

FIRST REGULAR SESSION

HOUSE BILL NO. 1460

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE THOMAS.

2429H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, 213.075, 213.101, and 213.111, RSMo, and to enact in lieu thereof eleven new sections relating to unlawful discriminatory actions.

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213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, 213.075, 213.101, and 213.111, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, 213.075, 213.101, and 213.111, 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, ~~[or]~~ **sexual orientation, gender identity**, age as it
33 relates to employment, disability, **veteran status**, or familial status as it relates to housing.
34 **"Discrimination" includes any unfair treatment based on a person's presumed or**
35 **assumed race, color, religion, national origin, ancestry, sex, sexual orientation, gender**
36 **identity, age as it relates to employment, disability, veteran status, or familial status as it**
37 **relates to housing, regardless of whether the presumption or assumption as to such**
38 **characteristic is correct;**

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

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

49 (a) The United States;

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

51 (c) ~~[An individual employed by an employer;~~

52 ~~(d) An Indian tribe;~~

53 ~~(e)~~ Any department or agency of the District of Columbia subject by statute to
54 procedures of the competitive service, as defined in 5 U.S.C. Section ~~[2101]~~ **2102**; or

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

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

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

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

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

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

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

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

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

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

83 **(16) "Motivating factor", the employee's protected classification played a role in**
84 **the adverse decision or action, or had a determinative influence on the adverse decision**
85 **or action;**

86 ~~[(15)]~~ **(17)** "Person" includes one or more individuals, corporations, partnerships,
87 associations, organizations, labor organizations, legal representatives, mutual companies,

88 joint stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries, or other
89 organized groups of persons;

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

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

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

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

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

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

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

113 **(19) "Race", a perception that a person is of a particular racial group based**
114 **upon:**

115 **(a) Shared physical traits associated with ancestral origin or ethnicity;**

116 **(b) Shared cultural attributes;**

117 **(c) The wearing of protective hairstyles including, but not limited to, hairstyles**
118 **and coverings that are designed to protect textured hair from damage so that it may be**
119 **worn in its natural state, such as braids, wigs, locs, twists, and afros; and**

120 **(d) Similar physical characteristics such as skin color and facial features;**

121 ~~[(17)]~~ **(20)** "Rent" includes to lease, to sublease, to let and otherwise to grant for
122 consideration the right to occupy premises not owned by the occupant;

123 ~~[(18)]~~ **(21)** "Respondent", a person who is alleged to have engaged in a prohibited
124 discriminatory practice in a complaint filed with the commission;

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

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

~~(20)]~~ (23) **"Unlawful discriminatory practice", any act that is unlawful under this chapter;**

(24) **"Veteran status", an individual who served in any branch of the Armed Forces of the United States or the Missouri National Guard who was discharged for any reason other than dishonorable discharge or bad conduct discharge.**

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

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

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

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

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

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

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

(7) To receive, investigate, initiate, and pass upon complaints alleging discrimination in employment, housing or in places of public accommodations because of race, color,

24 religion, national origin, ancestry, sex, **sexual orientation, gender identity**, age as it relates
25 to employment, disability, **veteran status**, or familial status as it relates to housing and to
26 require the production for examination of any books, papers, records, or other materials
27 relating to any matter under investigation;

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

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

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

39 (11) To adopt an official seal;

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

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

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

49 2. No rule or portion of a rule promulgated under the authority of this chapter shall
50 become effective unless it has been promulgated pursuant to the provisions of ~~[section~~
51 ~~536.024]~~ **chapter 536**.

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, **veteran status**, 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, **veteran status**, 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, **veteran status**, or familial
14 status, or an 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, **veteran status**, or familial
17 status that any dwelling is not available for inspection, sale, or rental when such dwelling is in
18 fact so 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, **veteran status**, 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.

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

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

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

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

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

155 (2) Rooms or units in dwellings containing living quarters occupied or intended to be
156 occupied by no more than four families living independently of each other, if the owner
157 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
2 company or other corporation, association, firm or enterprise whose business consists in
3 whole or in part in the making of commercial real estate loans, to deny a loan or other
4 financial assistance because of race, color, religion, national origin, ancestry, sex, **sexual**
5 **orientation, gender identity**, disability, **veteran status**, or familial status to a person
6 applying therefor for the purpose of purchasing, construction, improving, repairing, or
7 maintaining a dwelling, or to discriminate against ~~[him]~~ **such person** in fixing of the amount,
8 interest rate, duration or other terms or conditions of such loan or other financial assistance,
9 because of the race, color, religion, national origin, ancestry, sex, **sexual orientation, gender**
10 **identity**, disability, **veteran status**, or familial status of such person or of any person
11 associated with ~~[him]~~ **such person** in connection with such loan or other financial assistance,
12 or of the present or prospective owners, lessees, tenants, or occupants, of the dwellings in
13 relation to which such 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, **veteran status**, 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, **veteran status**, 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, **sexual orientation, gender identity**, ancestry, age, **veteran status**, or
8 disability;
9 (b) To limit, segregate, or classify ~~[his]~~ employees or ~~[his]~~ employment applicants in
10 any way which would deprive or tend to deprive any individual of employment opportunities
11 or otherwise adversely affect ~~[his]~~ **such individual's** status as an employee, because of such
12 individual's race, color, religion, national origin, sex, **sexual orientation, gender identity**,
13 ancestry, age, **veteran status**, or disability;
14 (2) For a labor organization to exclude or to expel from its membership any
15 individual or to discriminate in any way against any of its members or against any employer
16 or any individual employed by an employer because of race, color, religion, national origin,
17 sex, **sexual orientation, gender identity**, ancestry, age, **veteran status**, or disability of any
18 individual; or to limit, segregate, or classify its membership, or to classify or fail or refuse to
19 refer for employment any individual, in any way which would deprive or tend to deprive any

20 individual of employment opportunities, or would limit such employment opportunities or
21 otherwise adversely affect ~~[his]~~ **such individual's** status as an employee or as an applicant for
22 employment, because of such individual's race, color, religion, national origin, sex, **sexual**
23 **orientation, gender identity**, ancestry, age, **veteran status**, or disability; or for any
24 employer, labor organization, or joint labor-management committee controlling
25 apprenticeship or other training or retraining, including on-the-job training programs to
26 discriminate against any individual because of ~~[his]~~ **such individual's** race, color, religion,
27 national origin, sex, **sexual orientation, gender identity**, ancestry, age, **veteran status**, or
28 disability in admission to, or employment in, any program established to provide
29 apprenticeship or other training;

30 (3) For any employer or employment agency to print or circulate or cause to be
31 printed or circulated any statement, advertisement or publication, or to use any form of
32 application for employment or to make any inquiry in connection with prospective
33 employment, which expresses, directly or indirectly, any limitation, specification, or
34 discrimination, because of race, color, religion, national origin, sex, **sexual orientation,**
35 **gender identity**, ancestry, age, **veteran status**, or disability unless based upon a bona fide
36 occupational qualification or for an employment agency to fail or refuse to refer for
37 employment, or otherwise to discriminate against, any individual because of ~~[his or her]~~ **such**
38 **individual's** race, color, religion, national origin, sex, **sexual orientation, gender identity,**
39 ancestry, age as it relates to employment, **veteran status**, or disability, or to classify or refer
40 for employment any individual because of ~~[his or her]~~ **such individual's** race, color, religion,
41 national origin, sex, **sexual orientation, gender identity**, ancestry, age, **veteran status**, or
42 disability.

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

55 3. Nothing contained in this chapter shall be interpreted to require any employer,
56 employment agency, labor organization, or joint labor-management committee subject to this

chapter to grant preferential treatment to any individual or to any group because of the race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, **veteran status**, or disability of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, **veteran status**, or disability employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, **veteran status**, or disability in any community, state, section, or other area, or in the available workforce in any community, state, section, or other area.

4. Notwithstanding any other provision of this chapter, it shall not be an unlawful employment practice for the state or any political subdivision of the state to comply with the provisions of 29 U.S.C. Section 623 relating to employment as firefighters or law enforcement officers.

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

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

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

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

(1) To aid, abet, incite, compel, or coerce the commission of acts prohibited under this 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, **veteran status**, or familial status as it relates to
12 housing; or

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

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

213.075. 1. ~~[As a jurisdictional condition precedent to filing a civil action under this~~
2 ~~chapter,]~~ Any person claiming to be aggrieved by an unlawful discriminatory practice ~~[shall]~~
3 **may** make, sign and file with the commission a verified complaint in writing, within one
4 hundred eighty days of the alleged act of discrimination, which shall state the name and
5 address of the employer, employment agency, labor organization, or place of public
6 accommodation alleged to have committed the unlawful discriminatory practice and which
7 shall set forth the particulars thereof and such other information as may be required by the
8 commission. The complainant's agent, attorney or the attorney general may, in like manner,
9 make, sign and file such complaint. The failure to timely file a complaint with the
10 commission shall deprive the commission of jurisdiction to investigate the complaint. The
11 commission shall make a determination as to its jurisdiction with respect to all complaints.
12 Notwithstanding any other provision of this chapter to the contrary, if a complaint is not filed
13 with the commission within one hundred eighty days of the alleged act of discrimination, the
14 commission shall lack jurisdiction to take any action on such a complaint other than to
15 dismiss the complaint for lack of jurisdiction. ~~[The failure to timely file a complaint with the~~
16 ~~commission may be raised as a complete defense by a respondent or defendant at any time,~~
17 ~~either during the administrative proceedings before the commission, or in subsequent~~
18 ~~litigation, regardless of whether the commission has issued the person claiming to be~~
19 ~~aggrieved a letter indicating his or her right to bring a civil action and regardless of whether~~
20 ~~the employer asserted the defense before the commission.]~~

21 2. Any complaint which is filed with the federal Equal Employment Opportunity
22 Commission or other federal agencies with which the commission has a work-sharing or
23 deferral agreement, or with a local commission which has been certified as substantially
24 equivalent by the commission, shall be deemed filed with the commission on the date that

25 such complaint is received by such federal agency or local commission. A copy of all
26 complaints filed with a local commission with the authority to enforce the provisions of this
27 chapter is to be forwarded to the commission within seven days of the filing thereof with such
28 local commission. If a local commission has jurisdiction to hear a complaint filed with the
29 commission, such complaint shall be deemed to have been filed with the local commission on
30 the date on which such complaint was filed with the commission. The commission shall,
31 within seven days of the receipt of a complaint which a local commission has jurisdiction to
32 hear, forward a copy thereof to such local commission.

33 3. After the filing of any complaint, the executive director shall, with the assistance of
34 the commission's staff, promptly investigate the complaint, and if the director determines
35 after the investigation that probable cause exists for crediting the allegations of the complaint,
36 the executive director shall immediately endeavor to eliminate the unlawful discriminatory
37 practice complained of by conference, conciliation and persuasion, and shall report the results
38 to the commission. The investigation, determination of probable cause and conciliation shall
39 be conducted according to such rules, regulations and guidelines as the commission shall
40 prescribe.

41 4. A person who is not named as a respondent in a complaint, but who is identified as
42 a respondent in the course of investigation, may be joined as an additional or substitute
43 respondent upon written notice, pursuant to such rules, regulations, and guidelines as the
44 commission shall prescribe. Such notice, in addition to complying with the requirements of
45 such rules, regulations, and guidelines, shall also state the reason why the person to whom the
46 notice is addressed has been joined as a party.

47 5. In case of failure to eliminate such discriminatory practice as found in the
48 investigation, if in the judgment of the chairperson of the commission circumstances so
49 warrant, there shall be issued and served in the name of the commission, a written notice,
50 together with a copy of the complaint, as it may have been amended, requiring the person
51 named in the complaint, hereinafter referred to as "respondent", to answer the charges of the
52 complaint at a hearing, at a time and place to be specified in the notice, before a panel of at
53 least three members of the commission sitting as the commission or before a hearing
54 examiner licensed to practice law in this state who shall be appointed by the executive
55 director and approved by the commission. The place of the hearing shall be in the office of
56 the commission or such other place designated by it, except that if the respondent so requests,
57 in writing, the hearing shall be held in the county of such person's residence or business
58 location at the time of the alleged unlawful discriminatory practice. A copy of the notice shall
59 also be served on the complainants.

60 6. In all cases where a written notice of hearing has been issued and a party has not
61 elected the option to proceed in circuit court as set forth in section 213.076, the procedures set
62 forth for a hearing shall apply.

63 7. The commission shall be a party to the action and shall be represented before the
64 panel or the hearing examiner by the office of the attorney general or, when so delegated by
65 the attorney general, a staff attorney of the commission. Neither the hearing examiner nor
66 any member of the panel shall have participated in the investigation of the complaint.
67 Evidence concerning endeavors at conciliation shall be excluded.

68 8. The respondent may file a written verified answer to the complaint and appear at
69 the hearing in person or otherwise with or without counsel, and submit testimony. At the
70 discretion of the hearing examiner or the panel, the complainant may be allowed to intervene,
71 thereby becoming a party to the action with the right to present testimony in person or by
72 counsel, provided the complainant at all times shall be treated as a party for the purpose of
73 discovery and the taking of depositions. The commission or complainant intervenor shall
74 have the power to reasonably and fairly amend any complaint, and the respondent shall have
75 like power to amend any answer. The testimony taken at the hearing shall be under oath and
76 be transcribed.

77 9. In any contested case before the commission, any party may take and use written
78 interrogatories, requests for production of documents and other materials, and requests for
79 admissions, and all other forms of discovery authorized by rules of civil procedure in the
80 same manner, upon, and under the same conditions, and upon the same notice, as is or may
81 hereafter be provided for with respect to the taking and using of written interrogatories,
82 requests for production of documents and other materials, and requests for admissions, and all
83 other forms of discovery authorized by rules of civil procedure in civil actions in the circuit
84 court. The panel or hearing examiner shall have the authority to impose sanctions in the same
85 manner as set forth in the rules of civil procedure.

86 10. The hearing shall be conducted in the manner provided by chapter 536.

87 11. When the case is heard by a panel of the commission, the chairperson of the
88 commission shall select the hearing panel and the presiding officer. The presiding officer
89 shall have full authority to call and examine witnesses, admit or exclude evidence and rule
90 upon all motions and objections. The panel shall state its findings of fact and conclusions of
91 law, and if, upon all the evidence at the hearing, the panel finds:

92 (1) That a respondent has engaged in an unlawful discriminatory practice as defined
93 in this chapter, the commission shall issue and cause to be served on the respondent an order
94 requiring the respondent to cease and desist from the unlawful discriminatory practice. The
95 order shall require the respondent to take such affirmative action, as in the panel's judgment
96 will implement the purposes of this chapter, including, but not limited to, payment of back

97 pay; hiring; reinstatement or upgrading; restoration to membership in any respondent labor
98 organization; the extension of full, equal and unsegregated housing; the extension of full,
99 equal and unsegregated public accommodations; extension of a commercial real estate loan or
100 other financial assistance; extension or restoration of membership or participation in any
101 multiple listing service or other real estate service organization or facility; payment of actual
102 damages; and the submission of a report of the manner of compliance;

103 (2) That a respondent has engaged or is about to engage in a violation of section
104 213.040, 213.045, 213.050, or 213.070, to the extent that the alleged violation of section
105 213.070 relates to or involves a violation of one or more of such other sections or relates to or
106 involves the encouraging, aiding, or abetting of a violation of such other sections, the
107 commission may, in addition to the relief provided in subdivision (1) of this subsection, assess
108 a civil penalty against the respondent, for purposes of vindicating the public interest:

109 (a) In an amount not exceeding two thousand dollars if the respondent has not been
110 adjudged to have violated one or more of the sections enumerated in subdivision (2) of this
111 subsection within five years of the date of the filing of the complaint;

112 (b) In an amount not exceeding five thousand dollars if the respondent has been
113 adjudged to have committed one violation of the sections enumerated in subdivision (2) of
114 this subsection within five years of the date on which the complaint is filed;

115 (c) In an amount not exceeding ten thousand dollars if the respondent has been
116 adjudged to have committed two or more prior violations of the sections enumerated in
117 subdivision (2) of this subsection within seven years of the date on which the complaint is
118 filed.

119

120 All civil penalties set forth in this subsection shall be paid to the human rights fund.

121 12. If, upon all the evidence, the panel finds that a respondent has not engaged in any
122 unlawful discriminatory practice, the panel shall state its findings of fact and conclusions of
123 law and shall issue and cause to be served on the complainant and respondent an order
124 dismissing the complaint.

125 13. When the case is heard by a hearing examiner, the examiner shall have all powers
126 described in subdivision (8) of section 213.030 and subsection 11 of this section, for the
127 purpose of the hearing. The hearing examiner shall make findings of fact and conclusions of
128 law and shall recommend to the commission an order granting such relief as provided in
129 subsection 11 of this section or dismissing the complaint as to the respondent as provided in
130 subsection 12 of this section, in accordance with such findings.

131 14. A panel of at least three members of the commission, sitting as the commission,
132 shall review the record, findings and recommended order of the hearing examiner. The panel
133 shall thereafter accept or amend the recommended order which shall become the order of the

134 commission. All orders shall be served on the complainant and respondent, and copies shall
135 be delivered to the attorney general and such other public officers as the commission deems
136 proper.

137 15. No order of the commission issued pursuant to this section shall affect any
138 contract, sale, encumbrance or lease consummated before the issuance of such order and
139 involving a bona fide purchaser without actual notice of the charge filed pursuant to this
140 section.

141 16. Any person aggrieved by an order of the commission may appeal as provided in
142 chapter 536.

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, **veteran status**, or familial
6 status.

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

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

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

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

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

213.111. 1. If, after one hundred eighty days from the filing of a complaint alleging
2 an unlawful discriminatory practice pursuant to section 213.055, 213.065 or 213.070 to the
3 extent that the alleged violation of section 213.070 relates to or involves a violation of section
4 213.055 or 213.065, or subdivision (3) of subsection 1 of section 213.070 as it relates to
5 employment and public accommodations, the commission has not completed its
6 administrative processing and the person aggrieved so requests in writing, the commission
7 shall issue to the person claiming to be aggrieved a letter indicating his or her right to bring a
8 civil action within ninety days of such notice against the respondent named in the complaint.
9 ~~[If, after the filing of a complaint]~~ **Any person alleging an unlawful discriminatory**
10 **practice** pursuant to sections 213.040, 213.045, 213.050 and 213.070, to the extent that the
11 alleged violation of section 213.070 relates to or involves a violation of sections 213.040,
12 213.045 and 213.050, or subdivision (3) of subsection 1 of section 213.070 as it relates to
13 housing, ~~[and the person aggrieved so requests in writing, the commission shall issue to the~~
14 ~~person claiming to be aggrieved a letter indicating his or her right to bring a civil action~~
15 ~~within ninety days of such notice against the respondent named in the complaint]~~ **may file a**
16 **petition in the circuit court of the county in which the alleged unlawful discriminatory**
17 **practice occurred without first filing a complaint with the commission.** The commission
18 may not at any other time or for any other reason issue a letter indicating a complainant's right
19 to bring a civil action. Such an action may be brought in any circuit court in any county in
20 which the unlawful discriminatory practice is alleged to have been committed, either before a
21 circuit or associate circuit judge. Upon issuance of this notice, the commission shall
22 terminate all proceedings relating to the complaint. No person may file or reinstate a
23 complaint with the commission after the issuance of a notice under this section relating to the
24 same practice or act. Any action brought in court under this section shall be filed within
25 ninety days from the date of the commission's notification letter to the individual but no later
26 than two years after the alleged cause occurred or its reasonable discovery by the alleged
27 injured party.

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

34 3. Any party to any action initiated under this section has a right to a trial by jury.

35 4. The sum of the amount of actual damages, including damages for future pecuniary
36 losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life,
37 and other nonpecuniary losses, and punitive damages awarded under this section **for an**

38 **unlawful discriminatory practice related to employment** shall not exceed for each
39 complaining party:

40 (1) Actual back pay and interest on back pay; and

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

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

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

50 (d) In the case of a respondent who has more than five hundred employees in each of
51 twenty or more calendar weeks in the current or preceding calendar year, five hundred
52 thousand dollars.

53 ~~[5. In any employment-related civil action brought under this chapter, the plaintiff~~
54 ~~shall bear the burden of proving the alleged unlawful decision or action was made or taken~~
55 ~~because of his or her protected classification and was the direct proximate cause of the~~
56 ~~claimed damages.]~~

✓