

## HB 1488 -- Unlawful Discriminatory Practices in Employment

Sponsor: Jones (89)

This bill changes the laws regarding unlawful discriminatory practices in employment as they relate to the Missouri Human Rights Law and the Workers' Compensation Law.

### MISSOURI HUMAN RIGHTS LAW

Under the provisions of the Missouri Human Rights Law, the bill:

(1) Adds the definition of "because" or "because of" as it relates to a decision or action to be the protected criterion was the motivating factor; however, where the decision or action was alleged premised upon age, they mean that the decision or action would not have occurred but for age;

(2) Revises the definition of "employer" by specifying that it is a person engaged in an industry affecting commerce who has six or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year. The federal government; an Indian tribe; private membership clubs, excluding labor organizations; and corporations and associations owned and operated by religious or sectarian groups are not considered employers under the law;

(3) Abrogates certain cases for interpreting and applying the provisions of Chapter 213, Human Rights, as they relate to unlawful employment practices;

(4) Requires courts to rely heavily upon judicial interpretations of Title VII of the Civil Rights Act of 1964, the Age Discrimination Employment Act of 1967, and the Americans With Disabilities Act for interpreting and applying the provisions of Chapter 213 in employment cases;

(5) Specifies that the legislature intends expressly to abrogate *McBryde v. Ritenour School District*, 207 S.W.3d 162 (Mo. App. E.D.) as it relates to the necessity and appropriateness of the issuance of a business judgment instruction;

(6) Recommends that certain frameworks for analysis should be considered highly persuasive if an employer in a Chapter 213 case files a Rule 74.04 of the Missouri Rules of Civil Procedure motion as a tool in removing factually insubstantial cases from crowded dockets;

(7) Allows any party in any unlawful discriminatory employment practice complaint to demand a trial by jury;

(8) Specifies that the amount of all damages awarded cannot exceed the amount of the actual back pay plus interest and punitive damages of up to \$50,000 in the case of an employer with six to 100 employees; up to \$100,000 for an employer with 101 to 200 employees; up to \$200,000 for an employer with 201 to 500 employees; and up to \$300,000 for an employer with more than 500 employees. The maximum award amounts do not apply to unlawful discrimination actions regarding housing, commercial real estate loans, and selling or renting by real estate agencies;

(9) Requires the plaintiff to prove the protected criterion was the motivating factor in the alleged unlawful decision or action in any employment-related civil action; and

(10) Prohibits punitive damages from being awarded against the state or any of its political subdivisions.

#### WORKERS' COMPENSATION LAW

Under the provisions of the Workers' Compensation Law, the bill:

(1) Specifies that it is unlawful for an employer to retaliate or discriminate in any manner against an employee exclusively because the employee refused to violate the law at the request of someone employed by the employer with supervisory authority over the employee or because the employee reported a violation of the law to an authority of the federal, state, or local government;

(2) Requires the plaintiff in any civil action for damages for exercising his or her rights under the law that resulted in the discharge of or discrimination against the employee to prove the employer's decision or action was motivated exclusively by the employee exercising his or her rights under the law;

(3) Specifies that remedies for all unlawful employment practices articulated in the law are exclusive and abrogates any common law causes of action to the contrary; and

(4) Specifies that the amount of compensatory damages and punitive damages awarded in any action brought by an employee for discharge or discrimination against an employer or former employer cannot exceed \$50,000 for an employer with fewer than 101 employees; \$100,000 for an employer with 101 to 200 employees; \$200,000 for an employer with 201 to 500 employees; and \$300,000 for an employer with more than 500 employees. Compensatory damages do not include back pay or interest on back pay.