

## SENATE SUBSTITUTE NO. 2

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 43

AN ACT

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

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1       Section A. Sections 213.010, 213.040, 213.050, 213.055,  
2       213.065, 213.070, 213.075, 213.101, and 213.111, RSMo, are  
3       repealed and ten new sections enacted in lieu thereof, to be  
4       known as sections 213.010, 213.040, 213.050, 213.055, 213.065,  
5       213.070, 213.075, 213.101, 213.111, and 285.575, to read as  
6       follows:

7       213.010. As used in this chapter, the following terms shall  
8       mean:

9       (1) "Age", an age of forty or more years but less than  
10      seventy years, except that it shall not be an unlawful employment  
11      practice for an employer to require the compulsory retirement of  
12      any person who has attained the age of sixty-five and who, for  
13      the two-year period immediately before retirement, is employed in  
14      a bona fide executive or high policy-making position, if such  
15      person is entitled to an immediate nonforfeitable annual  
16      retirement benefit from a pension, profit sharing, savings or

1 deferred compensation plan, or any combination of such plans, of  
2 the employer, which equals, in the aggregate, at least forty-four  
3 thousand dollars;

4 (2) "Because" or "because of", as it relates to the adverse  
5 decision or action, the protected criterion was the motivating  
6 factor;

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

8 [(3)] (4) "Complainant", a person who has filed a complaint  
9 with the commission alleging that another person has engaged in a  
10 prohibited discriminatory practice;

11 [(4)] (5) "Disability", a physical or mental impairment  
12 which substantially limits one or more of a person's major life  
13 activities, being regarded as having such an impairment, or a  
14 record of having such an impairment, which with or without  
15 reasonable accommodation does not interfere with performing the  
16 job, utilizing the place of public accommodation, or occupying  
17 the dwelling in question. For purposes of this chapter, the term  
18 "disability" does not include current, illegal use of or  
19 addiction to a controlled substance as such term is defined by  
20 section 195.010; however, a person may be considered to have a  
21 disability if that person:

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

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

1 substances; or

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

4 [(5)] (6) "Discrimination", [any unfair treatment based on]  
5 conduct proscribed herein, taken because of race, color,  
6 religion, national origin, ancestry, sex, or age as it relates to  
7 employment, disability, or familial status as it relates to  
8 housing;

9 [(6)] (7) "Dwelling", any building, structure or portion  
10 thereof which is occupied as, or designed or intended for  
11 occupancy as, a residence by one or more families, and any vacant  
12 land which is offered for sale or lease for the construction or  
13 location thereon of any such building, structure or portion  
14 thereof;

15 [(7)] (8) "Employer" [includes], a person engaged in an  
16 industry affecting commerce who has six or more employees for  
17 each working day in each of twenty or more calendar weeks in the  
18 current or preceding calendar year, and shall include the state,  
19 or any political or civil subdivision thereof, or any person  
20 employing six or more persons within the state[, and any person  
21 directly acting in the interest of an employer,] but does not  
22 include corporations and associations owned [and] or operated by  
23 religious or sectarian [groups] organizations. "Employer" shall  
24 not include:

25 (a) The United States;

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

28 (c) An individual employed by an employer;

1        (d) An Indian tribe;

2        (e) Any department or agency of the District of Columbia  
3 subject by statute to procedures of the competitive service, as  
4 defined in 5 U.S.C. Section 2101; or

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

8        [(8)] (9) "Employment agency" includes any person or  
9 agency, public or private, regularly undertaking with or without  
10 compensation to procure employees for an employer or to procure  
11 for employees opportunities to work for an employer [and includes  
12 any person acting in the interest of such a person];

13        [(9)] (10) "Executive director", the executive director of  
14 the Missouri commission on human rights;

15        [(10)] (11) "Familial status", one or more individuals who  
16 have not attained the age of eighteen years being domiciled with:

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

19        (b) The designee of such parent or other person having such  
20 custody, with the written permission of such parent or other  
21 person. The protections afforded against discrimination [on the  
22 basis] because of familial status shall apply to any person who  
23 is pregnant or is in the process of securing legal custody of any  
24 individual who has not attained the age of eighteen years;

25        [(11)] (12) "Human rights fund", a fund established to  
26 receive civil penalties as required by federal regulations and as  
27 set forth by subdivision (2) of subsection 11 of section 213.075,  
28 and which will be disbursed to offset additional expenses related

1 to compliance with the Department of Housing and Urban  
2 Development regulations;

3 [(12)] (13) "Labor organization" includes any organization  
4 which exists for the purpose, in whole or in part, of collective  
5 bargaining or of dealing with employers concerning grievances,  
6 terms or conditions of employment, or for other mutual aid or  
7 protection in relation to employment;

8 [(13)] (14) "Local commissions", any commission or agency  
9 established prior to August 13, 1986, by an ordinance or order  
10 adopted by the governing body of any city, constitutional charter  
11 city, town, village, or county;

12 [(14)] (15) "Person" includes one or more individuals,  
13 corporations, partnerships, associations, organizations, labor  
14 organizations, legal representatives, mutual companies, joint  
15 stock companies, trusts, trustees, trustees in bankruptcy,  
16 receivers, fiduciaries, or other organized groups of persons;

17 [(15)] (16) "Places of public accommodation", all places or  
18 businesses offering or holding out to the general public, goods,  
19 services, privileges, facilities, advantages or accommodations  
20 for the peace, comfort, health, welfare and safety of the general  
21 public or such public places providing food, shelter, recreation  
22 and amusement, including, but not limited to:

23 (a) Any inn, hotel, motel, or other establishment which  
24 provides lodging to transient guests, other than an establishment  
25 located within a building which contains not more than five rooms  
26 for rent or hire and which is actually occupied by the proprietor  
27 of such establishment as his residence;

28 (b) Any restaurant, cafeteria, lunchroom, lunch counter,

1 soda fountain, or other facility principally engaged in selling  
2 food for consumption on the premises, including, but not limited  
3 to, any such facility located on the premises of any retail  
4 establishment;

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

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

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

14 (f) Any establishment which is physically located within  
15 the premises of any establishment otherwise covered by this  
16 section or within the premises of which is physically located any  
17 such covered establishment, and which holds itself out as serving  
18 patrons of such covered establishment;

19 [(16)] (17) "Rent" includes to lease, to sublease, to let  
20 and otherwise to grant for consideration the right to occupy  
21 premises not owned by the occupant;

22 [(17)] (18) "Respondent", a person who is alleged to have  
23 engaged in a prohibited discriminatory practice in a complaint  
24 filed with the commission;

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

1           [(18)] (20) "Unlawful discriminatory practice", any act  
2 that is unlawful under this chapter.

3           213.040. 1. It shall be an unlawful housing practice:

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

9           (2) To discriminate against any person in the terms,  
10 conditions, or privileges of sale or rental of a dwelling, or in  
11 the provision of services or facilities in connection therewith,  
12 because of race, color, religion, national origin, ancestry, sex,  
13 disability, or familial status;

14           (3) To make, print, or publish, or cause to be made,  
15 printed, or published any notice, statement or advertisement,  
16 with respect to the sale or rental of a dwelling that indicates  
17 any preference, limitation, or discrimination ~~[based on]~~ because  
18 of race, color, religion, national origin, ancestry, sex,  
19 disability, or familial status, or an intention to make any such  
20 preference, limitation, or discrimination;

21           (4) To represent to any person because of race, color,  
22 religion, national origin, ancestry, sex, disability, or familial  
23 status that any dwelling is not available for inspection, sale,  
24 or rental when such dwelling is in fact so available;

25           (5) To induce or attempt to induce any person to sell or  
26 rent any dwelling by representations regarding the entry or  
27 prospective entry into the neighborhood of a person or persons  
28 because of a particular race, color, religion, national origin,

1 ancestry, sex, disability, or familial status;

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

5 (a) That buyer or renter;

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

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

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

13 (a) That person;

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

16 (c) Any person associated with that person.

17 2. For purposes of this section and sections 213.045 and  
18 213.050, discrimination includes:

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

28 (2) A refusal to make reasonable accommodations in rules,



1 policies, practices, or services, when such accommodations may be  
2 necessary to afford such person equal opportunity to use and  
3 enjoy a dwelling; or

4 (3) In connection with the design and construction of  
5 covered multifamily dwellings for first occupancy after March 13,  
6 1991, a failure to design and construct those dwellings in such a  
7 manner that:

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

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

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

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

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

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

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

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

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

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

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

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

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

18           (2) The commission shall encourage, but may not require,  
19 the units of local government to include in their existing  
20 procedures for the review and approval of newly constructed  
21 covered multifamily dwellings, determinations as to whether the  
22 design and construction of such dwellings are consistent with  
23 subdivision (3) of subsection 2 of this section, and shall  
24 provide technical assistance to units of local government and  
25 other persons to implement the requirements of subdivision (3) of  
26 subsection 2 of this section;

27           (3) Nothing in this chapter shall be construed to require  
28 the commission to review or approve the plans, designs or

1 construction of all covered dwellings, to determine whether the  
2 design and construction of such dwellings are consistent with the  
3 requirements of subdivision (3) of subsection 2 of this section.

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

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

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

21 9. As used in this section and sections 213.045 and  
22 213.050, "housing for older persons" means housing:

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

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

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

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

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

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

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

19           (1) Persons residing in such housing as of August 28, 1992,  
20 who do not meet the age requirements of subdivision (2) or (3) of  
21 subsection 9 of this section, provided that new occupants of such  
22 housing meet the age requirements of subdivision (2) or (3) of  
23 subsection 9 of this section; or

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

27           11. Nothing in this section or section 213.045 or 213.050  
28 shall prohibit conduct against a person because such person has

1 been convicted by any court of competent jurisdiction of the  
2 illegal manufacture or distribution of a controlled substance, as  
3 defined by section 195.010.

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

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

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

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

27 (b) The house is sold or rented without the use of a real  
28 estate broker, agent or salesperson or the facilities of any

1 person in the business of selling or renting dwellings and  
2 without publication, posting or mailing of any advertisement. If  
3 the owner selling the house does not reside in it at the time of  
4 the sale or was not the most recent resident of the house prior  
5 to such sale, the exemption in this section applies to only one  
6 such sale in any twenty-four-month period; or

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

12 213.050. It shall be unlawful to deny any person access to  
13 or membership or participation in any multiple listing service,  
14 real estate brokers' organization or other service organization,  
15 or facility relating to the business of selling or renting  
16 dwellings, [on account] because of race, color, religion,  
17 national origin, ancestry, sex, disability, or familial status.

18 213.055. 1. It shall be an unlawful employment practice:

19 (1) For an employer, because of the race, color, religion,  
20 national origin, sex, ancestry, age or disability of any  
21 individual:

22 (a) To fail or refuse to hire or to discharge any  
23 individual, or otherwise to discriminate against any individual  
24 with respect to his compensation, terms, conditions, or  
25 privileges of employment, because of such individual's race,  
26 color, religion, national origin, sex, ancestry, age or  
27 disability;

28 (b) To limit, segregate, or classify his employees or his

1 employment applicants in any way which would deprive or tend to  
2 deprive any individual of employment opportunities or otherwise  
3 adversely affect his status as an employee, because of such  
4 individual's race, color, religion, national origin, sex,  
5 ancestry, age or disability;

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

26 (3) For any employer or employment agency to print or  
27 circulate or cause to be printed or circulated any statement,  
28 advertisement or publication, or to use any form of application

1 for employment or to make any inquiry in connection with  
2 prospective employment, which expresses, directly or indirectly,  
3 any limitation, specification, or discrimination, because of  
4 race, color, religion, national origin, sex, ancestry, age or  
5 disability unless based upon a bona fide occupational  
6 qualification or for an employment agency to fail or refuse to  
7 refer for employment, or otherwise to discriminate against, any  
8 individual because of his or her race, color, religion, national  
9 origin, sex, ancestry, age as it relates to employment, or  
10 disability, or to classify or refer for employment any individual  
11 [on the basis] because of his or her race, color, religion,  
12 national origin, sex, ancestry, age or disability.

13 2. Notwithstanding any other provision of this chapter, it  
14 shall not be an unlawful employment practice for an employer to  
15 apply different standards of compensation, or different terms,  
16 conditions or privileges of employment pursuant to a bona fide  
17 seniority or merit system, or a system which measures earnings by  
18 quantity or quality of production or to employees who work in  
19 different locations, provided that such differences or such  
20 systems are not the result of an intention or a design to  
21 discriminate, and are not used to discriminate, because of race,  
22 color, religion, sex, national origin, ancestry, age or  
23 disability, nor shall it be an unlawful employment practice for  
24 an employer to give and to act upon the results of any  
25 professionally developed ability test, provided that such test,  
26 its administration, or action upon the results thereof, is not  
27 designed, intended or used to discriminate because of race,  
28 color, religion, national origin, sex, ancestry, age or



1 disability.

2 3. Nothing contained in this chapter shall be interpreted  
3 to require any employer, employment agency, labor organization,  
4 or joint labor-management committee subject to this chapter to  
5 grant preferential treatment to any individual or to any group  
6 because of the race, color, religion, national origin, sex,  
7 ancestry, age or disability of such individual or group on  
8 account of an imbalance which may exist with respect to the total  
9 number or percentage of persons of any race, color, religion,  
10 national origin, sex, ancestry, age or disability employed by  
11 any employer, referred or classified for employment by any  
12 employment agency or labor organization, admitted to membership  
13 or classified by any labor organization, or admitted to or  
14 employed in any apprenticeship or other training program, in  
15 comparison with the total number or percentage of persons of such  
16 race, color, religion, national origin, sex, ancestry, age or  
17 disability in any community, state, section, or other area, or in  
18 the available workforce in any community, state, section, or  
19 other area.

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

25 213.065. 1. All persons within the jurisdiction of the  
26 state of Missouri are free and equal and shall be entitled to the  
27 full and equal use and enjoyment within this state of any place  
28 of public accommodation, as hereinafter defined, without

1 discrimination or segregation [on the grounds] because of race,  
2 color, religion, national origin, sex, ancestry, or disability.

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

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

19 213.070. 1. It shall be an unlawful discriminatory  
20 practice for an employer, employment agency, labor organization,  
21 or place of public accommodation:

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

24 (2) To retaliate or discriminate in any manner against any  
25 other person because such person has opposed any practice  
26 prohibited by this chapter or because such person has filed a  
27 complaint, testified, assisted, or participated in any manner in  
28 any investigation, proceeding or hearing conducted pursuant to

1 this chapter;

2 (3) For the state or any political subdivision of this  
3 state to discriminate on the basis of race, color, religion,  
4 national origin, sex, ancestry, age, as it relates to employment,  
5 disability, or familial status as it relates to housing; or

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

9 2. This chapter, in addition to chapter 285 and chapter  
10 287, shall provide the exclusive remedy for any and all claims  
11 for injury or damages arising out of an employment relationship.

12 213.075. 1. As a jurisdictional condition precedent to  
13 filing a civil action under this chapter, any person claiming to  
14 be aggrieved by an unlawful discriminatory practice [may] shall  
15 make, sign and file with the commission a verified complaint in  
16 writing, within one hundred eighty days of the alleged act of  
17 discrimination, which shall state the name and address of the  
18 [person] employer, employment agency, labor organization, or  
19 place of public accommodation alleged to have committed the  
20 unlawful discriminatory practice and which shall set forth the  
21 particulars thereof and such other information as may be required  
22 by the commission. The complainant's agent, attorney or the  
23 attorney general may, in like manner, make, sign and file such  
24 complaint. The failure to timely file a complaint with the  
25 commission shall deprive the commission of jurisdiction to  
26 investigate the complaint. The commission shall make a  
27 determination as to its jurisdiction with respect to all  
28 complaints. Notwithstanding any other provision of this chapter

1 to the contrary, if a complaint is not filed with the commission  
2 within one hundred eighty days of the alleged act of  
3 discrimination, the commission shall lack jurisdiction to take  
4 any action on such a complaint other than to dismiss the  
5 complaint for lack of jurisdiction. The failure to timely file a  
6 complaint with the commission may be raised as a complete defense  
7 by a respondent or defendant at any time, either during the  
8 administrative proceedings before the commission, or in  
9 subsequent litigation, regardless of whether the commission has  
10 issued the person claiming to be aggrieved a letter indicating  
11 his or her right to bring a civil action and regardless of  
12 whether the employer asserted the defense before the commission.

13         2. Any complaint which is filed with the federal Equal  
14 Employment Opportunity Commission or other federal agencies with  
15 which the commission has a work-sharing or deferral agreement, or  
16 with a local commission which has been certified as substantially  
17 equivalent by the commission, shall be deemed filed with the  
18 commission on the date that such complaint is received by such  
19 federal agency or local commission. A copy of all complaints  
20 filed with a local commission with the authority to enforce the  
21 provisions of this chapter is to be forwarded to the commission  
22 within seven days of the filing thereof with such local  
23 commission. If a local commission has jurisdiction to hear a  
24 complaint filed with the commission, such complaint shall be  
25 deemed to have been filed with the local commission on the date  
26 on which such complaint was filed with the commission. The  
27 commission shall, within seven days of the receipt of a complaint  
28 which a local commission has jurisdiction to hear, forward a copy

1     thereof to such local commission.

2             3. After the filing of any complaint, the executive  
3     director shall, with the assistance of the commission's staff,  
4     promptly investigate the complaint, and if the director  
5     determines after the investigation that probable cause exists for  
6     crediting the allegations of the complaint, the executive  
7     director shall immediately endeavor to eliminate the unlawful  
8     discriminatory practice complained of by conference, conciliation  
9     and persuasion, and shall report the results to the commission.  
10    The investigation, determination of probable cause and  
11    conciliation shall be conducted according to such rules,  
12    regulations and guidelines as the commission shall prescribe.

13            4. A person who is not named as a respondent in a  
14    complaint, but who is identified as a respondent in the course of  
15    investigation, may be joined as an additional or substitute  
16    respondent upon written notice, pursuant to such rules,  
17    regulations, and guidelines as the commission shall prescribe.  
18    Such notice, in addition to complying with the requirements of  
19    such rules, regulations, and guidelines, shall also state the  
20    reason why the person to whom the notice is addressed has been  
21    joined as a party.

22            5. In case of failure to eliminate such discriminatory  
23    practice as found in the investigation, if in the judgment of the  
24    chairperson of the commission circumstances so warrant, there  
25    shall be issued and served in the name of the commission, a  
26    written notice, together with a copy of the complaint, as it may  
27    have been amended, requiring the person named in the complaint,  
28    hereinafter referred to as "respondent", to answer the charges of

1 the complaint at a hearing, at a time and place to be specified  
2 in the notice, before a panel of at least three members of the  
3 commission sitting as the commission or before a hearing examiner  
4 licensed to practice law in this state who shall be appointed by  
5 the executive director and approved by the commission. The place  
6 of the hearing shall be in the office of the commission or such  
7 other place designated by it, except that if the respondent so  
8 requests, in writing, the hearing shall be held in the county of  
9 such person's residence or business location at the time of the  
10 alleged unlawful discriminatory practice. A copy of the notice  
11 shall also be served on the complainants.

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

16 7. The commission shall be a party to the action and shall  
17 be represented before the panel or the hearing examiner by the  
18 office of the attorney general or, when so delegated by the  
19 attorney general, a staff attorney of the commission. Neither  
20 the hearing examiner nor any member of the panel shall have  
21 participated in the investigation of the complaint. Evidence  
22 concerning endeavors at conciliation shall be excluded.

23 8. The respondent may file a written verified answer to the  
24 complaint and appear at the hearing in person or otherwise with  
25 or without counsel, and submit testimony. At the discretion of  
26 the hearing examiner or the panel, the complainant may be allowed  
27 to intervene, thereby becoming a party to the action with the  
28 right to present testimony in person or by counsel, provided the

1 complainant at all times shall be treated as a party for the  
2 purpose of discovery and the taking of depositions. The  
3 commission or complainant intervenor shall have the power to  
4 reasonably and fairly amend any complaint, and the respondent  
5 shall have like power to amend any answer. The testimony taken  
6 at the hearing shall be under oath and be transcribed.

7 9. In any contested case before the commission, any party  
8 may take and use written interrogatories, requests for production  
9 of documents and other materials, and requests for admissions,  
10 and all other forms of discovery authorized by rules of civil  
11 procedure in the same manner, upon, and under the same  
12 conditions, and upon the same notice, as is or may hereafter be  
13 provided for with respect to the taking and using of written  
14 interrogatories, requests for production of documents and other  
15 materials, and requests for admissions, and all other forms of  
16 discovery authorized by rules of civil procedure in civil actions  
17 in the circuit court. The panel or hearing examiner shall have  
18 the authority to impose sanctions in the same manner as set forth  
19 in the rules of civil procedure.

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

22 11. When the case is heard by a panel of the commission,  
23 the chairperson of the commission shall select the hearing panel  
24 and the presiding officer. The presiding officer shall have full  
25 authority to call and examine witnesses, admit or exclude  
26 evidence and rule upon all motions and objections. The panel  
27 shall state its findings of fact and conclusions of law, and if,  
28 upon all the evidence at the hearing, the panel finds:

1           (1) That a respondent has engaged in an unlawful  
2 discriminatory practice as defined in this chapter, the  
3 commission shall issue and cause to be served on the respondent  
4 an order requiring the respondent to cease and desist from the  
5 unlawful discriminatory practice. The order shall require the  
6 respondent to take such affirmative action, as in the panel's  
7 judgment will implement the purposes of this chapter, including,  
8 but not limited to, payment of back pay; hiring; reinstatement or  
9 upgrading; restoration to membership in any respondent labor  
10 organization; the extension of full, equal and unsegregated  
11 housing; the extension of full, equal and unsegregated public  
12 accommodations; extension of a commercial real estate loan or  
13 other financial assistance; extension or restoration of  
14 membership or participation in any multiple listing service or  
15 other real estate service organization or facility; payment of  
16 actual damages; and the submission of a report of the manner of  
17 compliance;

18           (2) That a respondent has engaged or is about to engage in  
19 a violation of section 213.040, 213.045, 213.050, or 213.070, to  
20 the extent that the alleged violation of section 213.070 relates  
21 to or involves a violation of one or more of such other sections  
22 or relates to or involves the encouraging, aiding, or abetting of  
23 a violation of such other sections, the commission may, in  
24 addition to the relief provided in subdivision (1) of this  
25 subsection, assess a civil penalty against the respondent, for  
26 purposes of vindicating the public interest:

27           (a) In an amount not exceeding two thousand dollars if the  
28 respondent has not been adjudged to have violated one or more of



1 the sections enumerated in subdivision (2) of this subsection  
2 within five years of the date of the filing of the complaint;

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

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

12  
13 All civil penalties set forth in this subsection shall be paid to  
14 the human rights fund.

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

20 13. When the case is heard by a hearing examiner, the  
21 examiner shall have all powers described in subdivision (8) of  
22 section 213.030 and subsection 11 of this section, for the  
23 purpose of the hearing. The hearing examiner shall make findings  
24 of fact and conclusions of law and shall recommend to the  
25 commission an order granting such relief as provided in  
26 subsection 11 of this section or dismissing the complaint as to  
27 the respondent as provided in subsection 12 of this section, in  
28 accordance with such findings.

1           14. A panel of at least three members of the commission,  
2 sitting as the commission, shall review the record, findings and  
3 recommended order of the hearing examiner. The panel shall  
4 thereafter accept or amend the recommended order which shall  
5 become the order of the commission. All orders shall be served  
6 on the complainant and respondent, and copies shall be delivered  
7 to the attorney general and such other public officers as the  
8 commission deems proper.

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

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

16           213.101. 1. The provisions of this chapter shall be  
17 construed to accomplish the purposes thereof and any law  
18 inconsistent with any provision of this chapter shall not apply.  
19 Nothing contained in this chapter shall be deemed to repeal any  
20 of the provisions of any law of this state relating to [the]  
21 discrimination because of race, color, religion, national origin,  
22 sex, ancestry, age, disability, or familial status.

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

1 judgment rule.

2 3. If an employer in a case brought under this chapter  
3 files a motion pursuant to rule 74.04 of the Missouri rules of  
4 civil procedure, the court shall consider the burden-shifting  
5 analysis of *McDonnell Douglas Corp. v. Green*, 411 U.S. 792  
6 (1973), and its progeny to be highly persuasive for analysis in  
7 cases not involving direct evidence of discrimination.

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

14 5. The general assembly hereby expressly abrogates by this  
15 statute the holding in *Hurst v. Kansas City Mo. School District*,  
16 437 S.W.3d 327 (Mo.App. W.D. 2014), that Missouri Approved  
17 Instruction 19.01 may be applied to actions brought pursuant to  
18 this chapter, and the holding in *Thomas v. McKeever's*  
19 *Enterprises, Inc.*, 388 S.W.3d 206 (Mo.App. W.D. 2012), that  
20 juries shall not be instructed that plaintiffs bear the burden of  
21 establishing "but for" causation in actions brought pursuant to  
22 this chapter.

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

27 213.111. 1. If, after one hundred eighty days from the  
28 filing of a complaint alleging an unlawful discriminatory

1 practice pursuant to section 213.055, 213.065 or 213.070 to the  
2 extent that the alleged violation of section 213.070 relates to  
3 or involves a violation of section 213.055 or 213.065, or  
4 subdivision (3) of section 213.070 as it relates to employment  
5 and public accommodations, the commission has not completed its  
6 administrative processing and the person aggrieved so requests in  
7 writing, the commission shall issue to the person claiming to be  
8 aggrieved a letter indicating his or her right to bring a civil  
9 action within ninety days of such notice against the respondent  
10 named in the complaint. If, after the filing of a complaint  
11 pursuant to sections 213.040, 213.045, 213.050 and 213.070, to  
12 the extent that the alleged violation of section 213.070 relates  
13 to or involves a violation of sections 213.040, 213.045 and  
14 213.050, or subdivision (3) of section 213.070 as it relates to  
15 housing, and the person aggrieved so requests in writing, the  
16 commission shall issue to the person claiming to be aggrieved a  
17 letter indicating his or her right to bring a civil action within  
18 ninety days of such notice against the respondent named in the  
19 complaint. The commission may not at any other time or for any  
20 other reason issue a letter indicating a complainant's right to  
21 bring a civil action. Such an action may be brought in any  
22 circuit court in any county in which the unlawful discriminatory  
23 practice is alleged to have ~~occurred~~ been committed, either  
24 before a circuit or associate circuit judge. Upon issuance of  
25 this notice, the commission shall terminate all proceedings  
26 relating to the complaint. No person may file or reinstate a  
27 complaint with the commission after the issuance of a notice  
28 under this section relating to the same practice or act. Any

1 action brought in court under this section shall be filed within  
2 ninety days from the date of the commission's notification letter  
3 to the individual but no later than two years after the alleged  
4 cause occurred or its reasonable discovery by the alleged injured  
5 party.

6 2. The court may grant as relief, as it deems appropriate,  
7 any permanent or temporary injunction, temporary restraining  
8 order, or other order, and may award to the plaintiff actual and  
9 punitive damages, and may award court costs and reasonable  
10 attorney fees to the prevailing party, other than a state agency  
11 or commission or a local commission; except that, a prevailing  
12 respondent may be awarded [court costs and] reasonable attorney  
13 fees only upon a showing that the case [is] was without  
14 foundation.

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

17 4. The sum of the amount of actual damages, including  
18 damages for future pecuniary losses, emotional pain, suffering,  
19 inconvenience, mental anguish, loss of enjoyment of life, and  
20 other nonpecuniary losses, and punitive damages awarded under  
21 this section shall not exceed for each complaining party:

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

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

27 (b) In the case of a respondent who has more than one  
28 hundred and fewer than two hundred one employees in each of

twenty or more calendar weeks in the current or preceding  
calendar year, one hundred thousand dollars;

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

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

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

285.575. 1. This section shall be known and may be cited  
as the "Whistleblower's Protection Act".

2. As used in this section, the following terms shall mean:

(1) "Because" or "because of", as it relates to the adverse  
decision or action, the person's status as a protected person was  
the motivating factor;

(2) "Employer", an entity that has six or more employees  
for each working day in each of twenty or more calendar weeks in  
the current or preceding calendar year. "Employer" shall not  
include the state of Missouri or its agencies, instrumentalities,  
or political subdivisions, including but not limited to any  
public institution of higher education, a corporation wholly  
owned by the state of Missouri, an individual employed by an

1 employer, or corporations and associations owned or operated by  
2 religious or sectarian organizations;

3 (3) "Proper authorities", a governmental or law enforcement  
4 agency, an officer of an employee's employer, the employee's  
5 supervisor employed by the employer, or the employee's human  
6 resources representative employed by the employer;

7 (4) "Protected person", an employee of an employer who has  
8 reported to the proper authorities an unlawful act of his or her  
9 employer; an employee of an employer who reports to his or her  
10 employer serious misconduct of the employer that violates a clear  
11 mandate of public policy as articulated in a constitutional  
12 provision, statute, or regulation promulgated under statute; or  
13 an employee of an employer who has refused to carry out a  
14 directive issued by his or her employer that if completed would  
15 be a violation of the law. An employee of an employer is not a  
16 "protected person" if:

17 (a) The employee is a supervisory, managerial, or executive  
18 employee or an officer of his or her employer and the unlawful  
19 act or serious misconduct reported concerns matters upon which  
20 the employee is employed to report or provide professional  
21 opinion; or

22 (b) The proper authority or person to whom the employee  
23 makes his or her report is the person whom the employee claims to  
24 have committed the unlawful act or violation of a clear mandate  
25 of public policy;

26 (5) "The motivating factor", the employee's protected  
27 classification actually played a role in the adverse decision or  
28 action and had a determinative influence on the adverse decision

1 or action.

2 3. This section is intended to codify the existing common  
3 law exceptions to the at-will employment doctrine and to limit  
4 their future expansion by the courts. This section, in addition  
5 to chapter 213 and chapter 287, shall provide the exclusive  
6 remedy for any and all claims of unlawful employment practices.

7 4. It shall be an unlawful employment practice for an  
8 employer to discharge an individual defined as a protected person  
9 in this section because of that person's status as a protected  
10 person.

11 5. A protected person aggrieved by a violation of this  
12 section shall have a private right of action for actual damages  
13 for violations of this section but not for punitive damages.  
14 However, if a private right of action for damages exists under  
15 another statutory or regulatory scheme, whether under state or  
16 federal law, no private right of action shall exist under this  
17 statute.

18 6. Any party to any action initiated under this section may  
19 demand a trial by jury.

20 7. A protected person aggrieved by a violation of this  
21 section shall have a private right of action that may be filed in  
22 a court of competent jurisdiction. The only remedies available  
23 in such an action shall be:

24 (1) Back pay;

25 (2) Reimbursement of medical bills directly related to a  
26 violation of this section; and

27 (3) Additionally, if a protected person proves, by clear  
28 and convincing evidence, that the conduct of the employer was



1 outrageous because of the employer's evil motive or reckless  
2 indifference to the rights of others, then, such person may  
3 receive double the amount awarded under subdivisions (1) and (2)  
4 of this subsection, as liquidated damages. In applying this  
5 subdivision, the provisions of section 510.263 shall be applied  
6 as though liquidated damages were punitive damages and as though  
7 the amounts referenced in subdivisions (1) and (2) of this  
8 subsection were compensatory damages.

9 8. The court, in addition to the damages set forth in  
10 subsection 7 of this section, may award the prevailing party  
11 court costs and reasonable attorney fees; except that a  
12 prevailing respondent may be awarded reasonable attorney fees  
13 only upon a showing that the case was without foundation.

14 Section B. If any provision of this act or the application  
15 thereof to anyone or to any circumstance is held invalid, the  
16 remainder of those sections and the application of such  
17 provisions to others or other circumstances shall not be affected  
18 thereby.