

## HB 1930 -- EMPLOYMENT LAW REFORM

SPONSOR: Engler

This bill changes the laws regarding employment law reform.

### UNLAWFUL DISCRIMINATORY EMPLOYMENT PRACTICES UNDER THE HUMAN RIGHTS LAWS

The bill changes the laws regarding complaints filed with the Missouri Commission on Human Rights by revising the definition of "discrimination" to include any unfair treatment based on sexual orientation or gender identity; specifies that it is any unfair treatment based on a person's presumed or assumed race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity, age as it relates to employment, disability, or familial status as it relates to housing, whether or not the presumptions or assumptions as to the characteristics is correct; and makes discrimination based upon a person's sexual orientation or gender identity an unlawful discriminatory practice.

The bill specifies that the term "because" or "because of," as it relates to an unlawful employment or discriminatory practice must mean a protected criterion played a part, played a role, or was a motivating factor in the defendant's unlawful employment or discriminatory practice but need not have been the only factor in, or reason for, the practice. This definition must not apply to a claim that defendant's otherwise neutral policy or practice has a disparate adverse impact on a protected individual or group of individuals.

The bill revises the term "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 weeks in a current or preceding year or any person directly acting in the interest of the employer but does not include corporations and associations owned and operated by religious or sectarian groups.

"Gender identity" is defined as the gender-related identity, appearance, or mannerisms, or other gender-related characteristics of a person, with or without regard to the person's designed sex at birth. "Sexual orientation" is defined as male or female heterosexuality, homosexuality, or bisexuality by inclination, practice, identity, or expression.

### UNEMPLOYMENT BENEFITS

The definition of "misconduct," as it relates to employee disqualification from unemployment benefits, is revised to

misconduct reasonably related to the job environment and the job performance regardless of whether the misconduct occurs at the workplace or during work hours. Currently, it includes an act of wanton or willful disregard of the employer's interest or a disregard of standards of behavior that the employer has the right to expect. The bill changes it to conduct or a failure to act demonstrating knowing disregard of the employer's interest or a knowing violation of the standards that the employer expects. Currently, it includes negligence in a degree or recurrence as to manifest culpability, wrongful intent, or evil design or show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to the employer. The bill changes that to conduct or a failure to act demonstrating carelessness or negligence in such degree or recurrence as to manifest culpability, wrongful intent, or a knowing disregard of the employer's interests or the employee's duties and obligations to the employer. Currently, misconduct includes a deliberate violation of the employer's rules. The bill specifies that a violation of an employer's rule is misconduct unless the employee can demonstrate that he or she did not know and could not reasonably know of the rules' requirement or the rule is not lawful.

Misconduct also includes a violation of an employer's no-call, no-show policy; chronic absenteeism or tardiness in violation of a known employer policy; one or more unapproved absences following a written reprimand or warning; or a knowing violation of a state standard or regulation by an employee that would cause a licensed or certified employer to be sanctioned or have its license or certification suspended or revoked.

The bill specifies that "good cause" must include only that cause which would compel a reasonable employee to cease working or which would require separation from work due to illness or disability.