

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 113

Representative Brinkman

**Cosponsors: Representatives Goodman, Thompson, Roegner, Vitale, Hood,
Becker, Schaffer, Merrin, Zeltwanger, Dean, Riedel, Keller**

A BILL

To enact sections 4119.01, 4119.02, 4119.04, 1
4119.05, 4119.06, 4119.07, 4119.08, and 4119.99 2
of the Revised Code to prohibit any requirement 3
that employees of private employers join or pay 4
dues to any employee organization and to 5
establish civil and criminal penalties against 6
employers who violate that prohibition. 7

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

Section 1. That sections 4119.01, 4119.02, 4119.04, 8
4119.05, 4119.06, 4119.07, 4119.08, and 4119.99 of the Revised 9
Code be enacted to read as follows: 10

Sec. 4119.01. As used in this chapter: 11

(A) "Employee" and "employer" have the same meanings as in 12
section 4113.51 of the Revised Code, except that "employer" does 13
not include any of the following: 14

(1) The United States or any corporation wholly owned by 15
the United States; 16

<u>(2) Any federal reserve bank;</u>	17
<u>(3) Any person subject to the "Railway Labor Act of 1926,"</u>	18
<u>44 Stat. 577, 45 U.S.C. 151 et seq., as amended;</u>	19
<u>(4) The state or any agency or instrumentality of the</u>	20
<u>state;</u>	21
<u>(5) Any municipal corporation, county, township, school</u>	22
<u>district, or other political subdivision;</u>	23
<u>(6) Any agency or instrumentality of a municipal</u>	24
<u>corporation, county, township, school district, or other</u>	25
<u>political subdivision.</u>	26
<u>(B) "Employee organization" means any labor or bona fide</u>	27
<u>organization in which employees participate and that exists for</u>	28
<u>the purpose, in whole or in part, of dealing with employers</u>	29
<u>concerning grievances, labor disputes, wages, hours, terms, and</u>	30
<u>other conditions of employment.</u>	31
<u>(C) "Injunctive relief" includes a permanent injunction, a</u>	32
<u>temporary injunction, or a temporary restraining order.</u>	33
<u>(D) "Labor dispute" includes any controversy, regardless</u>	34
<u>of whether the disputants stand in the proximate relation of</u>	35
<u>employee or employer, that concerns any of the following:</u>	36
<u>(1) The terms or conditions of employment;</u>	37
<u>(2) Employment relations;</u>	38
<u>(3) The association or representation of persons in</u>	39
<u>negotiations for the purpose of setting, maintaining, or</u>	40
<u>changing the terms or conditions of employment;</u>	41
<u>(4) Any other controversy arising out of the respective</u>	42
<u>interests of the relationship between an employee and an</u>	43

employer. 44

Sec. 4119.02. (A) The general assembly finds that 45
governmental authority allows and encourages employers to 46
organize in corporate and other forms of capital control, and, 47
in dealing with these employers, an employee who is not 48
represented by an employee organization is helpless to exercise 49
liberty of contract or to protect personal freedom of labor and 50
thus is helpless to obtain acceptable terms and conditions of 51
employment. 52

(B) The policy of this state is that the negotiation of 53
terms and conditions of private sector employment should result 54
from voluntary agreement between an employer and the employer's 55
employees. Therefore, each employee must be fully free to 56
associate, organize, and designate a representative, as the 57
employee chooses, for the negotiation of the terms and 58
conditions of employment in the private sector and must be free 59
from coercion, interference, or restraint by the employee's 60
employer or an agent of the employee's employer in designating a 61
representative, self-organizing, or other concerted activity for 62
the purpose of collective bargaining or other mutual aid or 63
protection. 64

(C) The policy of this state is that each employee must be 65
fully free to decide whether to associate, organize, designate a 66
representative, or join or assist an employee organization. 67

Sec. 4119.04. (A) No employer shall recklessly do any of 68
the following: 69

(1) Require any employee to become or remain a member of 70
any employee organization; 71

(2) Require any employee to pay any dues, fees, 72

assessments, or other charges to an employee organization; 73

(3) Require any employee to pay any amount to a charity or 74
other third party in lieu of paying dues, fees, assessments, or 75
other charges to an employee organization; 76

(4) Deduct from the wages, earnings, or compensation of 77
any employee any dues, fees, assessments, or other charges to be 78
held for or paid over to an employee organization unless the 79
employer first receives a written authorization for those 80
deductions as provided in division (A) of section 4119.05 of the 81
Revised Code. 82

(B) An employer and an employee organization shall not 83
enter into an oral or written agreement, contract, or promise 84
that violates division (A) of this section. Any such agreement, 85
contract, or promise is void and unenforceable. 86

Sec. 4119.05. (A) An employee may authorize the employee's 87
employer to deduct from the employee's wages, earnings, or 88
compensation any dues, fees, assessments, or other charges of 89
any kind to be held for or paid over to an employee 90
organization. The authorization shall be in writing and signed 91
by the employee. 92

(B) Every employer that receives a written authorization 93
from an employee pursuant to division (A) of this section shall 94
promptly notify the employee, in writing, that the employee may 95
revoke the authorization at any time by providing the employer 96
with a written notice of the revocation. The revocation becomes 97
effective thirty days after the employer receives the 98
revocation. 99

Sec. 4119.06. (A) An employer shall post in a conspicuous 100
place and keep continuously displayed the notice described in 101

division (B) of this section. An employer shall provide a copy 102
of the notice to each employee at the time the employee is first 103
hired or rehired after a lapse of the employee's employment with 104
that employer. 105

(B) The notice required to be posted and distributed 106
pursuant to division (A) of this section shall read as follows: 107

"Under Ohio law, an employee who is employed by a private 108
employer may choose whether to join an employee organization 109
without penalty. It is unlawful for an employer and an employee 110
organization to enter into a contract or agreement that requires 111
employees to join or belong to an employee organization. It also 112
is unlawful for a private employer to require employees to pay 113
dues, fees, or charges of any kind to an employee organization 114
as a condition of obtaining or keeping a job or to require any 115
employee to pay any amount to a charity or other third party in 116
lieu of paying dues, fees, assessments, or other charges to an 117
employee organization. A private employer may not discharge or 118
otherwise discriminate against an employee because the employee 119
joined or refused to join an employee organization." 120

Sec. 4119.07. (A) Any person who is injured or is likely 121
to be injured as a result of a violation of section 4119.04 of 122
the Revised Code may bring an action in the court of common 123
pleas in the county in which the violation is alleged to have 124
occurred, and may obtain injunctive relief and recover any 125
actual damages the person sustained as a result of the violation 126
or threatened violation. 127

(B) A court does not have jurisdiction to grant injunctive 128
relief under this section that specifically or generally 129
prohibits a person from doing any of the following: 130

- (1) Ceasing or refusing to perform work or to remain in an 131
employment relationship, regardless of a promise to do the work 132
or to remain in the relationship; 133
- (2) Becoming or remaining a member of an employer or 134
employee organization, regardless of a promise described in 135
section 4113.02 of the Revised Code; 136
- (3) Paying or giving to, or withholding from, another 137
person anything of value, including money, insurance, or strike 138
or unemployment benefits; 139
- (4) Helping, by lawful means, another person to bring or 140
defend against an action similar to an action described in 141
division (A) of this section in a court of any state or the 142
United States; 143
- (5) Publicizing, obtaining, or communicating information 144
about the existence of or a fact involved in a labor dispute by 145
any method that does not involve the act or threat of a breach 146
of the peace, fraud, or violence, including advertising, 147
speaking, and patrolling, with intimidation or coercion, a 148
public street or other place where a person lawfully may be 149
present; 150
- (6) Ceasing to patronize another person or to employ 151
another person; 152
- (7) Assembling peacefully to do or to organize an act 153
listed in divisions (B)(1) to (6) of this section; 154
- (8) Advising or giving another person notice of an intent 155
to do an act listed in divisions (B)(1) to (7) of this section; 156
- (9) Agreeing with another person to do or not to do an act 157
listed in divisions (B)(1) to (8) of this section; 158

(10) Advising, inducing, or urging another person, without 159
the act or threat of fraud or violence, to do an act listed in 160
divisions (B) (1) to (9) of this section, regardless of a promise 161
described in section 4113.02 of the Revised Code; 162

(11) Performing an act listed in divisions (B) (1) to (10) 163
of this section in concert with another person on the ground 164
that the persons are engaged in an unlawful conspiracy. 165

Sec. 4119.08. Any person may file a complaint alleging a 166
violation of section 4119.04 of the Revised Code with the 167
attorney general. The attorney general shall investigate any 168
complaints of an alleged violation of that section. If, based on 169
that investigation, the attorney general has reasonable cause to 170
believe that an employer has violated that section, the attorney 171
general shall prosecute the employer for the violation. 172

Sec. 4119.99. Any employer or employee organization who 173
violates section 4119.04 of the Revised Code is guilty of a 174
misdemeanor, punishable by imprisonment up to ninety days, a 175
fine up to one thousand dollars, or both. 176

Section 2. This act applies to all collective bargaining 177
agreements entered into on or after the effective date of this 178
act. 179