

SENATE BILL NO. 711

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR RAZER.

3337S.011

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, and 213.101, RSMo, and to enact in lieu thereof nine new sections relating to discrimination based on sexual orientation or gender identity.

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

Section A. Sections 213.010, 213.030, 213.040, 213.045,
2 213.050, 213.055, 213.065, 213.070, and 213.101, RSMo, are
3 repealed and nine new sections enacted in lieu thereof, to be
4 known as sections 213.010, 213.030, 213.040, 213.045, 213.050,
5 213.055, 213.065, 213.070, and 213.101, to read as follows:

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

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

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

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

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

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

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

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

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

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

46 (6) "Discrimination", conduct proscribed herein, taken
47 because of race, color, religion, national origin, ancestry,
48 sex, [or] **sexual orientation, gender identity**, age, as it
49 relates to employment, disability, or familial status as it
50 relates to housing. **Discrimination includes any unfair**
51 **treatment based on a person's presumed or assumed race,**
52 **color, religion, national origin, ancestry, sex, sexual**
53 **orientation, gender identity, age, as it relates to**
54 **employment, disability, or familial status as it relates to**
55 **housing, regardless of whether the presumption or assumption**
56 **as to such characteristic is correct;**

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

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

71 "Employer" shall not include:

72 (a) The United States;

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

75 (c) An individual employed by an employer;

76 (d) An Indian tribe;

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

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

83 (9) "Employment agency" includes any person or agency,
84 public or private, regularly undertaking with or without
85 compensation to procure employees for an employer or to
86 procure for employees opportunities to work for an employer;

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

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

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

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

101 (12) **"Gender identity", the gender-related identity,**
102 **appearance, mannerisms, or other gender-related**
103 **characteristics of an individual, with or without regard to**
104 **the individual's assigned sex at birth;**

105 (13) "Human rights fund", a fund established to
106 receive civil penalties as required by federal regulations
107 and as set forth by subdivision (2) of subsection 11 of
108 section 213.075, and which will be disbursed to offset

109 additional expenses related to compliance with the
110 Department of Housing and Urban Development regulations;

111 [(13)] (14) "Labor organization" includes any
112 organization which exists for the purpose, in whole or in
113 part, of collective bargaining or of dealing with employers
114 concerning grievances, terms or conditions of employment, or
115 for other mutual aid or protection in relation to employment;

116 [(14)] (15) "Local commissions", any commission or
117 agency established prior to August 13, 1986, by an ordinance
118 or order adopted by the governing body of any city,
119 constitutional charter city, town, village, or county;

120 [(15)] (16) "Person" includes one or more individuals,
121 corporations, partnerships, associations, organizations,
122 labor organizations, legal representatives, mutual
123 companies, joint stock companies, trusts, trustees, trustees
124 in bankruptcy, receivers, fiduciaries, or other organized
125 groups of persons;

126 [(16)] (17) "Places of public accommodation", all
127 places or businesses offering or holding out to the general
128 public, goods, services, privileges, facilities, advantages
129 or accommodations for the peace, comfort, health, welfare
130 and safety of the general public or such public places
131 providing food, shelter, recreation and amusement,
132 including, but not limited to:

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

139 (b) Any restaurant, cafeteria, lunchroom, lunch
140 counter, soda fountain, or other facility principally

141 engaged in selling food for consumption on the premises,
142 including, but not limited to, any such facility located on
143 the premises of any retail establishment;

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

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

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

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

160 [(17)] (18) "Rent" includes to lease, to sublease, to
161 let and otherwise to grant for consideration the right to
162 occupy premises not owned by the occupant;

163 [(18)] (19) "Respondent", a person who is alleged to
164 have engaged in a prohibited discriminatory practice in a
165 complaint filed with the commission;

166 (20) "Sexual orientation", one's actual or perceived
167 emotional or physical attraction to, or romantic or physical
168 relationships with, members of the same gender, members of a
169 different gender, or members of any gender; or the lack of
170 any emotional or physical attraction to, or romantic or
171 physical relationships with, anyone. The term "sexual
172 orientation" includes a history of such attraction or

173 **relationship or a history of no such attraction or**
174 **relationship;**

175 [(19)] (21) "The motivating factor", the employee's
176 protected classification actually played a role in the
177 adverse action or decision and had a determinative influence
178 on the adverse decision or action;

179 [(20)] (22) "Unlawful discriminatory practice", any
180 act that is unlawful under this chapter.

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

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

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

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

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

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

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

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

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

47 (9) To issue publications and the results of studies
48 and research which will tend to promote goodwill and
49 minimize or eliminate discrimination in housing, employment
50 or in places of public accommodation because of race, color,
51 religion, national origin, ancestry, sex, **sexual**
52 **orientation, gender identity**, age, as it relates to
53 employment, disability, or familial status as it relates to
54 housing;

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

58 (11) To adopt an official seal;

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

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

70 (14) To establish a human rights fund as defined in
71 section 213.010, for the purposes of administering sections
72 213.040, 213.045, 213.050, 213.070, 213.075, and 213.076.

73 2. No rule or portion of a rule promulgated under the
74 authority of this chapter shall become effective unless it
75 has been promulgated pursuant to the provisions of [section
76 536.024] **chapter 536**.

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

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

8 (2) To discriminate against any person in the terms,
9 conditions, or privileges of sale or rental of a dwelling,
10 or in the provision of services or facilities in connection

11 therewith, because of race, color, religion, national
12 origin, ancestry, sex, **sexual orientation, gender identity,**
13 disability, or familial status;

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

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

27 (5) To induce or attempt to induce any person to sell
28 or rent any dwelling by representations regarding the entry
29 or prospective entry into the neighborhood of a person or
30 persons because of a particular race, color, religion,
31 national origin, ancestry, sex, **sexual orientation, gender**
32 **identity,** disability, or familial status;

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

36 (a) That buyer or renter;

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

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

41 (7) To discriminate against any person in the terms,
42 conditions, or privileges of sale or rental of a dwelling,

43 or in the provision of services or facilities in connection
44 with such dwelling, because of a disability of:

45 (a) That person;

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

49 (c) Any person associated with that person.

50 2. For purposes of this section and sections 213.045
51 and 213.050, discrimination includes:

52 (1) A refusal to permit, at the expense of the person
53 with the disability, reasonable modifications of existing
54 premises occupied or to be occupied by such person if such
55 modifications may be necessary to afford such person full
56 enjoyment of the premises, except that, in the case of a
57 rental, the landlord may, where it is reasonable to do so,
58 condition permission for a modification on the renter's
59 agreeing to restore the interior of the premises to the
60 condition that existed before the modification, reasonable
61 wear and tear excepted;

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

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

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

73 (b) All the doors designed to allow passage into and
74 within all premises within such dwellings are sufficiently

75 wide to allow passage by persons with a disability in
76 wheelchairs; and

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

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

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

82 c. Reinforcements in bathroom walls to allow later
83 installation of grab bars; and

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

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

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

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

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

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

104 (1) A unit of general local government may review and
105 approve newly constructed covered multifamily dwellings for
106 the purpose of making determinations as to whether the

107 design and construction requirements of subdivision (3) of
108 subsection 2 of this section are met;

109 (2) The commission shall encourage, but may not
110 require, the units of local government to include in their
111 existing procedures for the review and approval of newly
112 constructed covered multifamily dwellings, determinations as
113 to whether the design and construction of such dwellings are
114 consistent with subdivision (3) of subsection 2 of this
115 section, and shall provide technical assistance to units of
116 local government and other persons to implement the
117 requirements of subdivision (3) of subsection 2 of this
118 section;

119 (3) Nothing in this chapter shall be construed to
120 require the commission to review or approve the plans,
121 designs or construction of all covered dwellings, to
122 determine whether the design and construction of such
123 dwellings are consistent with the requirements of
124 subdivision (3) of subsection 2 of this section.

125 6. Nothing in this chapter shall be construed to
126 invalidate or limit any law of the state or political
127 subdivision of the state, or other jurisdiction in which
128 this chapter shall be effective, that requires dwellings to
129 be designed and constructed in a manner that affords persons
130 with disabilities greater access than is required by this
131 chapter.

132 7. Nothing in this section and sections 213.045 and
133 213.050 requires that a dwelling be made available to an
134 individual whose tenancy would constitute a direct threat to
135 the health or safety of other individuals or whose tenancy
136 would result in substantial physical damage to the property
137 of others.

138 8. Nothing in this section and sections 213.045 and
139 213.050 limits the applicability of any reasonable local or
140 state restriction regarding the maximum number of occupants
141 permitted to occupy a dwelling, nor does any provision in
142 this section and sections 213.045 and 213.050 regarding
143 familial status apply with respect to housing for older
144 persons.

145 9. As used in this section and sections 213.045 and
146 213.050, "housing for older persons" means housing:

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

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

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

158 (a) The existence of significant facilities and
159 services specifically designed to meet the physical or
160 social needs of older persons, or if the provision of such
161 facilities and services is not practicable, that such
162 housing is necessary to provide important housing
163 opportunities for older persons; and

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

167 (c) The publication of, and adherence to, policies and
168 procedures which demonstrate an intent by the owner or

169 manager to provide housing for persons fifty-five years of
170 age or older.

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

173 (1) Persons residing in such housing as of August 28,
174 1992, who do not meet the age requirements of subdivision

175 (2) or (3) of subsection 9 of this section, provided that
176 new occupants of such housing meet the age requirements of
177 subdivision (2) or (3) of subsection 9 of this section; or

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

182 11. Nothing in this section or section 213.045 or
183 213.050 shall prohibit conduct against a person because such
184 person has been convicted by any court of competent
185 jurisdiction of the illegal manufacture or distribution of a
186 controlled substance, as defined by section 195.010.

187 12. Nothing in this chapter shall prohibit a religious
188 organization, association, or society, or any nonprofit
189 institution or organization operated, supervised or
190 controlled by or in conjunction with a religious
191 organization, association, or society, from limiting the
192 sale, rental or occupancy of dwellings which it owns or
193 operates for other than a commercial purpose to persons of
194 the same religion, or from giving preference to such
195 persons, unless membership in such religion is restricted on
196 account of race, color, or national origin. Nor shall
197 anything in this chapter prohibit a private club not in fact
198 open to the public, which as an incident to its primary
199 purpose or purposes provides lodging which it owns or
200 operates for other than a commercial purpose, from limiting

201 the rental or occupancy of such lodging to its members or
202 from giving preference to its members.

203 13. Nothing in this chapter, other than the
204 prohibitions against discriminatory advertising in
205 subdivision (3) of subsection 1 of this section, shall apply
206 to:

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

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

213 (b) The house is sold or rented without the use of a
214 real estate broker, agent or salesperson or the facilities
215 of any person in the business of selling or renting
216 dwellings and without publication, posting or mailing of any
217 advertisement. If the owner selling the house does not
218 reside in it at the time of the sale or was not the most
219 recent resident of the house prior to such sale, the
220 exemption in this section applies to only one such sale in
221 any twenty-four-month period; or

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

213.045. It shall be unlawful for any bank, building
2 and loan association, insurance company or other
3 corporation, association, firm or enterprise whose business
4 consists in whole or in part in the making of commercial
5 real estate loans, to deny a loan or other financial
6 assistance because of race, color, religion, national

7 origin, ancestry, sex, **sexual orientation, gender identity,**
8 disability, or familial status to a person applying therefor
9 for the purpose of purchasing, construction, improving,
10 repairing, or maintaining a dwelling, or to discriminate
11 against [him] **such person** in fixing of the amount, interest
12 rate, duration or other terms or conditions of such loan or
13 other financial assistance, because of the race, color,
14 religion, national origin, ancestry, sex, **sexual**
15 **orientation, gender identity,** disability, or familial status
16 of such person or of any person associated with [him] **such**
17 **person** in connection with such loan or other financial
18 assistance, or of the present or prospective owners,
19 lessees, tenants, or occupants, of the dwellings in relation
20 to which such loan or other financial assistance is to be
21 made or given.

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

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

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

6 (a) To fail or refuse to hire or to discharge any
7 individual, or otherwise to discriminate against any
8 individual with respect to [his] **such individual's**
9 compensation, terms, conditions, or privileges of
10 employment, because of such individual's race, color,

11 religion, national origin, sex, **sexual orientation, gender**
12 **identity**, ancestry, age, or disability;

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

21 (2) For a labor organization to exclude or to expel
22 from its membership any individual or to discriminate in any
23 way against any of its members or against any employer or
24 any individual employed by an employer because of race,
25 color, religion, national origin, sex, **sexual orientation,**
26 **gender identity**, ancestry, age, or disability of any
27 individual; or to limit, segregate, or classify its
28 membership, or to classify or fail or refuse to refer for
29 employment any individual, in any way which would deprive or
30 tend to deprive any individual of employment opportunities,
31 or would limit such employment opportunities or otherwise
32 adversely affect [his] **such individual's** status as an
33 employee or as an applicant for employment, because of such
34 individual's race, color, religion, national origin, sex,
35 **sexual orientation, gender identity**, ancestry, age, or
36 disability; or for any employer, labor organization, or
37 joint labor-management committee controlling apprenticeship
38 or other training or retraining, including on-the-job
39 training programs to discriminate against any individual
40 because of [his] **such individual's** race, color, religion,
41 national origin, sex, **sexual orientation, gender identity,**
42 ancestry, age, or disability in admission to, or employment

43 in, any program established to provide apprenticeship or
44 other training;

45 (3) For any employer or employment agency to print or
46 circulate or cause to be printed or circulated any
47 statement, advertisement or publication, or to use any form
48 of application for employment or to make any inquiry in
49 connection with prospective employment, which expresses,
50 directly or indirectly, any limitation, specification, or
51 discrimination, because of race, color, religion, national
52 origin, sex, **sexual orientation, gender identity**, ancestry,
53 age, or disability unless based upon a bona fide
54 occupational qualification or for an employment agency to
55 fail or refuse to refer for employment, or otherwise to
56 discriminate against, any individual because of his or her
57 race, color, religion, national origin, sex, **sexual**
58 **orientation, gender identity**, ancestry, age, as it relates
59 to employment, or disability, or to classify or refer for
60 employment any individual because of [his or her] **such**
61 **individual's** race, color, religion, national origin, sex,
62 **sexual orientation, gender identity**, ancestry, age, or
63 disability.

64 2. Notwithstanding any other provision of this
65 chapter, it shall not be an unlawful employment practice for
66 an employer to apply different standards of compensation, or
67 different terms, conditions or privileges of employment
68 pursuant to a bona fide seniority or merit system, or a
69 system which measures earnings by quantity or quality of
70 production or to employees who work in different locations,
71 provided that such differences or such systems are not the
72 result of an intention or a design to discriminate, and are
73 not used to discriminate, because of race, color, religion,
74 sex, **sexual orientation, gender identity**, national origin,

75 ancestry, age, or disability, nor shall it be an unlawful
76 employment practice for an employer to give and to act upon
77 the results of any professionally developed ability test,
78 provided that such test, its administration, or action upon
79 the results thereof, is not designed, intended or used to
80 discriminate because of race, color, religion, national
81 origin, sex, **sexual orientation, gender identity**, ancestry,
82 age, or disability.

83 3. Nothing contained in this chapter shall be
84 interpreted to require any employer, employment agency,
85 labor organization, or joint labor-management committee
86 subject to this chapter to grant preferential treatment to
87 any individual or to any group because of the race, color,
88 religion, national origin, sex, **sexual orientation, gender**
89 **identity**, ancestry, age, or disability of such individual or
90 group on account of an imbalance which may exist with
91 respect to the total number or percentage of persons of any
92 race, color, religion, national origin, sex, **sexual**
93 **orientation, gender identity**, ancestry, age, or disability
94 employed by any employer, referred or classified for
95 employment by any employment agency or labor organization,
96 admitted to membership or classified by any labor
97 organization, or admitted to or employed in any
98 apprenticeship or other training program, in comparison with
99 the total number or percentage of persons of such race,
100 color, religion, national origin, sex, **sexual orientation,**
101 **gender identity**, ancestry, age, or disability in any
102 community, state, section, or other area, or in the
103 available workforce in any community, state, section, or
104 other area.

105 4. Notwithstanding any other provision of this
106 chapter, it shall not be an unlawful employment practice for

107 the state or any political subdivision of the state to
108 comply with the provisions of 29 U.S.C. Section 623 relating
109 to employment as firefighters or law enforcement officers.

213.065. 1. All persons within the jurisdiction of
2 the state of Missouri are free and equal and shall be
3 entitled to the full and equal use and enjoyment within this
4 state of any place of public accommodation, as hereinafter
5 defined, without discrimination or segregation because of
6 race, color, religion, national origin, sex, **sexual**
7 **orientation, gender identity**, ancestry, or disability.

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

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

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

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

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

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

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

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

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

9 2. The general assembly hereby expressly abrogates the
10 case of *McBryde v. Ritenour School District*, 207 S.W.3d 162
11 (Mo.App. E.D. 2006), and its progeny as it relates to the

12 necessity and appropriateness of the issuance of a business
13 judgment instruction. In all civil actions brought under
14 this chapter, a jury shall be given an instruction
15 expressing the business judgment rule.

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

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

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

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

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