

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 43**  
99TH GENERAL ASSEMBLY

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Reported from the Committee on Small Business and Industry, February 2, 2017, with recommendation that the Senate Committee Substitute do pass.

0524S.02C

ADRIANE D. CROUSE, Secretary.

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**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:*

Section A. Sections 213.010, 213.040, 213.050, 213.055, 213.065, 213.070, 213.075, 213.101, and 213.111, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 213.010, 213.040, 213.050, 213.055, 213.065, 213.070, 213.075, 213.101, 213.111, and 285.575, 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", the adverse decision or action would not have been made or taken but for the employee's protected classification. If the decision or action would have been made or taken even if the employee did not belong to the protected classification, it was not taken because of that classification;

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

17           **[(3)] (4)** "Complainant", a person who has filed a complaint with the  
18 commission alleging that another person has engaged in a prohibited  
19 discriminatory practice;

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

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

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

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

37           **[(5)] (6)** "Discrimination", [any unfair treatment based on] **conduct**  
38 **proscribed herein, taken because of** race, color, religion, national origin,  
39 ancestry, sex, age as it relates to employment, disability, or familial status as it  
40 relates to housing;

41           **[(6)] (7)** "Dwelling", any building, structure or portion thereof which is  
42 occupied as, or designed or intended for occupancy as, a residence by one or more  
43 families, and any vacant land which is offered for sale or lease for the  
44 construction or location thereon of any such building, structure or portion thereof;

45           **[(7)] (8)** "Employer" [includes], **a person engaged in an industry**  
46 **affecting commerce who has six or more employees for each working**  
47 **day in each of twenty or more calendar weeks in the current or**  
48 **preceding calendar year, and shall include** the state, or any political or civil  
49 subdivision thereof, or any person employing six or more persons within the  
50 state[, and any person directly acting in the interest of an employer,] but does not  
51 include corporations and associations owned and operated by religious or

52 sectarian groups. **"Employer" shall not include:**

53 **(a) The United States;**

54 **(b) A corporation wholly owned by the government of the United**  
55 **States;**

56 **(c) An individual employed by an employer;**

57 **(d) An Indian tribe;**

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

61 **(f) A bona fide private membership club, other than a labor**  
62 **organization, that is exempt from taxation under 26 U.S.C. Section**  
63 **501(c); or**

64 **(g) Corporations and associations owned or operated by religious**  
65 **or sectarian groups;**

66 **[(8)] (9) "Employment agency"** includes any person or agency, public or  
67 private, regularly undertaking with or without compensation to procure  
68 employees for an employer or to procure for employees opportunities to work for  
69 an employer [and includes any person acting in the interest of such a person];

70 **[(9)] (10) "Executive director"**, the executive director of the Missouri  
71 commission on human rights;

72 **[(10)] (11) "Familial status"**, one or more individuals who have not  
73 attained the age of eighteen years being domiciled with:

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

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

80 **[(11)] (12) "Human rights fund"**, a fund established to receive civil  
81 penalties as required by federal regulations and as set forth by subdivision (2) of  
82 subsection 11 of section 213.075, and which will be disbursed to offset additional  
83 expenses related to compliance with the Department of Housing and Urban  
84 Development regulations;

85 **[(12)] (13) "Labor organization"** includes any organization which exists  
86 for the purpose, in whole or in part, of collective bargaining or of dealing with  
87 employers concerning grievances, terms or conditions of employment, or for other

88 mutual aid or protection in relation to employment;

89 [(13)] (14) "Local commissions", any commission or agency established  
90 prior to August 13, 1986, by an ordinance or order adopted by the governing body  
91 of any city, constitutional charter city, town, village, or county;

92 [(14)] (15) "Person" includes one or more individuals, corporations,  
93 partnerships, associations, organizations, labor organizations, legal  
94 representatives, mutual companies, joint stock companies, trusts, trustees,  
95 trustees in bankruptcy, receivers, fiduciaries, or other organized groups of  
96 persons;

97 [(15)] (16) "Places of public accommodation", all places or businesses  
98 offering or holding out to the general public, goods, services, privileges, facilities,  
99 advantages or accommodations for the peace, comfort, health, welfare and safety  
100 of the general public or such public places providing food, shelter, recreation and  
101 amusement, including, but not limited to:

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

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

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

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

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

117 (f) Any establishment which is physically located within the premises of  
118 any establishment otherwise covered by this section or within the premises of  
119 which is physically located any such covered establishment, and which holds itself  
120 out as serving patrons of such covered establishment;

121 [(16)] (17) "Rent" includes to lease, to sublease, to let and otherwise to  
122 grant for consideration the right to occupy premises not owned by the occupant;

123 [(17)] (18) "Respondent", a person who is alleged to have engaged in a

124 prohibited discriminatory practice in a complaint filed with the commission;  
125        [(18)] (19) "Unlawful discriminatory practice", any act that is unlawful  
126 under this chapter.

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  
3 to negotiate for the sale or rental of, to deny or otherwise make unavailable, a  
4 dwelling to any person because of race, color, religion, national origin, ancestry,  
5 sex, disability, or familial status;

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

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

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

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

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

25       (a) That buyer or renter;

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

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

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

32       (a) That person;

33       (b) A person residing in or intending to reside in that dwelling after it is

34 so sold, rented, or made available; or

35 (c) Any person associated with that person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

103 8. Nothing in this section and sections 213.045 and 213.050 limits the  
104 applicability of any reasonable local or state restriction regarding the maximum  
105 number of occupants permitted to occupy a dwelling, nor does any provision in

106 this section and sections 213.045 and 213.050 regarding familial status apply  
107 with respect to housing for older persons.

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

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

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

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

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

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

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

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

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

134 (2) Unoccupied units, provided that such units are reserved for occupancy  
135 by persons who meet the age requirements of subdivision (2) or (3) of subsection  
136 9 of this section.

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

141 12. Nothing in this chapter shall prohibit a religious organization,



142 association, or society, or any nonprofit institution or organization operated,  
143 supervised or controlled by or in conjunction with a religious organization,  
144 association, or society, from limiting the sale, rental or occupancy of dwellings  
145 which it owns or operates for other than a commercial purpose to persons of the  
146 same religion, or from giving preference to such persons, unless membership in  
147 such religion is restricted on account of race, color, or national origin. Nor shall  
148 anything in this chapter prohibit a private club not in fact open to the public,  
149 which as an incident to its primary purpose or purposes provides lodging which  
150 it owns or operates for other than a commercial purpose, from limiting the rental  
151 or occupancy of such lodging to its members or from giving preference to its  
152 members.

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

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

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

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

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

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

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

2 (1) For an employer, because of the race, color, religion, national origin,

3 sex, ancestry, age or disability of any individual:

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

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

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

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

39 [on the basis] **because** of his **or her** race, color, religion, national origin, sex,  
40 ancestry, age or disability.

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

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

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

213.065. 1. All persons within the jurisdiction of the state of Missouri are  
2 free and equal and shall be entitled to the full and equal use and enjoyment  
3 within this state of any place of public accommodation, as hereinafter defined,

4 without discrimination or segregation [on the grounds] **because** of race, color,  
5 religion, national origin, sex, ancestry, or disability.

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

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

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

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

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

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

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

16         **2. This chapter, in addition to chapter 285 and chapter 287, shall**  
17 **provide the exclusive remedy for any and all claims for injury or**  
18 **damages arising out of the employment relationship and hereby**  
19 **abrogates any common law causes of action not specifically articulated**  
20 **herein.**

          213.075. 1. **As a jurisdictional condition precedent to filing a civil**

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

26 2. Any complaint which is filed with the federal Equal Employment  
27 Opportunity Commission or other federal agencies with which the commission has  
28 a work-sharing or deferral agreement, or with a local commission which has been  
29 certified as substantially equivalent by the commission, shall be deemed filed  
30 with the commission on the date that such complaint is received by such federal  
31 agency or local commission. A copy of all complaints filed with a local commission  
32 with the authority to enforce the provisions of this chapter is to be forwarded to  
33 the commission within seven days of the filing thereof with such local  
34 commission. If a local commission has jurisdiction to hear a complaint filed with  
35 the commission, such complaint shall be deemed to have been filed with the local  
36 commission on the date on which such complaint was filed with the  
37 commission. The commission shall, within seven days of the receipt of a

38 complaint which a local commission has jurisdiction to hear, forward a copy  
39 thereof to such local commission.

40           3. After the filing of any complaint, the executive director shall, with the  
41 assistance of the commission's staff, promptly investigate the complaint, and if  
42 the director determines after the investigation that probable cause exists for  
43 crediting the allegations of the complaint, the executive director shall  
44 immediately endeavor to eliminate the unlawful discriminatory practice  
45 complained of by conference, conciliation and persuasion, and shall report the  
46 results to the commission. The investigation, determination of probable cause  
47 and conciliation shall be conducted according to such rules, regulations and  
48 guidelines as the commission shall prescribe.

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

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

71           6. In all cases where a written notice of hearing has been issued and a  
72 party has not elected the option to proceed in circuit court as set forth in section  
73 213.076, the procedures set forth for a hearing shall apply.

74           7. The commission shall be a party to the action and shall be represented  
75 before the panel or the hearing examiner by the office of the attorney general or,  
76 when so delegated by the attorney general, a staff attorney of the  
77 commission. Neither the hearing examiner nor any member of the panel shall  
78 have participated in the investigation of the complaint. Evidence concerning  
79 endeavors at conciliation shall be excluded.

80           8. The respondent may file a written verified answer to the complaint and  
81 appear at the hearing in person or otherwise with or without counsel, and submit  
82 testimony. At the discretion of the hearing examiner or the panel, the  
83 complainant may be allowed to intervene, thereby becoming a party to the action  
84 with the right to present testimony in person or by counsel, provided the  
85 complainant at all times shall be treated as a party for the purpose of discovery  
86 and the taking of depositions. The commission or complainant intervenor shall  
87 have the power to reasonably and fairly amend any complaint, and the  
88 respondent shall have like power to amend any answer. The testimony taken at  
89 the hearing shall be under oath and be transcribed.

90           9. In any contested case before the commission, any party may take and  
91 use written interrogatories, requests for production of documents and other  
92 materials, and requests for admissions, and all other forms of discovery  
93 authorized by rules of civil procedure in the same manner, upon, and under the  
94 same conditions, and upon the same notice, as is or may hereafter be provided for  
95 with respect to the taking and using of written interrogatories, requests for  
96 production of documents and other materials, and requests for admissions, and  
97 all other forms of discovery authorized by rules of civil procedure in civil actions  
98 in the circuit court. The panel or hearing examiner shall have the authority to  
99 impose sanctions in the same manner as set forth in the rules of civil procedure.

100          10. The hearing shall be conducted in the manner provided by chapter  
101 536.

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

108           (1) That a respondent has engaged in an unlawful discriminatory practice  
109 as defined in this chapter, the commission shall issue and cause to be served on

110 the respondent an order requiring the respondent to cease and desist from the  
111 unlawful discriminatory practice. The order shall require the respondent to take  
112 such affirmative action, as in the panel's judgment will implement the purposes  
113 of this chapter, including, but not limited to, payment of back pay; hiring;  
114 reinstatement or upgrading; restoration to membership in any respondent labor  
115 organization; the extension of full, equal and unsegregated housing; the extension  
116 of full, equal and unsegregated public accommodations; extension of a commercial  
117 real estate loan or other financial assistance; extension or restoration of  
118 membership or participation in any multiple listing service or other real estate  
119 service organization or facility; payment of actual damages; and the submission  
120 of a report of the manner of compliance;

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

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

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

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

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

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



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

153           14. A panel of at least three members of the commission, sitting as the  
154 commission, shall review the record, findings and recommended order of the  
155 hearing examiner. The panel shall thereafter accept or amend the recommended  
156 order which shall become the order of the commission. All orders shall be served  
157 on the complainant and respondent, and copies shall be delivered to the attorney  
158 general and such other public officers as the commission deems proper.

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

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

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

7           **2. Courts applying chapter 213 in employment cases shall use the**  
8 **definitions and burden of proof standards as set forth in this chapter,**  
9 **but also shall rely on judicial interpretations of Title VII of the Civil**  
10 **Rights Act of 1964 (42 U.S.C. 2000e, et seq.), as amended, the Age**  
11 **Discrimination in Employment Act of 1967 (29 U.S.C. 621, et seq.), and**  
12 **the Americans with Disabilities Act (42 U.S.C. 12101, et seq.), as**  
13 **amended, to the extent those cases are not inconsistent with the**  
14 **definitions and burdens of proof contained in this chapter.**

15           **3. The general assembly hereby expressly abrogates by this**  
16 **statute the case of *McBryde v. Ritenour School District*, 207 S.W.3d 162**  
17 **(Mo.App. E.D. 2006), and its progeny as it relates to the necessity and**

18 **appropriateness of the issuance of a business judgment instruction. It**  
19 **shall be the presumption that for a fair representation of the case, a**  
20 **jury shall be given an instruction expressing the business judgment**  
21 **rule.**

22 **4. Rule 74.04 of the Missouri rules of civil procedure is an**  
23 **integral part of the rules as a whole and can be a tool of great utility**  
24 **in removing factually insubstantial cases under this chapter from**  
25 **crowded dockets. If an employer in a case under this chapter files a**  
26 **rule 74.04 motion, then the burden-shifting analysis of *McDonnell***  
27 ***Douglas Corp. v. Green*, 411 U.S. 792 (1973), and its progeny presents a**  
28 **highly persuasive framework for analysis in cases not involving direct**  
29 **evidence of discrimination.**

30 **5. The general assembly hereby expressly abrogates by this**  
31 **statute the cases of *Daugherty v. City of Maryland Heights*, 231 S.W.3d**  
32 **814 (Mo. 2007) and its progeny as they relate to the contributing factor**  
33 **standard and abandonment of the burden-shifting framework**  
34 **established in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973).**

35 **6. The general assembly hereby expressly abrogates by this**  
36 **statute the holding in *Hurst v. Kansas City Mo. School District*, 437**  
37 **S.W.3d 327 (Mo.App. W.D. 2014), holding that MAI 19.01 may be applied**  
38 **to actions brought pursuant to this chapter, and the holding in *Thomas***  
39 ***v. McKeever's Enterprises, Inc.*, 388 S.W.3d 206 (Mo.App. W.D. 2012),**  
40 **holding that juries shall not be instructed that plaintiffs bear the**  
41 **burden of establishing "but for" causation in actions brought pursuant**  
42 **to this chapter.**

43 **7. The general assembly hereby abrogates all existing Missouri**  
44 **approved jury instructions concerning this chapter.**

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. **The commission may not at any other time or for any other**  
18 **reason issue a letter indicating a complainant's right to bring a civil**  
19 **action.** Such an action may be brought in any circuit court in any county in  
20 which the unlawful discriminatory practice is alleged to have [occurred] **been**  
21 **committed**, either before a circuit or associate circuit judge. Upon issuance of  
22 this notice, the commission shall terminate all proceedings relating to the  
23 complaint. No person may file or reinstate a complaint with the commission after  
24 the issuance of a notice under this section relating to the same practice or  
25 act. Any action brought in court under this section shall be filed within ninety  
26 days from the date of the commission's notification letter to the individual but no  
27 later than two years after the alleged cause occurred or its reasonable discovery  
28 by the alleged injured party.

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

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

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

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

44       **(2) (a) In the case of a respondent who has more than five and**  
45 **fewer than one hundred one employees in each of twenty or more**  
46 **calendar weeks in the current or preceding calendar year, fifty**

47 thousand dollars;

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

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

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

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

64 6. Notwithstanding subsection 4 of this section, punitive damages  
65 shall not be awarded against the state of Missouri or any of its political  
66 subdivisions.

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

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

4 (1) "Because" or "because of", the discharge decision would not  
5 have been made but for the employee's status as a protected person. If  
6 the decision would have been made even if the employee was not a  
7 protected person, it was not taken because of that status;

8 (2) "Employer", an entity that has six or more employees for each  
9 working day in each of twenty or more calendar weeks in the current  
10 or preceding calendar year. "Employer" shall not include the state of  
11 Missouri or its political subdivisions, a corporation wholly owned by  
12 the state of Missouri, an individual employed by an employer, or  
13 corporations and associations owned and operated by religious or  
14 sectarian groups;

15 (3) "Proper authorities", a governmental or law enforcement  
16 agency, an officer of an employee's employer, the employee's supervisor  
17 employed by the employer, or the employee's human resources

18 representative employed by the employer;

19 (4) "Protected person", an employee of an employer who has  
20 reported to the proper authorities an unlawful act of his or her  
21 employer; an employee of an employer who reports to his or her  
22 employer serious misconduct of the employer that violates a clear  
23 mandate of public policy as articulated in a constitutional provision,  
24 statute, or regulation promulgated under statute; or an employee of an  
25 employer who has refused to carry out a directive issued by his or her  
26 employer that if completed would be a violation of the law. An  
27 employee of an employer is not a "protected person" if:

28 (a) The employee is a supervisory, managerial, or executive  
29 employee or an officer of his or her employer and the unlawful act or  
30 serious misconduct reported concerns matters upon which the  
31 employee is employed to report or provide professional opinion; or

32 (b) The proper authority or person to whom the employee makes  
33 his or her report is the person whom the employee claims to have  
34 committed the unlawful act or violation of a clear mandate of public  
35 policy.

36 3. This section is intended to codify the existing common law  
37 exceptions to the at-will employment doctrine and to limit their future  
38 expansion by the courts. This section, in addition to chapter 213 and  
39 chapter 287, shall provide the exclusive remedy for any and all  
40 unlawful employment practices articulated herein and hereby  
41 abrogates any common law causes of action to the contrary.

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

45 5. A protected person aggrieved by a violation of this section  
46 shall have a private right of action for actual damages for violations of  
47 this section but not for punitive damages. However, if a private right  
48 of action for damages exists under another statutory or regulatory  
49 scheme, whether under state or federal law, no private right of action  
50 shall exist under this statute.

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

53 7. A protected person aggrieved by a violation of this section  
54 shall have a private right of action that may be filed in a court of

55 **competent jurisdiction. The only remedies available in such an action**  
56 **shall be:**

57 **(1) Back pay;**

58 **(2) Reimbursement of medical bills directly related to a violation**  
59 **of this section; and**

60 **(3) If a protected person proves, by clear and convincing**  
61 **evidence, that the conduct of the employer was outrageous because of**  
62 **the employer's evil motive or reckless indifference to the rights of**  
63 **others, then, in addition to the amounts referenced in subdivisions (1)**  
64 **and (2) of this subsection, an additional double amount as liquidated**  
65 **damages may be awarded. In applying this subdivision, the provisions**  
66 **of section 510.263 shall be applied as though liquidated damages were**  
67 **punitive damages and as though the amounts referenced in**  
68 **subdivisions (1) and (2) of this subsection were compensatory damages.**

69 **8. The court, in addition to the damages set forth herein, may**  
70 **award the prevailing party reasonable attorney fees.**

**Section B. If any provision of this act or the application thereof**  
2 **to anyone or to any circumstance is held invalid, the remainder of**  
3 **those sections and the application of such provisions to others or other**  
4 **circumstances shall not be affected thereby.**

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