

As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. B. No. 68

**Senator Tavares
Cosponsors: Senator Thomas**

A BILL

To amend section 4112.02 and to enact sections 1
1751.68 and 3923.84 of the Revised Code to 2
require health insurers to provide coverage for 3
contraceptive drugs and devices approved by the 4
United States Food and Drug Administration and 5
to prohibit employment discrimination under the 6
Ohio Civil Rights Law on the basis of 7
reproductive health decisions made by a person 8
or a person's dependent or on the basis of the 9
employer's personal beliefs about drugs, 10
devices, and services related to reproductive 11
health. 12

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

Section 1. That section 4112.02 be amended and sections 13
1751.68 and 3923.84 of the Revised Code be enacted to read as 14
follows: 15

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

services that is delivered, issued for delivery, or renewed in 20
this state that provides coverage for prescription drugs shall 21
provide coverage for both of the following: 22

(1) Prescription drugs or devices approved by the United 23
States food and drug administration for use as a contraceptive 24
for women; 25

(2) Consultations, examinations, procedures, and medical 26
services provided on an outpatient basis related to the use of a 27
contraceptive method for women. 28

(B) No health insuring corporation shall impose upon any 29
enrollee receiving a prescription contraceptive drug, device, or 30
service enumerated in divisions (A) (1) and (2) of this section a 31
deductible, copayment, coinsurance payment, or other fee for the 32
drug, device, or service. 33

(C) (1) As used in this division: 34

(a) "Religious employer" means an employer that is a 35
nonprofit, religious organization that is excepted from filing 36
an annual return pursuant to section 6033(a) (3) (A) (i) or (iii) 37
of the Internal Revenue Code of 1986, as amended. 38

(b) "Eligible organization" means an organization that 39
satisfies all of the requirements of 45 C.F.R. 147.131(b) (1) to 40
(3), as amended. 41

(2) This section does not apply to an individual or group 42
health insuring corporation policy, contract, or agreement that 43
is delivered, issued for delivery, or renewed in this state if 44
the policy, contract, or agreement is obtained by an employer 45
for the employer's employees and either of the following 46
applies: 47

(a) The employer is a religious employer. 48

(b) The employer is an eligible organization, if the 49
employer has self-certified with the secretary of the United 50
States department of health and human services as described 51
under 45 C.F.R. 147.131(b) (4), as amended. 52

(D) No corporation for profit formed under the laws of 53
this state or another state is exempt from this section. 54

Sec. 3923.84. (A) Notwithstanding section 3901.71 of the 55
Revised Code, and except as provided in division (D) of this 56
section, each individual or group policy of sickness and 57
accident insurance that is delivered, issued for delivery, or 58
renewed in this state that provides coverage for prescription 59
drugs and each public employee benefit plan that is established 60
or modified in this state that provides coverage for 61
prescription drugs shall provide coverage for both of the 62
following: 63

(1) Prescription drugs or devices approved by the United 64
States food and drug administration for use as a contraceptive 65
for women; 66

(2) Consultations, examinations, procedures, and medical 67
services provided on an outpatient basis related to the use of a 68
contraceptive method for women. 69

(B) No insurer or plan shall impose upon any insured 70
receiving a prescription contraceptive drug, device, or service 71
enumerated in divisions (A) (1) and (2) of this section a 72
deductible, copayment, coinsurance payment, or other fee for the 73
drug, device, or service. 74

(C) (1) As used in this division: 75

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

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

(2) This section does not apply to an individual or group policy of sickness and accident insurance that is delivered, issued for delivery, or renewed in this state if the policy is obtained by an employer for the employer's employees and either of the following applies:

(a) The employer is a religious employer.

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

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

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

(A) For any employer, because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any person; because of any reproductive health decisions made by a person, including any decisions made by a person or their dependent to use a particular drug, device, or medical service; or because of the employer's personal beliefs about any drugs, devices, or services related to reproductive health or the insurance coverage of such drugs,

services, or devices, to discharge without just cause, to refuse 105
to hire, or otherwise to discriminate against that person with 106
respect to hire, tenure, terms, conditions, or privileges of 107
employment, or any matter directly or indirectly related to 108
employment. 109

(B) For an employment agency or personnel placement 110
service, because of race, color, religion, sex, military status, 111
national origin, disability, age, or ancestry, to do any of the 112
following: 113

(1) Refuse or fail to accept, register, classify properly, 114
or refer for employment, or otherwise discriminate against any 115
person; 116

(2) Comply with a request from an employer for referral of 117
applicants for employment if the request directly or indirectly 118
indicates that the employer fails to comply with the provisions 119
of sections 4112.01 to 4112.07 of the Revised Code. 120

(C) For any labor organization to do any of the following: 121

(1) Limit or classify its membership on the basis of race, 122
color, religion, sex, military status, national origin, 123
disability, age, or ancestry; 124

(2) Discriminate against, limit the employment 125
opportunities of, or otherwise adversely affect the employment 126
status, wages, hours, or employment conditions of any person as 127
an employee because of race, color, religion, sex, military 128
status, national origin, disability, age, or ancestry. 129

(D) For any employer, labor organization, or joint labor- 130
management committee controlling apprentice training programs to 131
discriminate against any person because of race, color, 132
religion, sex, military status, national origin, disability, or 133

ancestry in admission to, or employment in, any program 134
established to provide apprentice training. 135

(E) Except where based on a bona fide occupational 136
qualification certified in advance by the commission, for any 137
employer, employment agency, personnel placement service, or 138
labor organization, prior to employment or admission to 139
membership, to do any of the following: 140

(1) Elicit or attempt to elicit any information concerning 141
the race, color, religion, sex, military status, national 142
origin, disability, age, or ancestry of an applicant for 143
employment or membership; 144

(2) Make or keep a record of the race, color, religion, 145
sex, military status, national origin, disability, age, or 146
ancestry of any applicant for employment or membership; 147

(3) Use any form of application for employment, or 148
personnel or membership blank, seeking to elicit information 149
regarding race, color, religion, sex, military status, national 150
origin, disability, age, or ancestry; but an employer holding a 151
contract containing a nondiscrimination clause with the 152
government of the United States, or any department or agency of 153
that government, may require an employee or applicant for 154
employment to furnish documentary proof of United States 155
citizenship and may retain that proof in the employer's 156
personnel records and may use photographic or fingerprint 157
identification for security purposes; 158

(4) Print or publish or cause to be printed or published 159
any notice or advertisement relating to employment or membership 160
indicating any preference, limitation, specification, or 161
discrimination, based upon race, color, religion, sex, military 162

status, national origin, disability, age, or ancestry;	163
(5) Announce or follow a policy of denying or limiting,	164
through a quota system or otherwise, employment or membership	165
opportunities of any group because of the race, color, religion,	166
sex, military status, national origin, disability, age, or	167
ancestry of that group;	168
(6) Utilize in the recruitment or hiring of persons any	169
employment agency, personnel placement service, training school	170
or center, labor organization, or any other employee-referring	171
source known to discriminate against persons because of their	172
race, color, religion, sex, military status, national origin,	173
disability, age, or ancestry.	174
(F) For any person seeking employment to publish or cause	175
to be published any advertisement that specifies or in any	176
manner indicates that person's race, color, religion, sex,	177
military status, national origin, disability, age, or ancestry,	178
or expresses a limitation or preference as to the race, color,	179
religion, sex, military status, national origin, disability,	180
age, or ancestry of any prospective employer.	181
(G) For any proprietor or any employee, keeper, or manager	182
of a place of public accommodation to deny to any person, except	183
for reasons applicable alike to all persons regardless of race,	184
color, religion, sex, military status, national origin,	185
disability, age, or ancestry, the full enjoyment of the	186
accommodations, advantages, facilities, or privileges of the	187
place of public accommodation.	188
(H) For any person to do any of the following:	189
(1) Refuse to sell, transfer, assign, rent, lease,	190
sublease, or finance housing accommodations, refuse to negotiate	191

for the sale or rental of housing accommodations, or otherwise 192
deny or make unavailable housing accommodations because of race, 193
color, religion, sex, military status, familial status, 194
ancestry, disability, or national origin; 195

(2) Represent to any person that housing accommodations 196
are not available for inspection, sale, or rental, when in fact 197
they are available, because of race, color, religion, sex, 198
military status, familial status, ancestry, disability, or 199
national origin; 200

(3) Discriminate against any person in the making or 201
purchasing of loans or the provision of other financial 202
assistance for the acquisition, construction, rehabilitation, 203
repair, or maintenance of housing accommodations, or any person 204
in the making or purchasing of loans or the provision of other 205
financial assistance that is secured by residential real estate, 206
because of race, color, religion, sex, military status, familial 207
status, ancestry, disability, or national origin or because of 208
the racial composition of the neighborhood in which the housing 209
accommodations are located, provided that the person, whether an 210
individual, corporation, or association of any type, lends money 211
as one of the principal aspects or incident to the person's 212
principal business and not only as a part of the purchase price 213
of an owner-occupied residence the person is selling nor merely 214
casually or occasionally to a relative or friend; 215

(4) Discriminate against any person in the terms or 216
conditions of selling, transferring, assigning, renting, 217
leasing, or subleasing any housing accommodations or in 218
furnishing facilities, services, or privileges in connection 219
with the ownership, occupancy, or use of any housing 220
accommodations, including the sale of fire, extended coverage, 221

or homeowners insurance, because of race, color, religion, sex, 222
military status, familial status, ancestry, disability, or 223
national origin or because of the racial composition of the 224
neighborhood in which the housing accommodations are located; 225

(5) Discriminate against any person in the terms or 226
conditions of any loan of money, whether or not secured by 227
mortgage or otherwise, for the acquisition, construction, 228
rehabilitation, repair, or maintenance of housing accommodations 229
because of race, color, religion, sex, military status, familial 230
status, ancestry, disability, or national origin or because of 231
the racial composition of the neighborhood in which the housing 232
accommodations are located; 233

(6) Refuse to consider without prejudice the combined 234
income of both husband and wife for the purpose of extending 235
mortgage credit to a married couple or either member of a 236
married couple; 237

(7) Print, publish, or circulate any statement or 238
advertisement, or make or cause to be made any statement or 239
advertisement, relating to the sale, transfer, assignment, 240
rental, lease, sublease, or acquisition of any housing 241
accommodations, or relating to the loan of money, whether or not 242
secured by mortgage or otherwise, for the acquisition, 243
construction, rehabilitation, repair, or maintenance of housing 244
accommodations, that indicates any preference, limitation, 245
specification, or discrimination based upon race, color, 246
religion, sex, military status, familial status, ancestry, 247
disability, or national origin, or an intention to make any such 248
preference, limitation, specification, or discrimination; 249

(8) Except as otherwise provided in division (H) (8) or 250
(17) of this section, make any inquiry, elicit any information, 251

make or keep any record, or use any form of application 252
containing questions or entries concerning race, color, 253
religion, sex, military status, familial status, ancestry, 254
disability, or national origin in connection with the sale or 255
lease of any housing accommodations or the loan of any money, 256
whether or not secured by mortgage or otherwise, for the 257
acquisition, construction, rehabilitation, repair, or 258
maintenance of housing accommodations. Any person may make 259
inquiries, and make and keep records, concerning race, color, 260
religion, sex, military status, familial status, ancestry, 261
disability, or national origin for the purpose of monitoring 262
compliance with this chapter. 263

(9) Include in any transfer, rental, or lease of housing 264
accommodations any restrictive covenant, or honor or exercise, 265
or attempt to honor or exercise, any restrictive covenant; 266

(10) Induce or solicit, or attempt to induce or solicit, a 267
housing accommodations listing, sale, or transaction by 268
representing that a change has occurred or may occur with 269
respect to the racial, religious, sexual, military status, 270
familial status, or ethnic composition of the block, 271
neighborhood, or other area in which the housing accommodations 272
are located, or induce or solicit, or attempt to induce or 273
solicit, a housing accommodations listing, sale, or transaction 274
by representing that the presence or anticipated presence of 275
persons of any race, color, religion, sex, military status, 276
familial status, ancestry, disability, or national origin, in 277
the block, neighborhood, or other area will or may have results 278
including, but not limited to, the following: 279

(a) The lowering of property values; 280

(b) A change in the racial, religious, sexual, military 281

status, familial status, or ethnic composition of the block,	282
neighborhood, or other area;	283
(c) An increase in criminal or antisocial behavior in the	284
block, neighborhood, or other area;	285
(d) A decline in the quality of the schools serving the	286
block, neighborhood, or other area.	287
(11) Deny any person access to or membership or	288
participation in any multiple-listing service, real estate	289
brokers' organization, or other service, organization, or	290
facility relating to the business of selling or renting housing	291
accommodations, or discriminate against any person in the terms	292
or conditions of that access, membership, or participation, on	293
account of race, color, religion, sex, military status, familial	294
status, national origin, disability, or ancestry;	295
(12) Coerce, intimidate, threaten, or interfere with any	296
person in the exercise or enjoyment of, or on account of that	297
person's having exercised or enjoyed or having aided or	298
encouraged any other person in the exercise or enjoyment of, any	299
right granted or protected by division (H) of this section;	300
(13) Discourage or attempt to discourage the purchase by a	301
prospective purchaser of housing accommodations, by representing	302
that any block, neighborhood, or other area has undergone or	303
might undergo a change with respect to its religious, racial,	304
sexual, military status, familial status, or ethnic composition;	305
(14) Refuse to sell, transfer, assign, rent, lease,	306
sublease, or finance, or otherwise deny or withhold, a burial	307
lot from any person because of the race, color, sex, military	308
status, familial status, age, ancestry, disability, or national	309
origin of any prospective owner or user of the lot;	310

(15) Discriminate in the sale or rental of, or otherwise	311
make unavailable or deny, housing accommodations to any buyer or	312
renter because of a disability of any of the following:	313
(a) The buyer or renter;	314
(b) A person residing in or intending to reside in the	315
housing accommodations after they are sold, rented, or made	316
available;	317
(c) Any individual associated with the person described in	318
division (H) (15) (b) of this section.	319
(16) Discriminate in the terms, conditions, or privileges	320
of the sale or rental of housing accommodations to any person or	321
in the provision of services or facilities to any person in	322
connection with the housing accommodations because of a	323
disability of any of the following:	324
(a) That person;	325
(b) A person residing in or intending to reside in the	326
housing accommodations after they are sold, rented, or made	327
available;	328
(c) Any individual associated with the person described in	329
division (H) (16) (b) of this section.	330
(17) Except as otherwise provided in division (H) (17) of	331
this section, make an inquiry to determine whether an applicant	332
for the sale or rental of housing accommodations, a person	333
residing in or intending to reside in the housing accommodations	334
after they are sold, rented, or made available, or any	335
individual associated with that person has a disability, or make	336
an inquiry to determine the nature or severity of a disability	337
of the applicant or such a person or individual. The following	338

inquiries may be made of all applicants for the sale or rental 339
of housing accommodations, regardless of whether they have 340
disabilities: 341

(a) An inquiry into an applicant's ability to meet the 342
requirements of ownership or tenancy; 343

(b) An inquiry to determine whether an applicant is 344
qualified for housing accommodations available only to persons 345
with disabilities or persons with a particular type of 346
disability; 347

(c) An inquiry to determine whether an applicant is 348
qualified for a priority available to persons with disabilities 349
or persons with a particular type of disability; 350

(d) An inquiry to determine whether an applicant currently 351
uses a controlled substance in violation of section 2925.11 of 352
the Revised Code or a substantively comparable municipal 353
ordinance; 354

(e) An inquiry to determine whether an applicant at any 355
time has been convicted of or pleaded guilty to any offense, an 356
element of which is the illegal sale, offer to sell, 357
cultivation, manufacture, other production, shipment, 358
transportation, delivery, or other distribution of a controlled 359
substance. 360

(18) (a) Refuse to permit, at the expense of a person with 361
a disability, reasonable modifications of existing housing 362
accommodations that are occupied or to be occupied by the person 363
with a disability, if the modifications may be necessary to 364
afford the person with a disability full enjoyment of the 365
housing accommodations. This division does not preclude a 366
landlord of housing accommodations that are rented or to be 367

rented to a disabled tenant from conditioning permission for a 368
proposed modification upon the disabled tenant's doing one or 369
more of the following: 370

(i) Providing a reasonable description of the proposed 371
modification and reasonable assurances that the proposed 372
modification will be made in a workerlike manner and that any 373
required building permits will be obtained prior to the 374
commencement of the proposed modification; 375

(ii) Agreeing to restore at the end of the tenancy the 376
interior of the housing accommodations to the condition they 377
were in prior to the proposed modification, but subject to 378
reasonable wear and tear during the period of occupancy, if it 379
is reasonable for the landlord to condition permission for the 380
proposed modification upon the agreement; 381

(iii) Paying into an interest-bearing escrow account that 382
is in the landlord's name, over a reasonable period of time, a 383
reasonable amount of money not to exceed the projected costs at 384
the end of the tenancy of the restoration of the interior of the 385
housing accommodations to the condition they were in prior to 386
the proposed modification, but subject to reasonable wear and 387
tear during the period of occupancy, if the landlord finds the 388
account reasonably necessary to ensure the availability of funds 389
for the restoration work. The interest earned in connection with 390
an escrow account described in this division shall accrue to the 391
benefit of the disabled tenant who makes payments into the 392
account. 393

(b) A landlord shall not condition permission for a 394
proposed modification upon a disabled tenant's payment of a 395
security deposit that exceeds the customarily required security 396
deposit of all tenants of the particular housing accommodations. 397

(19) Refuse to make reasonable accommodations in rules, policies, practices, or services when necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit, including associated public and common use areas;	398 399 400 401
(20) Fail to comply with the standards and rules adopted under division (A) of section 3781.111 of the Revised Code;	402 403
(21) Discriminate against any person in the selling, brokering, or appraising of real property because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin;	404 405 406 407
(22) Fail to design and construct covered multifamily dwellings for first occupancy on or after June 30, 1992, in accordance with the following conditions:	408 409 410
(a) The dwellings shall have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.	411 412 413 414
(b) With respect to dwellings that have a building entrance on an accessible route, all of the following apply:	415 416
(i) The public use areas and common use areas of the dwellings shall be readily accessible to and usable by persons with a disability.	417 418 419
(ii) All the doors designed to allow passage into and within all premises shall be sufficiently wide to allow passage by persons with a disability who are in wheelchairs.	420 421 422
(iii) All premises within covered multifamily dwelling units shall contain an accessible route into and through the dwelling; all light switches, electrical outlets, thermostats,	423 424 425

and other environmental controls within such units shall be in 426
accessible locations; the bathroom walls within such units shall 427
contain reinforcements to allow later installation of grab bars; 428
and the kitchens and bathrooms within such units shall be 429
designed and constructed in a manner that enables an individual 430
in a wheelchair to maneuver about such rooms. 431

For purposes of division (H) (22) of this section, "covered 432
multifamily dwellings" means buildings consisting of four or 433
more units if such buildings have one or more elevators and 434
ground floor units in other buildings consisting of four or more 435
units. 436

(I) For any person to discriminate in any manner against 437
any other person because that person has opposed any unlawful 438
discriminatory practice defined in this section or because that 439
person has made a charge, testified, assisted, or participated 440
in any manner in any investigation, proceeding, or hearing under 441
sections 4112.01 to 4112.07 of the Revised Code. 442

(J) For any person to aid, abet, incite, compel, or coerce 443
the doing of any act declared by this section to be an unlawful 444
discriminatory practice, to obstruct or prevent any person from 445
complying with this chapter or any order issued under it, or to 446
attempt directly or indirectly to commit any act declared by 447
this section to be an unlawful discriminatory practice. 448

(K) (1) Nothing in division (H) of this section shall bar 449
any religious or denominational institution or organization, or 450
any nonprofit charitable or educational organization that is 451
operated, supervised, or controlled by or in connection with a 452
religious organization, from limiting the sale, rental, or 453
occupancy of housing accommodations that it owns or operates for 454
other than a commercial purpose to persons of the same religion, 455

or from giving preference in the sale, rental, or occupancy of 456
such housing accommodations to persons of the same religion, 457
unless membership in the religion is restricted on account of 458
race, color, or national origin. 459

(2) Nothing in division (H) of this section shall bar any 460
bona fide private or fraternal organization that, incidental to 461
its primary purpose, owns or operates lodgings for other than a 462
commercial purpose, from limiting the rental or occupancy of the 463
lodgings to its members or from giving preference to its 464
members. 465

(3) Nothing in division (H) of this section limits the 466
applicability of any reasonable local, state, or federal 467
restrictions regarding the maximum number of occupants permitted 468
to occupy housing accommodations. Nothing in that division 469
prohibits the owners or managers of housing accommodations from 470
implementing reasonable occupancy standards based on the number 471
and size of sleeping areas or bedrooms and the overall size of a 472
dwelling unit, provided that the standards are not implemented 473
to circumvent the purposes of this chapter and are formulated, 474
implemented, and interpreted in a manner consistent with this 475
chapter and any applicable local, state, or federal restrictions 476
regarding the maximum number of occupants permitted to occupy 477
housing accommodations. 478

(4) Nothing in division (H) of this section requires that 479
housing accommodations be made available to an individual whose 480
tenancy would constitute a direct threat to the health or safety 481
of other individuals or whose tenancy would result in 482
substantial physical damage to the property of others. 483

(5) Nothing in division (H) of this section pertaining to 484
discrimination on the basis of familial status shall be 485

construed to apply to any of the following: 486

(a) Housing accommodations provided under any state or 487
federal program that have been determined under the "Fair 488
Housing Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 489
3607, as amended, to be specifically designed and operated to 490
assist elderly persons; 491

(b) Housing accommodations intended for and solely 492
occupied by persons who are sixty-two years of age or older; 493

(c) Housing accommodations intended and operated for 494
occupancy by at least one person who is fifty-five years of age 495
or older per unit, as determined under the "Fair Housing 496
Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as 497
amended. 498

(L) Nothing in divisions (A) to (E) of this section shall 499
be construed to require a person with a disability to be 500
employed or trained under circumstances that would significantly 501
increase the occupational hazards affecting either the person 502
with a disability, other employees, the general public, or the 503
facilities in which the work is to be performed, or to require 504
the employment or training of a person with a disability in a 505
job that requires the person with a disability routinely to 506
undertake any task, the performance of which is substantially 507
and inherently impaired by the person's disability. 508

(M) Nothing in divisions (H) (1) to (18) of this section 509
shall be construed to require any person selling or renting 510
property to modify the property in any way or to exercise a 511
higher degree of care for a person with a disability, to relieve 512
any person with a disability of any obligation generally imposed 513
on all persons regardless of disability in a written lease, 514

rental agreement, or contract of purchase or sale, or to forbid 515
distinctions based on the inability to fulfill the terms and 516
conditions, including financial obligations, of the lease, 517
agreement, or contract. 518

(N) An aggrieved individual may enforce the individual's 519
rights relative to discrimination on the basis of age as 520
provided for in this section by instituting a civil action, 521
within one hundred eighty days after the alleged unlawful 522
discriminatory practice occurred, in any court with jurisdiction 523
for any legal or equitable relief that will effectuate the 524
individual's rights. 525

A person who files a civil action under this division is 526
barred, with respect to the practices complained of, from 527
instituting a civil action under section 4112.14 of the Revised 528
Code and from filing a charge with the commission under section 529
4112.05 of the Revised Code. 530

(O) With regard to age, it shall not be an unlawful 531
discriminatory practice and it shall not constitute a violation 532
of division (A) of section 4112.14 of the Revised Code for any 533
employer, employment agency, joint labor-management committee 534
controlling apprenticeship training programs, or labor 535
organization to do any of the following: 536

(1) Establish bona fide employment qualifications 537
reasonably related to the particular business or occupation that 538
may include standards for skill, aptitude, physical capability, 539
intelligence, education, maturation, and experience; 540

(2) Observe the terms of a bona fide seniority system or 541
any bona fide employee benefit plan, including, but not limited 542
to, a retirement, pension, or insurance plan, that is not a 543

subterfuge to evade the purposes of this section. However, no 544
such employee benefit plan shall excuse the failure to hire any 545
individual, and no such seniority system or employee benefit 546
plan shall require or permit the involuntary retirement of any 547
individual, because of the individual's age except as provided 548
for in the "Age Discrimination in Employment Act Amendment of 549
1978," 92 Stat. 189, 29 U.S.C.A. 623, as amended by the "Age 550
Discrimination in Employment Act Amendments of 1986," 100 Stat. 551
3342, 29 U.S.C.A. 623, as amended. 552

(3) Retire an employee who has attained sixty-five years 553
of age who, for the two-year period immediately before 554
retirement, is employed in a bona fide executive or a high 555
policymaking position, if the employee is entitled to an 556
immediate nonforfeitable annual retirement benefit from a 557
pension, profit-sharing, savings, or deferred compensation plan, 558
or any combination of those plans, of the employer of the 559
employee, which equals, in the aggregate, at least forty-four 560
thousand dollars, in accordance with the conditions of the "Age 561
Discrimination in Employment Act Amendment of 1978," 92 Stat. 562
189, 29 U.S.C.A. 631, as amended by the "Age Discrimination in 563
Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 564
631, as amended; 565

(4) Observe the terms of any bona fide apprenticeship 566
program if the program is registered with the Ohio 567
apprenticeship council pursuant to sections 4139.01 to 4139.06 568
of the Revised Code and is approved by the federal committee on 569
apprenticeship of the United States department of labor. 570

(P) Nothing in this chapter prohibiting age discrimination 571
and nothing in division (A) of section 4112.14 of the Revised 572
Code shall be construed to prohibit the following: 573

- (1) The designation of uniform age the attainment of which is necessary for public employees to receive pension or other retirement benefits pursuant to Chapter 145., 742., 3307., 3309., or 5505. of the Revised Code; 574
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- (2) The mandatory retirement of uniformed patrol officers of the state highway patrol as provided in section 5505.16 of the Revised Code; 578
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- (3) The maximum age requirements for appointment as a patrol officer in the state highway patrol established by section 5503.01 of the Revised Code; 581
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- (4) The maximum age requirements established for original appointment to a police department or fire department in sections 124.41 and 124.42 of the Revised Code; 584
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- (5) Any maximum age not in conflict with federal law that may be established by a municipal charter, municipal ordinance, or resolution of a board of township trustees for original appointment as a police officer or firefighter; 587
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- (6) Any mandatory retirement provision not in conflict with federal law of a municipal charter, municipal ordinance, or resolution of a board of township trustees pertaining to police officers and firefighters; 591
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- (7) Until January 1, 1994, the mandatory retirement of any employee who has attained seventy years of age and who is serving under a contract of unlimited tenure, or similar arrangement providing for unlimited tenure, at an institution of higher education as defined in the "Education Amendments of 1980," 94 Stat. 1503, 20 U.S.C.A. 1141(a). 595
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- (Q) (1) (a) Except as provided in division (Q) (1) (b) of this section, for purposes of divisions (A) to (E) of this section, a 601
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disability does not include any physiological disorder or 603
condition, mental or psychological disorder, or disease or 604
condition caused by an illegal use of any controlled substance 605
by an employee, applicant, or other person, if an employer, 606
employment agency, personnel placement service, labor 607
organization, or joint labor-management committee acts on the 608
basis of that illegal use. 609

(b) Division (Q) (1) (a) of this section does not apply to 610
an employee, applicant, or other person who satisfies any of the 611
following: 612

(i) The employee, applicant, or other person has 613
successfully completed a supervised drug rehabilitation program 614
and no longer is engaging in the illegal use of any controlled 615
substance, or the employee, applicant, or other person otherwise 616
successfully has been rehabilitated and no longer is engaging in 617
that illegal use. 618

(ii) The employee, applicant, or other person is 619
participating in a supervised drug rehabilitation program and no 620
longer is engaging in the illegal use of any controlled 621
substance. 622

(iii) The employee, applicant, or other person is 623
erroneously regarded as engaging in the illegal use of any 624
controlled substance, but the employee, applicant, or other 625
person is not engaging in that illegal use. 626

(2) Divisions (A) to (E) of this section do not prohibit 627
an employer, employment agency, personnel placement service, 628
labor organization, or joint labor-management committee from 629
doing any of the following: 630

(a) Adopting or administering reasonable policies or 631

procedures, including, but not limited to, testing for the 632
illegal use of any controlled substance, that are designed to 633
ensure that an individual described in division (Q) (1) (b) (i) or 634
(ii) of this section no longer is engaging in the illegal use of 635
any controlled substance; 636

(b) Prohibiting the illegal use of controlled substances 637
and the use of alcohol at the workplace by all employees; 638

(c) Requiring that employees not be under the influence of 639
alcohol or not be engaged in the illegal use of any controlled 640
substance at the workplace; 641

(d) Requiring that employees behave in conformance with 642
the requirements established under "The Drug-Free Workplace Act 643
of 1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended; 644

(e) Holding an employee who engages in the illegal use of 645
any controlled substance or who is an alcoholic to the same 646
qualification standards for employment or job performance, and 647
the same behavior, to which the employer, employment agency, 648
personnel placement service, labor organization, or joint labor- 649
management committee holds other employees, even if any 650
unsatisfactory performance or behavior is related to an 651
employee's illegal use of a controlled substance or alcoholism; 652

(f) Exercising other authority recognized in the 653
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 654
U.S.C.A. 12101, as amended, including, but not limited to, 655
requiring employees to comply with any applicable federal 656
standards. 657

(3) For purposes of this chapter, a test to determine the 658
illegal use of any controlled substance does not include a 659
medical examination. 660

(4) Division (Q) of this section does not encourage, 661
prohibit, or authorize, and shall not be construed as 662
encouraging, prohibiting, or authorizing, the conduct of testing 663
for the illegal use of any controlled substance by employees, 664
applicants, or other persons, or the making of employment 665
decisions based on the results of that type of testing. 666

(R) This section does not apply to a religious 667
corporation, association, educational institution, or society 668
with respect to the employment of an individual of a particular 669
religion to perform work connected with the carrying on by that 670
religious corporation, association, educational institution, or 671
society of its activities. 672

The unlawful discriminatory practices defined in this 673
section do not make it unlawful for a person or an appointing 674
authority administering an examination under section 124.23 of 675
the Revised Code to obtain information about an applicant's 676
military status for the purpose of determining if the applicant 677
is eligible for the additional credit that is available under 678
that section. 679

Section 2. That existing section 4112.02 of the Revised 680
Code is hereby repealed. 681