

SECOND REGULAR SESSION

SENATE BILL NO. 453

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Pre-filed December 1, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

4505S.011

AN ACT

To repeal sections 213.111 and 287.780, RSMo, and to enact in lieu thereof two new sections relating to damages in discrimination cases.

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

Section A. Sections 213.111 and 287.780, RSMo, are repealed and two
2 new sections enacted in lieu thereof, to be known as sections 213.111 and
3 287.780, to read as follows:

213.111. 1. If, after one hundred eighty days from the filing of a
2 complaint alleging an unlawful discriminatory practice pursuant to section
3 213.055, 213.065 or 213.070 to the extent that the alleged violation of section
4 213.070 relates to or involves a violation of section 213.055 or 213.065, or
5 subdivision (3) of section 213.070 as it relates to employment and public
6 accommodations, the commission has not completed its administrative processing
7 and the person aggrieved so requests in writing, the commission shall issue to the
8 person claiming to be aggrieved a letter indicating his or her right to bring a civil
9 action within ninety days of such notice against the respondent named in the
10 complaint. If, after the filing of a complaint pursuant to sections 213.040,
11 213.045, 213.050 and 213.070, to the extent that the alleged violation of section
12 213.070 relates to or involves a violation of sections 213.040, 213.045 and
13 213.050, or subdivision (3) of section 213.070 as it relates to housing, and the
14 person aggrieved so requests in writing, the commission shall issue to the person
15 claiming to be aggrieved a letter indicating his or her right to bring a civil action
16 within ninety days of such notice against the respondent named in the
17 complaint. Such an action may be brought in any circuit court in any county in
18 which the unlawful discriminatory practice is alleged to have occurred, either
19 before a circuit or associate circuit judge. Upon issuance of this notice, the

20 commission shall terminate all proceedings relating to the complaint. No person
21 may file or reinstate a complaint with the commission after the issuance of a
22 notice under this section relating to the same practice or act. Any action brought
23 in court under this section shall be filed within ninety days from the date of the
24 commission's notification letter to the individual but no later than two years after
25 the alleged cause occurred or its reasonable discovery by the alleged injured
26 party.

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

34 **3. The sum of the amount of actual damages, including damages**
35 **for future pecuniary losses, emotional pain, suffering, inconvenience,**
36 **mental anguish, loss of enjoyment of life, and other nonpecuniary**
37 **losses, and punitive damages awarded under this section shall not**
38 **exceed for each complaining party:**

39 **(1) Actual back pay and interest on back pay; and**

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

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

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

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

55 **4. Subsection 3 of this section shall not apply to actions filed for**

56 violations of sections 213.040, 213.045, 213.050, and 213.070 to the extent
57 that the alleged violation of section 213.070 relates to or involves a
58 violation of sections 213.040, 213.045, and 213.050, or subsection 3 of
59 section 213.070 as it relates to housing.

60 **5. Notwithstanding subsection 3 of this section, punitive damages**
61 **shall not be awarded against the state of Missouri or any of its political**
62 **subdivisions.**

287.780. 1. No employer or agent shall discharge or in any way
2 discriminate against any employee for exercising any of his rights under this
3 chapter. Any employee who has been discharged or discriminated against shall
4 have a civil action for damages against his employer.

5 **2. In an action brought under subsection 1 of this section by an**
6 **employee against an employer or former employer, the sum of the**
7 **amount of compensatory damages awarded and the amount of punitive**
8 **damages awarded shall not exceed, for each plaintiff, the following:**

9 **(1) In the case of a defendant who has fewer than one hundred**
10 **one employees in each of twenty or more calendar weeks in the current**
11 **or preceding calendar year, fifty thousand dollars;**

12 **(2) In the case of a defendant who has more than one hundred**
13 **and fewer than two hundred one employees in each of twenty or more**
14 **calendar weeks in the current or preceding calendar year, one hundred**
15 **thousand dollars;**

16 **(3) In the case of a defendant who has more than two hundred**
17 **and fewer than five hundred one employees in each of twenty or more**
18 **calendar weeks in the current or preceding calendar year, two hundred**
19 **thousand dollars;**

20 **(4) In the case of a defendant who has more than five hundred**
21 **employees in each of twenty or more calendar weeks in the current or**
22 **preceding calendar year, three hundred thousand dollars.**

23 **3. Compensatory damages within the meaning of this section**
24 **shall not include back pay and interest on back pay.**

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