

As Introduced

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

S. B. No. 70

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

A BILL

To amend sections 4112.02, 4112.05, 4112.08, 1
4112.14, 4112.15, and 4112.99 of the Revised 2
Code to prohibit employers, employment agencies, 3
personnel placement services, and labor 4
organizations from requiring an applicant or 5
employee to provide access to private electronic 6
accounts of the applicant or employee. 7

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

Section 1. That sections 4112.02, 4112.05, 4112.08, 8
4112.14, 4112.15, and 4112.99 of the Revised Code be amended to 9
read as follows: 10

Sec. 4112.02. It shall be an unlawful discriminatory 11
practice: 12

(A) For any employer, because of the race, color, 13
religion, sex, military status, national origin, disability, 14
age, or ancestry of any person, to discharge without just cause, 15
to refuse to hire, or otherwise to discriminate against that 16
person with respect to hire, tenure, terms, conditions, or 17
privileges of employment, or any matter directly or indirectly 18

related to employment.	19
(B) For an employment agency or personnel placement	20
service, because of race, color, religion, sex, military status,	21
national origin, disability, age, or ancestry, to do any of the	22
following:	23
(1) Refuse or fail to accept, register, classify properly,	24
or refer for employment, or otherwise discriminate against any	25
person;	26
(2) Comply with a request from an employer for referral of	27
applicants for employment if the request directly or indirectly	28
indicates that the employer fails to comply with the provisions	29
of sections 4112.01 to 4112.07 of the Revised Code.	30
(C) For any labor organization to do any of the following:	31
(1) Limit or classify its membership on the basis of race,	32
color, religion, sex, military status, national origin,	33
disability, age, or ancestry;	34
(2) Discriminate against, limit the employment	35
opportunities of, or otherwise adversely affect the employment	36
status, wages, hours, or employment conditions of any person as	37
an employee because of race, color, religion, sex, military	38
status, national origin, disability, age, or ancestry.	39
(D) For any employer, labor organization, or joint labor-	40
management committee controlling apprentice training programs to	41
discriminate against any person because of race, color,	42
religion, sex, military status, national origin, disability, or	43
ancestry in admission to, or employment in, any program	44
established to provide apprentice training.	45
(E) Except where based on a bona fide occupational	46

qualification certified in advance by the commission, for any 47
employer, employment agency, personnel placement service, or 48
labor organization, prior to employment or admission to 49
membership, to do any of the following: 50

(1) Elicit or attempt to elicit any information concerning 51
the race, color, religion, sex, military status, national 52
origin, disability, age, or ancestry of an applicant for 53
employment or membership; 54

(2) Make or keep a record of the race, color, religion, 55
sex, military status, national origin, disability, age, or 56
ancestry of any applicant for employment or membership; 57

(3) Use any form of application for employment, or 58
personnel or membership blank, seeking to elicit information 59
regarding race, color, religion, sex, military status, national 60
origin, disability, age, or ancestry; but an employer holding a 61
contract containing a nondiscrimination clause with the 62
government of the United States, or any department or agency of 63
that government, may require an employee or applicant for 64
employment to furnish documentary proof of United States 65
citizenship and may retain that proof in the employer's 66
personnel records and may use photographic or fingerprint 67
identification for security purposes; 68

(4) Print or publish or cause to be printed or published 69
any notice or advertisement relating to employment or membership 70
indicating any preference, limitation, specification, or 71
discrimination, based upon race, color, religion, sex, military 72
status, national origin, disability, age, or ancestry; 73

(5) Announce or follow a policy of denying or limiting, 74
through a quota system or otherwise, employment or membership 75

opportunities of any group because of the race, color, religion, 76
sex, military status, national origin, disability, age, or 77
ancestry of that group; 78

(6) Utilize in the recruitment or hiring of persons any 79
employment agency, personnel placement service, training school 80
or center, labor organization, or any other employee-referring 81
source known to discriminate against persons because of their 82
race, color, religion, sex, military status, national origin, 83
disability, age, or ancestry. 84

(F) For any person seeking employment to publish or cause 85
to be published any advertisement that specifies or in any 86
manner indicates that person's race, color, religion, sex, 87
military status, national origin, disability, age, or ancestry, 88
or expresses a limitation or preference as to the race, color, 89
religion, sex, military status, national origin, disability, 90
age, or ancestry of any prospective employer. 91

(G) For any proprietor or any employee, keeper, or manager 92
of a place of public accommodation to deny to any person, except 93
for reasons applicable alike to all persons regardless of race, 94
color, religion, sex, military status, national origin, 95
disability, age, or ancestry, the full enjoyment of the 96
accommodations, advantages, facilities, or privileges of the 97
place of public accommodation. 98

(H) For any person to do any of the following: 99

(1) Refuse to sell, transfer, assign, rent, lease, 100
sublease, or finance housing accommodations, refuse to negotiate 101
for the sale or rental of housing accommodations, or otherwise 102
deny or make unavailable housing accommodations because of race, 103
color, religion, sex, military status, familial status, 104

ancestry, disability, or national origin; 105

(2) Represent to any person that housing accommodations 106
are not available for inspection, sale, or rental, when in fact 107
they are available, because of race, color, religion, sex, 108
military status, familial status, ancestry, disability, or 109
national origin; 110

(3) Discriminate against any person in the making or 111
purchasing of loans or the provision of other financial 112
assistance for the acquisition, construction, rehabilitation, 113
repair, or maintenance of housing accommodations, or any person 114
in the making or purchasing of loans or the provision of other 115
financial assistance that is secured by residential real estate, 116
because of race, color, religion, sex, military status, familial 117
status, ancestry, disability, or national origin or because of 118
the racial composition of the neighborhood in which the housing 119
accommodations are located, provided that the person, whether an 120
individual, corporation, or association of any type, lends money 121
as one of the principal aspects or incident to the person's 122
principal business and not only as a part of the purchase price 123
of an owner-occupied residence the person is selling nor merely 124
casually or occasionally to a relative or friend; 125

(4) Discriminate against any person in the terms or 126
conditions of selling, transferring, assigning, renting, 127
leasing, or subleasing any housing accommodations or in 128
furnishing facilities, services, or privileges in connection 129
with the ownership, occupancy, or use of any housing 130
accommodations, including the sale of fire, extended coverage, 131
or homeowners insurance, because of race, color, religion, sex, 132
military status, familial status, ancestry, disability, or 133
national origin or because of the racial composition of the 134

neighborhood in which the housing accommodations are located; 135

(5) Discriminate against any person in the terms or 136
conditions of any loan of money, whether or not secured by 137
mortgage or otherwise, for the acquisition, construction, 138
rehabilitation, repair, or maintenance of housing accommodations 139
because of race, color, religion, sex, military status, familial 140
status, ancestry, disability, or national origin or because of 141
the racial composition of the neighborhood in which the housing 142
accommodations are located; 143

(6) Refuse to consider without prejudice the combined 144
income of both husband and wife for the purpose of extending 145
mortgage credit to a married couple or either member of a 146
married couple; 147

(7) Print, publish, or circulate any statement or 148
advertisement, or make or cause to be made any statement or 149
advertisement, relating to the sale, transfer, assignment, 150
rental, lease, sublease, or acquisition of any housing 151
accommodations, or relating to the loan of money, whether or not 152
secured by mortgage or otherwise, for the acquisition, 153
construction, rehabilitation, repair, or maintenance of housing 154
accommodations, that indicates any preference, limitation, 155
specification, or discrimination based upon race, color, 156
religion, sex, military status, familial status, ancestry, 157
disability, or national origin, or an intention to make any such 158
preference, limitation, specification, or discrimination; 159

(8) Except as otherwise provided in division (H) (8) or 160
(17) of this section, make any inquiry, elicit any information, 161
make or keep any record, or use any form of application 162
containing questions or entries concerning race, color, 163
religion, sex, military status, familial status, ancestry, 164

disability, or national origin in connection with the sale or 165
lease of any housing accommodations or the loan of any money, 166
whether or not secured by mortgage or otherwise, for the 167
acquisition, construction, rehabilitation, repair, or 168
maintenance of housing accommodations. Any person may make 169
inquiries, and make and keep records, concerning race, color, 170
religion, sex, military status, familial status, ancestry, 171
disability, or national origin for the purpose of monitoring 172
compliance with this chapter. 173

(9) Include in any transfer, rental, or lease of housing 174
accommodations any restrictive covenant, or honor or exercise, 175
or attempt to honor or exercise, any restrictive covenant; 176

(10) Induce or solicit, or attempt to induce or solicit, a 177
housing accommodations listing, sale, or transaction by 178
representing that a change has occurred or may occur with 179
respect to the racial, religious, sexual, military status, 180
familial status, or ethnic composition of the block, 181
neighborhood, or other area in which the housing accommodations 182
are located, or induce or solicit, or attempt to induce or 183
solicit, a housing accommodations listing, sale, or transaction 184
by representing that the presence or anticipated presence of 185
persons of any race, color, religion, sex, military status, 186
familial status, ancestry, disability, or national origin, in 187
the block, neighborhood, or other area will or may have results 188
including, but not limited to, the following: 189

(a) The lowering of property values; 190

(b) A change in the racial, religious, sexual, military 191
status, familial status, or ethnic composition of the block, 192
neighborhood, or other area; 193

(c) An increase in criminal or antisocial behavior in the block, neighborhood, or other area;	194 195
(d) A decline in the quality of the schools serving the block, neighborhood, or other area.	196 197
(11) Deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting housing accommodations, or discriminate against any person in the terms or conditions of that access, membership, or participation, on account of race, color, religion, sex, military status, familial status, national origin, disability, or ancestry;	198 199 200 201 202 203 204 205
(12) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person's having exercised or enjoyed or having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by division (H) of this section;	206 207 208 209 210
(13) Discourage or attempt to discourage the purchase by a prospective purchaser of housing accommodations, by representing that any block, neighborhood, or other area has undergone or might undergo a change with respect to its religious, racial, sexual, military status, familial status, or ethnic composition;	211 212 213 214 215
(14) Refuse to sell, transfer, assign, rent, lease, sublease, or finance, or otherwise deny or withhold, a burial lot from any person because of the race, color, sex, military status, familial status, age, ancestry, disability, or national origin of any prospective owner or user of the lot;	216 217 218 219 220
(15) Discriminate in the sale or rental of, or otherwise make unavailable or deny, housing accommodations to any buyer or	221 222

renter because of a disability of any of the following:	223
(a) The buyer or renter;	224
(b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;	225 226 227
(c) Any individual associated with the person described in division (H) (15) (b) of this section.	228 229
(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:	230 231 232 233 234
(a) That person;	235
(b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;	236 237 238
(c) Any individual associated with the person described in division (H) (16) (b) of this section.	239 240
(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	241 242 243 244 245 246 247 248 249 250

disabilities:	251
(a) An inquiry into an applicant's ability to meet the requirements of ownership or tenancy;	252 253
(b) An inquiry to determine whether an applicant is qualified for housing accommodations available only to persons with disabilities or persons with a particular type of disability;	254 255 256 257
(c) An inquiry to determine whether an applicant is qualified for a priority available to persons with disabilities or persons with a particular type of disability;	258 259 260
(d) An inquiry to determine whether an applicant currently uses a controlled substance in violation of section 2925.11 of the Revised Code or a substantively comparable municipal ordinance;	261 262 263 264
(e) An inquiry to determine whether an applicant at any time has been convicted of or pleaded guilty to any offense, an element of which is the illegal sale, offer to sell, cultivation, manufacture, other production, shipment, transportation, delivery, or other distribution of a controlled substance.	265 266 267 268 269 270
(18) (a) Refuse to permit, at the expense of a person with a disability, reasonable modifications of existing housing accommodations that are occupied or to be occupied by the person with a disability, if the modifications may be necessary to afford the person with a disability full enjoyment of the housing accommodations. This division does not preclude a landlord of housing accommodations that are rented or to be rented to a disabled tenant from conditioning permission for a proposed modification upon the disabled tenant's doing one or	271 272 273 274 275 276 277 278 279

more of the following: 280

(i) Providing a reasonable description of the proposed 281
modification and reasonable assurances that the proposed 282
modification will be made in a workerlike manner and that any 283
required building permits will be obtained prior to the 284
commencement of the proposed modification; 285

(ii) Agreeing to restore at the end of the tenancy the 286
interior of the housing accommodations to the condition they 287
were in prior to the proposed modification, but subject to 288
reasonable wear and tear during the period of occupancy, if it 289
is reasonable for the landlord to condition permission for the 290
proposed modification upon the agreement; 291

(iii) Paying into an interest-bearing escrow account that 292
is in the landlord's name, over a reasonable period of time, a 293
reasonable amount of money not to exceed the projected costs at 294
the end of the tenancy of the restoration of the interior of the 295
housing accommodations to the condition they were in prior to 296
the proposed modification, but subject to reasonable wear and 297
tear during the period of occupancy, if the landlord finds the 298
account reasonably necessary to ensure the availability of funds 299
for the restoration work. The interest earned in connection with 300
an escrow account described in this division shall accrue to the 301
benefit of the disabled tenant who makes payments into the 302
account. 303

(b) A landlord shall not condition permission for a 304
proposed modification upon a disabled tenant's payment of a 305
security deposit that exceeds the customarily required security 306
deposit of all tenants of the particular housing accommodations. 307

(19) Refuse to make reasonable accommodations in rules, 308

policies, practices, or services when necessary to afford a 309
person with a disability equal opportunity to use and enjoy a 310
dwelling unit, including associated public and common use areas; 311

(20) Fail to comply with the standards and rules adopted 312
under division (A) of section 3781.111 of the Revised Code; 313

(21) Discriminate against any person in the selling, 314
brokering, or appraising of real property because of race, 315
color, religion, sex, military status, familial status, 316
ancestry, disability, or national origin; 317

(22) Fail to design and construct covered multifamily 318
dwellings for first occupancy on or after June 30, 1992, in 319
accordance with the following conditions: 320

(a) The dwellings shall have at least one building 321
entrance on an accessible route, unless it is impractical to do 322
so because of the terrain or unusual characteristics of the 323
site. 324

(b) With respect to dwellings that have a building 325
entrance on an accessible route, all of the following apply: 326

(i) The public use areas and common use areas of the 327
dwellings shall be readily accessible to and usable by persons 328
with a disability. 329

(ii) All the doors designed to allow passage into and 330
within all premises shall be sufficiently wide to allow passage 331
by persons with a disability who are in wheelchairs. 332

(iii) All premises within covered multifamily dwelling 333
units shall contain an accessible route into and through the 334
dwelling; all light switches, electrical outlets, thermostats, 335
and other environmental controls within such units shall be in 336

accessible locations; the bathroom walls within such units shall 337
contain reinforcements to allow later installation of grab bars; 338
and the kitchens and bathrooms within such units shall be 339
designed and constructed in a manner that enables an individual 340
in a wheelchair to maneuver about such rooms. 341

For purposes of division (H) (22) of this section, "covered 342
multifamily dwellings" means buildings consisting of four or 343
more units if such buildings have one or more elevators and 344
ground floor units in other buildings consisting of four or more 345
units. 346

(I) For any person to discriminate in any manner against 347
any other person because that person has opposed any unlawful 348
discriminatory practice defined in this section or because that 349
person has made a charge, testified, assisted, or participated 350
in any manner in any investigation, proceeding, or hearing under 351
sections 4112.01 to 4112.07 of the Revised Code. 352

(J) For any person to aid, abet, incite, compel, or coerce 353
the doing of any act declared by this section to be an unlawful 354
discriminatory practice, to obstruct or prevent any person from 355
complying with this chapter or any order issued under it, or to 356
attempt directly or indirectly to commit any act declared by 357
this section to be an unlawful discriminatory practice. 358

(K) (1) For any employer, employment agency, personnel 359
placement service, or labor organization to recklessly do any of 360
the following: 361

(a) Ask or require an applicant or employee to disclose 362
usernames or passwords associated with a private electronic 363
account of the applicant or employee; 364

(b) Ask or require an applicant or employee to provide the 365

employer, employment agency, personnel placement service, or 366
labor organization with access to a private electronic account 367
of the applicant or employee; 368

(c) Discharge, discipline, threaten to discharge or 369
discipline, or otherwise penalize an employee if the employee 370
refuses to disclose usernames or passwords associated with a 371
private electronic account of the employee, or if the employee 372
refuses to provide the employer, employment agency, personnel 373
placement service, or labor organization with access to a 374
private electronic account of the employee; 375

(d) Fail or refuse to hire an applicant for employment 376
because the applicant refuses to disclose usernames or passwords 377
associated with a private electronic account of the applicant, 378
or because the applicant refuses to provide the employer, 379
employment agency, personnel placement service, or labor 380
organization with access to a private electronic account of the 381
employee. 382

(2) Division (K) (1) of this section shall not be construed 383
to prohibit an employer, employment agency, personnel placement 384
service, or labor organization from doing either of the 385
following: 386

(a) Monitoring the electronic accounts of employees or 387
applicants on the electronic mail or internet system of the 388
employer, employment agency, personnel placement service, or 389
labor organization; 390

(b) Complying with a duty to screen employees or 391
applicants prior to hiring or to monitor or retain employee 392
communications that is established under state or federal law or 393
by a self-regulatory organization, as that term is defined in 394

section 3 of the "Securities Exchange Act of 1934," 48 Stat. 395
881, 15 U.S.C. 78c, as amended. 396

(3) For purposes of division (K) of this section: 397

(a) "Private electronic account" means a collection of 398
electronically stored private information regarding an 399
individual, including such collections stored on social media 400
internet web sites, in electronic mail, and on electronic 401
devices. 402

(b) "Social media internet web site" means an internet web 403
site that allows individuals to do all of the following: 404

(i) Construct a public or semipublic profile within a 405
bounded system created by the service; 406

(ii) Create a list of other users with whom the individual 407
shares a connection within the system; 408

(iii) View and navigate the list of users with whom the 409
individual shares a connection and those lists of users made by 410
others within the system. 411

(L)(1) Nothing in division (H) of this section shall bar 412
any religious or denominational institution or organization, or 413
any nonprofit charitable or educational organization that is 414
operated, supervised, or controlled by or in connection with a 415
religious organization, from limiting the sale, rental, or 416
occupancy of housing accommodations that it owns or operates for 417
other than a commercial purpose to persons of the same religion, 418
or from giving preference in the sale, rental, or occupancy of 419
such housing accommodations to persons of the same religion, 420
unless membership in the religion is restricted on account of 421
race, color, or national origin. 422

(2) Nothing in division (H) of this section shall bar any 423
bona fide private or fraternal organization that, incidental to 424
its primary purpose, owns or operates lodgings for other than a 425
commercial purpose, from limiting the rental or occupancy of the 426
lodgings to its members or from giving preference to its 427
members. 428

(3) Nothing in division (H) of this section limits the 429
applicability of any reasonable local, state, or federal 430
restrictions regarding the maximum number of occupants permitted 431
to occupy housing accommodations. Nothing in that division 432
prohibits the owners or managers of housing accommodations from 433
implementing reasonable occupancy standards based on the number 434
and size of sleeping areas or bedrooms and the overall size of a 435
dwelling unit, provided that the standards are not implemented 436
to circumvent the purposes of this chapter and are formulated, 437
implemented, and interpreted in a manner consistent with this 438
chapter and any applicable local, state, or federal restrictions 439
regarding the maximum number of occupants permitted to occupy 440
housing accommodations. 441

(4) Nothing in division (H) of this section requires that 442
housing accommodations be made available to an individual whose 443
tenancy would constitute a direct threat to the health or safety 444
of other individuals or whose tenancy would result in 445
substantial physical damage to the property of others. 446

(5) Nothing in division (H) of this section pertaining to 447
discrimination on the basis of familial status shall be 448
construed to apply to any of the following: 449

(a) Housing accommodations provided under any state or 450
federal program that have been determined under the "Fair 451
Housing Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 452

3607, as amended, to be specifically designed and operated to 453
assist elderly persons; 454

(b) Housing accommodations intended for and solely 455
occupied by persons who are sixty-two years of age or older; 456

(c) Housing accommodations intended and operated for 457
occupancy by at least one person who is fifty-five years of age 458
or older per unit, as determined under the "Fair Housing 459
Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as 460
amended. 461

~~(L)~~ (M) Nothing in divisions (A) to (E) of this section 462
shall be construed to require a person with a disability to be 463
employed or trained under circumstances that would significantly 464
increase the occupational hazards affecting either the person 465
with a disability, other employees, the general public, or the 466
facilities in which the work is to be performed, or to require 467
the employment or training of a person with a disability in a 468
job that requires the person with a disability routinely to 469
undertake any task, the performance of which is substantially 470
and inherently impaired by the person's disability. 471

~~(M)~~ (N) Nothing in divisions (H) (1) to (18) of this 472
section shall be construed to require any person selling or 473
renting property to modify the property in any way or to 474
exercise a higher degree of care for a person with a disability, 475
to relieve any person with a disability of any obligation 476
generally imposed on all persons regardless of disability in a 477
written lease, rental agreement, or contract of purchase or 478
sale, or to forbid distinctions based on the inability to 479
fulfill the terms and conditions, including financial 480
obligations, of the lease, agreement, or contract. 481

~~(N)~~ (O) An aggrieved individual may enforce the 482
individual's rights relative to discrimination on the basis of 483
age as provided for in this section by instituting a civil 484
action, within one hundred eighty days after the alleged 485
unlawful discriminatory practice occurred, in any court with 486
jurisdiction for any legal or equitable relief that will 487
effectuate the individual's rights. 488

A person who files a civil action under this division is 489
barred, with respect to the practices complained of, from 490
instituting a civil action under section 4112.14 of the Revised 491
Code and from filing a charge with the commission under section 492
4112.05 of the Revised Code. 493

~~(O)~~ (P) With regard to age, it shall not be an unlawful 494
discriminatory practice and it shall not constitute a violation 495
of division (A) of section 4112.14 of the Revised Code for any 496
employer, employment agency, joint labor-management committee 497
controlling apprenticeship training programs, or labor 498
organization to do any of the following: 499

(1) Establish bona fide employment qualifications 500
reasonably related to the particular business or occupation that 501
may include standards for skill, aptitude, physical capability, 502
intelligence, education, maturation, and experience; 503

(2) Observe the terms of a bona fide seniority system or 504
any bona fide employee benefit plan, including, but not limited 505
to, a retirement, pension, or insurance plan, that is not a 506
subterfuge to evade the purposes of this section. However, no 507
such employee benefit plan shall excuse the failure to hire any 508
individual, and no such seniority system or employee benefit 509
plan shall require or permit the involuntary retirement of any 510
individual, because of the individual's age except as provided 511

for in the "Age Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 29 U.S.C.A. 623, as amended by the "Age Discrimination in Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 623, as amended.

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

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

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

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

(2) The mandatory retirement of uniformed patrol officers 541
of the state highway patrol as provided in section 5505.16 of 542
the Revised Code; 543

(3) The maximum age requirements for appointment as a 544
patrol officer in the state highway patrol established by 545
section 5503.01 of the Revised Code; 546

(4) The maximum age requirements established for original 547
appointment to a police department or fire department in 548
sections 124.41 and 124.42 of the Revised Code; 549

(5) Any maximum age not in conflict with federal law that 550
may be established by a municipal charter, municipal ordinance, 551
or resolution of a board of township trustees for original 552
appointment as a police officer or firefighter; 553

(6) Any mandatory retirement provision not in conflict 554
with federal law of a municipal charter, municipal ordinance, or 555
resolution of a board of township trustees pertaining to police 556
officers and firefighters; 557

(7) Until January 1, 1994, the mandatory retirement of any 558
employee who has attained seventy years of age and who is 559
serving under a contract of unlimited tenure, or similar 560
arrangement providing for unlimited tenure, at an institution of 561
higher education as defined in the "Education Amendments of 562
1980," 94 Stat. 1503, 20 U.S.C.A. 1141(a). 563

~~(Q)~~(R) (1) (a) Except as provided in division ~~(Q)~~(R) (1) (b) 564
of this section, for purposes of divisions (A) to (E) of this 565
section, a disability does not include any physiological 566
disorder or condition, mental or psychological disorder, or 567
disease or condition caused by an illegal use of any controlled 568
substance by an employee, applicant, or other person, if an 569

employer, employment agency, personnel placement service, labor 570
organization, or joint labor-management committee acts on the 571
basis of that illegal use. 572

(b) Division ~~(Q)~~(R)(1)(a) of this section does not apply 573
to an employee, applicant, or other person who satisfies any of 574
the following: 575

(i) The employee, applicant, or other person has 576
successfully completed a supervised drug rehabilitation program 577
and no longer is engaging in the illegal use of any controlled 578
substance, or the employee, applicant, or other person otherwise 579
successfully has been rehabilitated and no longer is engaging in 580
that illegal use. 581

(ii) The employee, applicant, or other person is 582
participating in a supervised drug rehabilitation program and no 583
longer is engaging in the illegal use of any controlled 584
substance. 585

(iii) The employee, applicant, or other person is 586
erroneously regarded as engaging in the illegal use of any 587
controlled substance, but the employee, applicant, or other 588
person is not engaging in that illegal use. 589

(2) Divisions (A) to (E) of this section do not prohibit 590
an employer, employment agency, personnel placement service, 591
labor organization, or joint labor-management committee from 592
doing any of the following: 593

(a) Adopting or administering reasonable policies or 594
procedures, including, but not limited to, testing for the 595
illegal use of any controlled substance, that are designed to 596
ensure that an individual described in division ~~(Q)~~(R)(1)(b)(i) 597
or (ii) of this section no longer is engaging in the illegal use 598

of any controlled substance; 599

(b) Prohibiting the illegal use of controlled substances 600
and the use of alcohol at the workplace by all employees; 601

(c) Requiring that employees not be under the influence of 602
alcohol or not be engaged in the illegal use of any controlled 603
substance at the workplace; 604

(d) Requiring that employees behave in conformance with 605
the requirements established under "The Drug-Free Workplace Act 606
of 1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended; 607

(e) Holding an employee who engages in the illegal use of 608
any controlled substance or who is an alcoholic to the same 609
qualification standards for employment or job performance, and 610
the same behavior, to which the employer, employment agency, 611
personnel placement service, labor organization, or joint labor- 612
management committee holds other employees, even if any 613
unsatisfactory performance or behavior is related to an 614
employee's illegal use of a controlled substance or alcoholism; 615

(f) Exercising other authority recognized in the 616
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 617
U.S.C.A. 12101, as amended, including, but not limited to, 618
requiring employees to comply with any applicable federal 619
standards. 620

(3) For purposes of this chapter, a test to determine the 621
illegal use of any controlled substance does not include a 622
medical examination. 623

(4) Division ~~(Q)~~ (R) of this section does not encourage, 624
prohibit, or authorize, and shall not be construed as 625
encouraging, prohibiting, or authorizing, the conduct of testing 626
for the illegal use of any controlled substance by employees, 627

applicants, or other persons, or the making of employment 628
decisions based on the results of that type of testing. 629

~~(R)~~(S) This section does not apply to a religious 630
corporation, association, educational institution, or society 631
with respect to the employment of an individual of a particular 632
religion to perform work connected with the carrying on by that 633
religious corporation, association, educational institution, or 634
society of its activities. 635

The unlawful discriminatory practices defined in this 636
section do not make it unlawful for a person or an appointing 637
authority administering an examination under section 124.23 of 638
the Revised Code to obtain information about an applicant's 639
military status for the purpose of determining if the applicant 640
is eligible for the additional credit that is available under 641
that section. 642

Sec. 4112.05. (A) The commission, as provided in this 643
section, shall prevent any person from engaging in unlawful 644
discriminatory practices, provided that, before instituting the 645
formal hearing authorized by division (B) of this section, it 646
shall attempt, by informal methods of conference, conciliation, 647
and persuasion, to induce compliance with this chapter. 648

(B) (1) Any person may file a charge with the commission 649
alleging that another person has engaged or is engaging in an 650
unlawful discriminatory practice. In the case of a charge 651
alleging an unlawful discriminatory practice described in 652
division (A), (B), (C), (D), (E), (F), (G), (I), ~~or (J)~~, or (K) 653
of section 4112.02 or in section 4112.021 or 4112.022 of the 654
Revised Code, the charge shall be in writing and under oath and 655
shall be filed with the commission within six months after the 656
alleged unlawful discriminatory practice was committed. In the 657

case of a charge alleging an unlawful discriminatory practice 658
described in division (H) of section 4112.02 of the Revised 659
Code, the charge shall be in writing and under oath and shall be 660
filed with the commission within one year after the alleged 661
unlawful discriminatory practice was committed. 662

(2) Upon receiving a charge, the commission may initiate a 663
preliminary investigation to determine whether it is probable 664
that an unlawful discriminatory practice has been or is being 665
engaged in. The commission also may conduct, upon its own 666
initiative and independent of the filing of any charges, a 667
preliminary investigation relating to any of the unlawful 668
discriminatory practices described in division (A), (B), (C), 669
(D), (E), (F), (I), ~~or~~ (J), or (K) of section 4112.02 or in 670
section 4112.021 or 4112.022 of the Revised Code. Prior to a 671
notification of a complainant under division (B) (4) of this 672
section or prior to the commencement of informal methods of 673
conference, conciliation, and persuasion under that division, 674
the members of the commission and the officers and employees of 675
the commission shall not make public in any manner and shall 676
retain as confidential all information that was obtained as a 677
result of or that otherwise pertains to a preliminary 678
investigation other than one described in division (B) (3) of 679
this section. 680

(3) (a) Unless it is impracticable to do so and subject to 681
its authority under division (B) (3) (d) of this section, the 682
commission shall complete a preliminary investigation of a 683
charge filed pursuant to division (B) (1) of this section that 684
alleges an unlawful discriminatory practice described in 685
division (H) of section 4112.02 of the Revised Code, and shall 686
take one of the following actions, within one hundred days after 687
the filing of the charge: 688

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

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

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

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

(c) Prior to the issuance of a complaint under division (B) (3) (a) (ii) or (iii) of this section or prior to a notification of the complainant and the respondent under division (B) (3) (a) (i) of this section, the members of the commission and the officers and employees of the commission shall not make public in any manner and shall retain as confidential all information that was obtained as a result of or that otherwise pertains to a preliminary investigation of a charge filed pursuant to division (B) (1) of this section that

alleges an unlawful discriminatory practice described in 719
division (H) of section 4112.05 of the Revised Code. 720

(d) Notwithstanding the types of action described in 721
divisions (B)(3)(a)(ii) and (iii) of this section, prior to the 722
issuance of a complaint or the referral of a complaint to the 723
attorney general and prior to endeavoring to eliminate an 724
unlawful discriminatory practice described in division (H) of 725
section 4112.02 of the Revised Code by informal methods of 726
conference, conciliation, and persuasion, the commission may 727
seek a temporary or permanent injunction or a temporary 728
restraining order in the court of common pleas of the county in 729
which the unlawful discriminatory practice allegedly occurred. 730

(4) If the commission determines after a preliminary 731
investigation other than one described in division (B)(3) of 732
this section that it is not probable that an unlawful 733
discriminatory practice has been or is being engaged in, it 734
shall notify any complainant under division (B)(1) of this 735
section that it has so determined and that it will not issue a 736
complaint in the matter. If the commission determines after a 737
preliminary investigation other than the one described in 738
division (B)(3) of this section that it is probable that an 739
unlawful discriminatory practice has been or is being engaged 740
in, it shall endeavor to eliminate the practice by informal 741
methods of conference, conciliation, and persuasion. 742

(5) Nothing said or done during informal methods of 743
conference, conciliation, and persuasion under this section 744
shall be disclosed by any member of the commission or its staff 745
or be used as evidence in any subsequent hearing or other 746
proceeding. If, after a preliminary investigation and the use of 747
informal methods of conference, conciliation, and persuasion 748

under this section, the commission is satisfied that any 749
unlawful discriminatory practice will be eliminated, it may 750
treat the charge involved as being conciliated and enter that 751
disposition on the records of the commission. If the commission 752
fails to effect the elimination of an unlawful discriminatory 753
practice by informal methods of conference, conciliation, and 754
persuasion under this section and to obtain voluntary compliance 755
with this chapter, the commission shall issue and cause to be 756
served upon any person, including the respondent against whom a 757
complainant has filed a charge pursuant to division (B) (1) of 758
this section, a complaint stating the charges involved and 759
containing a notice of an opportunity for a hearing before the 760
commission, a member of the commission, or a hearing examiner at 761
a place that is stated in the notice and that is located within 762
the county in which the alleged unlawful discriminatory practice 763
has occurred or is occurring or in which the respondent resides 764
or transacts business. The hearing shall be held not less than 765
thirty days after the service of the complaint upon the 766
complainant, the aggrieved persons other than the complainant on 767
whose behalf the complaint is issued, and the respondent, unless 768
the complainant, an aggrieved person, or the respondent elects 769
to proceed under division (A) (2) of section 4112.051 of the 770
Revised Code when that division is applicable. If a complaint 771
pertains to an alleged unlawful discriminatory practice 772
described in division (H) of section 4112.02 of the Revised 773
Code, the complaint shall notify the complainant, an aggrieved 774
person, and the respondent of the right of the complainant, an 775
aggrieved person, or the respondent to elect to proceed with the 776
administrative hearing process under this section or to proceed 777
under division (A) (2) of section 4112.051 of the Revised Code. 778

(6) The attorney general shall represent the commission at 779

any hearing held pursuant to division (B) (5) of this section and 780
shall present the evidence in support of the complaint. 781

(7) Any complaint issued pursuant to division (B) (5) of 782
this section after the filing of a charge under division (B) (1) 783
of this section shall be so issued within one year after the 784
complainant filed the charge with respect to an alleged unlawful 785
discriminatory practice. 786

(C) Any complaint issued pursuant to division (B) of this 787
section may be amended by the commission, a member of the 788
commission, or the hearing examiner conducting a hearing under 789
division (B) of this section, at any time prior to or during the 790
hearing. The respondent has the right to file an answer or an 791
amended answer to the original and amended complaints and to 792
appear at the hearing in person, by attorney, or otherwise to 793
examine and cross-examine witnesses. 794

(D) The complainant shall be a party to a hearing under 795
division (B) of this section, and any person who is an 796
indispensable party to a complete determination or settlement of 797
a question involved in the hearing shall be joined. Any 798
aggrieved person who has or claims an interest in the subject of 799
the hearing and in obtaining or preventing relief against the 800
unlawful discriminatory practices complained of shall be 801
permitted to appear only for the presentation of oral or written 802
arguments, to present evidence, perform direct and cross- 803
examination, and be represented by counsel. The commission shall 804
adopt rules, in accordance with Chapter 119. of the Revised Code 805
governing the authority granted under this division. 806

(E) In any hearing under division (B) of this section, the 807
commission, a member of the commission, or the hearing examiner 808
shall not be bound by the Rules of Evidence but, in ascertaining 809

the practices followed by the respondent, shall take into 810
account all reliable, probative, and substantial statistical or 811
other evidence produced at the hearing that may tend to prove 812
the existence of a predetermined pattern of employment or 813
membership, provided that nothing contained in this section 814
shall be construed to authorize or require any person to observe 815
the proportion that persons of any race, color, religion, sex, 816
military status, familial status, national origin, disability, 817
age, or ancestry bear to the total population or in accordance 818
with any criterion other than the individual qualifications of 819
the applicant. 820

(F) The testimony taken at a hearing under division (B) of 821
this section shall be under oath and shall be reduced to writing 822
and filed with the commission. Thereafter, in its discretion, 823
the commission, upon the service of a notice upon the 824
complainant and the respondent that indicates an opportunity to 825
be present, may take further testimony or hear argument. 826

(G) (1) If, upon all reliable, probative, and substantial 827
evidence presented at a hearing under division (B) of this 828
section, the commission determines that the respondent has 829
engaged in, or is engaging in, any unlawful discriminatory 830
practice, whether against the complainant or others, the 831
commission shall state its findings of fact and conclusions of 832
law and shall issue and, subject to the provisions of Chapter 833
119. of the Revised Code, cause to be served on the respondent 834
an order requiring the respondent to cease and desist from the 835
unlawful discriminatory practice, requiring the respondent to 836
take any further affirmative or other action that will 837
effectuate the purposes of this chapter, including, but not 838
limited to, hiring, reinstatement, or upgrading of employees 839
with or without back pay, or admission or restoration to union 840

membership, and requiring the respondent to report to the 841
commission the manner of compliance. If the commission directs 842
payment of back pay, it shall make allowance for interim 843
earnings. If the commission finds a violation of division (K) of 844
section 4112.02 of the Revised Code, it additionally shall 845
require the respondent to pay the fine required under division 846
(B) of section 4112.99 of the Revised Code. If it finds a 847
violation of division (H) of section 4112.02 of the Revised 848
Code, the commission additionally shall require the respondent 849
to pay actual damages and reasonable attorney's fees, and may 850
award to the complainant punitive damages as follows: 851

(a) If division (G) (1) (b) or (c) of this section does not 852
apply, punitive damages in an amount not to exceed ten thousand 853
dollars; 854

(b) If division (G) (1) (c) of this section does not apply 855
and if the respondent has been determined by a final order of 856
the commission or by a final judgment of a court to have 857
committed one violation of division (H) of section 4112.02 of 858
the Revised Code during the five-year period immediately 859
preceding the date on which a complaint was issued pursuant to 860
division (B) of this section, punitive damages in an amount not 861
to exceed twenty-five thousand dollars; 862

(c) If the respondent has been determined by a final order 863
of the commission or by a final judgment of a court to have 864
committed two or more violations of division (H) of section 865
4112.02 of the Revised Code during the seven-year period 866
immediately preceding the date on which a complaint was issued 867
pursuant to division (B) of this section, punitive damages in an 868
amount not to exceed fifty thousand dollars. 869

(2) Upon the submission of reports of compliance, the 870

commission may issue a declaratory order stating that the 871
respondent has ceased to engage in particular unlawful 872
discriminatory practices. 873

(H) If the commission finds that no probable cause exists 874
for crediting charges of unlawful discriminatory practices or 875
if, upon all the evidence presented at a hearing under division 876
(B) of this section on a charge, the commission finds that a 877
respondent has not engaged in any unlawful discriminatory 878
practice against the complainant or others, it shall state its 879
findings of fact and shall issue and cause to be served on the 880
complainant an order dismissing the complaint as to the 881
respondent. A copy of the order shall be delivered in all cases 882
to the attorney general and any other public officers whom the 883
commission considers proper. 884

(I) Until the time period for appeal set forth in division 885
(H) of section 4112.06 of the Revised Code expires, the 886
commission, subject to the provisions of Chapter 119. of the 887
Revised Code, at any time, upon reasonable notice, and in the 888
manner it considers proper, may modify or set aside, in whole or 889
in part, any finding or order made by it under this section. 890

Sec. 4112.08. This chapter shall be construed liberally 891
for the accomplishment of its purposes, and any law inconsistent 892
with any provision of this chapter shall not apply. Nothing 893
contained in this chapter shall be considered to repeal any of 894
the provisions of any law of this state relating to 895
discrimination because of race, color, religion, sex, military 896
status, familial status, disability, national origin, age, or 897
ancestry, except that any person filing a charge under division 898
(B) (1) of section 4112.05 of the Revised Code, with respect to 899
the unlawful discriminatory practices complained of, is barred 900

from instituting a civil action under section 4112.14 or 901
division ~~(N)~~(O) of section 4112.02 of the Revised Code. 902

Sec. 4112.14. (A) No employer shall discriminate in any 903
job opening against any applicant or discharge without just 904
cause any employee aged forty or older who is physically able to 905
perform the duties and otherwise meets the established 906
requirements of the job and laws pertaining to the relationship 907
between employer and employee. 908

(B) Any person aged forty or older who is discriminated 909
against in any job opening or discharged without just cause by 910
an employer in violation of division (A) of this section may 911
institute a civil action against the employer in a court of 912
competent jurisdiction. If the court finds that an employer has 913
discriminated on the basis of age, the court shall order an 914
appropriate remedy which shall include reimbursement to the 915
applicant or employee for the costs, including reasonable 916
attorney's fees, of the action, or to reinstate the employee in 917
the employee's former position with compensation for lost wages 918
and any lost fringe benefits from the date of the illegal 919
discharge and to reimburse the employee for the costs, including 920
reasonable attorney's fees, of the action. The remedies 921
available under this section are coexistent with remedies 922
available pursuant to sections 4112.01 to 4112.11 of the Revised 923
Code; except that any person instituting a civil action under 924
this section is, with respect to the practices complained of, 925
thereby barred from instituting a civil action under division 926
~~(N)~~(O) of section 4112.02 of the Revised Code or from filing a 927
charge with the Ohio civil rights commission under section 928
4112.05 of the Revised Code. 929

(C) The cause of action described in division (B) of this 930

section and any remedies available pursuant to sections 4112.01 931
to 4112.11 of the Revised Code shall not be available in the 932
case of discharges where the employee has available to the 933
employee the opportunity to arbitrate the discharge or where a 934
discharge has been arbitrated and has been found to be for just 935
cause. 936

Sec. 4112.15. There is hereby created in the state 937
treasury the civil rights commission general reimbursement fund, 938
which shall be used to pay operating costs of the commission. 939
All amounts received by the commission, and all amounts awarded 940
by a court to the commission, for attorney's fees, court costs, 941
expert witness fees, and other litigation expenses shall be paid 942
into the state treasury to the credit of the fund. All amounts 943
received by the commission for copies of commission documents 944
and for other goods and services furnished by the commission 945
shall be paid into the state treasury to the credit of the fund. 946
All fines collected pursuant to division (B) of section 4112.99 947
of the Revised Code shall be paid into the state treasury to the 948
credit of the fund. 949

Sec. 4112.99. (A) Whoever violates this chapter is subject 950
to a civil action for damages, injunctive relief, or any other 951
appropriate relief. 952

(B) In addition to any damages and relief that may be 953
available in division (A) of this section, whoever violates 954
division (K) of section 4112.02 of the Revised Code shall be 955
subject to a fine in the amount of up to one thousand dollars 956
for the first violation of that division, and up to two thousand 957
dollars for each subsequent violation. 958

Section 2. That existing sections 4112.02, 4112.05, 959
4112.08, 4112.14, 4112.15, and 4112.99 of the Revised Code are 960

hereby repealed.

961