

FIRST REGULAR SESSION

HOUSE BILL NO. 384

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ALDRIDGE.

1016H.01I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, and 213.101, RSMo, and to enact in lieu thereof nine new sections relating to discrimination based on sexual orientation or gender identity.

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

Section A. Sections 213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, and 213.101, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, and 213.101, to read as follows:

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

- (1) "Age", an age of forty or more years but less than seventy years, except that it shall not be an unlawful employment practice for an employer to require the compulsory retirement of any person who has attained the age of sixty-five and who, for the two-year period immediately before retirement, is employed in a bona fide executive or high policy-making position, if such person is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan, or any combination of such plans, of the employer, which equals, in the aggregate, at least forty-four thousand dollars;
- (2) "Because" or "because of", as it relates to the adverse decision or action, the protected criterion was the motivating factor;
- (3) "Commission", the Missouri commission on human rights;
- (4) "Complainant", a person who has filed a complaint with the commission alleging that another person has engaged in a prohibited discriminatory practice;

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 (5) "Disability", a physical or mental impairment which substantially limits one or
16 more of a person's major life activities, being regarded as having such an impairment, or a
17 record of having such an impairment, which with or without reasonable accommodation does
18 not interfere with performing the job, utilizing the place of public accommodation, or
19 occupying the dwelling in question. For purposes of this chapter, the term "disability" does
20 not include current, illegal use of or addiction to a controlled substance as such term is
21 defined by section 195.010; however, a person may be considered to have a disability if that
22 person:

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

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

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

31 (6) "Discrimination", conduct proscribed herein, taken because of race, color,
32 religion, national origin, ancestry, sex, ~~[ø]~~ **sexual orientation, gender identity**, age as it
33 relates to employment, disability, or familial status as it relates to housing. **"Discrimination"**
34 **includes any unfair treatment based on a person's presumed or assumed race, color,**
35 **religion, national origin, ancestry, sex, sexual orientation, gender identity, age as it**
36 **relates to employment, disability, or familial status as it relates to housing, regardless of**
37 **whether the presumption or assumption as to such characteristic is correct;**

38 (7) "Dwelling", any building, structure or portion thereof which is occupied as, or
39 designed or intended for occupancy as, a residence by one or more families, and any vacant
40 land which is offered for sale or lease for the construction or location thereon of any such
41 building, structure or portion thereof;

42 (8) "Employer", a person engaged in an industry affecting commerce who has six or
43 more employees for each working day in each of twenty or more calendar weeks in the
44 current or preceding calendar year, and shall include the state, or any political or civil
45 subdivision thereof, or any person employing six or more persons within the state but does
46 not include corporations and associations owned or operated by religious or sectarian
47 organizations. "Employer" shall not include:

48 (a) The United States;

49 (b) A corporation wholly owned by the government of the United States;

50 (c) An individual employed by an employer;

51 (d) An Indian tribe;

52 (e) Any department or agency of the District of Columbia subject by statute to
53 procedures of the competitive service, as defined in 5 U.S.C. Section ~~[2104]~~ **2102**; or

54 (f) A bona fide private membership club, other than a labor organization, that is
55 exempt from taxation under 26 U.S.C. Section 501(c);

56 (9) "Employment agency" includes any person or agency, public or private, regularly
57 undertaking with or without compensation to procure employees for an employer or to
58 procure for employees opportunities to work for an employer;

59 (10) "Executive director", the executive director of the Missouri commission on
60 human rights;

61 (11) "Familial status", one or more individuals who have not attained the age of
62 eighteen years being domiciled with:

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

64 (b) The designee of such parent or other person having such custody, with the written
65 permission of such parent or other person. The protections afforded against discrimination
66 because of familial status shall apply to any person who is pregnant or is in the process of
67 securing legal custody of any individual who has not attained the age of eighteen years;

68 (12) **"Gender identity", the gender-related identity, appearance, mannerisms, or**
69 **other gender-related characteristics of an individual, with or without regard to the**
70 **individual's assigned sex at birth;**

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

75 ~~[(13)]~~ (14) "Labor organization" includes any organization which exists for the
76 purpose, in whole or in part, of collective bargaining or of dealing with employers concerning
77 grievances, terms or conditions of employment, or for other mutual aid or protection in
78 relation to employment;

79 ~~[(14)]~~ (15) "Local commissions", any commission or agency established prior to
80 August 13, 1986, by an ordinance or order adopted by the governing body of any city,
81 constitutional charter city, town, village, or county;

82 (16) **"Motivating factor", the factor that actually played a role in the adverse**
83 **action or decision and had a determinative influence on the adverse action or decision;**

84 ~~[(15)]~~ (17) "Person" includes one or more individuals, corporations, partnerships,
85 associations, organizations, labor organizations, legal representatives, mutual companies,
86 joint stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries, or other
87 organized groups of persons;

88 ~~[(16)]~~ **(18)** "Places of public accommodation", all places or businesses offering or
89 holding out to the general public, goods, services, privileges, facilities, advantages or
90 accommodations for the peace, comfort, health, welfare and safety of the general public or
91 such public places providing food, shelter, recreation and amusement, including, but not
92 limited to:

93 (a) Any inn, hotel, motel, or other establishment which provides lodging to transient
94 guests, other than an establishment located within a building which contains not more than
95 five rooms for rent or hire and which is actually occupied by the proprietor of such
96 establishment as ~~[his]~~ **the proprietor's** residence;

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

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

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

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

107 (f) Any establishment which is physically located within the premises of any
108 establishment otherwise covered by this section or within the premises of which is physically
109 located any such covered establishment, and which holds itself out as serving patrons of such
110 covered establishment;

111 ~~[(17)]~~ **(19)** "Rent" includes to lease, to sublease, to let and otherwise to grant for
112 consideration the right to occupy premises not owned by the occupant;

113 ~~[(18)]~~ **(20)** "Respondent", a person who is alleged to have engaged in a prohibited
114 discriminatory practice in a complaint filed with the commission;

115 **(21) "Sexual orientation", one's actual or perceived emotional or physical**
116 **attraction to, or romantic or physical relationships with, members of the same gender,**
117 **members of a different gender, or members of any gender; or the actual or perceived**
118 **lack of any emotional or physical attraction to, or romantic or physical relationships**
119 **with, anyone. The term "sexual orientation" includes a history of such attraction or**
120 **relationships or a history of no such attraction or relationships;**

121 ~~[(19)] "The motivating factor", the employee's protected classification actually played~~
122 ~~a role in the adverse action or decision and had a determinative influence on the adverse~~
123 ~~decision or action;~~

124 ~~(20)~~ **(22)** "Unlawful discriminatory practice", any act that is unlawful under this
125 chapter.

213.030. 1. The powers and duties of the commission shall be:

2 (1) To seek to eliminate and prevent discrimination because of race, color, religion,
3 national origin, ancestry, sex, age as it relates to employment, disability, or familial status as it
4 relates to housing and to take other actions against discrimination because of race, color,
5 religion, national origin, ancestry, sex, **sexual orientation, gender identity**, age, disability, or
6 familial status as provided by law; and the commission is hereby given general jurisdiction
7 and power for such purposes;

8 (2) To implement the purposes of this chapter first by conference, conciliation and
9 persuasion so that persons may be guaranteed their civil rights and goodwill be fostered;

10 (3) To formulate policies to implement the purposes of this chapter and to make
11 recommendations to agencies and officers of the state and political subdivisions in aid of such
12 policies and purposes;

13 (4) To appoint such employees as it may deem necessary, fix their compensation
14 within the appropriations provided and in accordance with the wage structure established for
15 other state agencies, and prescribe their duties;

16 (5) To obtain upon request and utilize the services of all governmental departments
17 and agencies to be paid from appropriations to this commission;

18 (6) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry
19 out the provisions of this chapter and the policies and practices of the commission in
20 connection therewith;

21 (7) To receive, investigate, initiate, and pass upon complaints alleging discrimination
22 in employment, housing or in places of public accommodations because of race, color,
23 religion, national origin, ancestry, sex, **sexual orientation, gender identity**, age as it relates
24 to employment, disability, or familial status as it relates to housing and to require the
25 production for examination of any books, papers, records, or other materials relating to any
26 matter under investigation;

27 (8) To hold hearings, subpoena witnesses, compel their attendance, administer oaths,
28 to take the testimony of any person under oath, and, in connection therewith, to require the
29 production for examination of any books, papers or other materials relating to any matter
30 under investigation or in question before the commission;

31 (9) To issue publications and the results of studies and research which will tend to
32 promote goodwill and minimize or eliminate discrimination in housing, employment or in
33 places of public accommodation because of race, color, religion, national origin, ancestry,
34 sex, **sexual orientation, gender identity**, age as it relates to employment, disability, or
35 familial status as it relates to housing;

36 (10) To provide each year to the governor and to the general assembly a full written
37 report of all its activities and of its recommendations;

38 (11) To adopt an official seal;

39 (12) To cooperate, act jointly, enter into cooperative or work-sharing agreements with
40 the United States Equal Employment Opportunity Commission, the United States Department
41 of Housing and Urban Development, and other federal agencies and local commissions or
42 agencies to achieve the purposes of this chapter;

43 (13) To accept grants, private gifts, bequests, and establish funds to dispose of such
44 moneys so long as the conditions of the grant, gift, or bequest are not inconsistent with the
45 purposes of this chapter and are used to achieve the purposes of this chapter;

46 (14) To establish a human rights fund as defined in section 213.010, for the purposes
47 of administering sections 213.040, 213.045, 213.050, 213.070, 213.075, and 213.076.

48 2. No rule or portion of a rule promulgated under the authority of this chapter shall
49 become effective unless it has been promulgated pursuant to the provisions of section
50 536.024.

213.040. 1. It shall be an unlawful housing practice:

2 (1) To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate
3 for the sale or rental of, to deny or otherwise make unavailable, a dwelling to any person
4 because of race, color, religion, national origin, ancestry, sex, **sexual orientation, gender**
5 **identity**, disability, or familial status;

6 (2) To discriminate against any person in the terms, conditions, or privileges of sale or
7 rental of a dwelling, or in the provision of services or facilities in connection therewith,
8 because of race, color, religion, national origin, ancestry, sex, **sexual orientation, gender**
9 **identity**, disability, or familial status;

10 (3) To make, print, or publish, or cause to be made, printed, or published any notice,
11 statement or advertisement, with respect to the sale or rental of a dwelling that indicates any
12 preference, limitation, or discrimination because of race, color, religion, national origin,
13 ancestry, sex, **sexual orientation, gender identity**, disability, or familial status, or an
14 intention to make any such preference, limitation, or discrimination;

15 (4) To represent to any person because of race, color, religion, national origin,
16 ancestry, sex, **sexual orientation, gender identity**, disability, or familial status that any
17 dwelling is not available for inspection, sale, or rental when such dwelling is in fact so
18 available;

19 (5) To induce or attempt to induce any person to sell or rent any dwelling by
20 representations regarding the entry or prospective entry into the neighborhood of a person or
21 persons because of a particular race, color, religion, national origin, ancestry, sex, **sexual**
22 **orientation, gender identity**, disability, or familial status;

23 (6) To discriminate in the sale or rental of, or to otherwise make unavailable or deny,
24 a dwelling to any buyer or renter because of a disability of:

25 (a) That buyer or renter;

26 (b) A person residing in or intending to reside in that dwelling after it is so sold,
27 rented, or made available; or

28 (c) Any person associated with that buyer or renter;

29 (7) To discriminate against any person in the terms, conditions, or privileges of sale or
30 rental of a dwelling, or in the provision of services or facilities in connection with such
31 dwelling, because of a disability of:

32 (a) That person;

33 (b) A person residing in or intending to reside in that dwelling after it is so sold,
34 rented, or made available; or

35 (c) Any person associated with that person.

36 2. For purposes of this section and sections 213.045 and 213.050, discrimination
37 includes:

38 (1) A refusal to permit, at the expense of the person with the disability, reasonable
39 modifications of existing premises occupied or to be occupied by such person if such
40 modifications may be necessary to afford such person full enjoyment of the premises, except
41 that, in the case of a rental, the landlord may, where it is reasonable to do so, condition
42 permission for a modification on the renter's agreeing to restore the interior of the premises to
43 the condition that existed before the modification, reasonable wear and tear excepted;

44 (2) A refusal to make reasonable accommodations in rules, policies, practices, or
45 services, when such accommodations may be necessary to afford such person equal
46 opportunity to use and enjoy a dwelling; or

47 (3) In connection with the design and construction of covered multifamily dwellings
48 for first occupancy after March 13, 1991, a failure to design and construct those dwellings in
49 such a manner that:

50 (a) The public use and common use portions of such dwellings are readily accessible
51 to and usable by persons with a disability;

52 (b) All the doors designed to allow passage into and within all premises within such
53 dwellings are sufficiently wide to allow passage by persons with a disability in wheelchairs;
54 and

55 (c) All premises within such dwellings contain the following features of adaptive
56 design:

57 a. An accessible route into and through the dwelling;

58 b. Light switches, electrical outlets, thermostats, and other environmental controls in
59 accessible locations;

60 c. Reinforcements in bathroom walls to allow later installation of grab bars; and

61 d. Usable kitchens and bathrooms such that an individual in a wheelchair can
62 maneuver about the space.

63 3. As used in subdivision (3) of subsection 2 of this section, the term "covered
64 multifamily dwelling" means:

65 (1) Buildings consisting of four or more units if such buildings have one or more
66 elevators; and

67 (2) Ground floor units in other buildings consisting of four or more units.

68 4. Compliance with the appropriate requirements of the American National Standard
69 for Buildings and Facilities providing accessibility and usability for people with physical
70 disabilities, commonly cited as "ANSI A117.1", suffices to satisfy the requirements of
71 paragraph (a) of subdivision (3) of subsection 2 of this section.

72 5. Where a unit of general local government has incorporated into its laws the
73 requirements set forth in subdivision (3) of subsection 2 of this section, compliance with such
74 laws shall be deemed to satisfy the requirements of that subdivision. Such compliance shall
75 be subject to the following provisions:

76 (1) A unit of general local government may review and approve newly constructed
77 covered multifamily dwellings for the purpose of making determinations as to whether the
78 design and construction requirements of subdivision (3) of subsection 2 of this section are
79 met;

80 (2) The commission shall encourage, but may not require, the units of local
81 government to include in their existing procedures for the review and approval of newly
82 constructed covered multifamily dwellings, determinations as to whether the design and
83 construction of such dwellings are consistent with subdivision (3) of subsection 2 of this
84 section, and shall provide technical assistance to units of local government and other persons
85 to implement the requirements of subdivision (3) of subsection 2 of this section;

86 (3) Nothing in this chapter shall be construed to require the commission to review or
87 approve the plans, designs or construction of all covered dwellings, to determine whether the
88 design and construction of such dwellings are consistent with the requirements of subdivision
89 (3) of subsection 2 of this section.

90 6. Nothing in this chapter shall be construed to invalidate or limit any law of the state
91 or political subdivision of the state, or other jurisdiction in which this chapter shall be
92 effective, that requires dwellings to be designed and constructed in a manner that affords
93 persons with disabilities greater access than is required by this chapter.

94 7. Nothing in this section and sections 213.045 and 213.050 requires that a dwelling
95 be made available to an individual whose tenancy would constitute a direct threat to the health

96 or safety of other individuals or whose tenancy would result in substantial physical damage to
97 the property of others.

98 8. Nothing in this section and sections 213.045 and 213.050 limits the applicability of
99 any reasonable local or state restriction regarding the maximum number of occupants
100 permitted to occupy a dwelling, nor does any provision in this section and sections 213.045
101 and 213.050 regarding familial status apply with respect to housing for older persons.

102 9. As used in this section and sections 213.045 and 213.050, "housing for older
103 persons" means housing:

104 (1) Provided under any state or federal program that the commission determines is
105 specifically designed and operated to assist elderly persons, as defined in the state or federal
106 program;

107 (2) Intended for, and solely occupied by, persons sixty-two years of age or older; or

108 (3) Intended and operated for occupancy by at least one person fifty-five years of age
109 or older per unit. In determining whether housing qualifies as housing for older persons
110 under this subsection, the commission shall develop regulations which require at least the
111 following factors:

112 (a) The existence of significant facilities and services specifically designed to meet
113 the physical or social needs of older persons, or if the provision of such facilities and services
114 is not practicable, that such housing is necessary to provide important housing opportunities
115 for older persons; and

116 (b) That at least eighty percent of the units are occupied by at least one person fifty-
117 five years of age or older per unit; and

118 (c) The publication of, and adherence to, policies and procedures which demonstrate
119 an intent by the owner or manager to provide housing for persons fifty-five years of age or
120 older.

121 10. Housing shall not fail to meet the requirements for housing for older persons by
122 reason of:

123 (1) Persons residing in such housing as of August 28, 1992, who do not meet the age
124 requirements of subdivision (2) or (3) of subsection 9 of this section, provided that new
125 occupants of such housing meet the age requirements of subdivision (2) or (3) of subsection 9
126 of this section; or

127 (2) Unoccupied units, provided that such units are reserved for occupancy by persons
128 who meet the age requirements of subdivision (2) or (3) of subsection 9 of this section.

129 11. Nothing in this section or section 213.045 or 213.050 shall prohibit conduct
130 against a person because such person has been convicted by any court of competent
131 jurisdiction of the illegal manufacture or distribution of a controlled substance, as defined by
132 section 195.010.

12. Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

13. Nothing in this chapter, other than the prohibitions against discriminatory advertising in subdivision (3) of subsection 1 of this section, shall apply to:

(1) The sale or rental of any single family house by a private individual owner, provided the following conditions are met:

(a) The private individual owner does not own or have any interest in more than three single family houses at any one time; and

(b) The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting dwellings and without publication, posting or mailing of any advertisement. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this section applies to only one such sale in any twenty-four-month period; or

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

213.045. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance because of race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity**, disability or familial status to a person applying therefor for the purpose of purchasing, ~~[construction]~~ **constructing**, improving, repairing, or maintaining a dwelling, or to discriminate against ~~[him]~~ **such person** in fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity**, disability, or familial status of such person or of any person associated with ~~[him]~~ **such person** in connection with such loan or other financial assistance, or of the present or

12 prospective owners, lessees, tenants, or occupants, of the dwellings in relation to which such
13 loan or other financial assistance is to be made or given.

213.050. It shall be unlawful to deny any person access to or membership or
2 participation in any multiple listing service, real estate brokers' organization or other service
3 organization, or facility relating to the business of selling or renting dwellings, because of
4 race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity,**
5 disability, or familial status.

213.055. 1. It shall be an unlawful employment practice:

2 (1) For an employer, because of the race, color, religion, national origin, sex, **sexual**
3 **orientation, gender identity,** ancestry, age or disability of any individual:

4 (a) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate
5 against any individual with respect to ~~his~~ **such individual's** compensation, terms,
6 conditions, or privileges of employment, because of such individual's race, color, religion,
7 national origin, sex, ancestry, age or disability;

8 (b) To limit, segregate, or classify ~~his~~ **such employer's** employees or ~~his~~ **such**
9 **employer's** employment applicants in any way which would deprive or tend to deprive any
10 individual of employment opportunities or otherwise adversely affect ~~his~~ **such individual's**
11 status as an employee, because of such individual's race, color, religion, national origin, sex,
12 **sexual orientation, gender identity,** ancestry, age or disability;

13 (2) For a labor organization to exclude or to expel from its membership any
14 individual or to discriminate in any way against any of its members or against any employer
15 or any individual employed by an employer because of race, color, religion, national origin,
16 sex, **sexual orientation, gender identity,** ancestry, age or disability of any individual; or to
17 limit, segregate, or classify its membership, or to classify or fail or refuse to refer for
18 employment any individual, in any way which would deprive or tend to deprive any
19 individual of employment opportunities, or would limit such employment opportunities or
20 otherwise adversely affect ~~his~~ **such individual's** status as an employee or as an applicant for
21 employment, because of such individual's race, color, religion, national origin, sex, **sexual**
22 **orientation, gender identity,** ancestry, age or disability; or for any employer, labor
23 organization, or joint labor-management committee controlling apprenticeship or other
24 training or retraining, including on-the-job training programs to discriminate against any
25 individual because of ~~his~~ **such individual's** race, color, religion, national origin, sex, **sexual**
26 **orientation, gender identity,** ancestry, age or disability in admission to, or employment in,
27 any program established to provide apprenticeship or other training;

28 (3) For any employer or employment agency to print or circulate or cause to be
29 printed or circulated any statement, advertisement or publication, or to use any form of
30 application for employment or to make any inquiry in connection with prospective

31 employment, which expresses, directly or indirectly, any limitation, specification, or
32 discrimination, because of race, color, religion, national origin, sex, **sexual orientation,**
33 **gender identity,** ancestry, age or disability unless based upon a bona fide occupational
34 qualification or for an employment agency to fail or refuse to refer for employment, or
35 otherwise to discriminate against, any individual because of his or her race, color, religion,
36 national origin, sex, **sexual orientation, gender identity,** ancestry, age as it relates to
37 employment, or disability, or to classify or refer for employment any individual because of his
38 or her race, color, religion, national origin, sex, **sexual orientation, gender identity,** ancestry,
39 age or disability.

40 2. Notwithstanding any other provision of this chapter, it shall not be an unlawful
41 employment practice for an employer to apply different standards of compensation, or
42 different terms, conditions or privileges of employment pursuant to a bona fide seniority or
43 merit system, or a system which measures earnings by quantity or quality of production or to
44 employees who work in different locations, provided that such differences or such systems
45 are not the result of an intention or a design to discriminate, and are not used to discriminate,
46 because of race, color, religion, sex, **sexual orientation, gender identity,** national origin,
47 ancestry, age or disability, nor shall it be an unlawful employment practice for an employer to
48 give and to act upon the results of any professionally developed ability test, provided that
49 such test, its administration, or action upon the results thereof, is not designed, intended or
50 used to discriminate because of race, color, religion, national origin, sex, **sexual orientation,**
51 **gender identity,** ancestry, age or disability.

52 3. Nothing contained in this chapter shall be interpreted to require any employer,
53 employment agency, labor organization, or joint labor-management committee subject to this
54 chapter to grant preferential treatment to any individual or to any group because of the race,
55 color, religion, national origin, sex, **sexual orientation, gender identity,** ancestry, age or
56 disability of such individual or group on account of an imbalance which may exist with
57 respect to the total number or percentage of persons of any race, color, religion, national
58 origin, sex, **sexual orientation, gender identity,** ancestry, age or disability employed by any
59 employer, referred or classified for employment by any employment agency or labor
60 organization, admitted to membership or classified by any labor organization, or admitted to
61 or employed in any apprenticeship or other training program, in comparison with the total
62 number or percentage of persons of such race, color, religion, national origin, sex, **sexual**
63 **orientation, gender identity,** ancestry, age or disability in any community, state, section, or
64 other area, or in the available workforce in any community, state, section, or other area.

65 4. Notwithstanding any other provision of this chapter, it shall not be an unlawful
66 employment practice for the state or any political subdivision of the state to comply with the

67 provisions of 29 U.S.C. Section 623 relating to employment as firefighters or law
68 enforcement officers.

213.065. 1. All persons within the jurisdiction of the state of Missouri are free and
2 equal and shall be entitled to the full and equal use and enjoyment within this state of any
3 place of public accommodation, as hereinafter defined, without discrimination or segregation
4 because of race, color, religion, national origin, sex, **sexual orientation, gender identity,**
5 ancestry, or disability.

6 2. It is an unlawful discriminatory practice for any person, directly or indirectly, to
7 refuse, withhold from or deny any other person, or to attempt to refuse, withhold from or deny
8 any other person, any of the accommodations, advantages, facilities, services, or privileges
9 made available in any place of public accommodation, as defined in section 213.010 and this
10 section, or to segregate or discriminate against any such person in the use thereof because of
11 race, color, religion, national origin, sex, **sexual orientation, gender identity,** ancestry, or
12 disability.

13 3. The provisions of this section shall not apply to a private club, a place of
14 accommodation owned by or operated on behalf of a religious corporation, association or
15 society, or other establishment which is not in fact open to the public, unless the facilities of
16 such establishments are made available to the customers or patrons of a place of public
17 accommodation as defined in section 213.010 and this section.

213.070. 1. It shall be an unlawful discriminatory practice for an employer,
2 employment agency, labor organization, or place of public accommodation:

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

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

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

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

14 2. This chapter, in addition to ~~[chapter]~~ **chapters** 285 and ~~[chapter]~~ 287, shall provide
15 the exclusive remedy for any and all claims for injury or damages arising out of an
16 employment relationship.

213.101. 1. The provisions of this chapter shall be construed to accomplish the
2 purposes thereof and any law inconsistent with any provision of this chapter shall not apply.

3 Nothing contained in this chapter shall be deemed to repeal any of the provisions of any law
4 of this state relating to discrimination because of race, color, religion, national origin, sex,
5 **sexual orientation, gender identity**, ancestry, age, disability, or familial status.

6 2. The general assembly hereby expressly abrogates the case of *McBryde v. Ritenour*
7 *School District*, 207 S.W.3d 162 (Mo.App. E.D. 2006), and its progeny as it relates to the
8 necessity and appropriateness of the issuance of a business judgment instruction. In all civil
9 actions brought under this chapter, a jury shall be given an instruction expressing the business
10 judgment rule.

11 3. If an employer in a case brought under this chapter files a motion pursuant to rule
12 74.04 of the Missouri rules of civil procedure, the court shall consider the burden-shifting
13 analysis of *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), and its progeny to be
14 highly persuasive for analysis in cases not involving direct evidence of discrimination.

15 4. The general assembly hereby expressly abrogates by this statute the cases of
16 *Daugherty v. City of Maryland Heights*, 231 S.W.3d 814 (Mo. 2007) and its progeny as they
17 relate to the contributing factor standard and abandonment of the burden-shifting framework
18 established in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973).

19 5. The general assembly hereby expressly abrogates by this statute the holding in
20 *Hurst v. Kansas City Mo. School District*, 437 S.W.3d 327 (Mo.App. W.D. 2014), that
21 Missouri Approved Instruction 19.01 may be applied to actions brought pursuant to this
22 chapter, and the holding in *Thomas v. McKeever's Enterprises, Inc.*, 388 S.W.3d 206
23 (Mo.App. W.D. 2012), that juries shall not be instructed that plaintiffs bear the burden of
24 establishing "but for" causation in actions brought pursuant to this chapter.

25 6. The general assembly hereby abrogates all Missouri-approved jury instructions
26 specifically addressing civil actions brought under this chapter which were in effect prior to
27 August 28, 2017.

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