

SECOND REGULAR SESSION

HOUSE BILL NO. 1727

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COSTLOW.

3940H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 213.010, 213.030, 213.040, 213.045, and 213.070, RSMo, and to enact in lieu thereof six new sections relating to unlawful discriminatory practices.

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Section A. Sections 213.010, 213.030, 213.040, 213.045, and 213.070, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 213.010, 213.030, 213.040, 213.045, 213.053, and 213.070, to read as follows: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) **"Color", refers to a person's skin color, pigmentation, complexion, shade, or tone, regardless of race;**

(4) "Commission", the Missouri commission on human rights;

~~[(4)]~~ (5) "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.

17 ~~[(5)]~~ (6) "Disability", a physical or mental impairment which substantially limits one
18 or more of a person's major life activities, being regarded as having such an impairment, or a
19 record of having such an impairment, which with or without reasonable accommodation does
20 not interfere with performing the job, utilizing the place of public accommodation, or
21 occupying the dwelling in question. For purposes of this chapter, the term "disability" does
22 not include current, illegal use of or addiction to a controlled substance as such term is
23 defined by section 195.010; however, a person may be considered to have a disability if that
24 person:

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

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

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

33 ~~[(6)]~~ (7) "Discrimination", conduct proscribed herein, taken because of ~~[race,]~~ color,
34 religion, national origin, ancestry, sex, or age as it relates to employment, disability, or
35 familial status as it relates to housing. **Discrimination includes any unfair or differential**
36 **treatment based on a person's presumed or assumed color, religion, national origin,**
37 **ancestry, sex, or age as it relates to employment, disability, or familial status as it relates**
38 **to housing, regardless of whether the presumption or assumption as to such**
39 **characteristic is correct;**

40 ~~[(7)]~~ (8) "Dwelling", any building, structure or portion thereof which is occupied as,
41 or designed or intended for occupancy as, a residence by one or more families, and any vacant
42 land which is offered for sale or lease for the construction or location thereon of any such
43 building, structure or portion thereof;

44 ~~[(8)]~~ (9) "Employer", a person engaged in an industry affecting commerce who has
45 six or more employees for each working day in each of twenty or more calendar weeks in the
46 current or preceding calendar year, and shall include the state, or any political or civil
47 subdivision thereof, or any person employing six or more persons within the state but does
48 not include corporations and associations owned or operated by religious or sectarian
49 organizations. "Employer" shall not include:

50 (a) The United States;

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

52 (c) An individual employed by an employer;

53 (d) An Indian tribe;

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

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

58 ~~[(9)]~~ **(10)** "Employment agency" includes any person or agency, public or private,
59 regularly undertaking with or without compensation to procure employees for an employer or
60 to procure for employees opportunities to work for an employer;

61 ~~[(10)]~~ **(11)** "Executive director", the executive director of the Missouri commission
62 on human rights;

63 ~~[(11)]~~ **(12)** "Familial status", one or more individuals who have not attained the age of
64 eighteen years being domiciled with:

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

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

70 ~~[(12)]~~ **(13)** "Human rights fund", a fund established to receive civil penalties as
71 required by federal regulations and as set forth by subdivision (2) of subsection 11 of section
72 213.075, and which will be disbursed to offset additional expenses related to compliance with
73 the Department of Housing and Urban Development regulations;

74 ~~[(13)]~~ **(14)** "Labor organization" includes any organization which exists for the
75 purpose, in whole or in part, of collective bargaining or of dealing with employers concerning
76 grievances, terms or conditions of employment, or for other mutual aid or protection in
77 relation to employment;

78 ~~[(14)]~~ **(15)** "Local commissions", any commission or agency established prior to
79 August 13, 1986, by an ordinance or order adopted by the governing body of any city,
80 constitutional charter city, town, village, or county;

81 ~~[(15)]~~ **(16)** "Person" includes one or more individuals, corporations, partnerships,
82 associations, organizations, labor organizations, legal representatives, mutual companies,
83 joint stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries, or other
84 organized groups of persons;

85 ~~[(16)]~~ **(17)** "Places of public accommodation", all places or businesses offering or
86 holding out to the general public, goods, services, privileges, facilities, advantages or
87 accommodations for the peace, comfort, health, welfare and safety of the general public or
88 such public places providing food, shelter, recreation and amusement, including, but not
89 limited to:

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

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

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

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

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

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

108 ~~[(17)]~~ **(18)** "Rent" includes to lease, to sublease, to let and otherwise to grant for
109 consideration the right to occupy premises not owned by the occupant;

110 ~~[(18)]~~ **(19)** "Respondent", a person who is alleged to have engaged in a prohibited
111 discriminatory practice in a complaint filed with the commission;

112 ~~[(19)]~~ **(20)** "The motivating factor", the employee's protected classification actually
113 played a role in the adverse action or decision and had a determinative influence on the
114 adverse decision or action;

115 ~~[(20)]~~ **(21)** "Unlawful discriminatory practice", any act that is unlawful under this
116 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, age, disability, or familial status as provided by law;
6 and the commission is hereby given general jurisdiction and power for such purposes;

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

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

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

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

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

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

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

29 (9) To issue publications and the results of studies and research which will tend to
30 promote goodwill and minimize or eliminate discrimination in housing, employment or in
31 places of public accommodation because of ~~[race,]~~ color, religion, national origin, ancestry,
32 sex, age as it relates to employment, disability, or familial status as it relates to housing;

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

35 (11) To adopt an official seal;

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

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

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

45 2. No rule or portion of a rule promulgated under the authority of this chapter shall
46 become effective unless it has been promulgated pursuant to the provisions of section
47 536.024.

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, disability, or familial status;

5 (2) To discriminate against any person in the terms, conditions, or privileges of sale or
6 rental of a dwelling, or in the provision of services or facilities in connection therewith,
7 because of [~~race,~~] color, religion, national origin, ancestry, sex, disability, or familial status;

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

13 (4) To represent to any person because of [~~race,~~] color, religion, national origin,
14 ancestry, sex, disability, or familial status that any dwelling is not available for inspection,
15 sale, or rental when such dwelling is in fact so available;

16 (5) To induce or attempt to induce any person to sell or rent any dwelling by
17 representations regarding the entry or prospective entry into the neighborhood of a person or
18 persons because of a particular [~~race,~~] color, religion, national origin, ancestry, sex, disability,
19 or familial status;

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

22 (a) That buyer or renter;

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

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

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

29 (a) That person;

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

32 (c) Any person associated with that person.

33 2. For purposes of this section and sections 213.045 and 213.050, discrimination
34 includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

69 5. Where a unit of general local government has incorporated into its laws the
70 requirements set forth in subdivision (3) of subsection 2 of this section, compliance with such

71 laws shall be deemed to satisfy the requirements of that subdivision. Such compliance shall
72 be subject to the following provisions:

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

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

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

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

91 7. Nothing in this section and sections 213.045 and 213.050 requires that a dwelling
92 be made available to an individual whose tenancy would constitute a direct threat to the health
93 or safety of other individuals or whose tenancy would result in substantial physical damage to
94 the property of others.

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

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

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

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

105 (3) Intended and operated for occupancy by at least one person fifty-five years of age
106 or older per unit. In determining whether housing qualifies as housing for older persons

107 under this subsection, the commission shall develop regulations which require at least the
108 following factors:

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

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

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

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

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

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

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

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

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

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

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

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

152 (2) Rooms or units in dwellings containing living quarters occupied or intended to be
153 occupied by no more than four families living independently of each other, if the owner
154 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, disability
5 or familial status to a person applying therefor for the purpose of purchasing, construction,
6 improving, repairing, or maintaining a dwelling, or to discriminate against him in fixing of
7 the amount, interest rate, duration or other terms or conditions of such loan or other financial
8 assistance, because of the ~~[race,]~~ color, religion, national origin, ancestry, sex, disability, or
9 familial status of such person or of any person associated with him in connection with such
10 loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or
11 occupants, of the dwellings in relation to which such loan or other financial assistance is to be
12 made or given.

**213.053. 1. It shall be an unlawful discriminatory practice for a public or
2 private entity to deny, exclude, or prevent access to the bidding, procurement, or
3 contract process; to refuse to accept bids from, enter into agreements with, or award a
4 contract to; to limit commercial relations with; or to engage in any other action to
5 discriminate against any person in the sourcing, bidding, procurement, offering, letting,
6 or engagement of contracts because of the color, religion, national origin, sex, ancestry,
7 age, or disability of such person.**

**8 2. No consideration, preference, or priority in the contract process shall be given
9 because of color, religion, national origin, sex, ancestry, or age.**

**10 3. Notwithstanding any other provision of this chapter, it shall not be an
11 unlawful discriminatory practice under this section to reject any or all bids, refuse to
12 contract, or terminate a contract, provided that such decision is based on legitimate
13 factors unrelated to the color, religion, national origin, sex, ancestry, age, or disability of
14 such individual or group bidding, procuring, offering, letting, or contracting.**

15 **4. Nothing contained in this section shall be interpreted to require or grant**
16 **preferential treatment to any individual or to any group because of the color, religion,**
17 **national origin, sex, ancestry, age, or disability of such individual or group.**

18 **5. Notwithstanding any other provision of this chapter, it shall not be an**
19 **unlawful discriminatory practice for a public entity to comply with additional state or**
20 **federal requirements relating to contract procurement.**

21 **6. For the purposes of this section, a "public entity" means the state of Missouri**
22 **or any political subdivision thereof, including all boards, commissions, agencies,**
23 **institutions, authorities, and bodies politic and corporate of the state created by or in**
24 **accordance with state law or regulations that are authorized to enter into contracts.**

213.070. 1. It shall be an unlawful discriminatory practice for an employer,
2 employment agency, labor organization, **public entity for the purposes of section 213.053,**
3 **private entity for the purposes of section 213.053,** or place of public accommodation:

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

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

10 (3) For the state or any political subdivision of this state to discriminate on the basis
11 of ~~[race,]~~ color, religion, national origin, sex, ancestry, age, as it relates to employment,
12 disability, or familial status as it relates to 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.

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