatory practice has been or is being engaged 812
in, it shall endeavor to eliminate the practice by informal 813
methods of conference, conciliation, and persuasion, or by 814
alternative dispute resolution. 815

(5) Nothing said or done during informal methods of 816
conference, conciliation, and persuasion, or during alternative 817
dispute resolution, under this section shall be disclosed by any 818
member of the commission or its staff or be used as evidence in 819
any subsequent hearing or other proceeding. If, after a 820
preliminary investigation and the use of informal methods of 821
conference, conciliation, and persuasion, or alternative dispute 822
resolution, under this section, the commission is satisfied that 823
any unlawful discriminatory practice will be eliminated, it may 824
treat the charge involved as being conciliated and enter that 825
disposition on the records of the commission. If the commission 826
fails to effect the elimination of an unlawful discriminatory 827
practice by informal methods of conference, conciliation, and 828
persuasion, or by alternative dispute resolution under this 829
section and to obtain voluntary compliance with this chapter, 830
the commission shall issue and cause to be served upon any 831
person, including the respondent against whom a complainant has 832
filed a charge pursuant to division (B) (1) of this section, a 833
complaint stating the charges involved and containing a notice 834
of an opportunity for a hearing before the commission, a member 835
of the commission, or a hearing examiner at a place that is 836
stated in the notice and that is located within the county in 837
which the alleged unlawful discriminatory practice has occurred 838

or is occurring or in which the respondent resides or transacts 839
business. The hearing shall be held not less than thirty days 840
after the service of the complaint upon the complainant, the 841
aggrieved persons other than the complainant on whose behalf the 842
complaint is issued, and the respondent, unless the complainant, 843
an aggrieved person, or the respondent elects to proceed under 844
division (A) (2) of section 4112.051 of the Revised Code when 845
that division is applicable. If a complaint pertains to an 846
alleged unlawful discriminatory practice described in division 847
(H) of section 4112.02 of the Revised Code, the complaint shall 848
notify the complainant, an aggrieved person, and the respondent 849
of the right of the complainant, an aggrieved person, or the 850
respondent to elect to proceed with the administrative hearing 851
process under this section or to proceed under division (A) (2) 852
of section 4112.051 of the Revised Code. 853

(6) The attorney general shall represent the commission at 854
any hearing held pursuant to division (B) (5) of this section and 855
shall present the evidence in support of the complaint. 856

(7) Any complaint issued pursuant to division (B) (5) of 857
this section after the filing of a charge under division (B) (1) 858
of this section shall be so issued within one year after the 859
complainant filed the charge with respect to an alleged unlawful 860
discriminatory practice. 861

(C) (1) Any complaint issued pursuant to division (B) of 862
this section may be amended by the commission, a member of the 863
commission, or the hearing examiner conducting a hearing under 864
division (B) of this section. 865

(a) Except as provided in division (C) (1) (b) of this 866
section, a complaint issued pursuant to division (B) of this 867
section may be amended at any time prior to or during the 868

hearing. 869

(b) If a complaint issued pursuant to division (B) of this 870
section alleges an unlawful discriminatory practice described in 871
division (H) of section 4112.02 of the Revised Code, the 872
complaint may be amended at any time up to seven days prior to 873
the hearing and not thereafter. 874

(2) The respondent has the right to file an answer or an 875
amended answer to the original and amended complaints and to 876
appear at the hearing in person, by attorney, or otherwise to 877
examine and cross-examine witnesses. 878

(D) The complainant shall be a party to a hearing under 879
division (B) of this section, and any person who is an 880
indispensable party to a complete determination or settlement of 881
a question involved in the hearing shall be joined. Any 882
aggrieved person who has or claims an interest in the subject of 883
the hearing and in obtaining or preventing relief against the 884
unlawful discriminatory practices complained of shall be 885
permitted to appear only for the presentation of oral or written 886
arguments, to present evidence, perform direct and cross- 887
examination, and be represented by counsel. The commission shall 888
adopt rules, in accordance with Chapter 119. of the Revised Code 889
governing the authority granted under this division. 890

(E) In any hearing under division (B) of this section, the 891
commission, a member of the commission, or the hearing examiner 892
shall not be bound by the Rules of Evidence but, in ascertaining 893
the practices followed by the respondent, shall take into 894
account all reliable, probative, and substantial statistical or 895
other evidence produced at the hearing that may tend to prove 896
the existence of a predetermined pattern of employment or 897
membership, provided that nothing contained in this section 898

shall be construed to authorize or require any person to observe 899
the proportion that persons of any race, color, religion, sex, 900
military status, familial status, national origin, disability, 901
age, or ancestry bear to the total population or in accordance 902
with any criterion other than the individual qualifications of 903
the applicant. 904

(F) The testimony taken at a hearing under division (B) of 905
this section shall be under oath and shall be reduced to writing 906
and filed with the commission. Thereafter, in its discretion, 907
the commission, upon the service of a notice upon the 908
complainant and the respondent that indicates an opportunity to 909
be present, may take further testimony or hear argument. 910

(G) (1) (a) If, upon all reliable, probative, and 911
substantial evidence presented at a hearing under division (B) 912
of this section, the commission determines that the respondent 913
has engaged in, or is engaging in, any unlawful discriminatory 914
practice, whether against the complainant or others, the 915
commission shall state its findings of fact and conclusions of 916
law and shall issue and, subject to the provisions of Chapter 917
119. of the Revised Code, cause to be served on the respondent 918
an order requiring the respondent to do all of the following: 919

(1) Cease and desist from the unlawful discriminatory 920
practice; 921

(ii) Take any further affirmative or other action that 922
will effectuate the purposes of this chapter, including, but not 923
limited to, hiring, reinstatement, or upgrading of employees or 924
domestic workers with or without back pay, or admission or 925
restoration to union membership; 926

(iii) Report to the commission the manner of compliance. 927

If the commission directs payment of back pay, it shall 928
make allowance for interim earnings. 929

(b) If the commission finds a violation of division (H) of 930
section 4112.02 of the Revised Code, in addition to the action 931
described in division (G) (1) (a) of this section, the commission 932
additionally may require the respondent to undergo 933
recommendation in the form of a class, seminar, or any other 934
type of remediation approved by the commission, may require the 935
respondent to pay actual damages and reasonable attorney's fees, 936
and may, vindicate the public interest, assess a civil penalty 937
against the respondent as follows: 938

(i) If division (G) (1) (b) (ii) or (iii) of this section 939
does not apply, a civil penalty in an amount not to exceed ten 940
thousand dollars; 941

(ii) If division (G) (1) (b) (iii) of this section does not 942
apply and if the respondent has been determined by a final order 943
of the commission or by a final judgment of a court to have 944
committed one violation of division (H) of section 4112.02 of 945
the Revised Code during the five-year period immediately 946
preceding the date on which a complaint was issued pursuant to 947
division (B) of this section, a civil penalty in an amount not 948
to exceed twenty-five thousand dollars; 949

(iii) If the respondent has been determined by a final 950
order of the commission or by a final judgment of a court to 951
have committed two or more violations of division (H) of section 952
4112.02 of the Revised Code during the seven-year period 953
immediately preceding the date on which a complaint was issued 954
pursuant to division (B) of this section, a civil penalty 955
damages in an amount not to exceed fifty thousand dollars. 956

(2) Upon the submission of reports of compliance, the 957
commission may issue a declaratory order stating that the 958
respondent has ceased to engage in particular unlawful 959
discriminatory practices. 960

(H) If the commission finds that no probable cause exists 961
for crediting charges of unlawful discriminatory practices or 962
if, upon all the evidence presented at a hearing under division 963
(B) of this section on a charge, the commission finds that a 964
respondent has not engaged in any unlawful discriminatory 965
practice against the complainant or others, it shall state its 966
findings of fact and shall issue and cause to be served on the 967
complainant an order dismissing the complaint as to the 968
respondent. A copy of the order shall be delivered in all cases 969
to the attorney general and any other public officers whom the 970
commission considers proper. 971

If, upon all the evidence presented at a hearing under 972
division (B) of this section on a charge, the commission finds 973
that a respondent has not engaged in any unlawful discriminatory 974
practice against the complainant or others, it may award to the 975
respondent reasonable attorney's fees to the extent provided in 976
5 U.S.C. 504 and accompanying regulations. 977

(I) Until the time period for appeal set forth in division 978
(H) of section 4112.06 of the Revised Code expires, the 979
commission, subject to the provisions of Chapter 119. of the 980
Revised Code, at any time, upon reasonable notice, and in the 981
manner it considers proper, may modify or set aside, in whole or 982
in part, any finding or order made by it under this section. 983

Section 2. That existing sections 4111.02, 4111.08, 984
4111.10, 4111.13, 4111.14, 4111.99, 4112.01, and 4112.05 of the 985
Revised Code are hereby repealed. 986

Section 3. The Director of Commerce shall prepare a report 987
on the feasibility and practicality of allowing domestic workers 988
to organize for purposes of collective bargaining. In preparing 989
the report, the Director shall consult with representatives of 990
domestic workers and individuals and agencies that employ 991
domestic workers, and with relevant state agencies including the 992
State Employment Relations Board. Upon completion of the report, 993
and before December 1, 2018, the Director shall submit the 994
report to the Governor, the Speaker of the House of 995
Representatives, and the President of the Senate. 996