

SECOND REGULAR SESSION

HOUSE BILL NO. 1312

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BYRD.

Read 1st time January 29, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3371L.011

AN ACT

To repeal section 213.111, RSMo, and to enact in lieu thereof one new section relating to the right to civil action for unlawful discriminatory practices.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 213.111, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 213.111, to read as follows:

213.111. 1. If, after one hundred eighty days from the filing of a complaint alleging an unlawful discriminatory practice pursuant to section 213.055, 213.065 or 213.070 to the extent that the alleged violation of section 213.070 relates to or involves a violation of section 213.055 or 213.065, or subdivision (3) of section 213.070 as it relates to employment and public accommodations, the commission has not completed its administrative processing and the person aggrieved so requests in writing, the commission shall issue to the person claiming to be aggrieved a letter indicating his or her right to bring a civil action within ninety days of such notice against the respondent named in the complaint. If, after the filing of a complaint pursuant to sections 213.040, 213.045, 213.050 and 213.070, to the extent that the alleged violation of section 213.070 relates to or involves a violation of sections 213.040, 213.045 and 213.050, or subdivision (3) of section 213.070 as it relates to housing, and the person aggrieved so requests in writing, the commission shall issue to the person claiming to be aggrieved a letter indicating his or her right to bring a civil action within ninety days of such notice against the respondent named in the complaint. Such an action may be brought in any circuit court in any county in which the unlawful discriminatory practice is alleged to have [occurred] **caused the plaintiff damage**, either before a circuit or associate circuit judge. Upon issuance of this notice, the

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

17 commission shall terminate all proceedings relating to the complaint. No person may file or
18 reinstate a complaint with the commission after the issuance of a notice under this section
19 relating to the same practice or act. Any action brought in court under this section shall be filed
20 within ninety days from the date of the commission's notification letter to the individual but no
21 later than two years after the alleged cause occurred or its reasonable discovery by the alleged
22 injured party.

23 2. The court may grant as relief, as it deems appropriate, any permanent or temporary
24 injunction, temporary restraining order, or other order, and may award to the plaintiff actual and
25 punitive damages, and may award court costs and reasonable attorney fees to the prevailing
26 party, other than a state agency or commission or a local commission; except that, a prevailing
27 respondent may be awarded court costs and reasonable attorney fees only upon a showing that
28 the case is without foundation.

29 **3. Any party to any action initiated pursuant to this section may demand a trial by**
30 **jury.**

31 **4. The sum of the amount of actual damages, including damages for pecuniary**
32 **losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life,**
33 **and other nonpecuniary losses, and punitive damages awarded pursuant to this section**
34 **shall not exceed for each complaining party:**

35 **(1) Actual back pay and interest on back pay; and**

36 **(2) (a) In the case of a respondent who has more than five and fewer than one**
37 **hundred one employees in each of twenty or more calendar weeks in the current or**
38 **preceding calendar year, fifty thousand dollars;**

39 **(b) In the case of a respondent who has more than one hundred and fewer than two**
40 **hundred one employees in each of twenty or more calendar weeks in the current or**
41 **preceding calendar year, one hundred thousand dollars;**

42 **(c) In the case of a respondent who has more than two hundred and fewer than five**
43 **hundred one employees in each of twenty or more calendar weeks in the current or**
44 **preceding calendar year, two hundred thousand dollars;**

45 **(d) In the case of a respondent who has more than five hundred employees in each**
46 **of twenty or more calendar weeks in the current or preceding calendar year, three hundred**
47 **thousand dollars.**

48 **5. Subsection 4 of this section shall not apply to:**

49 **(1) Actions filed for violations of sections 213.040, 213.045, 213.050, and 213.070,**
50 **to the extent that the alleged violation of section 213.070 relates to or involves a violation**
51 **of sections 213.040, 213.045, and 213.050, or subdivision (3) of section 213.070, as it relates**
52 **to housing;**

53 **(2) Any action filed pursuant to this chapter in which the defendant or the**
54 **defendant's agents are found to have committed battery in conjunction with the act of**
55 **discrimination; or**

56 **(3) Any action filed pursuant to section 213.126.**

57 **6. The provisions of subsection 4 of this section notwithstanding, punitive damages**
58 **shall not be awarded against the state of Missouri or any of its political subdivisions.**