

SECOND REGULAR SESSION

HOUSE BILL NO. 2156

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ICET.

Read 1st time March 31, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5702L.011

AN ACT

To repeal sections 213.010, 213.070, 213.111, and 510.265, RSMo, and to enact in lieu thereof four new sections relating to unlawful employment practices.

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

Section A. Sections 213.010, 213.070, 213.111, and 510.265, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 213.010, 213.070, 213.111,
3 and 510.265, to read as follows:

213.010. As used in this chapter, the following terms shall mean:

- 2 (1) "Age", an age of forty or more years but less than seventy years, except that it shall
3 not be an unlawful employment practice for an employer to require the compulsory retirement
4 of any person who has attained the age of sixty-five and who, for the two-year period
5 immediately before retirement, is employed in a bona fide executive or high policy-making
6 position, if such person is entitled to an immediate nonforfeitable annual retirement benefit from
7 a pension, profit sharing, savings or deferred compensation plan, or any combination of such
8 plans, of the employer, which equals, in the aggregate, at least forty-four thousand dollars;
9 (2) "Commission", the Missouri commission on human rights;
10 (3) "Complainant", a person who has filed a complaint with the commission alleging that
11 another person has engaged in a prohibited discriminatory practice;
12 (4) "Disability", a physical or mental impairment which substantially limits one or more
13 of a person's major life activities, being regarded as having such an impairment, or a record of
14 having such an impairment, which with or without reasonable accommodation does not interfere

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

15 with performing the job, utilizing the place of public accommodation, or occupying the dwelling
16 in question. For purposes of this chapter, the term "disability" does not include current, illegal
17 use of or addiction to a controlled substance as such term is defined by section 195.010, RSMo;
18 however, a person may be considered to have a disability if that person:

19 (a) Has successfully completed a supervised drug rehabilitation program and is no longer
20 engaging in the illegal use of, and is not currently addicted to, a controlled substance or has
21 otherwise been rehabilitated successfully and is no longer engaging in such use and is not
22 currently addicted;

23 (b) Is participating in a supervised rehabilitation program and is no longer engaging in
24 illegal use of controlled substances; or

25 (c) Is erroneously regarded as currently illegally using, or being addicted to, a controlled
26 substance;

27 (5) "Discrimination", any unfair treatment based on race, color, religion, national origin,
28 ancestry, sex, age as it relates to employment, disability, or familial status as it relates to housing;

29 (6) "Dwelling", any building, structure or portion thereof which is occupied as, or
30 designed or intended for occupancy as, a residence by one or more families, and any vacant land
31 which is offered for sale or lease for the construction or location thereon of any such building,
32 structure or portion thereof;

33 (7) "Employer" includes [the state, or any political or civil subdivision thereof, or] any
34 person employing six or more persons within the state, and any person directly acting in the
35 interest of an employer, but does not include **individual officers, supervisors, or other**
36 **employees of a corporate employer**, corporations and associations owned and operated by
37 religious or sectarian groups, **or state governmental agencies or corporations including**
38 **public school districts and political subdivisions**;

39 (8) "Employment agency" includes any person or agency, public or private, regularly
40 undertaking with or without compensation to procure employees for an employer or to procure
41 for employees opportunities to work for an employer and includes any person acting in the
42 interest of such a person;

43 (9) "Executive director", the executive director of the Missouri commission on human
44 rights;

45 (10) "Familial status", one or more individuals who have not attained the age of eighteen
46 years being domiciled with:

47 (a) A parent or another person having legal custody of such individual; or

48 (b) The designee of such parent or other person having such custody, with the written
49 permission of such parent or other person. The protections afforded against discrimination on

50 the basis of familial status shall apply to any person who is pregnant or is in the process of
51 securing legal custody of any individual who has not attained the age of eighteen years;

52 (11) "Human rights fund", a fund established to receive civil penalties as required by
53 federal regulations and as set forth by subdivision (2) of subsection 11 of section 213.075, and
54 which will be disbursed to offset additional expenses related to compliance with the Department
55 of Housing and Urban Development regulations;

56 (12) "Labor organization" includes any organization which exists for the purpose, in
57 whole or in part, of collective bargaining or of dealing with employers concerning grievances,
58 terms or conditions of employment, or for other mutual aid or protection in relation to
59 employment;

60 (13) "Local commissions", any commission or agency established prior to August 13,
61 1986, by an ordinance or order adopted by the governing body of any city, constitutional charter
62 city, town, village, or county;

63 (14) "Person" includes one or more [individuals,] corporations, partnerships,
64 associations, organizations, labor organizations, legal representatives, mutual companies, joint
65 stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries, or other organized
66 groups of persons **but shall not include individuals**;

67 (15) "Places of public accommodation", all places or businesses offering or holding out
68 to the general public, goods, services, privileges, facilities, advantages or accommodations for
69 the peace, comfort, health, welfare and safety of the general public or such public places
70 providing food, shelter, recreation and amusement, including, but not limited to:

71 (a) Any inn, hotel, motel, or other establishment which provides lodging to transient
72 guests, other than an establishment located within a building which contains not more than five
73 rooms for rent or hire and which is actually occupied by the proprietor of such establishment as
74 his residence;

75 (b) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility
76 principally engaged in selling food for consumption on the premises, including, but not limited
77 to, any such facility located on the premises of any retail establishment;

78 (c) Any gasoline station, including all facilities located on the premises of such gasoline
79 station and made available to the patrons thereof;

80 (d) Any motion picture house, theater, concert hall, sports arena, stadium, or other place
81 of exhibition or entertainment;

82 (e) Any public facility owned, operated, or managed by or on behalf of this state or any
83 agency or subdivision thereof, or any public corporation; and any such facility supported in
84 whole or in part by public funds;

85 (f) Any establishment which is physically located within the premises of any
86 establishment otherwise covered by this section or within the premises of which is physically
87 located any such covered establishment, and which holds itself out as serving patrons of such
88 covered establishment;

89 (16) "Rent" includes to lease, to sublease, to let and otherwise to grant for consideration
90 the right to occupy premises not owned by the occupant;

91 (17) "Respondent", a person who is alleged to have engaged in a prohibited
92 discriminatory practice in a complaint filed with the commission **but shall not include**
93 **individual officers, supervisors, or other employees of a corporate employer, corporations**
94 **and associations owned and operated by religious or sectarian groups, or state**
95 **governmental agencies, political subdivisions, or corporations including public school**
96 **districts;**

97 (18) "Unlawful discriminatory practice", any act that is unlawful under this chapter.
213.070. It shall be an unlawful discriminatory practice **for an employer:**

2 (1) To aid, abet, incite, compel, or coerce the commission of acts prohibited under this
3 chapter or to attempt to do so;

4 (2) To retaliate or discriminate in any manner against any other person because such
5 person has opposed any practice prohibited by this chapter or because such person has filed a
6 complaint, testified, assisted, or participated in any manner in any investigation, proceeding or
7 hearing conducted pursuant to this chapter; **or**

8 (3) [For the state or any political subdivision of this state to discriminate on the basis of
9 race, color, religion, national origin, sex, ancestry, age, as it relates to employment, disability,
10 or familial status as it relates to housing; or

11 (4)] To discriminate in any manner against any other person because of such person's
12 association with any person protected by this chapter.

213.111. 1. If, after one hundred eighty days from the filing of a complaint alleging an
2 unlawful discriminatory practice pursuant to section 213.055, 213.065 or 213.070 to the extent
3 that the alleged violation of section 213.070 relates to or involves a violation of section 213.055
4 or 213.065, [or subdivision (3) of section 213.070 as it relates to employment and public
5 accommodations,] the commission has not completed its administrative processing and the
6 person aggrieved so requests in writing, the commission shall issue to the person claiming to be
7 aggrieved a letter indicating his or her right to bring a civil action within ninety days of such
8 notice against the respondent named in the complaint. If, after the filing of a complaint pursuant
9 to sections 213.040, 213.045, 213.050 and 213.070, to the extent that the alleged violation of
10 section 213.070 relates to or involves a violation of sections 213.040, 213.045 and 213.050, [or
11 subdivision (3) of section 213.070 as it relates to housing,] and the person aggrieved so requests

12 in writing, the commission shall issue to the person claiming to be aggrieved a letter indicating
13 his or her right to bring a civil action within ninety days of such notice against the respondent
14 named in the complaint. Such an action may be brought in any circuit court in any county in
15 which the unlawful discriminatory practice is alleged to have occurred, either before a circuit or
16 associate circuit judge. Upon issuance of this notice, the commission shall terminate all
17 proceedings relating to the complaint. No person may file or reinstate a complaint with the
18 commission after the issuance of a notice under this section relating to the same practice or act.
19 Any action brought in court under this section shall be filed within ninety days from the date of
20 the commission's notification letter to the individual but no later than two years after the alleged
21 cause occurred or its reasonable discovery by the alleged injured party.

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

510.265. 1. No award of punitive damages against any defendant shall exceed the
2 greater of:

3 (1) Five hundred thousand dollars; or

4 (2) Five times the net amount of the judgment awarded to the plaintiff against the
5 defendant.

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7 Such limitations shall not apply if the state of Missouri is the plaintiff requesting the award of
8 punitive damages, or the defendant pleads guilty to or is convicted of a felony arising out of the
9 acts or omissions pled by the plaintiff.

10 2. The provisions of this section shall not apply to civil actions brought under section
11 213.111, RSMo, that allege a violation of section 213.040, 213.045, 213.050, or 213.070, RSMo,
12 to the extent that the alleged violation of section 213.070, RSMo, relates to or involves a
13 violation of section 213.040, 213.045, or 213.050, RSMo[, or subdivision (3) of section 213.070,
14 RSMo, as it relates to housing].

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