

Journal of the Senate

FIRST REGULAR SESSION

FIFTY-FIRST DAY—MONDAY, APRIL 19, 2021

The Senate met pursuant to adjournment.

President Kehoe in the Chair.

The Reverend Carl Gauck offered the following prayer:

“O taste and see that the Lord is good; happy are those who take refuge in Him.” (Psalm 34:8)

O blessed God, You continue to provide us with what we need, food for our bodies, work for our minds and love for our hearts for which we are truly grateful. As we begin a new week, we are mindful of the continual violence that plagues our nation and death continue to be ever present in the news. Help us not to be discouraged nor be fearful but let us draw closer to You, our God. May our efforts bear fruit for what we can do together to produce what is most needed and helpful for which we are grateful for our collective efforts in what we can put together. So, help us Lord embrace every task with wisdom and care so that we waste not our time nor energy but give forth our best effort. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

A quorum being established, the Senate proceeded with its business.

The Journal for Thursday, April 15, 2021, was read and approved.

The following Senators were present during the day’s proceedings:

Present—Senators

Arthur	Bean	Beck	Bernskoetter	Brattin	Burlison	Cierpiot
Crawford	Eigel	Eslinger	Gannon	Hegeman	Hoskins	Hough
Koenig	Luetkemeyer	May	Moon	Mosley	O’Laughlin	Onder
Razer	Rehder	Riddle	Rizzo	Roberts	Rowden	Schatz
Schupp	Washington	White	Wieland	Williams—33		

Absent—Senators—None

Absent with leave—Senator Brown—1

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Bernskoetter offered Senate Resolution No. 275, regarding the Ninetieth Birthday of Carol T. Ellinger, which was adopted.

Senator Riddle offered Senate Resolution No. 276, regarding Brock Miller, Paris, which was adopted.

Senator Riddle offered Senate Resolution No. 277, regarding Chris Ebbesmeyer, Paris, which was adopted.

Senator Riddle offered Senate Resolution No. 278, regarding the One Hundredth Birthday of Irvan Schupmann, Troy, which was adopted.

Senator Riddle offered Senate Resolution No. 279, regarding Stacey King, Fulton, which was adopted.

Senator Crawford offered Senate Resolution No. 280, regarding Meredith Brookshire Tester, Sedalia, which was adopted.

Senator Rehder offered Senate Resolution No. 281, regarding Lily Camille Kintz, Piedmont, which was adopted.

Senator Luetkemeyer offered Senate Resolution No. 282, regarding Alyssa Marie Goolsby, Saint Joseph, which was adopted.

Senator Mosley offered Senate Resolution No. 283, regarding Stephanie Njeri, Florissant, which was adopted.

Senator Eslinger offered Senate Resolution No. 284, regarding Emma Elizabeth McDaris, Hartville, which was adopted.

Senator Williams offered Senate Resolution No. 285, regarding Mercy Joy Muiruri, Hazelwood, which was adopted.

Senator Onder offered Senate Resolution No. 286, regarding Mary K. Wright, Lake Saint Louis, which was adopted.

Senator Onder offered Senate Resolution No. 287, regarding Madison Wieberg, Wentzville, which was adopted.

Senator Williams offered Senate Resolution No. 288, regarding the death of Mildred Leona Rogers Anderson, Saint Louis, which was adopted.

Senator Schupp offered Senate Resolution No. 289, regarding Olivia Biernacki, Olivette, which was adopted.

Senator Schupp offered Senate Resolution No. 290, regarding Ava Eisenhower, Ballwin, which was adopted.

Senator Gannon offered Senate Resolution No. 291, regarding Barbara Jean Steel, Park Hills, which was adopted.

Senator Gannon offered Senate Resolution No. 292, regarding Leah M. Mills, Irondale, which was adopted.

Senators Roberts, May and Williams offered Senate Resolution No. 293, regarding the death of Halbert Sullivan, St. Charles, which was adopted.

Senator White offered Senate Resolution No. 294, regarding Elizabeth “Beth” Simmons, Carthage, which was adopted.

Senator White offered Senate Resolution No. 295, regarding Cayden Auch, which was adopted.

MESSAGES FROM THE HOUSE

The following messages were received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 1069**, entitled:

An Act to repeal sections 575.040, 575.050, 575.160, 575.270, 575.280, and 576.030, RSMo, and to enact in lieu thereof nine new sections relating to offenses committed against a body of the general assembly, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS for HB 320**, entitled:

An Act to repeal sections 166.400, 166.410, 166.415, 166.420, 166.425, 166.435, 166.440, 166.456, 166.502, 170.018, and 209.610, RSMo, and to enact in lieu thereof thirteen new sections relating to elementary and secondary education.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS for HB 137**, entitled:

An Act to repeal sections 160.400, 160.415, 163.024, and 167.151, RSMo, and to enact in lieu thereof four new sections relating to funding for schools, with an emergency clause.

Emergency Clause Defeated.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS for HB 21**, entitled:

An Act to appropriate money for the expenses, grants, refunds, and distributions of the Department of

Elementary and Secondary Education, Department of Mental Health, Department of Health and Senior Services, Department of Social Services, State Treasurer, and the Office of the State Public Defender and the several divisions and programs thereof, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2021, and ending June 30, 2022.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 570**, entitled:

An Act to repeal sections 300.155 and 304.281, RSMo, and to enact in lieu thereof two new sections relating to traffic control signals, with a penalty provision.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 507**, entitled:

An Act to repeal sections 313.800, 313.805, and 313.812, RSMo, and to enact in lieu thereof three new sections relating to the definition of physical location of excursion gambling boat.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 66**, entitled:

An Act to repeal section 137.115, RSMo, and to enact in lieu thereof one new section relating to aircraft taxation.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 402**, entitled:

An Act to amend chapter 313, RSMo, by adding thereto one new section relating to prohibiting the publishing of the names of lottery winners, with a penalty provision.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 475**, entitled:

An Act to repeal sections 324.200 and 324.206, RSMo, and to enact in lieu thereof two new sections relating to dietitians.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 589**, entitled:

An Act to repeal sections 566.111, 578.005, 578.009, 578.012, 578.018, and 578.030, RSMo, and to enact in lieu thereof eight new sections relating to public health, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 825**, entitled:

An Act to amend chapters 304 and 570, RSMo, by adding thereto two new sections relating to package delivery, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 177**, entitled:

An Act to repeal sections 210.152 and 610.021, RSMo, and to enact in lieu thereof four new sections relating to public access to records.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 27**, entitled:

An Act to repeal sections 610.020 and 610.027, RSMo, and to enact in lieu thereof three new sections

relating to the sunshine law, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

SENATE BILLS FOR PERFECTION

Senator Riddle moved that **SB 254**, with **SCS**, be called from the Informal Calendar and taken up for perfection, which motion prevailed.

SCS for **SB 254**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 254

An Act to amend chapter 261, RSMo, by adding thereto one new section relating to the inspection of grounds or facilities used for certain agricultural purposes.

Was taken up.

Senator Riddle moved that **SCS** for **SB 254** be adopted.

Senator Riddle offered **SS** for **SCS** for **SB 254**, entitled:

SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 254

An Act to amend chapter 261, RSMo, by adding thereto one new section relating to the inspection of grounds or facilities used for certain agricultural purposes.

Senator Riddle moved that **SS** for **SCS** for **SB 254** be adopted.

Senator Riddle offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 254, Page 2, Section 261.099, Lines 25-27, by striking all of said lines and inserting in lieu thereof the following:

“3. (1) This section shall not apply to inspections performed in any municipality located in three or more counties, with one being a charter county, charter counties, or to any city not within a county.”.

Senator Riddle moved that the above amendment be adopted, which motion prevailed.

Senator Roberts offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Substitute for Senate Committee Substitute for Senate Bill No. 254, Page 2, Section 261.099, Lines 33-50, by striking all of said lines from the bill.

Senator Roberts moved that the above amendment be adopted.

At the request of Senator Riddle, **SB 254**, with **SCS**, **SS** for **SCS** and **SA 2** (pending), was placed on the

Informal Calendar.

Senator Onder moved that **SB 94** be taken up for perfection, which motion prevailed.

Senator Onder offered **SS** for **SB 94**, entitled:

SENATE SUBSTITUTE FOR
SENATE BILL NO. 94

An Act to repeal section 431.202, RSMo, and to enact in lieu thereof three new sections relating to the employer-employee relationship.

Senator Onder moved that **SS** for **SB 94** be adopted.

Senator Razer offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Bill No. 94, Page 1, Section A, Line 3, by inserting after all of said line the following:

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

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

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

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

(6) “Discrimination”, conduct proscribed herein, taken because of race, color, religion, national origin, ancestry, sex, [or] **sexual orientation as it relates to employment, gender identity as it relates to employment**, age as it relates to employment, disability, or familial status as it relates to housing. **Discrimination includes any unfair treatment based on a person’s presumed or assumed race, color, religion, national origin, ancestry, sex, sexual orientation as it relates to employment, gender identity as it relates to employment, age as it relates to employment, disability, or familial status as it relates to housing, regardless of whether the presumption or assumption as to such characteristic is correct;**

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

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

(a) The United States;

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

(c) An individual employed by an employer;

(d) An Indian tribe;

(e) Any department or agency of the District of Columbia subject by statute to procedures of the competitive service, as defined in 5 U.S.C. Section [2101] **2102**; or

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

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

(10) “Executive director”, the executive director of the Missouri commission on human rights;

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

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

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

(12) **“Gender identity”, the gender-related identity, appearance, mannerisms, or other gender-related characteristics of an individual, with or without regard to the individual’s assigned sex at**

birth;

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

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

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

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

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

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

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

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

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

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

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

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

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

(20) “Sexual orientation”, one’s actual or perceived emotional or physical attraction to, or romantic or physical relationships with, members of the same gender, members of a different gender, or members of any gender; or the lack of any emotional or physical attraction to, or romantic or physical relationships with, anyone. The term “sexual orientation” includes a history of such attraction or relationship or a history of no such attraction or relationship;

[(19)] **(21)** “The motivating factor”, the employee’s protected classification actually played a role in the adverse action or decision and had a determinative influence on the adverse decision or action;

[(20)] **(22)** “Unlawful discriminatory practice”, any act that is unlawful under this chapter.

213.030. 1. The powers and duties of the commission shall be:

(1) To seek to eliminate and prevent discrimination because of race, color, religion, national origin, ancestry, sex, **sexual orientation as it relates to employment, gender identity as it relates to employment**, age as it relates to employment, disability, or familial status as it relates to housing and to take other actions against discrimination because of race, color, religion, national origin, ancestry, sex, **sexual orientation as it relates to employment, gender identity as it relates to employment**, age, disability, or familial status as provided by law; and the commission is hereby given general jurisdiction and power for such purposes;

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

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

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

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

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

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

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

(9) To issue publications and the results of studies and research which will tend to promote goodwill and minimize or eliminate discrimination in housing, employment or in places of public accommodation

because of race, color, religion, national origin, ancestry, sex, **sexual orientation as it relates to employment, gender identity as it relates to employment**, age as it relates to employment, disability, or familial status as it relates to housing;

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

(11) To adopt an official seal;

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

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

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

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of [section 536.024] **chapter 536**.

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

(1) For an employer, because of the race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age or disability of any individual:

(a) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to [his] **such individual's** compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age or disability;

(b) To limit, segregate, or classify [his] employees or [his] employment applicants in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect [his] **such individual's** status as an employee, because of such individual's race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age or disability;

(2) For a labor organization to exclude or to expel from its membership any individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer because of race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age or disability of any individual; or to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect [his] **such individual's** status as an employee or as an applicant for employment, because of such individual's race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age or disability; or for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of [his] **such individual's** race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age or disability in admission to, or employment in, any program

established to provide apprenticeship or other training;

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

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

3. Nothing contained in this chapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to any individual or to any group because of the race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age or disability of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age or disability employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age or disability in any community, state, section, or other area, or in the available workforce in any community, state, section, or other area.

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

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

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

(2) To retaliate or discriminate in any manner against any other person because such person has opposed any practice prohibited by this chapter or because such person has filed a complaint, testified, assisted, or

participated in any manner in any investigation, proceeding or hearing conducted pursuant to this chapter;

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

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

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

213.101. 1. The provisions of this chapter shall be construed to accomplish the purposes thereof and any law inconsistent with any provision of this chapter shall not apply. Nothing contained in this chapter shall be deemed to repeal any of the provisions of any law of this state relating to discrimination because of race, color, religion, national origin, sex, **sexual orientation as it relates to employment, gender identity as it relates to employment**, ancestry, age, disability, or familial status.

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

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

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

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

6. The general assembly hereby abrogates all Missouri-approved jury instructions specifically addressing civil actions brought under this chapter which were in effect prior to August 28, 2017."; and

Further amend the title and enacting clause accordingly.

Senator Razer moved that the above amendment be adopted.

Senator Hegeman offered SA 1 to SA 1:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 1

Amend Senate Amendment No. 1 to Senate Substitute for Senate Bill No. 94, Page 14, Section 213.101,

Line 438, by inserting after all of said line the following:

“213.111. 1. If, after one hundred eighty days from the filing of a complaint alleging an unlawful discriminatory practice pursuant to section 213.055, 213.065 or 213.070 to the extent that the alleged violation of section 213.070 relates to or involves a violation of section 213.055 or 213.065, or subdivision (3) of subsection 1 of section 213.070 as it relates to employment and public accommodations, the commission has not completed its administrative processing and the person aggrieved so requests in writing, the commission shall issue to the person claiming to be aggrieved a letter indicating his or her right to bring a civil action within ninety days of such notice against the respondent named in the complaint. If, after the filing of a complaint pursuant to sections 213.040, 213.045, 213.050 and 213.070, to the extent that the alleged violation of section 213.070 relates to or involves a violation of sections 213.040, 213.045 and 213.050, or subdivision (3) of subsection 1 of section 213.070 as it relates to housing, and the person aggrieved so requests in writing, the commission shall issue to the person claiming to be aggrieved a letter indicating his or her right to bring a civil action within ninety days of such notice against the respondent named in the complaint. The commission may not at any other time or for any other reason issue a letter indicating a complainant's right to bring a civil action. Such an action may be brought in any circuit court in any county in which the unlawful discriminatory practice is alleged to have been committed, either before a circuit or associate circuit judge. Upon issuance of this notice, the commission shall terminate all proceedings relating to the complaint. No person may file or reinstate a complaint with the commission after the issuance of a notice under this section relating to the same practice or act. Any action brought in court under this section shall be filed within ninety days from the date of the commission's notification letter to the individual but no later than two years after the alleged cause occurred or its reasonable discovery by the alleged injured party.

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

(2) Notwithstanding the provisions of subdivision (1) of this subsection to the contrary, in addition to any other relief awarded by the court pursuant to subdivision (1) of this subsection, the court shall award court costs and reasonable attorney fees to the prevailing party, other than a state agency or commission or a local commission, in any action brought pursuant to this chapter because of sexual orientation or gender identity.

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

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

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

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

(b) In the case of a respondent who has more than one 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.”.

Senator Hegeman moved that the above amendment be adopted.

At the request of Senator Onder, **SB 94**, with **SS**, **SA 1** and **SA 1** to **SA 1** (pending), was placed on the Informal Calendar.

MESSAGES FROM THE HOUSE

The following messages were received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 1030**, entitled:

An Act to amend chapter 105, RSMo, by adding thereto one new section relating to disclosure of personal information to public agencies, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 261**, entitled:

An Act to repeal section 393.135, RSMo, and to enact in lieu thereof two new sections relating to the Missouri nuclear clean power act.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 313**, entitled:

An Act to amend chapter 577, RSMo, by adding thereto one new section relating to victim impact programs for driving while intoxicated offenders.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 689**, entitled:

An Act to amend chapter 135, RSMo, by adding thereto one new section relating to limited tax credits for certain medical education-related preceptorships.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 29**, entitled:

An Act to repeal section 37.850, RSMo, and to enact in lieu thereof two new sections relating to government accountability, with a penalty provision.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 553**, entitled:

An Act to repeal sections 27.010, 285.040, and 285.575, RSMo, and to enact in lieu thereof five new sections relating to residency requirements.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 556**, entitled:

An Act to repeal section 116.220, RSMo, and to enact in lieu thereof one new section relating to labeling of ballot measures.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 317**, entitled:

An Act to repeal section 320.336, RSMo, and to enact in lieu thereof one new section relating to reemployment rights of Missouri Task Force One members.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 307**, entitled:

An Act to to repeal sections 300.010, 300.155, 301.010, 302.010, 303.020, 304.001, 304.022, 304.240, 304.281, 307.025, 307.175, 307.180, 307.188, 307.193, 365.020, 407.560, 407.815, 407.1025, and 578.120, RSMo, and to enact in lieu thereof twenty new sections relating to motor vehicles, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 944**, entitled:

An Act to repeal sections 70.441, 571.030, 571.101, 571.107, 577.703, and 577.712, RSMo, and to enact in lieu thereof eight new sections relating to firearms, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 162**, entitled:

An Act to repeal sections 339.150, 347.143, 347.179, 347.183, 358.460, and 358.470, RSMo, and to enact in lieu thereof seven new sections relating to business entities registered with the secretary of state.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HBs 848, 617 and 822**, entitled:

An Act to amend chapter 1, RSMo, by adding thereto one new section relating to daylight saving time.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 500**, entitled:

An Act to amend chapter 324, RSMo, by adding thereto eleven new sections relating to statewide mechanical contractor licenses, with penalty provisions.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HBs 165** and **196**, entitled:

An Act to repeal sections 49.310, 137.275, and 476.083, RSMo, and to enact in lieu thereof six new sections relating to counties.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 1070**, entitled:

An Act to repeal sections 316.250, 537.346, 537.347, and 537.348, RSMo, and to enact in lieu thereof five new sections relating to landowner liability.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 649**, entitled:

An Act to repeal section 288.060 as enacted by house bill no. 150, ninety-eighth general assembly, first regular session, and section 288.060 as enacted by house bill no. 163, ninety-sixth general assembly, first regular session, and to enact in lieu thereof three new sections relating to employment security, with delayed effective dates.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

RESOLUTIONS

Senator Koenig offered Senate Resolution No. 296, regarding Sabrina Bagstrom, Kirkwood, which was adopted.

Senator Koenig offered Senate Resolution No. 297, regarding Zoe Knight, Kirkwood, which was adopted.

Senator Koenig offered Senate Resolution No. 298, regarding Alejandra Indelicato, Wildwood, which was adopted.

INTRODUCTION OF GUESTS

Senator Riddle introduced to the Senate, Steve Hobbs, Mexico; Tracy Graham, Mexico; Judge Gary

Moore, Kentucky; Susette Taylor, Rockport; Phil Rogers, Savannah; and Batina Dodge, Memphis.

Senator Mosley introduced to the Senate, Stephanie Njeri, Florissant.

Senator Bernskoetter introduced to the Senate, his wife, Jeanette Bernskoetter, his daughter, Krista Castrop; his son, Kyle Bernskoetter; his grandkids, Trenton, Julia, John, Grace, Cody, Alma, Chase; and his daughter-in-laws, Tina and Robin Bernskoetter.

Senator Bernskoetter introduced to the Senate, Kristi Newman.

On motion of Senator Rowden, the Senate adjourned under the rules.

SENATE CALENDAR

FIFTY-SECOND DAY—TUESDAY, APRIL 20, 2021

FORMAL CALENDAR

HOUSE BILLS ON SECOND READING

HB 1069-Evans	HB 313-Bromley
HCS for HB 320	HCS for HB 689
HCS for HB 137	HCS for HB 29
HCS for HB 21	HCS for HB 553
HB 570-Basye	HCS for HB 556
HB 507-Rone	HB 317-Toalson Reisch
HCS for HB 66	HCS for HB 307
HCS for HB 402	HCS for HB 944
HCS for HB 475	HCS for HB 162
HCS for HB 589	HCS for HBs 848, 617 & 822
HCS for HB 825	HB 500-Schroer
HB 177-Ellebracht	HCS for HBs 165 & 196
HCS for HB 27	HB 1070-Hudson
HCS for HB 1030	HCS for HB 649
HB 261-Black (37)	

SENATE BILLS FOR PERFECTION

SB 265-Eslinger

HOUSE BILLS ON THIRD READING

- | | |
|--|--|
| 1. HCS for HB 349 (Koenig) | 7. HCS #2 for HB 75 (Onder) |
| 2. HCS for HJR 20, 2, 9 & 27 (Onder) | 8. HCS for HB 362, with SCS (Wieland) |
| 3. HB 333-Simmons (Onder) | 9. HB 657-Trent, with SCS (Wieland) |
| 4. HCS for HB 271, with SCS (Crawford) | 10. HCS for HBs 1083, 1085, 1050, 1035,
1036, 873 & 1097 (Bernskoetter) |
| 5. HB 850-Wiemann (Onder) | 11. HCS for HB 59, with SCS (Luetkemeyer) |
| 6. HB 476-Grier (Bernskoetter) | |

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

- | | |
|---|--|
| SB 1-Hegeman | SB 100-Koenig, with SCS |
| SB 3-Hegeman | SB 105-Crawford, with SCS |
| SB 7-Riddle, with SS & SA 1 (pending) | SB 114-Bernskoetter |
| SB 10-Schatz, with SS (pending) | SB 123-Hough, with SS & SA 2 (pending) |
| SB 11-Schatz, with SS & SA 1 (pending) | SB 131-Luetkemeyer |
| SB 24-Eigel, with SS#2 (pending) | SB 132-O'Laughlin, with SCS |
| SB 30-Cierpiot | SB 134-O'Laughlin and Cierpiot |
| SB 36-Bernskoetter, with SS (pending) | SB 137-Brattin |
| SB 39-Burlison and Brattin | SB 138-Brattin, with SCS |
| SB 45-Hough | SB 139-Bean |
| SB 47-Hough | SB 149-Onder |
| SB 54-O'Laughlin, with SCS | SB 163-Cierpiot |
| SBs 55, 23 & 25-O'Laughlin, et al, with
SCS & SS for SCS (pending) | SB 168-Burlison |
| SB 62-Williams, with SCS | SB 169-Burlison |
| SB 65-Rehder, with SCS | SB 174-Hough, with SCS |
| SB 74-Bean, with SCS | SB 179-Luetkemeyer |
| SB 78-Beck | SB 182-O'Laughlin |
| SB 92-Riddle, with SCS | SB 183-O'Laughlin |
| SB 94-Onder with SS, SA1 to SS & SA 1 to
SA 1 (pending) | SB 184-Bean, with SCS |
| SB 95-Onder, with SCS | SB 195-Koenig |
| SB 96-Hoskins, with SCS | SB 198-Eigel, with SCS |
| SB 98-Hoskins, with SCS | SB 202-Cierpiot, with SCS |
| | SB 204-Cierpiot, with SCS |
| | SB 206-Arthur |

SB 218-Luetkemeyer, with SCS	SB 372-Riddle
SB 227-Arthur	SB 375-Eigel
SB 236-Hough, with SCS	SB 383-Moon
SB 244-Onder	SB 390-Luetkemeyer
SB 253-Hegeman	SB 399-Eigel
SB 254-Riddle, with SCS, SS for SCS & SA 2 (pending)	SB 400-Onder, with SCS
SB 255-Riddle	SB 404-Riddle
SB 272-Mosley, with SCS	SB 408-Wieland
SB 282-Hegeman, with SCS	SB 434-Washington
SB 287-Crawford	SB 437-Hoskins
SB 291-Brown	SB 459-Brattin, with SCS
SB 295-Crawford, with SCS	SB 465-Hoskins, with SCS
SB 301-Bernskoetter, with SCS & SA 1 (pending)	SB 466-Hoskins, with SCS
SB 306-Bernskoetter, with SCS	SB 473-Brown
SB 313-Eigel	SB 481-Hough, et al
SB 316-Hough	SB 506-Bean
SB 317-May	SB 529-Cierpiot
SB 318-May, with SCS	SB 547-Hoskins, with SCS
SB 323-May	SB 561-Gannon
SB 334-Bernskoetter	SB 562-Schupp
SB 343-Brown	SB 577-Riddle, with SCS
SB 354-Hoskins, with SCS, SS for SCS, SA 1 & point of order (pending)	SB 582-Eslinger
SB 360-Wieland, with SCS	SB 604-Koenig, with SCS
SB 361-Wieland	SJR 2-Onder, with SCS
SB 369-White	SJR 4-Koenig
SB 370-Brown	SJR 7-Eigel
	SJR 12-Luetkemeyer
	SJR 16-Eslinger

CONSENT CALENDAR

House Bills

Reported 4/15

HB 100-Sharp (36) (Washington)

HB 202-McGirl (Gannon)

HB 404-Aldridge
HB 449-Tate (Gannon)
HB 522-Windham (Williams)
HB 640-Morse (Bean)
HB 1053-Patterson (Onder)

HB 296-Wallingford (White)
HB 298-Wallingford (White)
HB 687-Riley (Hough)
HB 262-Black (137) (Eslinger)

RESOLUTIONS

Reported from Committee

SCR 6-Moon
SCR 15-Bernskoetter

SCR 16-Schatz

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