

As Introduced

131st General Assembly

Regular Session

2015-2016

S. B. No. 87

**Senator Tavares
Cosponsors: Senator Skindell**

A BILL

To amend sections 4111.02, 4111.08, 4111.10, 1
4111.13, 4111.14, 4111.99, 4112.01, and 4112.05 2
and to enact sections 4111.031 and 4112.024 of 3
the Revised Code to require that domestic 4
workers be paid the minimum wage, as provided in 5
Section 34a of Article II, Ohio Constitution, to 6
require that domestic workers be paid overtime 7
wages, to make certain conduct directed toward a 8
domestic worker an unlawful discriminatory 9
practice, and to require a weekly day of rest 10
for domestic workers. 11

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

Section 1. That sections 4111.02, 4111.08, 4111.10, 12
4111.13, 4111.14, 4111.99, 4112.01, and 4112.05 be amended and 13
sections 4111.031 and 4112.024 of the Revised Code be enacted to 14
read as follows: 15

Sec. 4111.02. Every employer, as defined in Section 34a of 16
Article II, Ohio Constitution, shall pay each of the employer's 17
employees at a wage rate of not less than the wage rate 18
specified in Section 34a of Article II, Ohio Constitution, 19

except that every domestic worker, as defined in section 4112.01 20
of the Revised Code, shall be paid at a wage rate of not less 21
than the greater of the two wage rates calculated pursuant to or 22
specified in Section 34a of Article II, Ohio Constitution. 23

The director of commerce annually shall adjust the wage 24
rate as specified in Section 34a of Article II, Ohio 25
Constitution. 26

As used in this section, "employee" has the same meaning 27
as in section 4111.14 of the Revised Code. 28

Sec. 4111.031. (A) As used in this section: 29

(1) "Domestic worker" has the same meaning as in section 30
4112.01 of the Revised Code. 31

(2) "Employer" means any person employing a domestic 32
worker. 33

(B) No domestic worker shall be required to work more than 34
eight hours in a day for an employer. A domestic worker may work 35
for more than eight hours in a day if the domestic worker agrees 36
to work and is paid at an increased rate agreed upon by the 37
employer and the domestic worker for any amount of time worked 38
in that day in excess of eight hours. 39

(C) No domestic worker shall be required to work more than 40
forty hours in any week, or forty-four hours in a week if the 41
domestic worker resides in the home of the domestic worker's 42
employer, unless the domestic worker's employer compensates the 43
domestic worker at a rate that is at least one and one-half 44
times the worker's normal wage rate for any additional hours of 45
work in excess of forty hours or forty-four hours, as 46
applicable. 47

(D) Every domestic worker shall be allowed at least 48
twenty-four consecutive hours of rest every calendar week. 49
During that period of rest the domestic worker shall not be 50
required to work for the employer. This rest period shall, 51
whenever possible, coincide with the traditional day reserved by 52
the domestic worker for religious worship. Except as provided in 53
division (E) of this section, a domestic worker's employer shall 54
not be required to pay the domestic worker for a period of rest 55
described in this section. 56

(E) In addition to the rest period required by division 57
(D) of this section, a domestic worker who has worked for the 58
domestic worker's employer for more than a year shall be 59
entitled to at least three days of rest in each calendar year 60
for which the domestic worker shall be compensated by the 61
employer at the domestic worker's normal wage rate. 62

(F) Nothing in division (D) of this section shall be 63
construed to prohibit a domestic worker from agreeing to work 64
during the domestic worker's rest period as described in that 65
division, provided that the worker receives compensation for the 66
work at a rate of at least one and one-half times the domestic 67
worker's normal wage rate. 68

Sec. 4111.08. Every employer subject to section 4111.03 or 69
4111.031 of the Revised Code, or to any rule adopted thereunder, 70
shall make and keep for a period of not less than three years a 71
record of the name, address, and occupation of each of the 72
employer's employees or domestic workers, the rate of pay and 73
the amount paid each pay period to each employee or domestic 74
worker, the hours worked each day and each work week by the 75
employee or domestic worker, and other information as the 76
director of commerce prescribes by rule as necessary or 77

appropriate for the enforcement of ~~section~~sections 4111.03 and 78
4111.031 of the Revised Code, or of the rules thereunder. 79
Records may be opened for inspection or copying by the director 80
at any reasonable time. 81

Sec. 4111.10. (A) Any employer who pays any employee or 82
domestic worker less than wages to which the employee or 83
domestic worker is entitled under section 4111.03 or 4111.031 of 84
the Revised Code, is liable to the employee or domestic worker 85
affected for the full amount of the overtime wage rate, less any 86
amount actually paid to the employee or domestic worker by the 87
employer, and for costs and reasonable attorney's fees as may be 88
allowed by the court. Any agreement between the employee or 89
domestic worker and the employer to work for less than the 90
overtime wage rate is no defense to an action. 91

(B) At the written request of any employee or domestic 92
worker paid less than the wages to which the employee or 93
domestic worker is entitled under section 4111.03 or 4111.031 of 94
the Revised Code, the director of commerce may take an 95
assignment of a wage claim in trust for the assigning employee 96
or domestic worker and may bring any legal action necessary to 97
collect the claim. The employer shall pay the costs and 98
reasonable attorney's fees allowed by the court. 99

Sec. 4111.13. (A) No employer shall ~~hinder~~ do any of the 100
following: 101

(1) Hinder or delay the director of commerce in the 102
performance of the director's duties in the enforcement of 103
sections 4111.01 to 4111.17 of the Revised Code, or refuse to 104
admit the director to any place of employment, or fail to make, 105
keep, and preserve any records as required under those sections, 106
or falsify any of those records, or refuse to make them 107

accessible to the director upon demand, or refuse to furnish 108
them or any other information required for the proper 109
enforcement of those sections to the director upon demand, or 110
fail to post a summary of those sections or a copy of any 111
applicable rules as required by section 4111.09 of the Revised 112
Code. Each day of violation constitutes a separate offense. 113

~~(B) No employer shall discharge~~ (2) Discharge or in any 114
other manner discriminate against any employee or domestic 115
worker because the employee or domestic worker has made any 116
complaint to the ~~employee's~~ employer, or to the director, that 117
the employee or domestic worker has not been paid wages in 118
accordance with sections 4111.01 to 4111.17 of the Revised Code, 119
or because the employee or domestic worker has made any 120
complaint or is about to cause to be instituted any proceeding 121
under or related to those sections, or because the employee or 122
domestic worker has testified or is about to testify in any 123
proceeding. 124

~~(C) No employer shall pay~~ (3) Pay or agree to pay wages at 125
a rate less than the rate applicable under sections 4111.01 to 126
4111.17 of the Revised Code. Each week or portion thereof for 127
which the employer pays any employee or domestic worker less 128
than the rate applicable under those sections constitutes a 129
separate offense as to each employer. 130

~~(D) No employer shall otherwise~~ (4) Otherwise violate 131
sections 4111.01 to 4111.17 of the Revised Code, or any rule 132
adopted thereunder. Each day of violation constitutes a separate 133
offense. 134

(B) The culpability sufficient to commit a violation of 135
division (A) of this section is as follows: 136

(1) Negligence if the violation involves a domestic 137
worker; 138

(2) Reckless if the violation involves an employee. 139

(C) As used in this section, "domestic worker" has the 140
same meaning as in section 4112.01 of the Revised Code. 141

Sec. 4111.14. (A) Pursuant to the general assembly's 142
authority to establish a minimum wage under Section 34 of 143
Article II, Ohio Constitution, this section is in implementation 144
of Section 34a of Article II, Ohio Constitution. In implementing 145
Section 34a of Article II, Ohio Constitution, the general 146
assembly hereby finds that the purpose of Section 34a of Article 147
II, Ohio Constitution, is to: 148

(1) Ensure that Ohio employees, as defined in division (B) 149
(1) of this section, are paid the wage rate required by Section 150
34a of Article II, Ohio Constitution; 151

(2) Ensure that covered Ohio employers maintain certain 152
records that are directly related to the enforcement of the wage 153
rate requirements in Section 34a of Article II, Ohio 154
Constitution; 155

(3) Ensure that Ohio employees who are paid the wage rate 156
required by Section 34a of Article II, Ohio Constitution, may 157
enforce their right to receive that wage rate in the manner set 158
forth in Section 34a of Article II, Ohio Constitution; and 159

(4) Protect the privacy of Ohio employees' pay and 160
personal information specified in Section 34a of Article II, 161
Ohio Constitution, by restricting an employee's access, and 162
access by a person acting on behalf of that employee, to the 163
employee's own pay and personal information. 164

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

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

(2) "Employ" and "employee" do not include any person
acting as a volunteer. In construing who is a volunteer,
"volunteer" shall have the same meaning as in sections 553.101
to 553.106 of Title 29 of the Code of Federal Regulations, as
amended, and due consideration and great weight shall be given
to the United States department of labor's and federal courts'
interpretations of the term "volunteer" under the Fair Labor
Standards Act and its regulations.

(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. 195

(D) (1) In accordance with Section 34a of Article II, Ohio 196
Constitution, individuals employed in or about the property of 197
an employer or an individual's residence on a casual basis are 198
not included within the coverage of Section 34a of Article II, 199
Ohio Constitution. As used in division (D) of this section: 200

(a) "Casual basis" means employment that is irregular or 201
intermittent and that is not performed by an individual whose 202
vocation is to be employed in or about the property of the 203
employer or individual's residence. In construing who is 204
employed on a "casual basis," due consideration and great weight 205
shall be given to the United States department of labor's and 206
federal courts' interpretations of the term "casual basis" under 207
the Fair Labor Standards Act and its regulations. 208

(b) "An individual employed in or about the property of an 209
employer or individual's residence" means an individual employed 210
on a casual basis or an individual employed in or about a 211
residence on a casual basis, respectively. 212

(2) In accordance with Section 34a of Article II, Ohio 213
Constitution, employees of a solely family-owned and operated 214
business who are family members of an owner are not included 215
within the coverage of Section 34a of Article II, Ohio 216
Constitution. As used in division (D) (2) of this section, 217
"family member" means a parent, spouse, child, stepchild, 218
sibling, grandparent, grandchild, or other member of an owner's 219
immediate family. 220

(E) In accordance with Section 34a of Article II, Ohio 221
Constitution, an employer shall at the time of hire provide an 222
employee with the employer's name, address, telephone number, 223

and other contact information and update such information when 224
it changes. As used in division (E) of this section: 225

(1) "Other contact information" may include, where 226
applicable, the address of the employer's internet site on the 227
world wide web, the employer's electronic mail address, fax 228
number, or the name, address, and telephone number of the 229
employer's statutory agent. "Other contact information" does not 230
include the name, address, telephone number, fax number, 231
internet site address, or electronic mail address of any 232
employee, shareholder, officer, director, supervisor, manager, 233
or other individual employed by or associated with an employer. 234

(2) "When it changes" means that the employer shall 235
provide its employees with the change in its name, address, 236
telephone number, or other contact information within sixty 237
business days after the change occurs. The employer shall 238
provide the changed information by using any of its usual 239
methods of communicating with its employees, including, but not 240
limited to, listing the change on the employer's internet site 241
on the world wide web, internal computer network, or a bulletin 242
board where it commonly posts employee communications or by 243
insertion or inclusion with employees' paychecks or pay stubs. 244

(F) In accordance with Section 34a of Article II, Ohio 245
Constitution, an employer shall maintain a record of the name, 246
address, occupation, pay rate, hours worked for each day worked, 247
and each amount paid an employee for a period of not less than 248
three years following the last date the employee was employed by 249
that employer. As used in division (F) of this section: 250

(1) "Address" means an employee's home address as 251
maintained in the employer's personnel file or personnel 252
database for that employee. 253

(2) (a) With respect to employees who are not exempt from 254
the overtime pay requirements of the Fair Labor Standards Act or 255
this chapter, "pay rate" means an employee's base rate of pay. 256

(b) With respect to employees who are exempt from the 257
overtime pay requirements of the Fair Labor Standards Act or 258
this chapter, "pay rate" means an employee's annual base salary 259
or other rate of pay by which the particular employee qualifies 260
for that exemption under the Fair Labor Standards Act or this 261
chapter, but does not include bonuses, stock options, 262
incentives, deferred compensation, or any other similar form of 263
compensation. 264

(3) "Record" means the name, address, occupation, pay 265
rate, hours worked for each day worked, and each amount paid an 266
employee in one or more documents, databases, or other paper or 267
electronic forms of record-keeping maintained by an employer. No 268
one particular method or form of maintaining such a record or 269
records is required under this division. An employer is not 270
required to create or maintain a single record containing only 271
the employee's name, address, occupation, pay rate, hours worked 272
for each day worked, and each amount paid an employee. An 273
employer shall maintain a record or records from which the 274
employee or person acting on behalf of that employee could 275
reasonably review the information requested by the employee or 276
person. 277

An employer is not required to maintain the records 278
specified in division (F) (3) of this section for any period 279
before January 1, 2007. On and after January 1, 2007, the 280
employer shall maintain the records required by division (F) (3) 281
of this section for three years from the date the hours were 282
worked by the employee and for three years after the date the 283

employee's employment ends. 284

(4) (a) Except for individuals specified in division (F) (4) 285
(b) of this section, "hours worked for each day worked" means 286
the total amount of time worked by an employee in whatever 287
increments the employer uses for its payroll purposes during a 288
day worked by the employee. An employer is not required to keep 289
a record of the time of day an employee begins and ends work on 290
any given day. As used in division (F) (4) of this section, "day" 291
means a fixed period of twenty-four consecutive hours during 292
which an employee performs work for an employer. 293

(b) An employer is not required to keep records of "hours 294
worked for each day worked" for individuals for whom the 295
employer is not required to keep those records under the Fair 296
Labor Standards Act and its regulations or individuals who are 297
not subject to the overtime pay requirements specified in 298
~~section~~ sections 4111.03 and 4111.031 of the Revised Code. 299

(5) "Each amount paid an employee" means the total gross 300
wages paid to an employee for each pay period. As used in 301
division (F) (5) of this section, "pay period" means the period 302
of time designated by an employer to pay an employee the 303
employee's gross wages in accordance with the employer's payroll 304
practices under section 4113.15 of the Revised Code. 305

(G) In accordance with Section 34a of Article II, Ohio 306
Constitution, an employer must provide such information without 307
charge to an employee or person acting on behalf of an employee 308
upon request. As used in division (G) of this section: 309

(1) "Such information" means the name, address, 310
occupation, pay rate, hours worked for each day worked, and each 311
amount paid for the specific employee who has requested that 312

specific employee's own information and does not include the 313
name, address, occupation, pay rate, hours worked for each day 314
worked, or each amount paid of any other employee of the 315
employer. "Such information" does not include hours worked for 316
each day worked by individuals for whom an employer is not 317
required to keep that information under the Fair Labor Standards 318
Act and its regulations or individuals who are not subject to 319
the overtime pay requirements specified in ~~section~~ sections 320
4111.03 and 4111.031 of the Revised Code. 321

(2) "Acting on behalf of an employee" means a person 322
acting on behalf of an employee as any of the following: 323

(a) The certified or legally recognized collective 324
bargaining representative for that employee under the applicable 325
federal law or Chapter 4117. of the Revised Code; 326

(b) The employee's attorney; 327

(c) The employee's parent, guardian, or legal custodian. 328

A person "acting on behalf of an employee" must be 329
specifically authorized by an employee in order to make a 330
request for that employee's own name, address, occupation, pay 331
rate, hours worked for each day worked, and each amount paid to 332
that employee. 333

(3) "Provide" means that an employer shall provide the 334
requested information within thirty business days after the date 335
the employer receives the request, unless either of the 336
following occurs: 337

(a) The employer and the employee or person acting on 338
behalf of the employee agree to some alternative time period for 339
providing the information. 340

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

(4) A "request" made by an employee or a person acting on behalf of an employee means a request by an employee or a person acting on behalf of an employee for the employee's own information. The employer may require that the employee provide the employer with a written request that has been signed by the employee and notarized and that reasonably specifies the particular information being requested. The employer may require that the person acting on behalf of an employee provide the employer with a written request that has been signed by the employee whose information is being requested and notarized and that reasonably specifies the particular information being requested.

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

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

(2) "Acting on behalf of one or more employees" has the

same meaning as "acting on behalf of an employee" in division 371
(G) (2) of this section. Each employee must provide a separate 372
written and notarized authorization before the person acting on 373
that employee's or those employees' behalf may request the name, 374
address, occupation, pay rate, hours worked for each day worked, 375
and each amount paid for the particular employee. 376

(3) "Interested party" means a party who alleges to be 377
injured by the alleged violation and who has standing to file a 378
complaint under common law principles of standing. 379

(4) "Resolved by the state" means that the complaint has 380
been resolved to the satisfaction of the state. 381

(5) "Shall be kept confidential" means that the state 382
shall keep the name of the employee confidential as required by 383
division (H) of this section. 384

(I) In accordance with Section 34a of Article II, Ohio 385
Constitution, the state may on its own initiative investigate an 386
employer's compliance with Section 34a of Article II, Ohio 387
Constitution, and any law or regulation implementing Section 34a 388
of Article II, Ohio Constitution. The employer shall make 389
available to the state any records related to such investigation 390
and other information required for enforcement of Section 34a of 391
Article II, Ohio Constitution or any law or regulation 392
implementing Section 34a of Article II, Ohio Constitution. The 393
state shall investigate an employer's compliance with this 394
section in accordance with the procedures described in section 395
4111.04 of the Revised Code. All records and information related 396
to investigations by the state are confidential and are not a 397
public record subject to section 149.43 of the Revised Code. 398
This division does not prevent the state from releasing to or 399
exchanging with other state and federal wage and hour regulatory 400

authorities information related to investigations. 401

(J) In accordance with Section 34a of Article II, Ohio 402
Constitution, damages shall be calculated as an additional two 403
times the amount of the back wages and in the case of a 404
violation of an anti-retaliation provision an amount set by the 405
state or court sufficient to compensate the employee and deter 406
future violations, but not less than one hundred fifty dollars 407
for each day that the violation continued. The "not less than 408
one hundred fifty dollar" penalty specified in division (J) of 409
this section shall be imposed only for violations of the anti- 410
retaliation provision in Section 34a of Article II, Ohio 411
Constitution. 412

(K) In accordance with Section 34a of Article II, Ohio 413
Constitution, an action for equitable and monetary relief may be 414
brought against an employer by the attorney general and/or an 415
employee or person acting on behalf of an employee or all 416
similarly situated employees in any court of competent 417
jurisdiction, including the court of common pleas of an 418
employee's county of residence, for any violation of Section 34a 419
of Article II, Ohio Constitution, or any law or regulation 420
implementing its provisions within three years of the violation 421
or of when the violation ceased if it was of a continuing 422
nature, or within one year after notification to the employee of 423
final disposition by the state of a complaint for the same 424
violation, whichever is later. 425

(1) As used in division (K) of this section, 426
"notification" means the date on which the notice was sent to 427
the employee by the state. 428

(2) No employee shall join as a party plaintiff in any 429
civil action that is brought under division (K) of this section 430

by an employee, person acting on behalf of an employee, or 431
person acting on behalf of all similarly situated employees 432
unless that employee first gives written consent to become such 433
a party plaintiff and that consent is filed with the court in 434
which the action is brought. 435

(3) A civil action regarding an alleged violation of this 436
section shall be maintained only under division (K) of this 437
section. This division does not preclude the joinder in a single 438
civil action of an action under this division and an action 439
under section 4111.10 of the Revised Code. 440

(4) Any agreement between an employee and employer to work 441
for less than the wage rate specified in Section 34a of Article 442
II, Ohio Constitution, is no defense to an action under this 443
section. 444

(L) In accordance with Section 34a of Article II, Ohio 445
Constitution, there shall be no exhaustion requirement, no 446
procedural, pleading, or burden of proof requirements beyond 447
those that apply generally to civil suits in order to maintain 448
such action and no liability for costs or attorney's fees on an 449
employee except upon a finding that such action was frivolous in 450
accordance with the same standards that apply generally in civil 451
suits. Nothing in division (L) of this section affects the right 452
of an employer and employee to agree to submit a dispute under 453
this section to alternative dispute resolution, including, but 454
not limited to, arbitration, in lieu of maintaining the civil 455
suit specified in division (K) of this section. Nothing in this 456
division limits the state's ability to investigate or enforce 457
this section. 458

(M) An employer who provides such information specified in 459
Section 34a of Article II, Ohio Constitution, shall be immune 460

from any civil liability for injury, death, or loss to person or 461
property that otherwise might be incurred or imposed as a result 462
of providing that information to an employee or person acting on 463
behalf of an employee in response to a request by the employee 464
or person, and the employer shall not be subject to the 465
provisions of Chapters 1347. and 1349. of the Revised Code to 466
the extent that such provisions would otherwise apply. As used 467
in division (M) of this section, "such information," "acting on 468
behalf of an employee," and "request" have the same meanings as 469
in division (G) of this section. 470

(N) As used in this section, "the state" means the 471
director of commerce. 472

Sec. 4111.99. (A) Whoever violates division (A) (1) or ~~(D)~~ 473
(4) of section 4111.13 of the Revised Code is guilty of a 474
misdemeanor of the fourth degree. 475

(B) Whoever violates division ~~(B)~~ (A) (2) or ~~(C)~~ (3) of 476
section 4111.13 of the Revised Code is guilty of a misdemeanor 477
of the third degree. 478

(C) Whoever violates section 4111.17 of the Revised Code 479
is guilty of a minor misdemeanor. 480

Sec. 4112.01. (A) As used in this chapter: 481

(1) "Person" includes one or more individuals, 482
partnerships, associations, organizations, corporations, legal 483
representatives, trustees, trustees in bankruptcy, receivers, 484
and other organized groups of persons. "Person" also includes, 485
but is not limited to, any owner, lessor, assignor, builder, 486
manager, broker, salesperson, appraiser, agent, employee, 487
lending institution, and the state and all political 488
subdivisions, authorities, agencies, boards, and commissions of 489

the state. 490

(2) "Employer" includes the state, any political 491
subdivision of the state, any person employing four or more 492
persons within the state, any person employing a domestic 493
worker, for purposes of section 4112.024 of the Revised Code, 494
and any person acting directly or indirectly in the interest of 495
an employer. 496

(3) "Employee" means an individual employed by any 497
employer but does not include, except for purposes of section 498
4112.024 of the Revised Code, any individual employed in the 499
domestic service of any person. 500

(4) "Labor organization" includes any organization that 501
exists, in whole or in part, for the purpose of collective 502
bargaining or of dealing with employers concerning grievances, 503
terms or conditions of employment, or other mutual aid or 504
protection in relation to employment. 505

(5) "Employment agency" includes any person regularly 506
undertaking, with or without compensation, to procure 507
opportunities to work or to procure, recruit, refer, or place 508
employees. 509

(6) "Commission" means the Ohio civil rights commission 510
created by section 4112.03 of the Revised Code. 511

(7) "Discriminate" includes segregate or separate. 512

(8) "Unlawful discriminatory practice" means any act 513
prohibited by section 4112.02, 4112.021, ~~or 4112.022,~~ or 514
4112.024 of the Revised Code. 515

(9) "Place of public accommodation" means any inn, 516
restaurant, eating house, barbershop, public conveyance by air, 517

land, or water, theater, store, other place for the sale of 518
merchandise, or any other place of public accommodation or 519
amusement of which the accommodations, advantages, facilities, 520
or privileges are available to the public. 521

(10) "Housing accommodations" includes any building or 522
structure, or portion of a building or structure, that is used 523
or occupied or is intended, arranged, or designed to be used or 524
occupied as the home residence, dwelling, dwelling unit, or 525
sleeping place of one or more individuals, groups, or families 526
whether or not living independently of each other; and any 527
vacant land offered for sale or lease. "Housing accommodations" 528
also includes any housing accommodations held or offered for 529
sale or rent by a real estate broker, salesperson, or agent, by 530
any other person pursuant to authorization of the owner, by the 531
owner, or by the owner's legal representative. 532

(11) "Restrictive covenant" means any specification 533
limiting the transfer, rental, lease, or other use of any 534
housing accommodations because of race, color, religion, sex, 535
military status, familial status, national origin, disability, 536
or ancestry, or any limitation based upon affiliation with or 537
approval by any person, directly or indirectly, employing race, 538
color, religion, sex, military status, familial status, national 539
origin, disability, or ancestry as a condition of affiliation or 540
approval. 541

(12) "Burial lot" means any lot for the burial of deceased 542
persons within any public burial ground or cemetery, including, 543
but not limited to, cemeteries owned and operated by municipal 544
corporations, townships, or companies or associations 545
incorporated for cemetery purposes. 546

(13) "Disability" means a physical or mental impairment 547

that substantially limits one or more major life activities, 548
including the functions of caring for one's self, performing 549
manual tasks, walking, seeing, hearing, speaking, breathing, 550
learning, and working; a record of a physical or mental 551
impairment; or being regarded as having a physical or mental 552
impairment. 553

(14) Except as otherwise provided in section 4112.021 of 554
the Revised Code, "age" means at least forty years old. 555

(15) "Familial status" means either of the following: 556

(a) One or more individuals who are under eighteen years 557
of age and who are domiciled with a parent or guardian having 558
legal custody of the individual or domiciled, with the written 559
permission of the parent or guardian having legal custody, with 560
a designee of the parent or guardian; 561

(b) Any person who is pregnant or in the process of 562
securing legal custody of any individual who is under eighteen 563
years of age. 564

(16) (a) Except as provided in division (A) (16) (b) of this 565
section, "physical or mental impairment" includes any of the 566
following: 567

(i) Any physiological disorder or condition, cosmetic 568
disfigurement, or anatomical loss affecting one or more of the 569
following body systems: neurological; musculoskeletal; special 570
sense organs; respiratory, including speech organs; 571
cardiovascular; reproductive; digestive; genito-urinary; hemic 572
and lymphatic; skin; and endocrine; 573

(ii) Any mental or psychological disorder, including, but 574
not limited to, mental retardation, organic brain syndrome, 575
emotional or mental illness, and specific learning disabilities; 576

(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, mental retardation, emotional illness, drug addiction, and alcoholism.

(b) "Physical or mental impairment" does not include any of the following:

(i) Homosexuality and bisexuality;

(ii) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(iii) Compulsive gambling, kleptomania, or pyromania;

(iv) Psychoactive substance use disorders resulting from the current illegal use of a controlled substance or the current use of alcoholic beverages.

(17) "Dwelling unit" means a single unit of residence for a family of one or more persons.

(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.

(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.

(20) "Controlled substance" has the same meaning as in 605
section 3719.01 of the Revised Code. 606

(21) "Disabled tenant" means a tenant or prospective 607
tenant who is a person with a disability. 608

(22) "Military status" means a person's status in "service 609
in the uniformed services" as defined in section 5923.05 of the 610
Revised Code. 611

(23) "Aggrieved person" includes both of the following: 612

(a) Any person who claims to have been injured by any 613
unlawful discriminatory practice described in division (H) of 614
section 4112.02 of the Revised Code; 615

(b) Any person who believes that the person will be 616
injured by, any unlawful discriminatory practice described in 617
division (H) of section 4112.02 of the Revised Code that is 618
about to occur. 619

(24) "Domestic worker" means a person employed in a home 620
or residence for the purpose of caring for a child; serving as a 621
companion for a sick, convalescing, or elderly person; 622
housekeeping; or for any other domestic service purpose. 623
"Domestic worker" does not include any of the following: 624

(a) An individual who is working on a casual basis, as 625
defined in section 4111.14 of the Revised Code; 626

(b) An individual who is engaged in providing 627
companionship services, as defined in 29 C.F.R. 552.6, as 628
amended, and who is employed by an employer or agency other than 629
the family or household for which the individual is providing 630
services; 631

(c) An individual who is a relative through blood, 632

marriage, or adoption of either of the following:

(i) The employer;

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

(B) For the purposes of divisions (A) to (F) of section 4112.02 of the Revised Code, the terms "because of sex" and "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, any illness arising out of and occurring during the course of a pregnancy, childbirth, or related medical conditions. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in division (B) of section 4111.17 of the Revised Code shall be interpreted to permit otherwise. This division shall not be construed to require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term or except where medical complications have arisen from the abortion, provided that nothing in this division precludes an employer from providing abortion benefits or otherwise affects bargaining agreements in regard to abortion.

Sec. 4112.024. It shall be an unlawful discriminatory
practice for an employer to do any of the following:

(A) Make unwelcome sexual advances, requests for sexual
favors, or engage in other verbal or physical conduct of a
sexual nature toward a domestic worker when any of the following

apply:

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

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

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

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

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

(B) (1) Any person may file a charge with the commission
alleging that another person has engaged or is engaging in an
unlawful discriminatory practice. In the case of a charge
alleging an unlawful discriminatory practice described in
division (A), (B), (C), (D), (E), (F), (G), (I), or (J) of
section 4112.02 or in section 4112.021~~or~~, 4112.022, or

4112.024 of the Revised Code, the charge shall be in writing and
under oath and shall be filed with the commission within six
months after the alleged unlawful discriminatory practice was
committed. In the case of a charge alleging an unlawful
discriminatory practice described in division (H) of section
4112.02 of the Revised Code, the charge shall be in writing and
under oath and shall be filed with the commission within one
year after the alleged unlawful discriminatory practice was
committed.

(2) Upon receiving a charge, the commission may initiate a
preliminary investigation to determine whether it is probable
that an unlawful discriminatory practice has been or is being
engaged in. The commission also may conduct, upon its own
initiative and independent of the filing of any charges, a
preliminary investigation relating to any of the unlawful
discriminatory practices described in division (A), (B), (C),
(D), (E), (F), (I), or (J) of section 4112.02 or in section
4112.021~~or~~, 4112.022, or 4112.024 of the Revised Code. Prior
to a notification of a complainant under division (B) (4) of this
section or prior to the commencement of informal methods of
conference, conciliation, and persuasion under that division,
the members of the commission and the officers and employees of
the commission shall not make public in any manner and shall
retain as confidential all information that was obtained as a
result of or that otherwise pertains to a preliminary
investigation other than one described in division (B) (3) of
this section.

(3) (a) Unless it is impracticable to do so and subject to
its authority under division (B) (3) (d) of this section, the
commission shall complete a preliminary investigation of a
charge filed pursuant to division (B) (1) of this section that

alleges an unlawful discriminatory practice described in 722
division (H) of section 4112.02 of the Revised Code, and shall 723
take one of the following actions, within one hundred days after 724
the filing of the charge: 725

(i) Notify the complainant and the respondent that it is 726
not probable that an unlawful discriminatory practice described 727
in division (H) of section 4112.02 of the Revised Code has been 728
or is being engaged in and that the commission will not issue a 729
complaint in the matter; 730

(ii) Initiate a complaint and schedule it for informal 731
methods of conference, conciliation, and persuasion; 732

(iii) Initiate a complaint and refer it to the attorney 733
general with a recommendation to seek a temporary or permanent 734
injunction or a temporary restraining order. If this action is 735
taken, the attorney general shall apply, as expeditiously as 736
possible after receipt of the complaint, to the court of common 737
pleas of the county in which the unlawful discriminatory 738
practice allegedly occurred for the appropriate injunction or 739
order, and the court shall hear and determine the application as 740
expeditiously as possible. 741

(b) If it is not practicable to comply with the 742
requirements of division (B) (3) (a) of this section within the 743
one-hundred-day period described in that division, the 744
commission shall notify the complainant and the respondent in 745
writing of the reasons for the noncompliance. 746

(c) Prior to the issuance of a complaint under division 747
(B) (3) (a) (ii) or (iii) of this section or prior to a 748
notification of the complainant and the respondent under 749
division (B) (3) (a) (i) of this section, the members of the 750

commission and the officers and employees of the commission 751
shall not make public in any manner and shall retain as 752
confidential all information that was obtained as a result of or 753
that otherwise pertains to 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 4112.05 of the Revised Code. 757

(d) Notwithstanding the types of action described in 758
divisions (B)(3)(a)(ii) and (iii) of this section, prior to the 759
issuance of a complaint or the referral of a complaint to the 760
attorney general and prior to endeavoring to eliminate an 761
unlawful discriminatory practice described in division (H) of 762
section 4112.02 of the Revised Code by informal methods of 763
conference, conciliation, and persuasion, the commission may 764
seek a temporary or permanent injunction or a temporary 765
restraining order in the court of common pleas of the county in 766
which the unlawful discriminatory practice allegedly occurred. 767

(4) If the commission determines after a preliminary 768
investigation other than one described in division (B)(3) of 769
this section that it is not probable that an unlawful 770
discriminatory practice has been or is being engaged in, it 771
shall notify any complainant under division (B)(1) of this 772
section that it has so determined and that it will not issue a 773
complaint in the matter. If the commission determines after a 774
preliminary investigation other than the one described in 775
division (B)(3) of this section that it is probable that an 776
unlawful discriminatory practice has been or is being engaged 777
in, it shall endeavor to eliminate the practice by informal 778
methods of conference, conciliation, and persuasion. 779

(5) Nothing said or done during informal methods of 780

conference, conciliation, and persuasion under this section 781
shall be disclosed by any member of the commission or its staff 782
or be used as evidence in any subsequent hearing or other 783
proceeding. If, after a preliminary investigation and the use of 784
informal methods of conference, conciliation, and persuasion 785
under this section, the commission is satisfied that any 786
unlawful discriminatory practice will be eliminated, it may 787
treat the charge involved as being conciliated and enter that 788
disposition on the records of the commission. If the commission 789
fails to effect the elimination of an unlawful discriminatory 790
practice by informal methods of conference, conciliation, and 791
persuasion under this section and to obtain voluntary compliance 792
with this chapter, the commission shall issue and cause to be 793
served upon any person, including the respondent against whom a 794
complainant has filed a charge pursuant to division (B)(1) of 795
this section, a complaint stating the charges involved and 796
containing a notice of an opportunity for a hearing before the 797
commission, a member of the commission, or a hearing examiner at 798
a place that is stated in the notice and that is located within 799
the county in which the alleged unlawful discriminatory practice 800
has occurred or is occurring or in which the respondent resides 801
or transacts business. The hearing shall be held not less than 802
thirty days after the service of the complaint upon the 803
complainant, the aggrieved persons other than the complainant on 804
whose behalf the complaint is issued, and the respondent, unless 805
the complainant, an aggrieved person, or the respondent elects 806
to proceed under division (A)(2) of section 4112.051 of the 807
Revised Code when that division is applicable. If a complaint 808
pertains to an alleged unlawful discriminatory practice 809
described in division (H) of section 4112.02 of the Revised 810
Code, the complaint shall notify the complainant, an aggrieved 811
person, and the respondent of the right of the complainant, an 812

aggrieved person, or the respondent to elect to proceed with the 813
administrative hearing process under this section or to proceed 814
under division (A) (2) of section 4112.051 of the Revised Code. 815

(6) The attorney general shall represent the commission at 816
any hearing held pursuant to division (B) (5) of this section and 817
shall present the evidence in support of the complaint. 818

(7) Any complaint issued pursuant to division (B) (5) of 819
this section after the filing of a charge under division (B) (1) 820
of this section shall be so issued within one year after the 821
complainant filed the charge with respect to an alleged unlawful 822
discriminatory practice. 823

(C) Any complaint issued pursuant to division (B) of this 824
section may be amended by the commission, a member of the 825
commission, or the hearing examiner conducting a hearing under 826
division (B) of this section, at any time prior to or during the 827
hearing. The respondent has the right to file an answer or an 828
amended answer to the original and amended complaints and to 829
appear at the hearing in person, by attorney, or otherwise to 830
examine and cross-examine witnesses. 831

(D) The complainant shall be a party to a hearing under 832
division (B) of this section, and any person who is an 833
indispensable party to a complete determination or settlement of 834
a question involved in the hearing shall be joined. Any 835
aggrieved person who has or claims an interest in the subject of 836
the hearing and in obtaining or preventing relief against the 837
unlawful discriminatory practices complained of shall be 838
permitted to appear only for the presentation of oral or written 839
arguments, to present evidence, perform direct and cross- 840
examination, and be represented by counsel. The commission shall 841
adopt rules, in accordance with Chapter 119. of the Revised Code 842

governing the authority granted under this division. 843

(E) In any hearing under division (B) of this section, the 844
commission, a member of the commission, or the hearing examiner 845
shall not be bound by the Rules of Evidence but, in ascertaining 846
the practices followed by the respondent, shall take into 847
account all reliable, probative, and substantial statistical or 848
other evidence produced at the hearing that may tend to prove 849
the existence of a predetermined pattern of employment or 850
membership, provided that nothing contained in this section 851
shall be construed to authorize or require any person to observe 852
the proportion that persons of any race, color, religion, sex, 853
military status, familial status, national origin, disability, 854
age, or ancestry bear to the total population or in accordance 855
with any criterion other than the individual qualifications of 856
the applicant. 857

(F) The testimony taken at a hearing under division (B) of 858
this section shall be under oath and shall be reduced to writing 859
and filed with the commission. Thereafter, in its discretion, 860
the commission, upon the service of a notice upon the 861
complainant and the respondent that indicates an opportunity to 862
be present, may take further testimony or hear argument. 863

(G)(1) If, upon all reliable, probative, and substantial 864
evidence presented at a hearing under division (B) of this 865
section, the commission determines that the respondent has 866
engaged in, or is engaging in, any unlawful discriminatory 867
practice, whether against the complainant or others, the 868
commission shall state its findings of fact and conclusions of 869
law and shall issue and, subject to the provisions of Chapter 870
119. of the Revised Code, cause to be served on the respondent 871
an order requiring the respondent to cease and desist from the 872

unlawful discriminatory practice, requiring the respondent to 873
take any further affirmative or other action that will 874
effectuate the purposes of this chapter, including, but not 875
limited to, hiring, reinstatement, or upgrading of employees or 876
domestic workers with or without back pay, or admission or 877
restoration to union membership, and requiring the respondent to 878
report to the commission the manner of compliance. If the 879
commission directs payment of back pay, it shall make allowance 880
for interim earnings. If it finds a violation of division (H) of 881
section 4112.02 of the Revised Code, the commission additionally 882
shall require the respondent to pay actual damages and 883
reasonable attorney's fees, and may award to the complainant 884
punitive damages as follows: 885

(a) If division (G)(1)(b) or (c) of this section does not 886
apply, punitive damages in an amount not to exceed ten thousand 887
dollars; 888

(b) If division (G)(1)(c) of this section does not apply 889
and if the respondent has been determined by a final order of 890
the commission or by a final judgment of a court to have 891
committed one violation of division (H) of section 4112.02 of 892
the Revised Code during the five-year period immediately 893
preceding the date on which a complaint was issued pursuant to 894
division (B) of this section, punitive damages in an amount not 895
to exceed twenty-five thousand dollars; 896

(c) If the respondent has been determined by a final order 897
of the commission or by a final judgment of a court to have 898
committed two or more violations of division (H) of section 899
4112.02 of the Revised Code during the seven-year period 900
immediately preceding the date on which a complaint was issued 901
pursuant to division (B) of this section, punitive damages in an 902

amount not to exceed fifty thousand dollars. 903

(2) Upon the submission of reports of compliance, the 904
commission may issue a declaratory order stating that the 905
respondent has ceased to engage in particular unlawful 906
discriminatory practices. 907

(H) If the commission finds that no probable cause exists 908
for crediting charges of unlawful discriminatory practices or 909
if, upon all the evidence presented at a hearing under division 910
(B) of this section on a charge, the commission finds that a 911
respondent has not engaged in any unlawful discriminatory 912
practice against the complainant or others, it shall state its 913
findings of fact and shall issue and cause to be served on the 914
complainant an order dismissing the complaint as to the 915
respondent. A copy of the order shall be delivered in all cases 916
to the attorney general and any other public officers whom the 917
commission considers proper. 918

(I) Until the time period for appeal set forth in division 919
(H) of section 4112.06 of the Revised Code expires, the 920
commission, subject to the provisions of Chapter 119. of the 921
Revised Code, at any time, upon reasonable notice, and in the 922
manner it considers proper, may modify or set aside, in whole or 923
in part, any finding or order made by it under this section. 924

Section 2. That existing sections 4111.02, 4111.08, 925
4111.10, 4111.13, 4111.14, 4111.99, 4112.01, and 4112.05 of the 926
Revised Code are hereby repealed. 927

Section 3. The Director of Commerce shall prepare a report 928
on the feasibility and practicality of allowing domestic workers 929
to organize for purposes of collective bargaining. In preparing 930
the report, the Director shall consult with representatives of 931

domestic workers and individuals and agencies that employ 932
domestic workers, and with relevant state agencies including the 933
State Employment Relations Board. Upon completion of the report, 934
and prior to December 1, 2016, the Director shall submit the 935
report the Governor, the Speaker of the House of 936
Representatives, and the President of the Senate. 937