

**As Introduced**

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

**S. B. No. 65**

**Senator Tavares  
Cosponsors: Senators Brown, Skindell**

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**A BILL**

To amend sections 4112.02, 4112.05, 4112.08, and 1  
4112.14 of the Revised Code to specify that 2  
discrimination by an employer against any person 3  
because of the person's credit history is an 4  
unlawful discriminatory practice under the Ohio 5  
Civil Rights Law. 6

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

**Section 1.** That sections 4112.02, 4112.05, 4112.08, and 7  
4112.14 of the Revised Code be amended to read as follows: 8

**Sec. 4112.02.** It shall be an unlawful discriminatory 9  
practice: 10

(A) For any employer, because of the race, color, 11  
religion, sex, military status, national origin, disability, 12  
age, or ancestry of any person, to discharge without just cause, 13  
to refuse to hire, or otherwise to discriminate against that 14  
person with respect to hire, tenure, terms, conditions, or 15  
privileges of employment, or any matter directly or indirectly 16  
related to employment. 17

(B) For an employment agency or personnel placement 18

service, because of race, color, religion, sex, military status, 19  
national origin, disability, age, or ancestry, to do any of the 20  
following: 21

(1) Refuse or fail to accept, register, classify properly, 22  
or refer for employment, or otherwise discriminate against any 23  
person; 24

(2) Comply with a request from an employer for referral of 25  
applicants for employment if the request directly or indirectly 26  
indicates that the employer fails to comply with the provisions 27  
of sections 4112.01 to 4112.07 of the Revised Code. 28

(C) For any labor organization to do any of the following: 29

(1) Limit or classify its membership on the basis of race, 30  
color, religion, sex, military status, national origin, 31  
disability, age, or ancestry; 32

(2) Discriminate against, limit the employment 33  
opportunities of, or otherwise adversely affect the employment 34  
status, wages, hours, or employment conditions of any person as 35  
an employee because of race, color, religion, sex, military 36  
status, national origin, disability, age, or ancestry. 37

(D) For any employer, labor organization, or joint labor- 38  
management committee controlling apprentice training programs to 39  
discriminate against any person because of race, color, 40  
religion, sex, military status, national origin, disability, or 41  
ancestry in admission to, or employment in, any program 42  
established to provide apprentice training. 43

(E) Except where based on a bona fide occupational 44  
qualification certified in advance by the commission, for any 45  
employer, employment agency, personnel placement service, or 46  
labor organization, prior to employment or admission to 47

membership, to do any of the following:	48
(1) Elicit or attempt to elicit any information concerning the race, color, religion, sex, military status, national origin, disability, age, or ancestry of an applicant for employment or membership;	49 50 51 52
(2) Make or keep a record of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any applicant for employment or membership;	53 54 55
(3) Use any form of application for employment, or personnel or membership blank, seeking to elicit information regarding race, color, religion, sex, military status, national origin, disability, age, or ancestry; but an employer holding a contract containing a nondiscrimination clause with the government of the United States, or any department or agency of that government, may require an employee or applicant for employment to furnish documentary proof of United States citizenship and may retain that proof in the employer's personnel records and may use photographic or fingerprint identification for security purposes;	56 57 58 59 60 61 62 63 64 65 66
(4) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification, or discrimination, based upon race, color, religion, sex, military status, national origin, disability, age, or ancestry;	67 68 69 70 71
(5) Announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of that group;	72 73 74 75 76

(6) Utilize in the recruitment or hiring of persons any employment agency, personnel placement service, training school or center, labor organization, or any other employee-referring source known to discriminate against persons because of their race, color, religion, sex, military status, national origin, disability, age, or ancestry.

(F) For any person seeking employment to publish or cause to be published any advertisement that specifies or in any manner indicates that person's race, color, religion, sex, military status, national origin, disability, age, or ancestry, or expresses a limitation or preference as to the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any prospective employer.

(G) For any proprietor or any employee, keeper, or manager of a place of public accommodation to deny to any person, except for reasons applicable alike to all persons regardless of race, color, religion, sex, military status, national origin, disability, age, or ancestry, the full enjoyment of the accommodations, advantages, facilities, or privileges of the place of public accommodation.

(H) For any person to do any of the following:

(1) Refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin;

(2) Represent to any person that housing accommodations are not available for inspection, sale, or rental, when in fact

they are available, because of race, color, religion, sex, 106  
military status, familial status, ancestry, disability, or 107  
national origin; 108

(3) Discriminate against any person in the making or 109  
purchasing of loans or the provision of other financial 110  
assistance for the acquisition, construction, rehabilitation, 111  
repair, or maintenance of housing accommodations, or any person 112  
in the making or purchasing of loans or the provision of other 113  
financial assistance that is secured by residential real estate, 114  
because of race, color, religion, sex, military status, familial 115  
status, ancestry, disability, or national origin or because of 116  
the racial composition of the neighborhood in which the housing 117  
accommodations are located, provided that the person, whether an 118  
individual, corporation, or association of any type, lends money 119  
as one of the principal aspects or incident to the person's 120  
principal business and not only as a part of the purchase price 121  
of an owner-occupied residence the person is selling nor merely 122  
casually or occasionally to a relative or friend; 123

(4) Discriminate against any person in the terms or 124  
conditions of selling, transferring, assigning, renting, 125  
leasing, or subleasing any housing accommodations or in 126  
furnishing facilities, services, or privileges in connection 127  
with the ownership, occupancy, or use of any housing 128  
accommodations, including the sale of fire, extended coverage, 129  
or homeowners insurance, because of race, color, religion, sex, 130  
military status, familial status, ancestry, disability, or 131  
national origin or because of the racial composition of the 132  
neighborhood in which the housing accommodations are located; 133

(5) Discriminate against any person in the terms or 134  
conditions of any loan of money, whether or not secured by 135

mortgage or otherwise, for the acquisition, construction, 136  
rehabilitation, repair, or maintenance of housing accommodations 137  
because of race, color, religion, sex, military status, familial 138  
status, ancestry, disability, or national origin or because of 139  
the racial composition of the neighborhood in which the housing 140  
accommodations are located; 141

(6) Refuse to consider without prejudice the combined 142  
income of both husband and wife for the purpose of extending 143  
mortgage credit to a married couple or either member of a 144  
married couple; 145

(7) Print, publish, or circulate any statement or 146  
advertisement, or make or cause to be made any statement or 147  
advertisement, relating to the sale, transfer, assignment, 148  
rental, lease, sublease, or acquisition of any housing 149  
accommodations, or relating to the loan of money, whether or not 150  
secured by mortgage or otherwise, for the acquisition, 151  
construction, rehabilitation, repair, or maintenance of housing 152  
accommodations, that indicates any preference, limitation, 153  
specification, or discrimination based upon race, color, 154  
religion, sex, military status, familial status, ancestry, 155  
disability, or national origin, or an intention to make any such 156  
preference, limitation, specification, or discrimination; 157

(8) Except as otherwise provided in division (H) (8) or 158  
(17) of this section, make any inquiry, elicit any information, 159  
make or keep any record, or use any form of application 160  
containing questions or entries concerning race, color, 161  
religion, sex, military status, familial status, ancestry, 162  
disability, or national origin in connection with the sale or 163  
lease of any housing accommodations or the loan of any money, 164  
whether or not secured by mortgage or otherwise, for the 165

acquisition, construction, rehabilitation, repair, or 166  
maintenance of housing accommodations. Any person may make 167  
inquiries, and make and keep records, concerning race, color, 168  
religion, sex, military status, familial status, ancestry, 169  
disability, or national origin for the purpose of monitoring 170  
compliance with this chapter. 171

(9) Include in any transfer, rental, or lease of housing 172  
accommodations any restrictive covenant, or honor or exercise, 173  
or attempt to honor or exercise, any restrictive covenant; 174

(10) Induce or solicit, or attempt to induce or solicit, a 175  
housing accommodations listing, sale, or transaction by 176  
representing that a change has occurred or may occur with 177  
respect to the racial, religious, sexual, military status, 178  
familial status, or ethnic composition of the block, 179  
neighborhood, or other area in which the housing accommodations 180  
are located, or induce or solicit, or attempt to induce or 181  
solicit, a housing accommodations listing, sale, or transaction 182  
by representing that the presence or anticipated presence of 183  
persons of any race, color, religion, sex, military status, 184  
familial status, ancestry, disability, or national origin, in 185  
the block, neighborhood, or other area will or may have results 186  
including, but not limited to, the following: 187

(a) The lowering of property values; 188

(b) A change in the racial, religious, sexual, military 189  
status, familial status, or ethnic composition of the block, 190  
neighborhood, or other area; 191

(c) An increase in criminal or antisocial behavior in the 192  
block, neighborhood, or other area; 193

(d) A decline in the quality of the schools serving the 194

block, neighborhood, or other area.	195
(11) Deny any person access to or membership or	196
participation in any multiple-listing service, real estate	197
brokers' organization, or other service, organization, or	198
facility relating to the business of selling or renting housing	199
accommodations, or discriminate against any person in the terms	200
or conditions of that access, membership, or participation, on	201
account of race, color, religion, sex, military status, familial	202
status, national origin, disability, or ancestry;	203
(12) Coerce, intimidate, threaten, or interfere with any	204
person in the exercise or enjoyment of, or on account of that	205
person's having exercised or enjoyed or having aided or	206
encouraged any other person in the exercise or enjoyment of, any	207
right granted or protected by division (H) of this section;	208
(13) Discourage or attempt to discourage the purchase by a	209
prospective purchaser of housing accommodations, by representing	210
that any block, neighborhood, or other area has undergone or	211
might undergo a change with respect to its religious, racial,	212
sexual, military status, familial status, or ethnic composition;	213
(14) Refuse to sell, transfer, assign, rent, lease,	214
sublease, or finance, or otherwise deny or withhold, a burial	215
lot from any person because of the race, color, sex, military	216
status, familial status, age, ancestry, disability, or national	217
origin of any prospective owner or user of the lot;	218
(15) Discriminate in the sale or rental of, or otherwise	219
make unavailable or deny, housing accommodations to any buyer or	220
renter because of a disability of any of the following:	221
(a) The buyer or renter;	222
(b) A person residing in or intending to reside in the	223

housing accommodations after they are sold, rented, or made available;	224 225
(c) Any individual associated with the person described in division (H) (15) (b) of this section.	226 227
(16) Discriminate in the terms, conditions, or privileges of the sale or rental of housing accommodations to any person or in the provision of services or facilities to any person in connection with the housing accommodations because of a disability of any of the following:	228 229 230 231 232
(a) That person;	233
(b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;	234 235 236
(c) Any individual associated with the person described in division (H) (16) (b) of this section.	237 238
(17) Except as otherwise provided in division (H) (17) of this section, make an inquiry to determine whether an applicant for the sale or rental of housing accommodations, a person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available, or any individual associated with that person has a disability, or make an inquiry to determine the nature or severity of a disability of the applicant or such a person or individual. The following inquiries may be made of all applicants for the sale or rental of housing accommodations, regardless of whether they have disabilities:	239 240 241 242 243 244 245 246 247 248 249
(a) An inquiry into an applicant's ability to meet the requirements of ownership or tenancy;	250 251

(b) An inquiry to determine whether an applicant is 252  
qualified for housing accommodations available only to persons 253  
with disabilities or persons with a particular type of 254  
disability; 255

(c) An inquiry to determine whether an applicant is 256  
qualified for a priority available to persons with disabilities 257  
or persons with a particular type of disability; 258

(d) An inquiry to determine whether an applicant currently 259  
uses a controlled substance in violation of section 2925.11 of 260  
the Revised Code or a substantively comparable municipal 261  
ordinance; 262

(e) An inquiry to determine whether an applicant at any 263  
time has been convicted of or pleaded guilty to any offense, an 264  
element of which is the illegal sale, offer to sell, 265  
cultivation, manufacture, other production, shipment, 266  
transportation, delivery, or other distribution of a controlled 267  
substance. 268

(18) (a) Refuse to permit, at the expense of a person with 269  
a disability, reasonable modifications of existing housing 270  
accommodations that are occupied or to be occupied by the person 271  
with a disability, if the modifications may be necessary to 272  
afford the person with a disability full enjoyment of the 273  
housing accommodations. This division does not preclude a 274  
landlord of housing accommodations that are rented or to be 275  
rented to a disabled tenant from conditioning permission for a 276  
proposed modification upon the disabled tenant's doing one or 277  
more of the following: 278

(i) Providing a reasonable description of the proposed 279  
modification and reasonable assurances that the proposed 280

modification will be made in a workerlike manner and that any 281  
required building permits will be obtained prior to the 282  
commencement of the proposed modification; 283

(ii) Agreeing to restore at the end of the tenancy the 284  
interior of the housing accommodations to the condition they 285  
were in prior to the proposed modification, but subject to 286  
reasonable wear and tear during the period of occupancy, if it 287  
is reasonable for the landlord to condition permission for the 288  
proposed modification upon the agreement; 289

(iii) Paying into an interest-bearing escrow account that 290  
is in the landlord's name, over a reasonable period of time, a 291  
reasonable amount of money not to exceed the projected costs at 292  
the end of the tenancy of the restoration of the interior of the 293  
housing accommodations to the condition they were in prior to 294  
the proposed modification, but subject to reasonable wear and 295  
tear during the period of occupancy, if the landlord finds the 296  
account reasonably necessary to ensure the availability of funds 297  
for the restoration work. The interest earned in connection with 298  
an escrow account described in this division shall accrue to the 299  
benefit of the disabled tenant who makes payments into the 300  
account. 301

(b) A landlord shall not condition permission for a 302  
proposed modification upon a disabled tenant's payment of a 303  
security deposit that exceeds the customarily required security 304  
deposit of all tenants of the particular housing accommodations. 305

(19) Refuse to make reasonable accommodations in rules, 306  
policies, practices, or services when necessary to afford a 307  
person with a disability equal opportunity to use and enjoy a 308  
dwelling unit, including associated public and common use areas; 309

(20) Fail to comply with the standards and rules adopted under division (A) of section 3781.111 of the Revised Code;	310 311
(21) Discriminate against any person in the selling, brokering, or appraising of real property because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin;	312 313 314 315
(22) Fail to design and construct covered multifamily dwellings for first occupancy on or after June 30, 1992, in accordance with the following conditions:	316 317 318
(a) The dwellings shall have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.	319 320 321 322
(b) With respect to dwellings that have a building entrance on an accessible route, all of the following apply:	323 324
(i) The public use areas and common use areas of the dwellings shall be readily accessible to and usable by persons with a disability.	325 326 327
(ii) All the doors designed to allow passage into and within all premises shall be sufficiently wide to allow passage by persons with a disability who are in wheelchairs.	328 329 330
(iii) All premises within covered multifamily dwelling units shall contain an accessible route into and through the dwelling; all light switches, electrical outlets, thermostats, and other environmental controls within such units shall be in accessible locations; the bathroom walls within such units shall contain reinforcements to allow later installation of grab bars; and the kitchens and bathrooms within such units shall be designed and constructed in a manner that enables an individual	331 332 333 334 335 336 337 338

in a wheelchair to maneuver about such rooms. 339

For purposes of division (H) (22) of this section, "covered 340  
multifamily dwellings" means buildings consisting of four or 341  
more units if such buildings have one or more elevators and 342  
ground floor units in other buildings consisting of four or more 343  
units. 344

(I) For any person to discriminate in any manner against 345  
any other person because that person has opposed any unlawful 346  
discriminatory practice defined in this section or because that 347  
person has made a charge, testified, assisted, or participated 348  
in any manner in any investigation, proceeding, or hearing under 349  
sections 4112.01 to 4112.07 of the Revised Code. 350

(J) For any person to aid, abet, incite, compel, or coerce 351  
the doing of any act declared by this section to be an unlawful 352  
discriminatory practice, to obstruct or prevent any person from 353  
complying with this chapter or any order issued under it, or to 354  
attempt directly or indirectly to commit any act declared by 355  
this section to be an unlawful discriminatory practice. 356

(K) For an employer to use a person's credit rating or 357  
score or consumer credit history as a factor in making decisions 358  
regarding that person's employment, including hiring, tenure, 359  
terms, conditions, or privileges of employment, or any matter 360  
directly or indirectly related to employment. 361

(L)(1) Nothing in division (H) of this section shall bar 362  
any religious or denominational institution or organization, or 363  
any nonprofit charitable or educational organization that is 364  
operated, supervised, or controlled by or in connection with a 365  
religious organization, from limiting the sale, rental, or 366  
occupancy of housing accommodations that it owns or operates for 367

other than a commercial purpose to persons of the same religion, 368  
or from giving preference in the sale, rental, or occupancy of 369  
such housing accommodations to persons of the same religion, 370  
unless membership in the religion is restricted on account of 371  
race, color, or national origin. 372

(2) Nothing in division (H) of this section shall bar any 373  
bona fide private or fraternal organization that, incidental to 374  
its primary purpose, owns or operates lodgings for other than a 375  
commercial purpose, from limiting the rental or occupancy of the 376  
lodgings to its members or from giving preference to its 377  
members. 378

(3) Nothing in division (H) of this section limits the 379  
applicability of any reasonable local, state, or federal 380  
restrictions regarding the maximum number of occupants permitted 381  
to occupy housing accommodations. Nothing in that division 382  
prohibits the owners or managers of housing accommodations from 383  
implementing reasonable occupancy standards based on the number 384  
and size of sleeping areas or bedrooms and the overall size of a 385  
dwelling unit, provided that the standards are not implemented 386  
to circumvent the purposes of this chapter and are formulated, 387  
implemented, and interpreted in a manner consistent with this 388  
chapter and any applicable local, state, or federal restrictions 389  
regarding the maximum number of occupants permitted to occupy 390  
housing accommodations. 391

(4) Nothing in division (H) of this section requires that 392  
housing accommodations be made available to an individual whose 393  
tenancy would constitute a direct threat to the health or safety 394  
of other individuals or whose tenancy would result in 395  
substantial physical damage to the property of others. 396

(5) Nothing in division (H) of this section pertaining to 397

discrimination on the basis of familial status shall be 398  
construed to apply to any of the following: 399

(a) Housing accommodations provided under any state or 400  
federal program that have been determined under the "Fair 401  
Housing Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 402  
3607, as amended, to be specifically designed and operated to 403  
assist elderly persons; 404

(b) Housing accommodations intended for and solely 405  
occupied by persons who are sixty-two years of age or older; 406

(c) Housing accommodations intended and operated for 407  
occupancy by at least one person who is fifty-five years of age 408  
or older per unit, as determined under the "Fair Housing 409  
Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as 410  
amended. 411

~~(L)~~ (M) Nothing in divisions (A) to (E) of this section 412  
shall be construed to require a person with a disability to be 413  
employed or trained under circumstances that would significantly 414  
increase the occupational hazards affecting either the person 415  
with a disability, other employees, the general public, or the 416  
facilities in which the work is to be performed, or to require 417  
the employment or training of a person with a disability in a 418  
job that requires the person with a disability routinely to 419  
undertake any task, the performance of which is substantially 420  
and inherently impaired by the person's disability. 421

~~(M)~~ (N) Nothing in divisions (H) (1) to (18) of this 422  
section shall be construed to require any person selling or 423  
renting property to modify the property in any way or to 424  
exercise a higher degree of care for a person with a disability, 425  
to relieve any person with a disability of any obligation 426

generally imposed on all persons regardless of disability in a 427  
written lease, rental agreement, or contract of purchase or 428  
sale, or to forbid distinctions based on the inability to 429  
fulfill the terms and conditions, including financial 430  
obligations, of the lease, agreement, or contract. 431

~~(N)~~ (O) An aggrieved individual may enforce the 432  
individual's rights relative to discrimination on the basis of 433  
age as provided for in this section by instituting a civil 434  
action, within one hundred eighty days after the alleged 435  
unlawful discriminatory practice occurred, in any court with 436  
jurisdiction for any legal or equitable relief that will 437  
effectuate the individual's rights. 438

A person who files a civil action under this division is 439  
barred, with respect to the practices complained of, from 440  
instituting a civil action under section 4112.14 of the Revised 441  
Code and from filing a charge with the commission under section 442  
4112.05 of the Revised Code. 443

~~(O)~~ (P) With regard to age, it shall not be an unlawful 444  
discriminatory practice and it shall not constitute a violation 445  
of division (A) of section 4112.14 of the Revised Code for any 446  
employer, employment agency, joint labor-management committee 447  
controlling apprenticeship training programs, or labor 448  
organization to do any of the following: 449

(1) Establish bona fide employment qualifications 450  
reasonably related to the particular business or occupation that 451  
may include standards for skill, aptitude, physical capability, 452  
intelligence, education, maturation, and experience; 453

(2) Observe the terms of a bona fide seniority system or 454  
any bona fide employee benefit plan, including, but not limited 455

to, a retirement, pension, or insurance plan, that is not a 456  
subterfuge to evade the purposes of this section. However, no 457  
such employee benefit plan shall excuse the failure to hire any 458  
individual, and no such seniority system or employee benefit 459  
plan shall require or permit the involuntary retirement of any 460  
individual, because of the individual's age except as provided 461  
for in the "Age Discrimination in Employment Act Amendment of 462  
1978," 92 Stat. 189, 29 U.S.C.A. 623, as amended by the "Age 463  
Discrimination in Employment Act Amendments of 1986," 100 Stat. 464  
3342, 29 U.S.C.A. 623, as amended. 465

(3) Retire an employee who has attained sixty-five years 466  
of age who, for the two-year period immediately before 467  
retirement, is employed in a bona fide executive or a high 468  
policymaking position, if the employee is entitled to an 469  
immediate nonforfeitable annual retirement benefit from a 470  
pension, profit-sharing, savings, or deferred compensation plan, 471  
or any combination of those plans, of the employer of the 472  
employee, which equals, in the aggregate, at least forty-four 473  
thousand dollars, in accordance with the conditions of the "Age 474  
Discrimination in Employment Act Amendment of 1978," 92 Stat. 475  
189, 29 U.S.C.A. 631, as amended by the "Age Discrimination in 476  
Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 477  
631, as amended; 478

(4) Observe the terms of any bona fide apprenticeship 479  
program if the program is registered with the Ohio 480  
apprenticeship council pursuant to sections 4139.01 to 4139.06 481  
of the Revised Code and is approved by the federal committee on 482  
apprenticeship of the United States department of labor. 483

~~(P)~~ (Q) Nothing in this chapter prohibiting age 484  
discrimination and nothing in division (A) of section 4112.14 of 485

the Revised Code shall be construed to prohibit the following: 486

(1) The designation of uniform age the attainment of which 487  
is necessary for public employees to receive pension or other 488  
retirement benefits pursuant to Chapter 145., 742., 3307., 489  
3309., or 5505. of the Revised Code; 490

(2) The mandatory retirement of uniformed patrol officers 491  
of the state highway patrol as provided in section 5505.16 of 492  
the Revised Code; 493

(3) The maximum age requirements for appointment as a 494  
patrol officer in the state highway patrol established by 495  
section 5503.01 of the Revised Code; 496

(4) The maximum age requirements established for original 497  
appointment to a police department or fire department in 498  
sections 124.41 and 124.42 of the Revised Code; 499

(5) Any maximum age not in conflict with federal law that 500  
may be established by a municipal charter, municipal ordinance, 501  
or resolution of a board of township trustees for original 502  
appointment as a police officer or firefighter; 503

(6) Any mandatory retirement provision not in conflict 504  
with federal law of a municipal charter, municipal ordinance, or 505  
resolution of a board of township trustees pertaining to police 506  
officers and firefighters; 507

(7) Until January 1, 1994, the mandatory retirement of any 508  
employee who has attained seventy years of age and who is 509  
serving under a contract of unlimited tenure, or similar 510  
arrangement providing for unlimited tenure, at an institution of 511  
higher education as defined in the "Education Amendments of 512  
1980," 94 Stat. 1503, 20 U.S.C.A. 1141(a). 513

~~(Q)(R)~~(1) (a) Except as provided in division ~~(Q)(R)~~(1) (b) 514  
of this section, for purposes of divisions (A) to (E) of this 515  
section, a disability does not include any physiological 516  
disorder or condition, mental or psychological disorder, or 517  
disease or condition caused by an illegal use of any controlled 518  
substance by an employee, applicant, or other person, if an 519  
employer, employment agency, personnel placement service, labor 520  
organization, or joint labor-management committee acts on the 521  
basis of that illegal use. 522

(b) Division ~~(Q)(R)~~(1) (a) of this section does not apply 523  
to an employee, applicant, or other person who satisfies any of 524  
the following: 525

(i) The employee, applicant, or other person has 526  
successfully completed a supervised drug rehabilitation program 527  
and no longer is engaging in the illegal use of any controlled 528  
substance, or the employee, applicant, or other person otherwise 529  
successfully has been rehabilitated and no longer is engaging in 530  
that illegal use. 531

(ii) The employee, applicant, or other person is 532  
participating in a supervised drug rehabilitation program and no 533  
longer is engaging in the illegal use of any controlled 534  
substance. 535

(iii) The employee, applicant, or other person is 536  
erroneously regarded as engaging in the illegal use of any 537  
controlled substance, but the employee, applicant, or other 538  
person is not engaging in that illegal use. 539

(2) Divisions (A) to (E) of this section do not prohibit 540  
an employer, employment agency, personnel placement service, 541  
labor organization, or joint labor-management committee from 542

doing any of the following: 543

(a) Adopting or administering reasonable policies or 544  
procedures, including, but not limited to, testing for the 545  
illegal use of any controlled substance, that are designed to 546  
ensure that an individual described in division ~~(Q)~~(R) (1) (b) (i) 547  
or (ii) of this section no longer is engaging in the illegal use 548  
of any controlled substance; 549

(b) Prohibiting the illegal use of controlled substances 550  
and the use of alcohol at the workplace by all employees; 551

(c) Requiring that employees not be under the influence of 552  
alcohol or not be engaged in the illegal use of any controlled 553  
substance at the workplace; 554

(d) Requiring that employees behave in conformance with 555  
the requirements established under "The Drug-Free Workplace Act 556  
of 1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended; 557

(e) Holding an employee who engages in the illegal use of 558  
any controlled substance or who is an alcoholic to the same 559  
qualification standards for employment or job performance, and 560  
the same behavior, to which the employer, employment agency, 561  
personnel placement service, labor organization, or joint labor- 562  
management committee holds other employees, even if any 563  
unsatisfactory performance or behavior is related to an 564  
employee's illegal use of a controlled substance or alcoholism; 565

(f) Exercising other authority recognized in the 566  
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 567  
U.S.C.A. 12101, as amended, including, but not limited to, 568  
requiring employees to comply with any applicable federal 569  
standards. 570

(3) For purposes of this chapter, a test to determine the 571

illegal use of any controlled substance does not include a 572  
medical examination. 573

(4) Division ~~(Q)~~ (R) of this section does not encourage, 574  
prohibit, or authorize, and shall not be construed as 575  
encouraging, prohibiting, or authorizing, the conduct of testing 576  
for the illegal use of any controlled substance by employees, 577  
applicants, or other persons, or the making of employment 578  
decisions based on the results of that type of testing. 579

~~(R)~~ (S) This section does not apply to a religious 580  
corporation, association, educational institution, or society 581  
with respect to the employment of an individual of a particular 582  
religion to perform work connected with the carrying on by that 583  
religious corporation, association, educational institution, or 584  
society of its activities. 585

The unlawful discriminatory practices defined in this 586  
section do not make it unlawful for a person or an appointing 587  
authority administering an examination under section 124.23 of 588  
the Revised Code to obtain information about an applicant's 589  
military status for the purpose of determining if the applicant 590  
is eligible for the additional credit that is available under 591  
that section. 592

**Sec. 4112.05.** (A) The commission, as provided in this 593  
section, shall prevent any person from engaging in unlawful 594  
discriminatory practices, provided that, before instituting the 595  
formal hearing authorized by division (B) of this section, it 596  
shall attempt, by informal methods of conference, conciliation, 597  
and persuasion, to induce compliance with this chapter. 598

(B) (1) Any person may file a charge with the commission 599  
alleging that another person has engaged or is engaging in an 600

unlawful discriminatory practice. In the case of a charge 601  
alleging an unlawful discriminatory practice described in 602  
division (A), (B), (C), (D), (E), (F), (G), (I), ~~or~~ (J), or (K) 603  
of section 4112.02 or in section 4112.021 or 4112.022 of the 604  
Revised Code, the charge shall be in writing and under oath and 605  
shall be filed with the commission within six months after the 606  
alleged unlawful discriminatory practice was committed. In the 607  
case of a charge alleging an unlawful discriminatory practice 608  
described in division (H) of section 4112.02 of the Revised 609  
Code, the charge shall be in writing and under oath and shall be 610  
filed with the commission within one year after the alleged 611  
unlawful discriminatory practice was committed. 612

(2) Upon receiving a charge, the commission may initiate a 613  
preliminary investigation to determine whether it is probable 614  
that an unlawful discriminatory practice has been or is being 615  
engaged in. The commission also may conduct, upon its own 616  
initiative and independent of the filing of any charges, a 617  
preliminary investigation relating to any of the unlawful 618  
discriminatory practices described in division (A), (B), (C), 619  
(D), (E), (F), (I), ~~or~~ (J), or (K) of section 4112.02 or in 620  
section 4112.021 or 4112.022 of the Revised Code. Prior to a 621  
notification of a complainant under division (B)(4) of this 622  
section or prior to the commencement of informal methods of 623  
conference, conciliation, and persuasion under that division, 624  
the members of the commission and the officers and employees of 625  
the commission shall not make public in any manner and shall 626  
retain as confidential all information that was obtained as a 627  
result of or that otherwise pertains to a preliminary 628  
investigation other than one described in division (B)(3) of 629  
this section. 630

(3) (a) Unless it is impracticable to do so and subject to 631

its authority under division (B) (3) (d) of this section, the 632  
commission shall complete a preliminary investigation of a 633  
charge filed pursuant to division (B) (1) of this section that 634  
alleges an unlawful discriminatory practice described in 635  
division (H) of section 4112.02 of the Revised Code, and shall 636  
take one of the following actions, within one hundred days after 637  
the filing of the charge: 638

(i) Notify the complainant and the respondent that it is 639  
not probable that an unlawful discriminatory practice described 640  
in division (H) of section 4112.02 of the Revised Code has been 641  
or is being engaged in and that the commission will not issue a 642  
complaint in the matter; 643

(ii) Initiate a complaint and schedule it for informal 644  
methods of conference, conciliation, and persuasion; 645

(iii) Initiate a complaint and refer it to the attorney 646  
general with a recommendation to seek a temporary or permanent 647  
injunction or a temporary restraining order. If this action is 648  
taken, the attorney general shall apply, as expeditiously as 649  
possible after receipt of the complaint, to the court of common 650  
pleas of the county in which the unlawful discriminatory 651  
practice allegedly occurred for the appropriate injunction or 652  
order, and the court shall hear and determine the application as 653  
expeditiously as possible. 654

(b) If it is not practicable to comply with the 655  
requirements of division (B) (3) (a) of this section within the 656  
one-hundred-day period described in that division, the 657  
commission shall notify the complainant and the respondent in 658  
writing of the reasons for the noncompliance. 659

(c) Prior to the issuance of a complaint under division 660

(B) (3) (a) (ii) or (iii) of this section or prior to a 661  
notification of the complainant and the respondent under 662  
division (B) (3) (a) (i) of this section, the members of the 663  
commission and the officers and employees of the commission 664  
shall not make public in any manner and shall retain as 665  
confidential all information that was obtained as a result of or 666  
that otherwise pertains to a preliminary investigation of a 667  
charge filed pursuant to division (B) (1) of this section that 668  
alleges an unlawful discriminatory practice described in 669  
division (H) of section 4112.05 of the Revised Code. 670

(d) Notwithstanding the types of action described in 671  
divisions (B) (3) (a) (ii) and (iii) of this section, prior to the 672  
issuance of a complaint or the referral of a complaint to the 673  
attorney general and prior to endeavoring to eliminate an 674  
unlawful discriminatory practice described in division (H) of 675  
section 4112.02 of the Revised Code by informal methods of 676  
conference, conciliation, and persuasion, the commission may 677  
seek a temporary or permanent injunction or a temporary 678  
restraining order in the court of common pleas of the county in 679  
which the unlawful discriminatory practice allegedly occurred. 680

(4) If the commission determines after a preliminary 681  
investigation other than one described in division (B) (3) of 682  
this section that it is not probable that an unlawful 683  
discriminatory practice has been or is being engaged in, it 684  
shall notify any complainant under division (B) (1) of this 685  
section that it has so determined and that it will not issue a 686  
complaint in the matter. If the commission determines after a 687  
preliminary investigation other than the one described in 688  
division (B) (3) of this section that it is probable that an 689  
unlawful discriminatory practice has been or is being engaged 690  
in, it shall endeavor to eliminate the practice by informal 691

methods of conference, conciliation, and persuasion. 692

(5) Nothing said or done during informal methods of 693  
conference, conciliation, and persuasion under this section 694  
shall be disclosed by any member of the commission or its staff 695  
or be used as evidence in any subsequent hearing or other 696  
proceeding. If, after a preliminary investigation and the use of 697  
informal methods of conference, conciliation, and persuasion 698  
under this section, the commission is satisfied that any 699  
unlawful discriminatory practice will be eliminated, it may 700  
treat the charge involved as being conciliated and enter that 701  
disposition on the records of the commission. If the commission 702  
fails to effect the elimination of an unlawful discriminatory 703  
practice by informal methods of conference, conciliation, and 704  
persuasion under this section and to obtain voluntary compliance 705  
with this chapter, the commission shall issue and cause to be 706  
served upon any person, including the respondent against whom a 707  
complainant has filed a charge pursuant to division (B) (1) of 708  
this section, a complaint stating the charges involved and 709  
containing a notice of an opportunity for a hearing before the 710  
commission, a member of the commission, or a hearing examiner at 711  
a place that is stated in the notice and that is located within 712  
the county in which the alleged unlawful discriminatory practice 713  
has occurred or is occurring or in which the respondent resides 714  
or transacts business. The hearing shall be held not less than 715  
thirty days after the service of the complaint upon the 716  
complainant, the aggrieved persons other than the complainant on 717  
whose behalf the complaint is issued, and the respondent, unless 718  
the complainant, an aggrieved person, or the respondent elects 719  
to proceed under division (A) (2) of section 4112.051 of the 720  
Revised Code when that division is applicable. If a complaint 721  
pertains to an alleged unlawful discriminatory practice 722

described in division (H) of section 4112.02 of the Revised Code, the complainant shall notify the complainant, an aggrieved person, and the respondent of the right of the complainant, an aggrieved person, or the respondent to elect to proceed with the administrative hearing process under this section or to proceed under division (A) (2) of section 4112.051 of the Revised Code.

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

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

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

(D) The complainant shall be a party to a hearing under division (B) of this section, and any person who is an indispensable party to a complete determination or settlement of a question involved in the hearing shall be joined. Any aggrieved person who has or claims an interest in the subject of the hearing and in obtaining or preventing relief against the unlawful discriminatory practices complained of shall be permitted to appear only for the presentation of oral or written

arguments, to present evidence, perform direct and cross- 753  
examination, and be represented by counsel. The commission shall 754  
adopt rules, in accordance with Chapter 119. of the Revised Code 755  
governing the authority granted under this division. 756

(E) In any hearing under division (B) of this section, the 757  
commission, a member of the commission, or the hearing examiner 758  
shall not be bound by the Rules of Evidence but, in ascertaining 759  
the practices followed by the respondent, shall take into 760  
account all reliable, probative, and substantial statistical or 761  
other evidence produced at the hearing that may tend to prove 762  
the existence of a predetermined pattern of employment or 763  
membership, provided that nothing contained in this section 764  
shall be construed to authorize or require any person to observe 765  
the proportion that persons of any race, color, religion, sex, 766  
military status, familial status, national origin, disability, 767  
age, or ancestry bear to the total population or in accordance 768  
with any criterion other than the individual qualifications of 769  
the applicant. 770

(F) The testimony taken at a hearing under division (B) of 771  
this section shall be under oath and shall be reduced to writing 772  
and filed with the commission. Thereafter, in its discretion, 773  
the commission, upon the service of a notice upon the 774  
complainant and the respondent that indicates an opportunity to 775  
be present, may take further testimony or hear argument. 776

(G) (1) If, upon all reliable, probative, and substantial 777  
evidence presented at a hearing under division (B) of this 778  
section, the commission determines that the respondent has 779  
engaged in, or is engaging in, any unlawful discriminatory 780  
practice, whether against the complainant or others, the 781  
commission shall state its findings of fact and conclusions of 782

law and shall issue and, subject to the provisions of Chapter 783  
119. of the Revised Code, cause to be served on the respondent 784  
an order requiring the respondent to cease and desist from the 785  
unlawful discriminatory practice, requiring the respondent to 786  
take any further affirmative or other action that will 787  
effectuate the purposes of this chapter, including, but not 788  
limited to, hiring, reinstatement, or upgrading of employees 789  
with or without back pay, or admission or restoration to union 790  
membership, and requiring the respondent to report to the 791  
commission the manner of compliance. If the commission directs 792  
payment of back pay, it shall make allowance for interim 793  
earnings. If it finds a violation of division (H) of section 794  
4112.02 of the Revised Code, the commission additionally shall 795  
require the respondent to pay actual damages and reasonable 796  
attorney's fees, and may award to the complainant punitive 797  
damages as follows: 798

(a) If division (G) (1) (b) or (c) of this section does not 799  
apply, punitive damages in an amount not to exceed ten thousand 800  
dollars; 801

(b) If division (G) (1) (c) of this section does not apply 802  
and if the respondent has been determined by a final order of 803  
the commission or by a final judgment of a court to have 804  
committed one violation of division (H) of section 4112.02 of 805  
the Revised Code during the five-year period immediately 806  
preceding the date on which a complaint was issued pursuant to 807  
division (B) of this section, punitive damages in an amount not 808  
to exceed twenty-five thousand dollars; 809

(c) If the respondent has been determined by a final order 810  
of the commission or by a final judgment of a court to have 811  
committed two or more violations of division (H) of section 812

4112.02 of the Revised Code during the seven-year period 813  
immediately preceding the date on which a complaint was issued 814  
pursuant to division (B) of this section, punitive damages in an 815  
amount not to exceed fifty thousand dollars. 816

(2) Upon the submission of reports of compliance, the 817  
commission may issue a declaratory order stating that the 818  
respondent has ceased to engage in particular unlawful 819  
discriminatory practices. 820

(H) If the commission finds that no probable cause exists 821  
for crediting charges of unlawful discriminatory practices or 822  
if, upon all the evidence presented at a hearing under division 823  
(B) of this section on a charge, the commission finds that a 824  
respondent has not engaged in any unlawful discriminatory 825  
practice against the complainant or others, it shall state its 826  
findings of fact and shall issue and cause to be served on the 827  
complainant an order dismissing the complaint as to the 828  
respondent. A copy of the order shall be delivered in all cases 829  
to the attorney general and any other public officers whom the 830  
commission considers proper. 831

(I) Until the time period for appeal set forth in division 832  
(H) of section 4112.06 of the Revised Code expires, the 833  
commission, subject to the provisions of Chapter 119. of the 834  
Revised Code, at any time, upon reasonable notice, and in the 835  
manner it considers proper, may modify or set aside, in whole or 836  
in part, any finding or order made by it under this section. 837

**Sec. 4112.08.** This chapter shall be construed liberally 838  
for the accomplishment of its purposes, and any law inconsistent 839  
with any provision of this chapter shall not apply. Nothing 840  
contained in this chapter shall be considered to repeal any of 841  
the provisions of any law of this state relating to 842

discrimination because of race, color, religion, sex, military 843  
status, familial status, disability, national origin, age, or 844  
ancestry, except that any person filing a charge under division 845  
(B) (1) of section 4112.05 of the Revised Code, with respect to 846  
the unlawful discriminatory practices complained of, is barred 847  
from instituting a civil action under section 4112.14 or 848  
division ~~(N)~~(O) of section 4112.02 of the Revised Code. 849

**Sec. 4112.14.** (A) No employer shall discriminate in any 850  
job opening against any applicant or discharge without just 851  
cause any employee aged forty or older who is physically able to 852  
perform the duties and otherwise meets the established 853  
requirements of the job and laws pertaining to the relationship 854  
between employer and employee. 855

(B) Any person aged forty or older who is discriminated 856  
against in any job opening or discharged without just cause by 857  
an employer in violation of division (A) of this section may 858  
institute a civil action against the employer in a court of 859  
competent jurisdiction. If the court finds that an employer has 860  
discriminated on the basis of age, the court shall order an 861  
appropriate remedy which shall include reimbursement to the 862  
applicant or employee for the costs, including reasonable 863  
attorney's fees, of the action, or to reinstate the employee in 864  
the employee's former position with compensation for lost wages 865  
and any lost fringe benefits from the date of the illegal 866  
discharge and to reimburse the employee for the costs, including 867  
reasonable attorney's fees, of the action. The remedies 868  
available under this section are coexistent with remedies 869  
available pursuant to sections 4112.01 to 4112.11 of the Revised 870  
Code; except that any person instituting a civil action under 871  
this section is, with respect to the practices complained of, 872  
thereby barred from instituting a civil action under division 873

~~(N)~~ (O) of section 4112.02 of the Revised Code or from filing a charge with the Ohio civil rights commission under section 4112.05 of the Revised Code.

(C) The cause of action described in division (B) of this section and any remedies available pursuant to sections 4112.01 to 4112.11 of the Revised Code shall not be available in the case of discharges where the employee has available to the employee the opportunity to arbitrate the discharge or where a discharge has been arbitrated and has been found to be for just cause.

**Section 2.** That existing sections 4112.02, 4112.05, 4112.08, and 4112.14 of the Revised Code are hereby repealed.