

EMPLOYER ALERT

PROPOSED EMPLOYMENT LAW LEGISLATION

At the present time, Ohio's Civil Rights Act prohibits employment discrimination based on race, color, religion, sex, age, national origin, ancestry, military status, and disability. There are several Bills that have been proposed and are pending in the Ohio General Assembly, which, if entered, would expand the prohibited areas of discrimination. A few of the Bills are as follows:

- **H.B. 176, Sexual Orientation/Gender Identity:** H.B. 176, if passed, would prohibit employment discrimination based on sexual orientation or gender identity. Under the Bill, sexual orientation is defined as actual or perceived heterosexuality, homosexuality or bisexuality. Gender identity is defined as the gender-related identity, appearance or mannerisms, or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

- **H.B. 470, Smoker Discrimination in Employment:** At the present time, there is no state law prohibiting employers from discriminating against individuals on the basis that the individual smokes tobacco. Consequently, some employers ask prospective employees if they are a smoker, and if the applicant answers in the affirmative, they do not hire the applicant. H.B. 470 is a Bill aimed at protecting smokers from employment discrimination. Specifically, the Bill states, in part, that: "No employer shall discharge, without just cause, refuse to hire, or otherwise discriminate against any person with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, on the basis that the person smokes tobacco." H.B. 470 is careful to point out, however, that the Bill, if enacted, will not permit smoking in the workplace that is otherwise prohibited or during work hours. More specifically, the Bill states, in part, that: "Nothing in this section shall prohibit an employer from adopting or enforcing rules that prohibit employees from smoking tobacco, or smelling like tobacco smoke, during the hours of employment." H.B. 470, as proposed, carries some rather stiff penalties and provides that any person discriminated against may, within one year after the date of the discrimination, file suit in court to recover damages, costs, attorney's fees, and injunctive relief, and the Bill also specifies that an employer who violates the law shall be fined \$25,000 for the first offense, \$50,000 for the second offense, and \$100,000 for each subsequent offense.

- **H.B. 340, Credit Discrimination in Employment:** At the present time, some employers use a person's credit rating or score or credit history as a factor in making a decision whether to employ an applicant. H.B. 340, if enacted, would make it an unlawful discriminatory practice for an employer to use a person's credit rating or score or consumer credit history as a factor in making a decision regarding that person's employment.

- **H.B. 170, Retaliation/Unemployment Compensation:** H.B. 170 is a Bill that prohibits an employer from discharging, without just cause, refusing to hire, or otherwise discriminating against any employee of the employer with respect to hire, tenure, terms, conditions, or privileges of employment, or any other matter directly or indirectly related to employment, because that employee testifies or otherwise participates in an unemployment compensation proceeding or hearing.

We will continue to monitor this proposed legislation to determine if and when any of these Bills become law.

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