

SECOND REGULAR SESSION

# SENATE BILL NO. 988

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Read 1st time February 10, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4186S.01I

## AN ACT

To repeal section 213.010, RSMo, and to enact in lieu thereof one new section for the sole purpose of defining sex as gender determined by genotype under the Missouri human rights act.

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

Section A. Section 213.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 213.010, to read as follows:

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

(1) "Age", an age of forty or more years but less than seventy years, except that it shall not be an unlawful employment practice for an employer to require the compulsory retirement of any person who has attained the age of sixty-five and who, for the two-year period immediately before retirement, is employed in a bona fide executive or high policy-making position, if such person is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan, or any combination of such plans, of the employer, which equals, in the aggregate, at least forty-four thousand dollars;

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

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

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

(5) "Disability", a physical or mental impairment which substantially limits one or more of a person's major life activities, being regarded as having

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

19 such an impairment, or a record of having such an impairment, which with or  
20 without reasonable accommodation does not interfere with performing the job,  
21 utilizing the place of public accommodation, or occupying the dwelling in  
22 question. For purposes of this chapter, the term "disability" does not include  
23 current, illegal use of or addiction to a controlled substance as such term is  
24 defined by section 195.010; however, a person may be considered to have a  
25 disability if that person:

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

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

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

34 (6) "Discrimination", conduct proscribed herein, taken because of race,  
35 color, religion, national origin, ancestry, sex, or age as it relates to employment,  
36 disability, or familial status as it relates to housing;

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

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

48 (a) The United States;

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

50 (c) An individual employed by an employer;

51 (d) An Indian tribe;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

110 (17) "Rent" includes to lease, to sublease, to let and otherwise to grant for  
111 consideration the right to occupy premises not owned by the occupant;

112 (18) "Respondent", a person who is alleged to have engaged in a prohibited  
113 discriminatory practice in a complaint filed with the commission;

114 (19) **"Sex", gender, as determined by genotype, the presence of a**  
115 **'Y' chromosome indicating male gender and the absence of 'Y'**  
116 **chromosome indicating female gender;**

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

120 [(20)] (21) "Unlawful discriminatory practice", any act that is unlawful  
121 under this chapter.

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