



TO: House Economic Development, Commerce & Labor Committee  
FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio  
DATE: February 28, 2017  
RE: House Bill 2

To Chairman Young, Vice Chair DeVitis, Ranking Member Lepore-Hagan, and members of the House Economic Development, Commerce & Labor Committee, my name is Gary Daniels, chief lobbyist for the American Civil Liberties Union of Ohio ("ACLU of Ohio") and I appear to present opponent testimony on House Bill 2.

House Bill 2 contains numerous provisions to substantially weaken employment discrimination protections for vulnerable Ohioans including disabled veterans, pregnant women, the devoutly religious, and many others treated differently because of their race, gender, and national origin, among other factors. I will address several of these provisions.

First, it is important to acknowledge House Bill 2, by design, leaves Ohioans in their workplaces less protected from various forms of discrimination than current law. Based on recent testimony, it appears the sole reason for proponents' support of HB 2 is because it will simplify life for corporations and human resource professionals.

Proponents use a familiar tactic often seen in legislative debate. That tactic is to compare Ohio laws with other states and/or the federal government. When those other laws provide less protection, advance the idea Ohio should weaken its own laws. Far rarer - perhaps even non-existent - are comparisons to other states with stronger laws and resulting efforts to improve Ohio laws to match them. Indeed, when it comes to employment discrimination protections, the pendulum apparently swings only one direction in Ohio.

One of the specific ways Ohio law is weakened through HB 2 is to leave an entire category of workers unprotected via Ohio's discrimination law. This is done by redefining "employer" to exclude those who employ Ohioans less than 20 weeks - or approximately 5 months - per year.

What workers will this effect? Those who only work seasonal jobs in the summer, such as in the tourism and landscaping industries. Those who work in winter months, around holidays such as Christmas or Thanksgiving, or providing snow and ice removal. Many Ohioans who find work via temporary employment. Many of your constituents who take on occasional second and third jobs to supplement their income. For what compelling reason should they have no zero protections compared to their counterparts who work year-round jobs?

AMERICAN CIVIL  
LIBERTIES UNION  
OF OHIO  
4506 CHESTER AVENUE  
CLEVELAND, OH 44103-3621  
T/216.472.2220  
F/216.472.2210  
WWW.ACLUOHIO.ORG  
contact@acluohio.org



Supervisor and manager liability is also unwisely removed under HB 2. Proponents explain this is the norm for most states, the federal government, and even state employees in Ohio. In their view, this is a "problem" needing fixed. Perhaps, instead of jumping into this race to the bottom, we should celebrate our Ohio laws that are more protective of the disabled veterans, the pregnant women, and everyone else. Instead of removing supervisor liability since state workers do not enjoy that same benefit, why not a bill to enact supervisor and manager liability for those deserving state workers?

Proponents also use a linguistic slight-of-hand to try and explain why supervisors and managers should be exempt from this law even when they commit the most heinous and offensive acts. They explain these laws are to prevent discrimination by *employers* and managers and supervisors are, after all, not employers. I submit the purpose of these laws is to protect against employment or workplace discrimination, not simply "employer" discrimination.

Further weakening protections for Ohioans is the provision to reduce by a whopping 83% - from six years down to one - the amount of time a worker who experienced discrimination has to file a lawsuit. Again, some corporations prefer this slash, in part, because it compares favorably with other states and the federal government. Yet another example of Ohioans being asked to accept less protections because other states have worse laws.

While we have other concerns with HB 2, the final one I will mention now is the complete lack of any employment discrimination protections under state law for LGBT employees. In 2017, nothing in the Ohio Revised Code prevents an employer from firing someone simply because of their sexual orientation or gender identity. If we are so intent on changing Ohio's discrimination laws, this would be a positive first step to making them better. We are close to at least 50% of states offering such protections. Ohioans would be well-served to join those other states to improve, rather than diminish, workplace protections.

In conclusion, if the issue is making life easier for corporations versus maintaining current protections for Ohio workers, the ACLU of Ohio does not believe proponents of HB 2 have adequately made the case why our laws should be weaker, at the expense of your hard-working constituents.