

As Introduced

133rd General Assembly

Regular Session

2019-2020

S. B. No. 94

Senator Maharath

A BILL

To amend sections 4112.01, 4112.05, 4112.07, and 1
4113.71 and to enact section 4112.025 of the 2
Revised Code to enact the "Ohio Pregnant Workers 3
Fairness Act" to generally require employers to 4
make reasonable accommodations for employees who 5
are pregnant or breastfeeding. 6

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

Section 1. That sections 4112.01, 4112.05, 4112.07, and 7
4113.71 be amended and section 4112.025 of the Revised Code be 8
enacted to read as follows: 9

Sec. 4112.01. (A) As used in this chapter: 10

(1) "Person" includes one or more individuals, 11
partnerships, associations, organizations, corporations, legal 12
representatives, trustees, trustees in bankruptcy, receivers, 13
and other organized groups of persons. "Person" also includes, 14
but is not limited to, any owner, lessor, assignor, builder, 15
manager, broker, salesperson, appraiser, agent, employee, 16
lending institution, and the state and all political 17
subdivisions, authorities, agencies, boards, and commissions of 18
the state. 19

(2) "Employer" includes the state, any political
subdivision of the state, any person employing four or more
persons within the state, and any person acting directly or
indirectly in the interest of an employer.

(3) "Employee" means an individual employed by any
employer but does not include any individual employed in the
domestic service of any person.

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

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

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

(7) "Discriminate" includes segregate or separate.

(8) "Unlawful discriminatory practice" means any act
prohibited by section 4112.02, 4112.021, ~~or 4112.022~~, or
4112.025 of the Revised Code.

(9) "Place of public accommodation" means any inn,
restaurant, eating house, barbershop, public conveyance by air,
land, or water, theater, store, other place for the sale of
merchandise, or any other place of public accommodation or
amusement of which the accommodations, advantages, facilities,
or privileges are available to the public.

(10) "Housing accommodations" includes any building or 48
structure, or portion of a building or structure, that is used 49
or occupied or is intended, arranged, or designed to be used or 50
occupied as the home residence, dwelling, dwelling unit, or 51
sleeping place of one or more individuals, groups, or families 52
whether or not living independently of each other; and any 53
vacant land offered for sale or lease. "Housing accommodations" 54
also includes any housing accommodations held or offered for 55
sale or rent by a real estate broker, salesperson, or agent, by 56
any other person pursuant to authorization of the owner, by the 57
owner, or by the owner's legal representative. 58

(11) "Restrictive covenant" means any specification 59
limiting the transfer, rental, lease, or other use of any 60
housing accommodations because of race, color, religion, sex, 61
military status, familial status, national origin, disability, 62
or ancestry, or any limitation based upon affiliation with or 63
approval by any person, directly or indirectly, employing race, 64
color, religion, sex, military status, familial status, national 65
origin, disability, or ancestry as a condition of affiliation or 66
approval. 67

(12) "Burial lot" means any lot for the burial of deceased 68
persons within any public burial ground or cemetery, including, 69
but not limited to, cemeteries owned and operated by municipal 70
corporations, townships, or companies or associations 71
incorporated for cemetery purposes. 72

(13) "Disability" means a physical or mental impairment 73
that substantially limits one or more major life activities, 74
including the functions of caring for one's self, performing 75
manual tasks, walking, seeing, hearing, speaking, breathing, 76
learning, and working; a record of a physical or mental 77

impairment; or being regarded as having a physical or mental 78
impairment. 79

(14) Except as otherwise provided in section 4112.021 of 80
the Revised Code, "age" means at least forty years old. 81

(15) "Familial status" means either of the following: 82

(a) One or more individuals who are under eighteen years 83
of age and who are domiciled with a parent or guardian having 84
legal custody of the individual or domiciled, with the written 85
permission of the parent or guardian having legal custody, with 86
a designee of the parent or guardian; 87

(b) Any person who is pregnant or in the process of 88
securing legal custody of any individual who is under eighteen 89
years of age. 90

(16) (a) Except as provided in division (A) (16) (b) of this 91
section, "physical or mental impairment" includes any of the 92
following: 93

(i) Any physiological disorder or condition, cosmetic 94
disfigurement, or anatomical loss affecting one or more of the 95
following body systems: neurological; musculoskeletal; special 96
sense organs; respiratory, including speech organs; 97
cardiovascular; reproductive; digestive; genito-urinary; hemic 98
and lymphatic; skin; and endocrine; 99

(ii) Any mental or psychological disorder, including, but 100
not limited to, intellectual disability, organic brain syndrome, 101
emotional or mental illness, and specific learning disabilities; 102

(iii) Diseases and conditions, including, but not limited 103
to, orthopedic, visual, speech, and hearing impairments, 104
cerebral palsy, autism, epilepsy, muscular dystrophy, multiple 105

sclerosis, cancer, heart disease, diabetes, human 106
immunodeficiency virus infection, intellectual disability, 107
emotional illness, drug addiction, and alcoholism. 108

(b) "Physical or mental impairment" does not include any 109
of the following: 110

(i) Homosexuality and bisexuality; 111

(ii) Transvestism, transsexualism, pedophilia, 112
exhibitionism, voyeurism, gender identity disorders not 113
resulting from physical impairments, or other sexual behavior 114
disorders; 115

(iii) Compulsive gambling, kleptomania, or pyromania; 116

(iv) Psychoactive substance use disorders resulting from 117
the current illegal use of a controlled substance or the current 118
use of alcoholic beverages. 119

(17) "Dwelling unit" means a single unit of residence for 120
a family of one or more persons. 121

(18) "Common use areas" means rooms, spaces, or elements 122
inside or outside a building that are made available for the use 123
of residents of the building or their guests, and includes, but 124
is not limited to, hallways, lounges, lobbies, laundry rooms, 125
refuse rooms, mail rooms, recreational areas, and passageways 126
among and between buildings. 127

(19) "Public use areas" means interior or exterior rooms 128
or spaces of a privately or publicly owned building that are 129
made available to the general public. 130

(20) "Controlled substance" has the same meaning as in 131
section 3719.01 of the Revised Code. 132

(21) "Disabled tenant" means a tenant or prospective 133
tenant who is a person with a disability. 134

(22) "Military status" means a person's status in "service 135
in the uniformed services" as defined in section 5923.05 of the 136
Revised Code. 137

(23) "Aggrieved person" includes both of the following: 138

(a) Any person who claims to have been injured by any 139
unlawful discriminatory practice described in division (H) of 140
section 4112.02 of the Revised Code; 141

(b) Any person who believes that the person will be 142
injured by, any unlawful discriminatory practice described in 143
division (H) of section 4112.02 of the Revised Code that is 144
about to occur. 145

(B) For the purposes of divisions (A) to (F) of section 146
4112.02 of the Revised Code, the terms "because of sex" and "on 147
the basis of sex" include, but are not limited to, because of or 148
on the basis of pregnancy, any illness arising out of and 149
occurring during the course of a pregnancy, childbirth, or 150
related medical conditions. Women affected by pregnancy, 151
childbirth, or related medical conditions shall be treated the 152
same for all employment-related purposes, including receipt of 153
benefits under fringe benefit programs, as other persons not so 154
affected but similar in their ability or inability to work, and 155
nothing in division (B) of section 4111.17 of the Revised Code 156
shall be interpreted to permit otherwise. This division shall 157
not be construed to require an employer to pay for health 158
insurance benefits for abortion, except where the life of the 159
mother would be endangered if the fetus were carried to term or 160
except where medical complications have arisen from the 161

abortion, provided that nothing in this division precludes an 162
employer from providing abortion benefits or otherwise affects 163
bargaining agreements in regard to abortion. 164

Sec. 4112.025. (A) As used in this section: 165

(1) "Reasonable accommodation" means a request for a 166
change or modification in work duties. 167

(2) "Undue hardship" means any requirement that would 168
require an employer to take an action with significant 169
difficulty or expense when considered in light of factors, 170
including all of the following: 171

(a) The nature and cost of the accommodation needed under 172
this section; 173

(b) The overall financial resources of the facility 174
involved in providing the reasonable accommodation; 175

(c) The number of persons employed at the facility; 176

(d) The effect on expenses and resources or the impact 177
otherwise of the accommodation on the operation of the facility; 178

(e) The overall financial resources of the employer and 179
the overall size of the business of the employer with respect to 180
the number of its employees; 181

(f) The type of operation of the employer, including the 182
composition, structure, and functions of the workforce of the 183
employer; 184

(g) The geographic separateness, administrative, or fiscal 185
relationship of the facility in question to the employer. 186

(3) "Pregnancy" has the same meaning as described in 187
division (B) of section 4112.01 of the Revised Code, except that 188

it also includes lactation or the need to express breast milk 189
for a nursing infant. 190

(B) It shall be an unlawful discriminatory practice for 191
any employer to do any of the following: 192

(1) Fail or refuse to make a reasonable accommodation to 193
the known conditions related to an employee's pregnancy, unless 194
the employer can demonstrate that such an accommodation would 195
impose an undue hardship on the operation of the employer's 196
business; 197

(2) Deny employment opportunities to an employee, on the 198
basis of pregnancy, if the denial is based on the employer's 199
need to make a reasonable accommodation to the known conditions 200
related to the employee's pregnancy; 201

(3) Require an employee to take leave under any law 202
providing for leave from employment or under the employer's 203
leave policy if the employer can make another reasonable 204
accommodation to the known conditions related to the employee's 205
pregnancy; 206

(4) Take adverse action against an employee in the terms, 207
conditions, or privileges of employment for requesting or using 208
a reasonable accommodation to the known conditions related to 209
the employee's pregnancy. 210

(C) No employer shall be required by this section to do 211
either of the following: 212

(1) Create additional employment that the employer would 213
not otherwise have created, unless the employer does so or would 214
do so to make reasonable accommodations for other employees; 215

(2) Discharge any employee, transfer any employee with 216

more seniority, or promote any employee who is not qualified to 217
perform the duties of the position, unless the employer does so 218
or would do so to make reasonable accommodations for other 219
employees. 220

(D) An employer shall engage in a timely, good faith, and 221
interactive process with an employee to determine an effective 222
reasonable accommodation to the known conditions related to the 223
employee's pregnancy. 224

(E) Nothing in this section pertaining to refusing to make 225
a reasonable accommodation to the known conditions related to an 226
employee's pregnancy shall be construed to preempt, limit, 227
diminish, or otherwise affect any other provision of law 228
relating to discrimination on the basis of sex, or in any way 229
diminish or invalidate the remedies, rights, and procedures that 230
provide greater or equal protection for employees affected by 231
pregnancy under any other provision of law. 232

Sec. 4112.05. (A) (1) The commission, as provided in this 233
section, shall prevent any person from engaging in unlawful 234
discriminatory practices. 235

(2) The commission may at any time attempt to resolve 236
allegations of unlawful discriminatory practices by the use of 237
alternative dispute resolution, provided that, before 238
instituting the formal hearing authorized by division (B) of 239
this section, it shall attempt, by informal methods of 240
conference, conciliation, and persuasion, to induce compliance 241
with this chapter. 242

(B) (1) Any person may file a charge with the commission 243
alleging that another person has engaged or is engaging in an 244
unlawful discriminatory practice. In the case of a charge 245

alleging an unlawful discriminatory practice described in 246
division (A), (B), (C), (D), (E), (F), (G), (I), or (J) of 247
section 4112.02 or in section 4112.021 or 4112.022 of the 248
Revised Code, the charge shall be in writing and under oath and 249
shall be filed with the commission within six months after the 250
alleged unlawful discriminatory practice was committed. In the 251
case of a charge alleging an unlawful discriminatory practice 252
described in division (H) of section 4112.02 or section 4112.025 253
of the Revised Code, the charge shall be in writing and under 254
oath and shall be filed with the commission within one year 255
after the alleged unlawful discriminatory practice was 256
committed. 257

(a) An oath under this chapter may be made in any form of 258
affirmation the person deems binding on the person's conscience. 259
Acceptable forms include, but are not limited to, declarations 260
made under penalty of perjury. 261

(b) Any charge timely received, via facsimile, postal 262
mail, electronic mail, or otherwise, may be signed under oath 263
after the limitations period for filing set forth under division 264
(B)(1) of this section and will relate back to the original 265
filing date. 266

(2) Upon receiving a charge, the commission may initiate a 267
preliminary investigation to determine whether it is probable 268
that an unlawful discriminatory practice has been or is being 269
engaged in. The commission also may conduct, upon its own 270
initiative and independent of the filing of any charges, a 271
preliminary investigation relating to any of the unlawful 272
discriminatory practices described in division (A), (B), (C), 273
(D), (E), (F), (I), or (J) of section 4112.02 or in section 274
4112.021 ~~or~~, 4112.022, or 4112.025 of the Revised Code. Prior 275

to a notification of a complainant under division (B) (4) of this 276
section or prior to the commencement of informal methods of 277
conference, conciliation, and persuasion, or alternative dispute 278
resolution, under that division, the members of the commission 279
and the officers and employees of the commission shall not make 280
public in any manner and shall retain as confidential all 281
information that was obtained as a result of or that otherwise 282
pertains to a preliminary investigation other than one described 283
in division (B) (3) of this section. 284

(3) (a) Unless it is impracticable to do so and subject to 285
its authority under division (B) (3) (d) of this section, the 286
commission shall complete a preliminary investigation of a 287
charge filed pursuant to division (B) (1) of this section that 288
alleges an unlawful discriminatory practice described in 289
division (H) of section 4112.02 of the Revised Code, and shall 290
take one of the following actions, within one hundred days after 291
the filing of the charge: 292

(i) Notify the complainant and the respondent that it is 293
not probable that an unlawful discriminatory practice described 294
in division (H) of section 4112.02 of the Revised Code has been 295
or is being engaged in and that the commission will not issue a 296
complaint in the matter; 297

(ii) Initiate a complaint and schedule it for informal 298
methods of conference, conciliation, and persuasion, or 299
alternative dispute resolution; 300

(iii) Initiate a complaint and refer it to the attorney 301
general with a recommendation to seek a temporary or permanent 302
injunction or a temporary restraining order. If this action is 303
taken, the attorney general shall apply, as expeditiously as 304
possible after receipt of the complaint, to the court of common 305

pleas of the county in which the unlawful discriminatory 306
practice allegedly occurred for the appropriate injunction or 307
order, and the court shall hear and determine the application as 308
expeditiously as possible. 309

(b) If it is not practicable to comply with the 310
requirements of division (B) (3) (a) of this section within the 311
one-hundred-day period described in that division, the 312
commission shall notify the complainant and the respondent in 313
writing of the reasons for the noncompliance. 314

(c) Prior to the issuance of a complaint under division 315
(B) (3) (a) (ii) or (iii) of this section or prior to a 316
notification of the complainant and the respondent under 317
division (B) (3) (a) (i) of this section, the members of the 318
commission and the officers and employees of the commission 319
shall not make public in any manner and shall retain as 320
confidential all information that was obtained as a result of or 321
that otherwise pertains to a preliminary investigation of a 322
charge filed pursuant to division (B) (1) of this section that 323
alleges an unlawful discriminatory practice described in 324
division (H) of section 4112.02 of the Revised Code. 325

(d) Notwithstanding the types of action described in 326
divisions (B) (3) (a) (ii) and (iii) of this section, prior to the 327
issuance of a complaint or the referral of a complaint to the 328
attorney general and prior to endeavoring to eliminate an 329
unlawful discriminatory practice described in division (H) of 330
section 4112.02 of the Revised Code by informal methods of 331
conference, conciliation, and persuasion, or by alternative 332
dispute resolution, the commission may seek a temporary or 333
permanent injunction or a temporary restraining order in the 334
court of common pleas of the county in which the unlawful 335

discriminatory practice allegedly occurred. 336

(4) If the commission determines after a preliminary 337
investigation other than one described in division (B) (3) of 338
this section that it is not probable that an unlawful 339
discriminatory practice has been or is being engaged in, it 340
shall notify any complainant under division (B) (1) of this 341
section that it has so determined and that it will not issue a 342
complaint in the matter. If the commission determines after a 343
preliminary investigation other than the one described in 344
division (B) (3) of this section that it is probable that an 345
unlawful discriminatory practice has been or is being engaged 346
in, it shall endeavor to eliminate the practice by informal 347
methods of conference, conciliation, and persuasion, or by 348
alternative dispute resolution. 349

(5) Nothing said or done during informal methods of 350
conference, conciliation, and persuasion, or during alternative 351
dispute resolution, under this section shall be disclosed by any 352
member of the commission or its staff or be used as evidence in 353
any subsequent hearing or other proceeding. If, after a 354
preliminary investigation and the use of informal methods of 355
conference, conciliation, and persuasion, or alternative dispute 356
resolution, under this section, the commission is satisfied that 357
any unlawful discriminatory practice will be eliminated, it may 358
treat the charge involved as being conciliated and enter that 359
disposition on the records of the commission. If the commission 360
fails to effect the elimination of an unlawful discriminatory 361
practice by informal methods of conference, conciliation, and 362
persuasion, or by alternative dispute resolution under this 363
section and to obtain voluntary compliance with this chapter, 364
the commission shall issue and cause to be served upon any 365
person, including the respondent against whom a complainant has 366

filed a charge pursuant to division (B)(1) of this section, a 367
complaint stating the charges involved and containing a notice 368
of an opportunity for a hearing before the commission, a member 369
of the commission, or a hearing examiner at a place that is 370
stated in the notice and that is located within the county in 371
which the alleged unlawful discriminatory practice has occurred 372
or is occurring or in which the respondent resides or transacts 373
business. The hearing shall be held not less than thirty days 374
after the service of the complaint upon the complainant, the 375
aggrieved persons other than the complainant on whose behalf the 376
complaint is issued, and the respondent, unless the complainant, 377
an aggrieved person, or the respondent elects to proceed under 378
division (A)(2) of section 4112.051 of the Revised Code when 379
that division is applicable. If a complaint pertains to an 380
alleged unlawful discriminatory practice described in division 381
(H) of section 4112.02 of the Revised Code, the complaint shall 382
notify the complainant, an aggrieved person, and the respondent 383
of the right of the complainant, an aggrieved person, or the 384
respondent to elect to proceed with the administrative hearing 385
process under this section or to proceed under division (A)(2) 386
of section 4112.051 of the Revised Code. 387

(6) The attorney general shall represent the commission at 388
any hearing held pursuant to division (B)(5) of this section and 389
shall present the evidence in support of the complaint. 390

(7) Any complaint issued pursuant to division (B)(5) of 391
this section after the filing of a charge under division (B)(1) 392
of this section shall be so issued within one year after the 393
complainant filed the charge with respect to an alleged unlawful 394
discriminatory practice. 395

(C)(1) Any complaint issued pursuant to division (B) of 396

this section may be amended by the commission, a member of the 397
commission, or the hearing examiner conducting a hearing under 398
division (B) of this section. 399

(a) Except as provided in division (C) (1) (b) of this 400
section, a complaint issued pursuant to division (B) of this 401
section may be amended at any time prior to or during the 402
hearing. 403

(b) If a complaint issued pursuant to division (B) of this 404
section alleges an unlawful discriminatory practice described in 405
division (H) of section 4112.02 of the Revised Code, the 406
complaint may be amended at any time up to seven days prior to 407
the hearing and not thereafter. 408

(2) The respondent has the right to file an answer or an 409
amended answer to the original and amended complaints and to 410
appear at the hearing in person, by attorney, or otherwise to 411
examine and cross-examine witnesses. 412

(D) The complainant shall be a party to a hearing under 413
division (B) of this section, and any person who is an 414
indispensable party to a complete determination or settlement of 415
a question involved in the hearing shall be joined. Any 416
aggrieved person who has or claims an interest in the subject of 417
the hearing and in obtaining or preventing relief against the 418
unlawful discriminatory practices complained of shall be 419
permitted to appear only for the presentation of oral or written 420
arguments, to present evidence, perform direct and cross- 421
examination, and be represented by counsel. The commission shall 422
adopt rules, in accordance with Chapter 119. of the Revised Code 423
governing the authority granted under this division. 424

(E) In any hearing under division (B) of this section, the 425

commission, a member of the commission, or the hearing examiner 426
shall not be bound by the Rules of Evidence but, in ascertaining 427
the practices followed by the respondent, shall take into 428
account all reliable, probative, and substantial statistical or 429
other evidence produced at the hearing that may tend to prove 430
the existence of a predetermined pattern of employment or 431
membership, provided that nothing contained in this section 432
shall be construed to authorize or require any person to observe 433
the proportion that persons of any race, color, religion, sex, 434
military status, familial status, national origin, disability, 435
age, or ancestry bear to the total population or in accordance 436
with any criterion other than the individual qualifications of 437
the applicant. 438

(F) The testimony taken at a hearing under division (B) of 439
this section shall be under oath and shall be reduced to writing 440
and filed with the commission. Thereafter, in its discretion, 441
the commission, upon the service of a notice upon the 442
complainant and the respondent that indicates an opportunity to 443
be present, may take further testimony or hear argument. 444

(G) (1) (a) If, upon all reliable, probative, and 445
substantial evidence presented at a hearing under division (B) 446
of this section, the commission determines that the respondent 447
has engaged in, or is engaging in, any unlawful discriminatory 448
practice, whether against the complainant or others, the 449
commission shall state its findings of fact and conclusions of 450
law and shall issue and, subject to the provisions of Chapter 451
119. of the Revised Code, cause to be served on the respondent 452
an order requiring the respondent to do all of the following: 453

(i) Cease and desist from the unlawful discriminatory 454
practice; 455

(ii) Take any further affirmative or other action that 456
will effectuate the purposes of this chapter, including, but not 457
limited to, hiring, reinstatement, or upgrading of employees 458
with or without back pay, or admission or restoration to union 459
membership; 460

(iii) Report to the commission the manner of compliance. 461

If the commission directs payment of back pay, it shall 462
make allowance for interim earnings. 463

(b) If the commission finds a violation of division (H) of 464
section 4112.02 of the Revised Code, in addition to the action 465
described in division (G) (1) (a) of this section, the commission 466
additionally may require the respondent to undergo remediation 467
in the form of a class, seminar, or any other type of 468
remediation approved by the commission, may require the 469
respondent to pay actual damages and reasonable attorney's fees, 470
and may, to vindicate the public interest, assess a civil 471
penalty against the respondent as follows: 472

(i) If division (G) (1) (b) (ii) or (iii) of this section 473
does not apply, a civil penalty in an amount not to exceed ten 474
thousand dollars; 475

(ii) If division (G) (1) (b) (iii) of this section does not 476
apply and if the respondent has been determined by a final order 477
of the commission or by a final judgment of a court to have 478
committed one violation of division (H) of section 4112.02 of 479
the Revised Code during the five-year period immediately 480
preceding the date on which a complaint was issued pursuant to 481
division (B) of this section, a civil penalty in an amount not 482
to exceed twenty-five thousand dollars; 483

(iii) If the respondent has been determined by a final 484

order of the commission or by a final judgment of a court to 485
have committed two or more violations of division (H) of section 486
4112.02 of the Revised Code during the seven-year period 487
immediately preceding the date on which a complaint was issued 488
pursuant to division (B) of this section, a civil penalty 489
damages in an amount not to exceed fifty thousand dollars. 490

(2) Upon the submission of reports of compliance, the 491
commission may issue a declaratory order stating that the 492
respondent has ceased to engage in particular unlawful 493
discriminatory practices. 494

(H) If the commission finds that no probable cause exists 495
for crediting charges of unlawful discriminatory practices or 496
if, upon all the evidence presented at a hearing under division 497
(B) of this section on a charge, the commission finds that a 498
respondent has not engaged in any unlawful discriminatory 499
practice against the complainant or others, it shall state its 500
findings of fact and shall issue and cause to be served on the 501
complainant an order dismissing the complaint as to the 502
respondent. A copy of the order shall be delivered in all cases 503
to the attorney general and any other public officers whom the 504
commission considers proper. 505

If, upon all the evidence presented at a hearing under 506
division (B) of this section on a charge, the commission finds 507
that a respondent has not engaged in any unlawful discriminatory 508
practice against the complainant or others, it may award to the 509
respondent reasonable attorney's fees to the extent provided in 510
5 U.S.C. 504 and accompanying regulations. 511

(I) Until the time period for appeal set forth in division 512
(H) of section 4112.06 of the Revised Code expires, the 513
commission, subject to the provisions of Chapter 119. of the 514

Revised Code, at any time, upon reasonable notice, and in the 515
manner it considers proper, may modify or set aside, in whole or 516
in part, any finding or order made by it under this section. 517

Sec. 4112.07. Every person subject to division (A), (B), 518
(C), (D), or (E) of section 4112.02 or to section 4112.025 of 519
the Revised Code shall post in a conspicuous place or places on 520
his the person's premises a notice to be prepared or approved by 521
the commission that shall set forth excerpts of this chapter and 522
other relevant information that the commission deems necessary 523
to explain this chapter. 524

Sec. 4113.71. (A) As used in this section: 525

(1) "Employee" means an individual currently or formerly 526
employed by an employer. 527

(2) "Employer" means the state, any political subdivision 528
of the state, any person employing one or more individuals in 529
this state, and any person directly or indirectly acting in the 530
interest of the state, political subdivision, or such person. 531

(3) "Political subdivision" and "state" have the same 532
meanings as in section 2744.01 of the Revised Code. 533

(B) An employer who is requested by an employee or a 534
prospective employer of an employee to disclose to a prospective 535
employer of that employee information pertaining to the job 536
performance of that employee for the employer and who discloses 537
the requested information to the prospective employer is not 538
liable in damages in a civil action to that employee, the 539
prospective employer, or any other person for any harm sustained 540
as a proximate result of making the disclosure or of any 541
information disclosed, unless the plaintiff in a civil action 542
establishes, either or both of the following: 543

(1) By a preponderance of the evidence that the employer 544
disclosed particular information with the knowledge that it was 545
false, with the deliberate intent to mislead the prospective 546
employer or another person, in bad faith, or with malicious 547
purpose; 548

(2) By a preponderance of the evidence that the disclosure 549
of particular information by the employer constitutes an 550
unlawful discriminatory practice described in section 4112.02, 551
4112.021, ~~or 4112.022~~, or 4112.025 of the Revised Code. 552

(C) If the court finds that the verdict of the jury was in 553
favor of the defendant, the court shall determine whether the 554
lawsuit brought under division (B) of this section constituted 555
frivolous conduct as defined in division (A) of section 2323.51 556
of the Revised Code, ~~if~~. If the court finds by a preponderance 557
of the evidence that the lawsuit constituted frivolous conduct, 558
it may order the plaintiff to pay reasonable attorney's fees and 559
court costs of the defendant. 560

(D) (1) This section does not create a new cause of action 561
or substantive legal right against an employer. 562

(2) This section does not affect any immunities from civil 563
liability or defenses established by another section of the 564
Revised Code or available at common law to which an employer may 565
be entitled under circumstances not covered by this section. 566

Section 2. That existing sections 4112.01, 4112.05, 567
4112.07, and 4113.71 of the Revised Code are hereby repealed. 568

Section 3. This act shall be referred to as the "Ohio 569
Pregnant Workers Fairness Act." 570