

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 93

Senator Maharath

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 regarding wages, 4
overtime, and other matters related to the 5
employment of domestic workers. 6

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

Section 1. That sections 4111.02, 4111.08, 4111.10, 7
4111.13, 4111.14, 4111.99, 4112.01, and 4112.05 be amended and 8
sections 4111.021, 4111.031, and 4112.025 of the Revised Code be 9
enacted to read as follows: 10

Sec. 4111.02. ~~Every~~ Except as provided in section 4111.021 11
of the Revised Code, every employer, as defined in Section 34a 12
of Article II, Ohio Constitution, shall pay each of the 13
employer's employees at a wage rate of not less than the wage 14
rate specified in Section 34a of Article II, Ohio Constitution. 15

The director of commerce annually shall adjust the wage 16
rate as specified in Section 34a of Article II, Ohio 17
Constitution. 18

No political subdivision shall establish a minimum wage 19

rate different from the wage rate required under this section. 20

As used in this section, "employee" has the same meaning 21
as in section 4111.14 of the Revised Code. 22

Sec. 4111.021. (A) As used in this section: 23

(1) "Domestic worker" has the same meaning as in section 24
4112.01 of the Revised Code. 25

(2) "Employer" means any person employing a domestic 26
worker. 27

(B) Every employer shall pay each of the employer's 28
domestic workers at a wage rate that is not less than the higher 29
of the following: 30

(1) The highest wage rate calculated by the director of 31
commerce in accordance with Section 34a of Article II, Ohio 32
Constitution, and section 4111.02 of the Revised Code; 33

(2) The hourly basic minimum wage specified in section 34
206(a)(1) of the "Fair Labor Standards Act of 1938," 29 U.S.C. 35
206(a)(1), as amended. 36

Sec. 4111.031. (A) As used in this section: 37

(1) "Domestic worker" has the same meaning as in section 38
4112.01 of the Revised Code. 39

(2) "Employer" means any person employing a domestic 40
worker. 41

(B) No domestic worker shall be required to work more than 42
eight hours in a day for an employer. A domestic worker may work 43
for more than eight hours in a day if the domestic worker agrees 44
to work and is paid at an increased rate agreed on by the 45
employer and the domestic worker for any amount of time worked 46

in that day in excess of eight hours. 47

(C) No domestic worker shall be required to work more than 48
forty hours in any week, or forty-four hours in a week if the 49
domestic worker resides in the home of the domestic worker's 50
employer, unless the domestic worker's employer compensates the 51
domestic worker at a rate that is at least one and one-half 52
times the worker's normal wage rate for any additional hours of 53
work in excess of forty hours or forty-four hours, as 54
applicable. 55

(D) Every domestic worker shall be allowed at least 56
twenty-four consecutive hours of rest every calendar week. 57
During that period of rest the domestic worker shall not be 58
required to work for the employer. This rest period shall, 59
whenever possible, coincide with the traditional day reserved by 60
the domestic worker for religious worship. Except as provided in 61
division (E) of this section, a domestic worker's employer shall 62
not be required to pay the domestic worker for a period of rest 63
described in this section. 64

(E) In addition to the rest period required by division 65
(D) of this section, a domestic worker who has worked for the 66
domestic worker's employer for more than a year shall be 67
entitled to at least three days of rest in each calendar year 68
for which the domestic worker shall be compensated by the 69
employer at the domestic worker's normal wage rate. 70

(F) Nothing in division (D) of this section shall be 71
construed to prohibit a domestic worker from agreeing to work 72
during the domestic worker's rest period as described in that 73
division, provided that the worker receives compensation for the 74
work at a rate of at least one and one-half times the domestic 75
worker's normal wage rate. 76

Sec. 4111.08. Every employer subject to section 4111.03 of 77
the Revised Code with respect to employees, and every employer 78
subject to section 4111.031 of the Revised Code with respect to 79
domestic workers, or to any rule adopted ~~thereunder~~ under those 80
sections, shall make and keep for a period of not less than 81
three years a record of the name, address, and occupation of 82
each of the employer's employees or domestic workers, the rate 83
of pay and the amount paid each pay period to each employee or 84
domestic worker, the hours worked each day and each work week by 85
the employee or domestic worker, and other information as the 86
director of commerce prescribes by rule as necessary or 87
appropriate for the enforcement of ~~section~~ sections 4111.03 and 88
4111.031 of the Revised Code, or of the rules thereunder. 89
Records may be opened for inspection or copying by the director 90
at any reasonable time. 91

Sec. 4111.10. (A) Any employer who pays any employee less 92
than wages to which the employee is entitled under section 93
4111.03 of the Revised Code, and any employer who pays a 94
domestic worker less than wages to which the domestic worker is 95
entitled under section 4111.031 of the Revised Code, is liable 96
to the employee or domestic worker affected for the full amount 97
of the overtime wage rate, less any amount actually paid to the 98
employee or domestic worker by the employer, and for costs and 99
reasonable attorney's fees as may be allowed by the court. Any 100
agreement between the employee or domestic worker and ~~the~~ an 101
employer to work for less than the overtime wage rate is no 102
defense to an action. 103

(B) At the written request of any employee or domestic 104
worker paid less than the wages to which the employee or 105
domestic worker is entitled under section 4111.03 or 4111.031 of 106
the Revised Code, respectively, the director of commerce may 107

take an assignment of a wage claim in trust for the assigning 108
employee or domestic worker and may bring any legal action 109
necessary to collect the claim. The employer shall pay the costs 110
and reasonable attorney's fees allowed by the court. 111

Sec. 4111.13. (A) No employer shall ~~hinder~~ do any of the 112
following: 113

(1) Hinder or delay the director of commerce in the 114
performance of the director's duties in the enforcement of 115
sections 4111.01 to 4111.17 of the Revised Code, or refuse to 116
admit the director to any place of employment, or fail to make, 117
keep, and preserve any records as required under those sections, 118
or falsify any of those records, or refuse to make them 119
accessible to the director upon demand, or refuse to furnish 120
them or any other information required for the proper 121
enforcement of those sections to the director upon demand, or 122
fail to post a summary of those sections or a copy of any 123
applicable rules as required by section 4111.09 of the Revised 124
Code. Each day of violation constitutes a separate offense. 125

~~(B) No employer shall discharge~~ (2) Discharge or in any 126
other manner discriminate against any employee or domestic 127
worker because the employee or domestic worker has made any 128
complaint to the ~~employee's~~ employer, or to the director, that 129
the employee or domestic worker has not been paid wages in 130
accordance with sections 4111.01 to 4111.17 of the Revised Code, 131
or because the employee or domestic worker has made any 132
complaint or is about to cause to be instituted any proceeding 133
under or related to those sections, or because the employee or 134
domestic worker has testified or is about to testify in any 135
proceeding. 136

~~(C) No employer shall pay~~ (3) Pay or agree to pay wages at 137

a rate less than the rate applicable under sections 4111.01 to 138
4111.17 of the Revised Code. Each week or portion thereof for 139
which the employer pays any employee or domestic worker less 140
than the rate applicable under those sections constitutes a 141
separate offense as to each employer. 142

~~(D) No employer shall otherwise~~ (4) Otherwise violate 143
sections 4111.01 to 4111.17 of the Revised Code, or any rule 144
adopted thereunder. Each day of violation constitutes a separate 145
offense. 146

(B) The culpability sufficient to commit a violation of 147
division (A) of this section is as follows: 148

(1) Negligence if the violation involves a domestic 149
worker; 150

(2) Reckless if the violation involves an employee. 151

Sec. 4111.14. (A) Pursuant to the general assembly's 152
authority to establish a minimum wage under Section 34 of 153
Article II, Ohio Constitution, this section is in implementation 154
of Section 34a of Article II, Ohio Constitution. In implementing 155
Section 34a of Article II, Ohio Constitution, the general 156
assembly hereby finds that the purpose of Section 34a of Article 157
II, Ohio Constitution, is to: 158

(1) Ensure that Ohio employees, as defined in division (B) 159
(1) of this section, are paid the wage rate required by Section 160
34a of Article II, Ohio Constitution; 161

(2) Ensure that covered Ohio employers maintain certain 162
records that are directly related to the enforcement of the wage 163
rate requirements in Section 34a of Article II, Ohio 164
Constitution; 165

(3) Ensure that Ohio employees who are paid the wage rate 166
required by Section 34a of Article II, Ohio Constitution, may 167
enforce their right to receive that wage rate in the manner set 168
forth in Section 34a of Article II, Ohio Constitution; and 169

(4) Protect the privacy of Ohio employees' pay and 170
personal information specified in Section 34a of Article II, 171
Ohio Constitution, by restricting an employee's access, and 172
access by a person acting on behalf of that employee, to the 173
employee's own pay and personal information. 174

(B) In accordance with Section 34a of Article II, Ohio 175
Constitution, the terms "employer," "employee," "employ," 176
"person," and "independent contractor" have the same meanings as 177
in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 178
U.S.C. 203, as amended. In construing the meaning of these 179
terms, due consideration and great weight shall be given to the 180
United States department of labor's and federal courts' 181
interpretations of those terms under the Fair Labor Standards 182
Act and its regulations. As used in division (B) of this 183
section: 184

(1) "Employee" means individuals employed in Ohio, but 185
does not mean individuals who are excluded from the definition 186
of "employee" under 29 U.S.C. 203(e) or individuals who are 187
exempted from the minimum wage requirements in 29 U.S.C. 213 and 188
from the definition of "employee" in this chapter. 189

(2) "Employ" and "employee" do not include any person 190
acting as a volunteer. In construing who is a volunteer, 191
"volunteer" shall have the same meaning as in sections 553.101 192
to 553.106 of Title 29 of the Code of Federal Regulations, as 193
amended, and due consideration and great weight shall be given 194
to the United States department of labor's and federal courts' 195

interpretations of the term "volunteer" under the Fair Labor Standards Act and its regulations. 196
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(3) "Employer" includes any person employing a domestic worker as defined in section 4112.01 of the Revised Code. 198
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"Employer" does not include a franchisor with respect to the franchisor's relationship with a franchisee or an employee of a franchisee, unless the franchisor agrees to assume that role in writing or a court of competent jurisdiction determines that the franchisor exercises a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademark, brand, or both. For purposes of this division, "franchisor" and "franchisee" have the same meanings as in 16 C.F.R. 436.1. 200
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(C) In accordance with Section 34a of Article II, Ohio Constitution, the state may issue licenses to employers authorizing payment of a wage below that required by Section 34a of Article II, Ohio Constitution, to individuals with mental or physical disabilities that may otherwise adversely affect their opportunity for employment. In issuing such licenses, the state shall abide by the rules adopted pursuant to section 4111.06 of the Revised Code. 210
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(D) (1) In accordance with Section 34a of Article II, Ohio Constitution, individuals employed in or about the property of an employer or an individual's residence on a casual basis are not included within the coverage of Section 34a of Article II, Ohio Constitution. As used in division (D) of this section: 218
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(a) "Casual basis" means employment that is irregular or intermittent and that is not performed by an individual whose vocation is to be employed in or about the property of the 223
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employer or individual's residence. In construing who is 226
employed on a "casual basis," due consideration and great weight 227
shall be given to the United States department of labor's and 228
federal courts' interpretations of the term "casual basis" under 229
the Fair Labor Standards Act and its regulations. 230

(b) "An individual employed in or about the property of an 231
employer or individual's residence" means an individual employed 232
on a casual basis or an individual employed in or about a 233
residence on a casual basis, respectively. 234

(2) In accordance with Section 34a of Article II, Ohio 235
Constitution, employees of a solely family-owned and operated 236
business who are family members of an owner are not included 237
within the coverage of Section 34a of Article II, Ohio 238
Constitution. As used in division (D) (2) of this section, 239
"family member" means a parent, spouse, child, stepchild, 240
sibling, grandparent, grandchild, or other member of an owner's 241
immediate family. 242

(E) In accordance with Section 34a of Article II, Ohio 243
Constitution, an employer shall at the time of hire provide an 244
employee with the employer's name, address, telephone number, 245
and other contact information and update such information when 246
it changes. As used in division (E) of this section: 247

(1) "Other contact information" may include, where 248
applicable, the address of the employer's internet site on the 249
world wide web, the employer's electronic mail address, fax 250
number, or the name, address, and telephone number of the 251
employer's statutory agent. "Other contact information" does not 252
include the name, address, telephone number, fax number, 253
internet site address, or electronic mail address of any 254
employee, shareholder, officer, director, supervisor, manager, 255

or other individual employed by or associated with an employer. 256

(2) "When it changes" means that the employer shall 257
provide its employees with the change in its name, address, 258
telephone number, or other contact information within sixty 259
business days after the change occurs. The employer shall 260
provide the changed information by using any of its usual 261
methods of communicating with its employees, including, but not 262
limited to, listing the change on the employer's internet site 263
on the world wide web, internal computer network, or a bulletin 264
board where it commonly posts employee communications or by 265
insertion or inclusion with employees' paychecks or pay stubs. 266

(F) In accordance with Section 34a of Article II, Ohio 267
Constitution, an employer shall maintain a record of the name, 268
address, occupation, pay rate, hours worked for each day worked, 269
and each amount paid an employee for a period of not less than 270
three years following the last date the employee was employed by 271
that employer. As used in division (F) of this section: 272

(1) "Address" means an employee's home address as 273
maintained in the employer's personnel file or personnel 274
database for that employee. 275

(2) (a) With respect to employees who are not exempt from 276
the overtime pay requirements of the Fair Labor Standards Act or 277
this chapter, "pay rate" means an employee's base rate of pay. 278

(b) With respect to employees who are exempt from the 279
overtime pay requirements of the Fair Labor Standards Act or 280
this chapter, "pay rate" means an employee's annual base salary 281
or other rate of pay by which the particular employee qualifies 282
for that exemption under the Fair Labor Standards Act or this 283
chapter, but does not include bonuses, stock options, 284

incentives, deferred compensation, or any other similar form of 285
compensation. 286

(3) "Record" means the name, address, occupation, pay 287
rate, hours worked for each day worked, and each amount paid an 288
employee in one or more documents, databases, or other paper or 289
electronic forms of record-keeping maintained by an employer. No 290
one particular method or form of maintaining such a record or 291
records is required under this division. An employer is not 292
required to create or maintain a single record containing only 293
the employee's name, address, occupation, pay rate, hours worked 294
for each day worked, and each amount paid an employee. An 295
employer shall maintain a record or records from which the 296
employee or person acting on behalf of that employee could 297
reasonably review the information requested by the employee or 298
person. 299

An employer is not required to maintain the records 300
specified in division (F) (3) of this section for any period 301
before January 1, 2007. On and after January 1, 2007, the 302
employer shall maintain the records required by division (F) (3) 303
of this section for three years from the date the hours were 304
worked by the employee and for three years after the date the 305
employee's employment ends. 306

(4) (a) Except for individuals specified in division (F) (4) 307
(b) of this section, "hours worked for each day worked" means 308
the total amount of time worked by an employee in whatever 309
increments the employer uses for its payroll purposes during a 310
day worked by the employee. An employer is not required to keep 311
a record of the time of day an employee begins and ends work on 312
any given day. As used in division (F) (4) of this section, "day" 313
means a fixed period of twenty-four consecutive hours during 314

which an employee performs work for an employer. 315

(b) An employer is not required to keep records of "hours 316
worked for each day worked" for individuals for whom the 317
employer is not required to keep those records under the Fair 318
Labor Standards Act and its regulations or individuals who are 319
not subject to the overtime pay requirements specified in 320
~~section~~ sections 4111.03 and 4111.031 of the Revised Code. 321

(5) "Each amount paid an employee" means the total gross 322
wages paid to an employee for each pay period. As used in 323
division (F) (5) of this section, "pay period" means the period 324
of time designated by an employer to pay an employee the 325
employee's gross wages in accordance with the employer's payroll 326
practices under section 4113.15 of the Revised Code. 327

(G) In accordance with Section 34a of Article II, Ohio 328
Constitution, an employer must provide such information without 329
charge to an employee or person acting on behalf of an employee 330
upon request. As used in division (G) of this section: 331

(1) "Such information" means the name, address, 332
occupation, pay rate, hours worked for each day worked, and each 333
amount paid for the specific employee who has requested that 334
specific employee's own information and does not include the 335
name, address, occupation, pay rate, hours worked for each day 336
worked, or each amount paid of any other employee of the 337
employer. "Such information" does not include hours worked for 338
each day worked by individuals for whom an employer is not 339
required to keep that information under the Fair Labor Standards 340
Act and its regulations or individuals who are not subject to 341
the overtime pay requirements specified in ~~section~~ sections 342
4111.03 and 4111.031 of the Revised Code. 343

(2) "Acting on behalf of an employee" means a person	344
acting on behalf of an employee as any of the following:	345
(a) The certified or legally recognized collective	346
bargaining representative for that employee under the applicable	347
federal law or Chapter 4117. of the Revised Code;	348
(b) The employee's attorney;	349
(c) The employee's parent, guardian, or legal custodian.	350
A person "acting on behalf of an employee" must be	351
specifically authorized by an employee in order to make a	352
request for that employee's own name, address, occupation, pay	353
rate, hours worked for each day worked, and each amount paid to	354
that employee.	355
(3) "Provide" means that an employer shall provide the	356
requested information within thirty business days after the date	357
the employer receives the request, unless either of the	358
following occurs:	359
(a) The employer and the employee or person acting on	360
behalf of the employee agree to some alternative time period for	361
providing the information.	362
(b) The thirty-day period would cause a hardship on the	363
employer under the circumstances, in which case the employer	364
must provide the requested information as soon as practicable.	365
(4) A "request" made by an employee or a person acting on	366
behalf of an employee means a request by an employee or a person	367
acting on behalf of an employee for the employee's own	368
information. The employer may require that the employee provide	369
the employer with a written request that has been signed by the	370
employee and notarized and that reasonably specifies the	371

particular information being requested. The employer may require 372
that the person acting on behalf of an employee provide the 373
employer with a written request that has been signed by the 374
employee whose information is being requested and notarized and 375
that reasonably specifies the particular information being 376
requested. 377

(H) In accordance with Section 34a of Article II, Ohio 378
Constitution, an employee, person acting on behalf of one or 379
more employees, and any other interested party may file a 380
complaint with the state for a violation of any provision of 381
Section 34a of Article II, Ohio Constitution, or any law or 382
regulation implementing its provisions. Such complaint shall be 383
promptly investigated and resolved by the state. The employee's 384
name shall be kept confidential unless disclosure is necessary 385
to resolution of a complaint and the employee consents to 386
disclosure. As used in division (H) of this section: 387

(1) "Complaint" means a complaint of an alleged violation 388
pertaining to harm suffered by the employee filing the 389
complaint, by a person acting on behalf of one or more 390
employees, or by an interested party. 391

(2) "Acting on behalf of one or more employees" has the 392
same meaning as "acting on behalf of an employee" in division 393
(G) (2) of this section. Each employee must provide a separate 394
written and notarized authorization before the person acting on 395
that employee's or those employees' behalf may request the name, 396
address, occupation, pay rate, hours worked for each day worked, 397
and each amount paid for the particular employee. 398

(3) "Interested party" means a party who alleges to be 399
injured by the alleged violation and who has standing to file a 400
complaint under common law principles of standing. 401

(4) "Resolved by the state" means that the complaint has 402
been resolved to the satisfaction of the state. 403

(5) "Shall be kept confidential" means that the state 404
shall keep the name of the employee confidential as required by 405
division (H) of this section. 406

(I) In accordance with Section 34a of Article II, Ohio 407
Constitution, the state may on its own initiative investigate an 408
employer's compliance with Section 34a of Article II, Ohio 409
Constitution, and any law or regulation implementing Section 34a 410
of Article II, Ohio Constitution. The employer shall make 411
available to the state any records related to such investigation 412
and other information required for enforcement of Section 34a of 413
Article II, Ohio Constitution or any law or regulation 414
implementing Section 34a of Article II, Ohio Constitution. The 415
state shall investigate an employer's compliance with this 416
section in accordance with the procedures described in section 417
4111.04 of the Revised Code. All records and information related 418
to investigations by the state are confidential and are not a 419
public record subject to section 149.43 of the Revised Code. 420
This division does not prevent the state from releasing to or 421
exchanging with other state and federal wage and hour regulatory 422
authorities information related to investigations. 423

(J) In accordance with Section 34a of Article II, Ohio 424
Constitution, damages shall be calculated as an additional two 425
times the amount of the back wages and in the case of a 426
violation of an anti-retaliation provision an amount set by the 427
state or court sufficient to compensate the employee and deter 428
future violations, but not less than one hundred fifty dollars 429
for each day that the violation continued. The "not less than 430
one hundred fifty dollar" penalty specified in division (J) of 431

this section shall be imposed only for violations of the anti- 432
retaliation provision in Section 34a of Article II, Ohio 433
Constitution. 434

(K) In accordance with Section 34a of Article II, Ohio 435
Constitution, an action for equitable and monetary relief may be 436
brought against an employer by the attorney general and/or an 437
employee or person acting on behalf of an employee or all 438
similarly situated employees in any court of competent 439
jurisdiction, including the court of common pleas of an 440
employee's county of residence, for any violation of Section 34a 441
of Article II, Ohio Constitution, or any law or regulation 442
implementing its provisions within three years of the violation 443
or of when the violation ceased if it was of a continuing 444
nature, or within one year after notification to the employee of 445
final disposition by the state of a complaint for the same 446
violation, whichever is later. 447

(1) As used in division (K) of this section, 448
"notification" means the date on which the notice was sent to 449
the employee by the state. 450

(2) No employee shall join as a party plaintiff in any 451
civil action that is brought under division (K) of this section 452
by an employee, person acting on behalf of an employee, or 453
person acting on behalf of all similarly situated employees 454
unless that employee first gives written consent to become such 455
a party plaintiff and that consent is filed with the court in 456
which the action is brought. 457

(3) A civil action regarding an alleged violation of this 458
section shall be maintained only under division (K) of this 459
section. This division does not preclude the joinder in a single 460
civil action of an action under this division and an action 461

under section 4111.10 of the Revised Code. 462

(4) Any agreement between an employee and employer to work 463
for less than the wage rate specified in Section 34a of Article 464
II, Ohio Constitution, is no defense to an action under this 465
section. 466

(L) In accordance with Section 34a of Article II, Ohio 467
Constitution, there shall be no exhaustion requirement, no 468
procedural, pleading, or burden of proof requirements beyond 469
those that apply generally to civil suits in order to maintain 470
such action and no liability for costs or attorney's fees on an 471
employee except upon a finding that such action was frivolous in 472
accordance with the same standards that apply generally in civil 473
suits. Nothing in division (L) of this section affects the right 474
of an employer and employee to agree to submit a dispute under 475
this section to alternative dispute resolution, including, but 476
not limited to, arbitration, in lieu of maintaining the civil 477
suit specified in division (K) of this section. Nothing in this 478
division limits the state's ability to investigate or enforce 479
this section. 480

(M) An employer who provides such information specified in 481
Section 34a of Article II, Ohio Constitution, shall be immune 482
from any civil liability for injury, death, or loss to person or 483
property that otherwise might be incurred or imposed as a result 484
of providing that information to an employee or person acting on 485
behalf of an employee in response to a request by the employee 486
or person, and the employer shall not be subject to the 487
provisions of Chapters 1347. and 1349. of the Revised Code to 488
the extent that such provisions would otherwise apply. As used 489
in division (M) of this section, "such information," "acting on 490
behalf of an employee," and "request" have the same meanings as 491

in division (G) of this section.	492
(N) As used in this section, "the state" means the director of commerce.	493 494
Sec. 4111.99. (A) Whoever violates division (A) <u>(1)</u> or (D) <u>(4)</u> of section 4111.13 of the Revised Code is guilty of a misdemeanor of the fourth degree.	495 496 497
(B) Whoever violates division (B) <u>(A) (2)</u> or (C) <u>(3)</u> of section 4111.13 of the Revised Code is guilty of a misdemeanor of the third degree.	498 499 500
(C) Whoever violates section 4111.17 of the Revised Code is guilty of a minor misdemeanor.	501 502
Sec. 4112.01. (A) As used in this chapter:	503
(1) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and other organized groups of persons. "Person" also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesperson, appraiser, agent, employee, lending institution, and the state and all political subdivisions, authorities, agencies, boards, and commissions of the state.	504 505 506 507 508 509 510 511 512
(2) "Employer" includes the state, any political subdivision of the state, any person employing four or more persons within the state, <u>any person employing a domestic worker, for purposes of section 4112.025 of the Revised Code,</u> and any person acting directly or indirectly in the interest of an employer.	513 514 515 516 517 518
(3) "Employee" means an individual employed by any	519

employer but does not include, except for purposes of section 4112.025 of the Revised Code, any individual employed in the domestic service of any person.

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

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

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

(7) "Discriminate" includes segregate or separate.

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

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

(10) "Housing accommodations" includes any building or structure, or portion of a building or structure, that is used or occupied or is intended, arranged, or designed to be used or occupied as the home residence, dwelling, dwelling unit, or sleeping place of one or more individuals, groups, or families

whether or not living independently of each other; and any 549
vacant land offered for sale or lease. "Housing accommodations" 550
also includes any housing accommodations held or offered for 551
sale or rent by a real estate broker, salesperson, or agent, by 552
any other person pursuant to authorization of the owner, by the 553
owner, or by the owner's legal representative. 554

(11) "Restrictive covenant" means any specification 555
limiting the transfer, rental, lease, or other use of any 556
housing accommodations because of race, color, religion, sex, 557
military status, familial status, national origin, disability, 558
or ancestry, or any limitation based upon affiliation with or 559
approval by any person, directly or indirectly, employing race, 560
color, religion, sex, military status, familial status, national 561
origin, disability, or ancestry as a condition of affiliation or 562
approval. 563

(12) "Burial lot" means any lot for the burial of deceased 564
persons within any public burial ground or cemetery, including, 565
but not limited to, cemeteries owned and operated by municipal 566
corporations, townships, or companies or associations 567
incorporated for cemetery purposes. 568

(13) "Disability" means a physical or mental impairment 569
that substantially limits one or more major life activities, 570
including the functions of caring for one's self, performing 571
manual tasks, walking, seeing, hearing, speaking, breathing, 572
learning, and working; a record of a physical or mental 573
impairment; or being regarded as having a physical or mental 574
impairment. 575

(14) Except as otherwise provided in section 4112.021 of 576
the Revised Code, "age" means at least forty years old. 577

(15) "Familial status" means either of the following:	578
(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;	579 580 581 582 583
(b) Any person who is pregnant or in the process of securing legal custody of any individual who is under eighteen years of age.	584 585 586
(16) (a) Except as provided in division (A) (16) (b) of this section, "physical or mental impairment" includes any of the following:	587 588 589
(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;	590 591 592 593 594 595
(ii) Any mental or psychological disorder, including, but not limited to, intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities;	596 597 598
(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.	599 600 601 602 603 604
(b) "Physical or mental impairment" does not include any of the following:	605 606

(i) Homosexuality and bisexuality;	607
(ii) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;	608 609 610 611
(iii) Compulsive gambling, kleptomania, or pyromania;	612
(iv) Psychoactive substance use disorders resulting from the current illegal use of a controlled substance or the current use of alcoholic beverages.	613 614 615
(17) "Dwelling unit" means a single unit of residence for a family of one or more persons.	616 617
(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.	618 619 620 621 622 623
(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.	624 625 626
(20) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.	627 628
(21) "Disabled tenant" means a tenant or prospective tenant who is a person with a disability.	629 630
(22) "Military status" means a person's status in "service in the uniformed services" as defined in section 5923.05 of the Revised Code.	631 632 633

(23) "Aggrieved person" includes both of the following: 634

(a) Any person who claims to have been injured by any 635
unlawful discriminatory practice described in division (H) of 636
section 4112.02 of the Revised Code; 637

(b) Any person who believes that the person will be 638
injured by, any unlawful discriminatory practice described in 639
division (H) of section 4112.02 of the Revised Code that is 640
about to occur. 641

(24) "Domestic worker" means a person employed in a home 642
or residence for the purpose of caring for a child; serving as a 643
companion for a sick, convalescing, or elderly person; or 644
housekeeping; or for any other domestic service purpose. 645
"Domestic worker" does not include any of the following: 646

(a) An individual who is working on a casual basis, as 647
defined in section 4111.14 of the Revised Code; 648

(b) An individual who is engaged in providing 649
companionship services, as defined in 29 C.F.R. 552.6, and who 650
is employed by an employer or agency other than the family or 651
household for which the individual is providing services; 652

(c) An individual who is a relative through blood, 653
marriage, or adoption of either of the following: 654

(i) The employer; 655

(ii) The person for whom the individual is providing 656
services under a program funded or administered by the federal 657
or state government or a local government. 658

(B) For the purposes of divisions (A) to (F) of section 659
4112.02 of the Revised Code, the terms "because of sex" and "on 660
the basis of sex" include, but are not limited to, because of or 661

on the basis of pregnancy, any illness arising out of and 662
occurring during the course of a pregnancy, childbirth, or 663
related medical conditions. Women affected by pregnancy, 664
childbirth, or related medical conditions shall be treated the 665
same for all employment-related purposes, including receipt of 666
benefits under fringe benefit programs, as other persons not so 667
affected but similar in their ability or inability to work, and 668
nothing in division (B) of section 4111.17 of the Revised Code 669
shall be interpreted to permit otherwise. This division shall 670
not be construed to require an employer to pay for health 671
insurance benefits for abortion, except where the life of the 672
mother would be endangered if the fetus were carried to term or 673
except where medical complications have arisen from the 674
abortion, provided that nothing in this division precludes an 675
employer from providing abortion benefits or otherwise affects 676
bargaining agreements in regard to abortion. 677

Sec. 4112.025. It shall be an unlawful discriminatory 678
practice for an employer to do any of the following: 679

(A) Make unwelcome sexual advances, requests for sexual 680
favours, or engage in other verbal or physical conduct of a 681
sexual nature toward a domestic worker when any of the following 682
apply: 683

(1) The domestic worker's submission to the conduct is 684
made either explicitly or implicitly a term or condition of the 685
domestic worker's employment. 686

(2) The domestic worker's submission to or rejection of 687
the conduct is used as the basis for employment decisions 688
affecting the domestic worker. 689

(3) The conduct is intended to unreasonably interfere, or 690

has the effect of unreasonably interfering, with the domestic 691
worker's work performance by creating an intimidating, hostile, 692
or offensive work environment. 693

(B) Subject a domestic worker to unwelcome harassment 694
based on race, religion, sex, or national origin if the 695
harassment is intended to unreasonably interfere, or has the 696
effect of unreasonably interfering, with the domestic worker's 697
work performance by creating an intimidating, hostile, or 698
offensive working environment. 699

Sec. 4112.05. (A) (1) The commission, as provided in this 700
section, shall prevent any person from engaging in unlawful 701
discriminatory practices. 702

(2) The commission may at any time attempt to resolve 703
allegations of unlawful discriminatory practices by the use of 704
alternative dispute resolution, provided that, before 705
instituting the formal hearing authorized by division (B) of 706
this section, it shall attempt, by informal methods of 707
conference, conciliation, and persuasion, to induce compliance 708
with this chapter. 709

(B) (1) Any person may file a charge with the commission 710
alleging that another person has engaged or is engaging in an 711
unlawful discriminatory practice. In the case of a charge 712
alleging an unlawful discriminatory practice described in 713
division (A), (B), (C), (D), (E), (F), (G), (I), or (J) of 714
section 4112.02 or in section 4112.021 ~~or~~, 4112.022, or 715
4112.025 of the Revised Code, the charge shall be in writing and 716
under oath and shall be filed with the commission within six 717
months after the alleged unlawful discriminatory practice was 718
committed. In the case of a charge alleging an unlawful 719
discriminatory practice described in division (H) of section 720

4112.02 of the Revised Code, the charge shall be in writing and 721
under oath and shall be filed with the commission within one 722
year after the alleged unlawful discriminatory practice was 723
committed. 724

(a) An oath under this chapter may be made in any form of 725
affirmation the person deems binding on the person's conscience. 726
Acceptable forms include, but are not limited to, declarations 727
made under penalty of perjury. 728

(b) Any charge timely received, via facsimile, postal 729
mail, electronic mail, or otherwise, may be signed under oath 730
after the limitations period for filing set forth under division 731
(B) (1) of this section and will relate back to the original 732
filing date. 733

(2) Upon receiving a charge, the commission may initiate a 734
preliminary investigation to determine whether it is probable 735
that an unlawful discriminatory practice has been or is being 736
engaged in. The commission also may conduct, upon its own 737
initiative and independent of the filing of any charges, a 738
preliminary investigation relating to any of the unlawful 739
discriminatory practices described in division (A), (B), (C), 740
(D), (E), (F), (I), or (J) of section 4112.02 or in section 741
4112.021 ~~or~~, 4112.022, or 4112.025 of the Revised Code. Prior 742
to a notification of a complainant under division (B) (4) of this 743
section or prior to the commencement of informal methods of 744
conference, conciliation, and persuasion, or alternative dispute 745
resolution, under that division, the members of the commission 746
and the officers and employees of the commission shall not make 747
public in any manner and shall retain as confidential all 748
information that was obtained as a result of or that otherwise 749
pertains to a preliminary investigation other than one described 750

in division (B) (3) of this section. 751

(3) (a) Unless it is impracticable to do so and subject to 752
its authority under division (B) (3) (d) of this section, the 753
commission shall complete a preliminary investigation of a 754
charge filed pursuant to division (B) (1) of this section that 755
alleges an unlawful discriminatory practice described in 756
division (H) of section 4112.02 of the Revised Code, and shall 757
take one of the following actions, within one hundred days after 758
the filing of the charge: 759

(i) Notify the complainant and the respondent that it is 760
not probable that an unlawful discriminatory practice described 761
in division (H) of section 4112.02 of the Revised Code has been 762
or is being engaged in and that the commission will not issue a 763
complaint in the matter; 764

(ii) Initiate a complaint and schedule it for informal 765
methods of conference, conciliation, and persuasion, or 766
alternative dispute resolution; 767

(iii) Initiate a complaint and refer it to the attorney 768
general with a recommendation to seek a temporary or permanent 769
injunction or a temporary restraining order. If this action is 770
taken, the attorney general shall apply, as expeditiously as 771
possible after receipt of the complaint, to the court of common 772
pleas of the county in which the unlawful discriminatory 773
practice allegedly occurred for the appropriate injunction or 774
order, and the court shall hear and determine the application as 775
expeditiously as possible. 776

(b) If it is not practicable to comply with the 777
requirements of division (B) (3) (a) of this section within the 778
one-hundred-day period described in that division, the 779

commission shall notify the complainant and the respondent in 780
writing of the reasons for the noncompliance. 781

(c) Prior to the issuance of a complaint under division 782
(B) (3) (a) (ii) or (iii) of this section or prior to a 783
notification of the complainant and the respondent under 784
division (B) (3) (a) (i) of this section, the members of the 785
commission and the officers and employees of the commission 786
shall not make public in any manner and shall retain as 787
confidential all information that was obtained as a result of or 788
that otherwise pertains to a preliminary investigation of a 789
charge filed pursuant to division (B) (1) of this section that 790
alleges an unlawful discriminatory practice described in 791
division (H) of section 4112.02 of the Revised Code. 792

(d) Notwithstanding the types of action described in 793
divisions (B) (3) (a) (ii) and (iii) of this section, prior to the 794
issuance of a complaint or the referral of a complaint to the 795
attorney general and prior to endeavoring to eliminate an 796
unlawful discriminatory practice described in division (H) of 797
section 4112.02 of the Revised Code by informal methods of 798
conference, conciliation, and persuasion, or by alternative 799
dispute resolution, the commission may seek a temporary or 800
permanent injunction or a temporary restraining order in the 801
court of common pleas of the county in which the unlawful 802
discriminatory practice allegedly occurred. 803

(4) If the commission determines after a preliminary 804
investigation other than one described in division (B) (3) of 805
this section that it is not probable that an unlawful 806
discriminatory practice has been or is being engaged in, it 807
shall notify any complainant under division (B) (1) of this 808
section that it has so determined and that it will not issue a 809

complaint in the matter. If the commission determines after a 810
preliminary investigation other than the one described in 811
division (B) (3) of this section that it is probable that an 812
unlawful discriminatory practice has been or is being engaged 813
in, it shall endeavor to eliminate the practice by informal 814
methods of conference, conciliation, and persuasion, or by 815
alternative dispute resolution. 816

(5) Nothing said or done during informal methods of 817
conference, conciliation, and persuasion, or during alternative 818
dispute resolution, under this section shall be disclosed by any 819
member of the commission or its staff or be used as evidence in 820
any subsequent hearing or other proceeding. If, after a 821
preliminary investigation and the use of informal methods of 822
conference, conciliation, and persuasion, or alternative dispute 823
resolution, under this section, the commission is satisfied that 824
any unlawful discriminatory practice will be eliminated, it may 825
treat the charge involved as being conciliated and enter that 826
disposition on the records of the commission. If the commission 827
fails to effect the elimination of an unlawful discriminatory 828
practice by informal methods of conference, conciliation, and 829
persuasion, or by alternative dispute resolution under this 830
section and to obtain voluntary compliance with this chapter, 831
the commission shall issue and cause to be served upon any 832
person, including the respondent against whom a complainant has 833
filed a charge pursuant to division (B) (1) of this section, a 834
complaint stating the charges involved and containing a notice 835
of an opportunity for a hearing before the commission, a member 836
of the commission, or a hearing examiner at a place that is 837
stated in the notice and that is located within the county in 838
which the alleged unlawful discriminatory practice has occurred 839
or is occurring or in which the respondent resides or transacts 840

business. The hearing shall be held not less than thirty days 841
after the service of the complaint upon the complainant, the 842
aggrieved persons other than the complainant on whose behalf the 843
complaint is issued, and the respondent, unless the complainant, 844
an aggrieved person, or the respondent elects to proceed under 845
division (A) (2) of section 4112.051 of the Revised Code when 846
that division is applicable. If a complaint pertains to an 847
alleged unlawful discriminatory practice described in division 848
(H) of section 4112.02 of the Revised Code, the complaint shall 849
notify the complainant, an aggrieved person, and the respondent 850
of the right of the complainant, an aggrieved person, or the 851
respondent to elect to proceed with the administrative hearing 852
process under this section or to proceed under division (A) (2) 853
of section 4112.051 of the Revised Code. 854

(6) The attorney general shall represent the commission at 855
any hearing held pursuant to division (B) (5) of this section and 856
shall present the evidence in support of the complaint. 857

(7) Any complaint issued pursuant to division (B) (5) of 858
this section after the filing of a charge under division (B) (1) 859
of this section shall be so issued within one year after the 860
complainant filed the charge with respect to an alleged unlawful 861
discriminatory practice. 862

(C) (1) Any complaint issued pursuant to division (B) of 863
this section may be amended by the commission, a member of the 864
commission, or the hearing examiner conducting a hearing under 865
division (B) of this section. 866

(a) Except as provided in division (C) (1) (b) of this 867
section, a complaint issued pursuant to division (B) of this 868
section may be amended at any time prior to or during the 869
hearing. 870

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

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

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

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

the proportion that persons of any race, color, religion, sex, 901
military status, familial status, national origin, disability, 902
age, or ancestry bear to the total population or in accordance 903
with any criterion other than the individual qualifications of 904
the applicant. 905

(F) The testimony taken at a hearing under division (B) of 906
this section shall be under oath and shall be reduced to writing 907
and filed with the commission. Thereafter, in its discretion, 908
the commission, upon the service of a notice upon the 909
complainant and the respondent that indicates an opportunity to 910
be present, may take further testimony or hear argument. 911

(G) (1) (a) If, upon all reliable, probative, and 912
substantial evidence presented at a hearing under division (B) 913
of this section, the commission determines that the respondent 914
has engaged in, or is engaging in, any unlawful discriminatory 915
practice, whether against the complainant or others, the 916
commission shall state its findings of fact and conclusions of 917
law and shall issue and, subject to the provisions of Chapter 918
119. of the Revised Code, cause to be served on the respondent 919
an order requiring the respondent to do all of the following: 920

(i) Cease and desist from the unlawful discriminatory 921
practice; 922

(ii) Take any further affirmative or other action that 923
will effectuate the purposes of this chapter, including, but not 924
limited to, hiring, reinstatement, or upgrading of employees or 925
domestic workers with or without back pay, or admission or 926
restoration to union membership; 927

(iii) Report to the commission the manner of compliance. 928

If the commission directs payment of back pay, it shall 929

make allowance for interim earnings. 930

(b) If the commission finds a violation of division (H) of 931
section 4112.02 of the Revised Code, in addition to the action 932
described in division (G) (1) (a) of this section, the commission 933
additionally may require the respondent to undergo remediation 934
in the form of a class, seminar, or any other type of 935
remediation approved by the commission, may require the 936
respondent to pay actual damages and reasonable attorney's fees, 937
and may, to vindicate the public interest, assess a civil 938
penalty against the respondent as follows: 939

(i) If division (G) (1) (b) (ii) or (iii) of this section 940
does not apply, a civil penalty in an amount not to exceed ten 941
thousand dollars; 942

(ii) If division (G) (1) (b) (iii) of this section does not 943
apply and if the respondent has been determined by a final order 944
of the commission or by a final judgment of a court to have 945
committed one violation of division (H) of section 4112.02 of 946
the Revised Code during the five-year period immediately 947
preceding the date on which a complaint was issued pursuant to 948
division (B) of this section, a civil penalty in an amount not 949
to exceed twenty-five thousand dollars; 950

(iii) If the respondent has been determined by a final 951
order of the commission or by a final judgment of a court to 952
have committed two or more violations of division (H) of section 953
4112.02 of the Revised Code during the seven-year period 954
immediately preceding the date on which a complaint was issued 955
pursuant to division (B) of this section, a civil penalty 956
damages in an amount not to exceed fifty thousand dollars. 957

(2) Upon the submission of reports of compliance, the 958

commission may issue a declaratory order stating that the 959
respondent has ceased to engage in particular unlawful 960
discriminatory practices. 961

(H) If the commission finds that no probable cause exists 962
for crediting charges of unlawful discriminatory practices or 963
if, upon all the evidence presented at a hearing under division 964
(B) of this section on a charge, the commission finds that a 965
respondent has not engaged in any unlawful discriminatory 966
practice against the complainant or others, it shall state its 967
findings of fact and shall issue and cause to be served on the 968
complainant an order dismissing the complaint as to the 969
respondent. A copy of the order shall be delivered in all cases 970
to the attorney general and any other public officers whom the 971
commission considers proper. 972

If, upon all the evidence presented at a hearing under 973
division (B) of this section on a charge, the commission finds 974
that a respondent has not engaged in any unlawful discriminatory 975
practice against the complainant or others, it may award to the 976
respondent reasonable attorney's fees to the extent provided in 977
5 U.S.C. 504 and accompanying regulations. 978

(I) Until the time period for appeal set forth in division 979
(H) of section 4112.06 of the Revised Code expires, the 980
commission, subject to the provisions of Chapter 119. of the 981
Revised Code, at any time, upon reasonable notice, and in the 982
manner it considers proper, may modify or set aside, in whole or 983
in part, any finding or order made by it under this section. 984

Section 2. That existing sections 4111.02, 4111.08, 985
4111.10, 4111.13, 4111.14, 4111.99, 4112.01, and 4112.05 of the 986
Revised Code are hereby repealed. 987

Section 3. The Director of Commerce shall prepare a report 988
on the feasibility and practicality of allowing domestic workers 989
to organize for purposes of collective bargaining. In preparing 990
the report, the Director shall consult with representatives of 991
domestic workers and individuals and agencies that employ 992
domestic workers, and with relevant state agencies including the 993
State Employment Relations Board. On completion of the report, 994
and before December 1, 2020, the Director shall submit the 995
report to the Governor, the Speaker of the House of 996
Representatives, and the President of the Senate. 997