

As Introduced

135th General Assembly

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H. B. No. 427

Representatives Jarrells, Lipps

Cosponsors: Representatives Upchurch, Piccolantonio, Brent, Miller, J., Sweeney, Grim, Weinstein, Brewer, Isaacsohn, Miller, A., Somani, Miranda, Denson, Skindell, Brown, Baker, Abdullahi, Dell'Aquila, Russo, Brennan, Humphrey, Liston, Mohamed, Robinson, Troy, Blackshear, McNally, Rogers, Thomas, C., Lorenz, Johnson, White

A BILL

To amend sections 4111.06, 4111.14, 5122.28, 1
5123.022, 5123.023, and 5123.87 and to enact 2
section 4111.061 of the Revised Code to phase 3
out the subminimum wage for individuals with 4
physical or mental disabilities and to name this 5
act the Ohio Employment First and Greater 6
Opportunities for Persons with Disabilities Act. 7

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

Section 1. That sections 4111.06, 4111.14, 5122.28, 8
5123.022, 5123.023, and 5123.87 be amended and section 4111.061 9
of the Revised Code be enacted to read as follows: 10

Sec. 4111.06. (A) As used in this section and section 11
4111.061 of the Revised Code, "employer" and "employee" have the 12
same meanings as in section 4111.02 of the Revised Code. 13

(B) In order to prevent curtailment of opportunities for 14
employment, to avoid undue hardship, and to safeguard the 15

minimum wage rates under sections 4111.01 to 4111.17 of the Revised Code, the director of commerce, subject to divisions (C) and (D) of this section, shall adopt rules under section 4111.05 of the Revised Code, permitting employment in any occupation at wages lower than the wage rates applicable under sections 4111.01 to 4111.17 of the Revised Code, of individuals whose earning capacity is impaired by physical or mental disabilities or injuries. ~~The~~ Except as provided in divisions (C) and (D) of this section, the rules shall provide for licenses to be issued authorizing employment at the wages of specific individuals or groups of employees, or by specific employers or groups of employers, pursuant to the rules. The rules shall not conflict with the "Americans with Disabilities Act of 1990," 104 Stat. 328, 42 U.S.C.A. 12111, et seq.

(C) Beginning ninety days after the effective date of this amendment, both of the following apply:

(1) The director shall not provide for the issuance of new, or renew any existing, licenses authorizing employment at wages lower than the wage rates applicable under sections 4111.01 to 4111.17 of the Revised Code.

(2) No employer shall pay an employee whose earning capacity is impaired by a physical or mental disability or injury at wages lower than the wage rates applicable under sections 4111.01 to 4111.17 of the Revised Code unless both of the following apply:

(a) The employer employs that employee on and after the date that is ninety days after the effective date of this amendment.

(b) The employer holds an unexpired license issued in

accordance with division (B) of this section authorizing the 45
employer to pay that employee at a wage lower than the wage 46
rates applicable under sections 4111.01 to 4111.17 of the 47
Revised Code. 48

(D) Beginning on and after the date that is five years 49
after the effective date of this amendment, no employer shall 50
pay any employee whose earning capacity is impaired by a 51
physical or mental disability or injury at a wage lower than the 52
wage rates applicable under sections 4111.01 to 4111.17 of the 53
Revised Code. 54

Sec. 4111.061. (A) As used in this section: 55

(1) "Competitive employment" has the same meaning as in 56
section 5123.022 of the Revised Code. 57

(2) "Department" has the same meaning as in section 121.01 58
of the Revised Code, except that it also includes the bureau of 59
workers' compensation, department of education, department of 60
higher education, department of taxation, and public utilities 61
commission of Ohio. 62

(3) "Disability" means, with respect to an individual, a 63
physical or mental impairment that substantially limits one or 64
more of major life activities, a record of a physical or mental 65
impairment, being regarded as having a physical or mental 66
impairment, or any condition that would be considered a 67
disability under the "Americans with Disabilities Act of 1990," 68
42 U.S.C. 12101, et seq. 69

(4) "Federal certificate" means a special certificate 70
issued in accordance with section 14(c) of the "Fair Labor 71
Standards Act," 29 U.S.C. 214(c). 72

(5) "State license" means a license issued pursuant to 73

division (B) of section 4111.06 of the Revised Code or division 74
(C) of section 4111.14 of the Revised Code, as that division 75
existed before the effective date of this section. 76

(6) "Subminimum wage" means a wage paid to an employee 77
with a disability that is lower than the wage rates applicable 78
under sections 4111.01 to 4111.17 of the Revised Code. 79

(B) Not later than fifteen months after the effective date 80
of this section, each employer that holds a state license or 81
federal certificate shall submit to the director of 82
developmental disabilities a transition plan that addresses how 83
the employer intends to do both of the following: 84

(1) Phase out subminimum wages not later than the date 85
that is five years after the effective date of this section; 86

(2) Support individuals with disabilities in pursuing 87
competitive, integrated employment. 88

(C) The director of developmental disabilities, in 89
consultation with the executive director of the opportunities 90
for Ohioans with disabilities agency, shall assist employers 91
with phasing out subminimum wages not later than the date that 92
is five years after the effective date of this section and shall 93
do all of the following: 94

(1) Identify and develop protections to ensure 95
competitive, integrated employment for employees with 96
disabilities while phasing out subminimum wages; 97

(2) Identify and collaborate with employees, employers, 98
organizations, agencies, and stakeholders impacted by the phase 99
out of subminimum wages to assist them with implementing the 100
transition plans submitted under division (C) of this section 101
and creating sustainable, competitive employment; 102

(3) Collect data on employers that hold state licenses or federal certificates until the date that is five years after the effective date of this section; 103
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(4) Propose a plan to establish and evaluate benchmarks for measuring progress with respect to implementing the transition plans each year until subminimum wages are eliminated beginning on the date that is five years after the effective date of this section; 106
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(5) Propose a plan to monitor and track the outcomes of employees with disabilities; 111
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(6) Identify initiatives, investments, training, and services designed to improve wages, reduce unemployment rates, and provide support and sustainable work opportunities for individuals with disabilities; 113
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(7) Identify and make recommendations for sustainable support, funding, and resources to assist individuals with disabilities with respect to phasing out subminimum wages, such as financing for the cost to implement and provide employment services, training, and support; 117
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(8) Ensure that the transition plans protect the rights of individuals with disabilities and complies with the "Americans with Disabilities Act of 1990," 42 U.S.C. 12111, et seq. and Chapter 4112. of the Revised Code. 122
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(D) Not later than the first day of January that first occurs following the effective date of this section, and not later than the first day of January of each year thereafter until the date that is five years after the effective date of this section, the director of developmental disabilities shall submit to the governor and the general assembly a report that 126
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includes the information described in division (C) of this 132
section. 133

(E) The director of developmental disabilities, in 134
consultation with the executive director of the opportunities 135
for Ohioans with disabilities agency, shall solicit assistance 136
from all of the following in carrying out the director's duties 137
under this section: 138

(1) The employment first task force established under 139
section 5123.023 of the Revised Code; 140

(2) Stakeholders who have expertise regarding the 141
employment of individuals with disabilities, at least twenty per 142
cent of whom are individuals with disabilities; 143

(3) Family members of individuals with disabilities; 144

(4) Organizations that advocate on behalf of individuals 145
with disabilities; 146

(5) Providers of services to individuals with 147
disabilities; 148

(6) Local governments; 149

(7) Business associations. 150

(F) Each department that employs or provides employment 151
services to individuals with disabilities shall do both of the 152
following: 153

(1) Coordinate and collaborate with other departments to 154
ensure that state programs, policies, procedures, and funding 155
contribute toward the competitive, integrated employment of 156
individuals with disabilities; 157

(2) Share nonconfidential data and other information with 158

other departments to track progress with respect to phasing out 159
subminimum wages not later than the date that is five years 160
after the effective date of this section. 161

Sec. 4111.14. (A) Pursuant to the general assembly's 162
authority to establish a minimum wage under Section 34 of 163
Article II, Ohio Constitution, this section is in implementation 164
of Section 34a of Article II, Ohio Constitution. In implementing 165
Section 34a of Article II, Ohio Constitution, the general 166
assembly hereby finds that the purpose of Section 34a of Article 167
II, Ohio Constitution, is to: 168

(1) Ensure that Ohio employees, as defined in division (B) 169
(1) of this section, are paid the wage rate required by Section 170
34a of Article II, Ohio Constitution; 171

(2) Ensure that covered Ohio employers maintain certain 172
records that are directly related to the enforcement of the wage 173
rate requirements in Section 34a of Article II, Ohio 174
Constitution; 175

(3) Ensure that Ohio employees who are paid the wage rate 176
required by Section 34a of Article II, Ohio Constitution, may 177
enforce their right to receive that wage rate in the manner set 178
forth in Section 34a of Article II, Ohio Constitution; and 179

(4) Protect the privacy of Ohio employees' pay and 180
personal information specified in Section 34a of Article II, 181
Ohio Constitution, by restricting an employee's access, and 182
access by a person acting on behalf of that employee, to the 183
employee's own pay and personal information. 184

(B) In accordance with Section 34a of Article II, Ohio 185
Constitution, the terms "employer," "employee," "employ," 186
"person," and "independent contractor" have the same meanings as 187

in the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 188
U.S.C. 203, as amended. In construing the meaning of these 189
terms, due consideration and great weight shall be given to the 190
United States department of labor's and federal courts' 191
interpretations of those terms under the Fair Labor Standards 192
Act and its regulations. As used in division (B) of this 193
section: 194

(1) "Employee" means individuals employed in Ohio, but 195
does not mean individuals who are excluded from the definition 196
of "employee" under 29 U.S.C. 203(e) or individuals who are 197
exempted from the minimum wage requirements in 29 U.S.C. 213 and 198
from the definition of "employee" in this chapter. 199

(2) "Employ" and "employee" do not include any person 200
acting as a volunteer. In construing who is a volunteer, 201
"volunteer" shall have the same meaning as in sections 553.101 202
to 553.106 of Title 29 of the Code of Federal Regulations, as 203
amended, and due consideration and great weight shall be given 204
to the United States department of labor's and federal courts' 205
interpretations of the term "volunteer" under the Fair Labor 206
Standards Act and its regulations. 207

(3) "Employer" does not include a franchisor with respect 208
to the franchisor's relationship with a franchisee or an 209
employee of a franchisee, unless the franchisor agrees to assume 210
that role in writing or a court of competent jurisdiction 211
determines that the franchisor exercises a type or degree of 212
control over the franchisee or the franchisee's employees that 213
is not customarily exercised by a franchisor for the purpose of 214
protecting the franchisor's trademark, brand, or both. For 215
purposes of this division, "franchisor" and "franchisee" have 216
the same meanings as in 16 C.F.R. 436.1. 217

(4) Subject to division (B)(5) of this section, "employee" 218
does not include an individual who operates a vehicle or vessel 219
in the performance of services for or on behalf of a motor 220
carrier transporting property and to whom all of the following 221
factors apply: 222

(a) The individual owns the vehicle or vessel that is used 223
in performing the services for or on behalf of the carrier, or 224
the individual leases the vehicle or vessel under a bona fide 225
lease agreement that is not a temporary replacement lease 226
agreement. For purposes of this division, a bona fide lease 227
agreement does not include an agreement between the individual 228
and the motor carrier transporting property for which, or on 229
whose behalf, the individual provides services. 230

(b) The individual is responsible for supplying the 231
necessary personal services to operate the vehicle or vessel 232
used to provide the service. 233

(c) The compensation paid to the individual is based on 234
factors related to work performed, including on a mileage-based 235
rate or a percentage of any schedule of rates, and not solely on 236
the basis of the hours or time expended. 237

(d) The individual substantially controls the means and 238
manner of performing the services, in conformance with 239
regulatory requirements and specifications of the shipper. 240

(e) The individual enters into a written contract with the 241
carrier for whom the individual is performing the services that 242
describes the relationship between the individual and the 243
carrier to be that of an independent contractor and not that of 244
an employee. 245

(f) The individual is responsible for substantially all of 246

the principal operating costs of the vehicle or vessel and 247
equipment used to provide the services, including maintenance, 248
fuel, repairs, supplies, vehicle or vessel insurance, and 249
personal expenses, except that the individual may be paid by the 250
carrier the carrier's fuel surcharge and incidental costs, 251
including tolls, permits, and lumper fees. 252

(g) The individual is responsible for any economic loss or 253
economic gain from the arrangement with the carrier. 254

(5) A motor carrier may elect to consider an individual 255
described in division (B) (4) of this section as an employee for 256
purposes of this section. 257

(6) "Motor carrier" has the same meaning as in section 258
4923.01 of the Revised Code. 259

~~(C) In accordance with Section 34a of Article II, Ohio~~ 260
~~Constitution, the state may issue licenses to employers~~ 261
~~authorizing payment of a wage below that required by Section 34a~~ 262
~~of Article II, Ohio Constitution, to individuals with mental or~~ 263
~~physical disabilities that may otherwise adversely affect their~~ 264
~~opportunity for employment. In issuing such licenses, the state~~ 265
~~shall abide by the rules adopted pursuant to section 4111.06 of~~ 266
~~the Revised Code.~~ 267

~~(D) (1)~~ (C) (1) In accordance with Section 34a of Article 268
II, Ohio Constitution, individuals employed in or about the 269
property of an employer or an individual's residence on a casual 270
basis are not included within the coverage of Section 34a of 271
Article II, Ohio Constitution. As used in division ~~(D)~~ (C) of 272
this section: 273

(a) "Casual basis" means employment that is irregular or 274
intermittent and that is not performed by an individual whose 275

vocation is to be employed in or about the property of the 276
employer or individual's residence. In construing who is 277
employed on a "casual basis," due consideration and great weight 278
shall be given to the United States department of labor's and 279
federal courts' interpretations of the term "casual basis" under 280
the Fair Labor Standards Act and its regulations. 281

(b) "An individual employed in or about the property of an 282
employer or individual's residence" means an individual employed 283
on a casual basis or an individual employed in or about a 284
residence on a casual basis, respectively. 285

(2) In accordance with Section 34a of Article II, Ohio 286
Constitution, employees of a solely family-owned and operated 287
business who are family members of an owner are not included 288
within the coverage of Section 34a of Article II, Ohio 289
Constitution. As used in division ~~(D)~~ (2) ~~(C)~~ (2) of this section, 290
"family member" means a parent, spouse, child, stepchild, 291
sibling, grandparent, grandchild, or other member of an owner's 292
immediate family. 293

~~(E)~~ (D) In accordance with Section 34a of Article II, Ohio 294
Constitution, an employer shall at the time of hire provide an 295
employee with the employer's name, address, telephone number, 296
and other contact information and update such information when 297
it changes. As used in division ~~(E)~~ (D) of this section: 298

(1) "Other contact information" may include, where 299
applicable, the address of the employer's internet site on the 300
world wide web, the employer's electronic mail address, fax 301
number, or the name, address, and telephone number of the 302
employer's statutory agent. "Other contact information" does not 303
include the name, address, telephone number, fax number, 304
internet site address, or electronic mail address of any 305

employee, shareholder, officer, director, supervisor, manager, 306
or other individual employed by or associated with an employer. 307

(2) "When it changes" means that the employer shall 308
provide its employees with the change in its name, address, 309
telephone number, or other contact information within sixty 310
business days after the change occurs. The employer shall 311
provide the changed information by using any of its usual 312
methods of communicating with its employees, including, but not 313
limited to, listing the change on the employer's internet site 314
on the world wide web, internal computer network, or a bulletin 315
board where it commonly posts employee communications or by 316
insertion or inclusion with employees' paychecks or pay stubs. 317

~~(F)~~ (E) In accordance with Section 34a of Article II, Ohio 318
Constitution, an employer shall maintain a record of the name, 319
address, occupation, pay rate, hours worked for each day worked, 320
and each amount paid an employee for a period of not less than 321
three years following the last date the employee was employed by 322
that employer. As used in division ~~(F)~~ (E) of this section: 323

(1) "Address" means an employee's home address as 324
maintained in the employer's personnel file or personnel 325
database for that employee. 326

(2) (a) With respect to employees who are not exempt from 327
the overtime pay requirements of the Fair Labor Standards Act or 328
this chapter, "pay rate" means an employee's base rate of pay. 329

(b) With respect to employees who are exempt from the 330
overtime pay requirements of the Fair Labor Standards Act or 331
this chapter, "pay rate" means an employee's annual base salary 332
or other rate of pay by which the particular employee qualifies 333
for that exemption under the Fair Labor Standards Act or this 334

chapter, but does not include bonuses, stock options, 335
incentives, deferred compensation, or any other similar form of 336
compensation. 337

(3) "Record" means the name, address, occupation, pay 338
rate, hours worked for each day worked, and each amount paid an 339
employee in one or more documents, databases, or other paper or 340
electronic forms of record-keeping maintained by an employer. No 341
one particular method or form of maintaining such a record or 342
records is required under this division. An employer is not 343
required to create or maintain a single record containing only 344
the employee's name, address, occupation, pay rate, hours worked 345
for each day worked, and each amount paid an employee. An 346
employer shall maintain a record or records from which the 347
employee or person acting on behalf of that employee could 348
reasonably review the information requested by the employee or 349
person. 350

An employer is not required to maintain the records 351
specified in division ~~(F)(3)~~ (E)(3) of this section for any 352
period before January 1, 2007. On and after January 1, 2007, the 353
employer shall maintain the records required by division ~~(F)(3)~~ 354
(E)(3) of this section for three years from the date the hours 355
were worked by the employee and for three years after the date 356
the employee's employment ends. 357

(4) (a) Except for individuals specified in division ~~(F)(4)~~ 358
~~(b)~~ (E)(4)(b) of this section, "hours worked for each day 359
worked" means the total amount of time worked by an employee in 360
whatever increments the employer uses for its payroll purposes 361
during a day worked by the employee. An employer is not required 362
to keep a record of the time of day an employee begins and ends 363
work on any given day. As used in division ~~(F)(4)~~ (E)(4) of this 364

section, "day" means a fixed period of twenty-four consecutive 365
hours during which an employee performs work for an employer. 366

(b) An employer is not required to keep records of "hours 367
worked for each day worked" for individuals for whom the 368
employer is not required to keep those records under the Fair 369
Labor Standards Act and its regulations or individuals who are 370
not subject to the overtime pay requirements specified in 371
section 4111.03 of the Revised Code. 372

(5) "Each amount paid an employee" means the total gross 373
wages paid to an employee for each pay period. As used in 374
division ~~(F)~~ ~~(5)~~ (E) (5) of this section, "pay period" means the 375
period of time designated by an employer to pay an employee the 376
employee's gross wages in accordance with the employer's payroll 377
practices under section 4113.15 of the Revised Code. 378

~~(G)~~ (F) In accordance with Section 34a of Article II, Ohio 379
Constitution, an employer must provide such information without 380
charge to an employee or person acting on behalf of an employee 381
upon request. As used in division ~~(G)~~ (F) of this section: 382

(1) "Such information" means the name, address, 383
occupation, pay rate, hours worked for each day worked, and each 384
amount paid for the specific employee who has requested that 385
specific employee's own information and does not include the 386
name, address, occupation, pay rate, hours worked for each day 387
worked, or each amount paid of any other employee of the 388
employer. "Such information" does not include hours worked for 389
each day worked by individuals for whom an employer is not 390
required to keep that information under the Fair Labor Standards 391
Act and its regulations or individuals who are not subject to 392
the overtime pay requirements specified in section 4111.03 of 393
the Revised Code. 394

(2) "Acting on behalf of an employee" means a person	395
acting on behalf of an employee as any of the following:	396
(a) The certified or legally recognized collective	397
bargaining representative for that employee under the applicable	398
federal law or Chapter 4117. of the Revised Code;	399
(b) The employee's attorney;	400
(c) The employee's parent, guardian, or legal custodian.	401
A person "acting on behalf of an employee" must be	402
specifically authorized by an employee in order to make a	403
request for that employee's own name, address, occupation, pay	404
rate, hours worked for each day worked, and each amount paid to	405
that employee.	406
(3) "Provide" means that an employer shall provide the	407
requested information within thirty business days after the date	408
the employer receives the request, unless either of the	409
following occurs:	410
(a) The employer and the employee or person acting on	411
behalf of the employee agree to some alternative time period for	412
providing the information.	413
(b) The thirty-day period would cause a hardship on the	414
employer under the circumstances, in which case the employer	415
must provide the requested information as soon as practicable.	416
(4) A "request" made by an employee or a person acting on	417
behalf of an employee means a request by an employee or a person	418
acting on behalf of an employee for the employee's own	419
information. The employer may require that the employee provide	420
the employer with a written request that has been signed by the	421
employee and notarized and that reasonably specifies the	422

particular information being requested. The employer may require 423
that the person acting on behalf of an employee provide the 424
employer with a written request that has been signed by the 425
employee whose information is being requested and notarized and 426
that reasonably specifies the particular information being 427
requested. 428

~~(H)~~ (G) In accordance with Section 34a of Article II, Ohio 429
Constitution, an employee, person acting on behalf of one or 430
more employees, and any other interested party may file a 431
complaint with the state for a violation of any provision of 432
Section 34a of Article II, Ohio Constitution, or any law or 433
regulation implementing its provisions. Such complaint shall be 434
promptly investigated and resolved by the state. The employee's 435
name shall be kept confidential unless disclosure is necessary 436
to resolution of a complaint and the employee consents to 437
disclosure. As used in division ~~(H)~~ (G) of this section: 438

(1) "Complaint" means a complaint of an alleged violation 439
pertaining to harm suffered by the employee filing the 440
complaint, by a person acting on behalf of one or more 441
employees, or by an interested party. 442

(2) "Acting on behalf of one or more employees" has the 443
same meaning as "acting on behalf of an employee" in division 444
~~(G)(2)~~ (F)(2) of this section. Each employee must provide a 445
separate written and notarized authorization before the person 446
acting on that employee's or those employees' behalf may request 447
the name, address, occupation, pay rate, hours worked for each 448
day worked, and each amount paid for the particular employee. 449

(3) "Interested party" means a party who alleges to be 450
injured by the alleged violation and who has standing to file a 451
complaint under common law principles of standing. 452

(4) "Resolved by the state" means that the complaint has 453
been resolved to the satisfaction of the state. 454

(5) "Shall be kept confidential" means that the state 455
shall keep the name of the employee confidential as required by 456
division ~~(H)~~(G) of this section. 457

~~(I)~~(H) In accordance with Section 34a of Article II, Ohio 458
Constitution, the state may on its own initiative investigate an 459
employer's compliance with Section 34a of Article II, Ohio 460
Constitution, and any law or regulation implementing Section 34a 461
of Article II, Ohio Constitution. The employer shall make 462
available to the state any records related to such investigation 463
and other information required for enforcement of Section 34a of 464
Article II, Ohio Constitution or any law or regulation 465
implementing Section 34a of Article II, Ohio Constitution. The 466
state shall investigate an employer's compliance with this 467
section in accordance with the procedures described in section 468
4111.04 of the Revised Code. All records and information related 469
to investigations by the state are confidential and are not a 470
public record subject to section 149.43 of the Revised Code. 471
This division does not prevent the state from releasing to or 472
exchanging with other state and federal wage and hour regulatory 473
authorities information related to investigations. 474

~~(J)~~(I) In accordance with Section 34a of Article II, Ohio 475
Constitution, damages shall be calculated as an additional two 476
times the amount of the back wages and in the case of a 477
violation of an anti-retaliation provision an amount set by the 478
state or court sufficient to compensate the employee and deter 479
future violations, but not less than one hundred fifty dollars 480
for each day that the violation continued. The "not less than 481
one hundred fifty dollar" penalty specified in division ~~(J)~~(I) 482

of this section shall be imposed only for violations of the 483
anti-retaliation provision in Section 34a of Article II, Ohio 484
Constitution. 485

~~(K)~~ (J) In accordance with Section 34a of Article II, Ohio 486
Constitution, an action for equitable and monetary relief may be 487
brought against an employer by the attorney general and/or an 488
employee or person acting on behalf of an employee or all 489
similarly situated employees in any court of competent 490
jurisdiction, including the court of common pleas of an 491
employee's county of residence, for any violation of Section 34a 492
of Article II, Ohio Constitution, or any law or regulation 493
implementing its provisions within three years of the violation 494
or of when the violation ceased if it was of a continuing 495
nature, or within one year after notification to the employee of 496
final disposition by the state of a complaint for the same 497
violation, whichever is later. 498

(1) As used in division ~~(K)~~ (J) of this section, 499
"notification" means the date on which the notice was sent to 500
the employee by the state. 501

(2) No employee shall join as a party plaintiff in any 502
civil action that is brought under division ~~(K)~~ (J) of this 503
section by an employee, person acting on behalf of an employee, 504
or person acting on behalf of all similarly situated employees 505
unless that employee first gives written consent to become such 506
a party plaintiff and that consent is filed with the court in 507
which the action is brought. 508

(3) A civil action regarding an alleged violation of this 509
section shall be maintained only under division ~~(K)~~ (J) of this 510
section. This division does not preclude the joinder in a single 511
civil action of an action under this division and an action 512

under section 4111.10 of the Revised Code. 513

(4) Any agreement between an employee and employer to work 514
for less than the wage rate specified in Section 34a of Article 515
II, Ohio Constitution, is no defense to an action under this 516
section. 517

~~(L)~~ (K) In accordance with Section 34a of Article II, Ohio 518
Constitution, there shall be no exhaustion requirement, no 519
procedural, pleading, or burden of proof requirements beyond 520
those that apply generally to civil suits in order to maintain 521
such action and no liability for costs or attorney's fees on an 522
employee except upon a finding that such action was frivolous in 523
accordance with the same standards that apply generally in civil 524
suits. Nothing in division ~~(L)~~ (K) of this section affects the 525
right of an employer and employee to agree to submit a dispute 526
under this section to alternative dispute resolution, including, 527
but not limited to, arbitration, in lieu of maintaining the 528
civil suit specified in division ~~(K)~~ (J) of this section. 529
Nothing in this division limits the state's ability to 530
investigate or enforce this section. 531

~~(M)~~ (L) An employer who provides such information 532
specified in Section 34a of Article II, Ohio Constitution, shall 533
be immune from any civil liability for injury, death, or loss to 534
person or property that otherwise might be incurred or imposed 535
as a result of providing that information to an employee or 536
person acting on behalf of an employee in response to a request 537
by the employee or person, and the employer shall not be subject 538
to the provisions of Chapters 1347. and 1349. of the Revised 539
Code to the extent that such provisions would otherwise apply. 540
As used in division ~~(M)~~ (L) of this section, "such information," 541
"acting on behalf of an employee," and "request" have the same 542

meanings as in division ~~(G)~~ (F) of this section. 543

~~(N)~~ (M) As used in this section, "the state" means the 544
director of commerce. 545

Sec. 5122.28. No patient of a hospital for persons with 546
mental illnesses shall be compelled to perform labor which 547
involves the operation, support, or maintenance of the hospital 548
or for which the hospital is under contract with an outside 549
organization. Privileges or release from the hospital shall not 550
be conditional upon the performance of such labor. Patients who 551
volunteer to perform such labor shall be compensated at a rate 552
derived from the value of work performed, having reference to 553
the prevailing wage rate for comparable work ~~or wage rates~~ 554
~~established under section 4111.06 of the Revised Code.~~ 555

A patient may be required to perform therapeutic tasks 556
which do not involve the operation, support, or maintenance of 557
the hospital if those tasks are an integrated part of the 558
patient's treatment plan and supervised by a person qualified to 559
oversee the therapeutic aspects of the activity. 560

A patient may be required to perform tasks of a personal 561
housekeeping nature. 562

Sec. 5123.022. (A) As used in this section and in section 563
5123.023 of the Revised Code: 564

(1) "Community employment" means competitive employment 565
that takes place in an integrated setting. 566

(2) "Competitive employment" means full-time or part-time 567
work in the competitive labor market in which payment is at or 568
above the minimum wage but not less than the customary wage and 569
level of benefits paid by the employer for the same or similar 570
work performed by persons who are not disabled. 571

(3) "Integrated setting" means a setting typically found 572
in the community where individuals with developmental 573
disabilities interact with individuals who do not have 574
disabilities to the same extent that individuals in comparable 575
positions who are not disabled interact with other individuals, 576
including in employment settings in which employees interact 577
with the community through technology. 578

(B) It is hereby declared to be the policy of this state 579
that employment services for individuals with developmental 580
disabilities be directed at community employment. Every 581
individual with a developmental disability is presumed capable 582
of community employment. 583

The departments of developmental disabilities, education, 584
medicaid, job and family services, and mental health and 585
addiction services; the opportunities for Ohioans with 586
disabilities agency; and each other state agency that provides 587
employment services to individuals with developmental 588
disabilities shall implement the policy of this state and ensure 589
that it is followed whenever employment services are provided to 590
individuals with developmental disabilities. 591

The department of developmental disabilities shall 592
coordinate the actions taken by state agencies to comply with 593
the state's policy. Agencies shall collaborate within their 594
divisions and with each other to ensure that state programs, 595
policies, procedures, and funding support competitive and 596
integrated employment of individuals with developmental 597
disabilities. State agencies shall share information with the 598
department, and the department shall track progress toward full 599
implementation of the policy. The department, in coordination 600
with any task force established by the governor, shall compile 601

data and annually submit to the governor a report on 602
implementation of the policy. 603

The department and state agencies may adopt rules to 604
implement the state's policy. 605

(C) The state's policy articulated in this section is 606
intended to promote the right of each individual with a 607
developmental disability to informed choice; however, nothing in 608
this section requires any employer to give preference in hiring 609
to an individual because the individual has a disability. 610

(D) Each political subdivision that provides employment 611
services to individuals with developmental disabilities shall 612
implement a policy that complies with the policy of this state 613
and ensure that it is followed whenever employment services are 614
provided to individuals with developmental disabilities. 615

Sec. 5123.023. (A) The director of developmental 616
disabilities shall establish an employment first task force 617
consisting of the departments of developmental disabilities, 618
education and workforce, medicaid, job and family services, and 619
mental health and addiction services; and the opportunities for 620
Ohioans with disabilities agency. The purpose of the task force 621
shall be to improve the coordination of the state's efforts to 622
address the needs of individuals with developmental disabilities 623
who seek community employment ~~as defined in section 5123.022 of~~ 624
~~the Revised Code.~~ 625

(B) The department of developmental disabilities may enter 626
into interagency agreements with any of the government entities 627
on the task force. The interagency agreements may specify either 628
or both of the following: 629

(1) The roles and responsibilities of the government 630

entities that are members of the task force, including any money 631
to be contributed by those entities; 632

(2) The projects and activities of the task force. 633

(C) The task force shall do all of the following: 634

(1) Review the transition plans submitted by employers 635
under section 4111.061 of the Revised Code and develop long-term 636
strategies to assist those employers in phasing out subminimum 637
wages as defined in that section not later than the date that is 638
five years after the effective date of this amendment; 639

(2) Review and develop recommendations to transition 640
individuals with developmental disabilities from subminimum 641
wages and to support these individuals in seeking competitive 642
employment; 643

(3) Work with interagency partners to ensure developmental 644
disability services that align with national models are 645
available for individuals with developmental disabilities; 646

(4) Use data available to the department of developmental 647
disabilities to identify opportunities for improving health 648
outcomes for individuals with developmental disabilities. 649

(D) Not later than the first day of March immediately 650
after the effective date of this amendment, and on the first day 651
of March of each even-numbered year thereafter, the task force, 652
in consultation with the department of developmental 653
disabilities, shall submit to the general assembly a report that 654
includes all of the following: 655

(1) Information regarding the outcomes, best practices, 656
and challenges with respect to individuals with developmental 657
disabilities; 658

(2) Information regarding opportunities to support 659
individuals with developmental disabilities; 660

(3) Legislative recommendations for creating a better 661
system of care for individuals with developmental disabilities. 662

(E) There is hereby created in the state treasury the 663
employment first taskforce fund. Any money received by the task 664
force from its members shall be credited to the fund. The 665
department of developmental disabilities shall use the fund to 666
support the work of the task force. 667

Sec. 5123.87. (A) No resident of an institution for 668
persons with intellectual disabilities shall be compelled to 669
perform labor that involves the operation, support, or 670
maintenance of the institution or for which the institution is 671
under contract with an outside organization. Privileges or 672
release from the institution shall not be conditional upon the 673
performance of such labor. Residents who volunteer to perform 674
such labor shall be compensated at a rate derived from the value 675
of the work performed, having reference to the prevailing wage 676
rate for comparable work ~~or wage rates established under section~~ 677
~~4111.06 of the Revised Code.~~ 678

(B) A resident may be required to perform habilitative 679
tasks that do not involve the operation, support, or maintenance 680
of the institution if those tasks are an integrated part of the 681
resident's habilitation plan and supervised by a member of the 682
institution's professional staff who is designated by the chief 683
program director. 684

(C) A resident may be required to perform tasks of a 685
personal housekeeping nature. 686

Section 2. That existing sections 4111.06, 4111.14, 687

5122.28, 5123.022, 5123.023, and 5123.87 of the Revised Code are	688
hereby repealed.	689
Section 3. This act shall be known as the Ohio Employment	690
First and Greater Opportunities for Persons with Disabilities	691
Act.	692