

FIRST REGULAR SESSION

# SENATE BILL NO. 732

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR WEBBER.

2375S.01I

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, 213.075, 213.101, 213.111, and 285.575, RSMo, and to enact in lieu thereof eleven new sections relating to unlawful discriminatory practices.

*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, 213.075, 213.101, 213.111,  
3 and 285.575, RSMo, are repealed and eleven new sections enacted  
4 in lieu thereof, to be known as sections 213.010, 213.030,  
5 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, 213.075,  
6 213.101, and 213.111, 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)] (3) "Complainant", a person who has filed a  
21 complaint with the commission alleging that another person  
22 has engaged in a prohibited discriminatory practice;

23           [(5)] (4) "Disability", a physical or mental  
24 impairment which substantially limits one or more of a  
25 person's major life activities, being regarded as having  
26 such an impairment, or a record of having such an  
27 impairment, which with or without reasonable accommodation  
28 does not interfere with performing the job, utilizing the  
29 place of public accommodation, or occupying the dwelling in  
30 question. For purposes of this chapter, the term  
31 "disability" does not include current, illegal use of or  
32 addiction to a controlled substance as such term is defined  
33 by section 195.010; however, a person may be considered to  
34 have a disability if 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)] (5) "Discrimination", [conduct proscribed  
47 herein, taken because of] **any unfair treatment the basis on**  
48 race, color, religion, national origin, ancestry, sex, [or]  
49 **sexual orientation, gender identity, or** age, as it relates  
50 to employment, disability, **veteran status**, or familial  
51 status as it relates to housing. **Discrimination includes**  
52 **any unfair treatment based on a person's presumed or assumed**  
53 **race, color, religion, national origin, ancestry, sex,**  
54 **sexual orientation, gender identity, age, as it relates to**  
55 **employment, disability, veteran status, or familial status**  
56 **as it relates to housing, regardless of whether the**  
57 **presumption or assumption as to such characteristic is**  
58 **correct;**

59 [(7)] (6) "Dwelling", any building, structure or  
60 portion thereof which is occupied as, or designed or  
61 intended for occupancy as, a residence by one or more  
62 families, and any vacant land which is offered for sale or  
63 lease for the construction or location thereon of any such  
64 building, structure or portion thereof;

65 [(8)] (7) "Employer", [a person engaged in an industry  
66 affecting commerce who has six or more employees for each  
67 working day in each of twenty or more calendar weeks in the  
68 current or preceding calendar year, and shall include]  
69 **includes** the state, or any political or civil subdivision  
70 thereof, or any person employing six or more persons within  
71 the state, **and any person directly acting in the interest of**  
72 **an employer**, but does not include corporations and  
73 associations owned [or] **and** operated by religious or  
74 sectarian [organizations. "Employer" shall not include:

75 (a) The United States;

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

- 78 (c) An individual employed by an employer;
- 79 (d) An Indian tribe;
- 80 (e) Any department or agency of the District of  
81 Columbia subject by statute to procedures of the competitive  
82 service, as defined in 5 U.S.C. Section 2101; or
- 83 (f) A bona fide private membership club, other than a  
84 labor organization, that is exempt from taxation under 26  
85 U.S.C. Section 501(c)] **groups;**

86 [(9)] (8) "Employment agency" includes any person or  
87 agency, public or private, regularly undertaking with or  
88 without compensation to procure employees for an employer or  
89 to procure for employees opportunities to work for an  
90 employer;

91 [(10)] (9) "Executive director", the executive  
92 director of the Missouri commission on human rights;

93 [(11)] (10) "Familial status", one or more individuals  
94 who have not attained the age of eighteen years being  
95 domiciled with:

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

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

105 (11) **"Gender identity", the gender-related identity,**  
106 **appearance, mannerisms, or other gender-related**  
107 **characteristics of an individual, with or without regard to**  
108 **the individual's assigned sex at birth;**

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

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

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

124           (15) "Person" includes one or more individuals,  
125 corporations, partnerships, associations, organizations,  
126 labor organizations, legal representatives, mutual  
127 companies, joint stock companies, trusts, trustees, trustees  
128 in bankruptcy, receivers, fiduciaries, or other organized  
129 groups of persons;

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

137           (a) Any inn, hotel, motel, or other establishment  
138 which provides lodging to transient guests, other than an  
139 establishment located within a building which contains not  
140 more than five rooms for rent or hire and which is actually

141 occupied by the proprietor of such establishment as [his]  
142 **the proprietor's** residence;

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

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

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

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

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

164 (17) **"Race", includes a perception that a person is of**  
165 **a particular racial group based upon:**

166 (a) **Shared physical traits associated with ancestral**  
167 **origin or ethnicity;**

168 (b) **Shared cultural attributes;**

169 (c) **Wearing of protective hairstyles including, but**  
170 **not limited to, hairstyles and coverings that are designed**  
171 **to protect textured hair from damage so it may be worn in**

172 **its natural state such as braids, wigs, locks, twists, and**  
173 **afros; and**

174 **(d) Similar physical characteristics such as skin**  
175 **color and facial features;**

176 [(17)] (18) "Rent" includes to lease, to sublease, to  
177 let and otherwise to grant for consideration the right to  
178 occupy premises not owned by the occupant;

179 [(18)] (19) "Respondent", a person who is alleged to  
180 have engaged in a prohibited discriminatory practice in a  
181 complaint filed with the commission;

182 [(19) "The motivating factor", the employee's  
183 protected classification actually played a role in the  
184 adverse action or decision and had a determinative influence  
185 on the adverse decision or action;]

186 (20) "Sexual orientation", one's actual or perceived  
187 emotional or physical attraction to, or romantic or physical  
188 relationships with, members of the same gender, members of a  
189 different gender, or members of any gender; or the lack of  
190 any emotional or physical attraction to, or romantic or  
191 physical relationships with, anyone. The term "sexual  
192 orientation" includes a history of such attraction or  
193 relationship or a history of no such attraction or  
194 relationship;

195 [(20)] (21) "Unlawful discriminatory practice", any  
196 act that is unlawful under this chapter;

197 (22) "Veteran status", means an individual served in a  
198 branch of the military of the United States or in the  
199 Missouri National Guard and was discharged for any reason  
200 other than dishonorable discharge or bad conduct discharge.

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

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

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

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

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

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

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

33           (7) To receive, investigate, initiate, and pass upon  
34 complaints alleging discrimination in employment, housing or



35 in places of public accommodations [because] on the basis of  
36 race, color, religion, national origin, ancestry, sex,  
37 **sexual orientation, gender identity**, age, as it relates to  
38 employment, disability, **veteran status**, or familial status  
39 as it relates to housing and to require the production for  
40 examination of any books, papers, records, or other  
41 materials relating to any matter under investigation;

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

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

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

59 (11) To adopt an official seal;

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

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

71 (14) To establish a human rights fund as defined in  
72 section 213.010, for the purposes of administering sections  
73 213.040, 213.045, 213.050, 213.070, 213.075, and 213.076.

74 2. No rule or portion of a rule promulgated under the  
75 authority of this chapter shall become effective unless it  
76 has been promulgated pursuant to the provisions of [section  
77 536.024] **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] **on the basis** of race, color,  
6 religion, national origin, ancestry, sex, **sexual**  
7 **orientation, gender identity, disability, veteran status,** or  
8 familial status;

9 (2) To discriminate against any person in the terms,  
10 conditions, or privileges of sale or rental of a dwelling,  
11 or in the provision of services or facilities in connection  
12 therewith, [because] **on the basis** of race, color, religion,  
13 national origin, ancestry, sex, **sexual orientation, gender**  
14 **identity, disability, veteran status,** or familial status;

15 (3) To make, print, or publish, or cause to be made,  
16 printed, or published any notice, statement or  
17 advertisement, with respect to the sale or rental of a  
18 dwelling that indicates any preference, limitation, or  
19 discrimination [because] **on the basis** of race, color,  
20 religion, national origin, ancestry, sex, **sexual**

21 **orientation, gender identity, disability, veteran status,** or  
22 familial status, or an intention to make any such  
23 preference, limitation, or discrimination;

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

30 (5) To induce or attempt to induce any person to sell  
31 or rent any dwelling by representations regarding the entry  
32 or prospective entry into the neighborhood of a person or  
33 persons [**because**] **on the basis** of a particular race, color,  
34 religion, national origin, ancestry, sex, **sexual**  
35 **orientation, gender identity, disability, veteran status,** or  
36 familial status;

37 (6) To discriminate in the sale or rental of, or to  
38 otherwise make unavailable or deny, a dwelling to any buyer  
39 or renter [**because**] **on the basis** of a disability of:

40 (a) That buyer or renter;

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

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

45 (7) To discriminate against any person in the terms,  
46 conditions, or privileges of sale or rental of a dwelling,  
47 or in the provision of services or facilities in connection  
48 with such dwelling, [**because**] **on the basis** of a disability  
49 of:

50 (a) That person;

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

54 (c) Any person associated with that person.

55 2. For purposes of this section and sections 213.045  
56 and 213.050, discrimination includes:

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

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

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

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

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

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

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

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

87 c. Reinforcements in bathroom walls to allow later  
88 installation of grab bars; and

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

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

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

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

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

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

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

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

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

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

137           7. Nothing in this section and sections 213.045 and  
138 213.050 requires that a dwelling be made available to an  
139 individual whose tenancy would constitute a direct threat to  
140 the health or safety of other individuals or whose tenancy  
141 would result in substantial physical damage to the property  
142 of others.

143           8. Nothing in this section and sections 213.045 and  
144 213.050 limits the applicability of any reasonable local or  
145 state restriction regarding the maximum number of occupants

146 permitted to occupy a dwelling, nor does any provision in  
147 this section and sections 213.045 and 213.050 regarding  
148 familial status apply with respect to housing for older  
149 persons.

150 9. As used in this section and sections 213.045 and  
151 213.050, "housing for older persons" means housing:

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

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

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

163 (a) The existence of significant facilities and  
164 services specifically designed to meet the physical or  
165 social needs of older persons, or if the provision of such  
166 facilities and services is not practicable, that such  
167 housing is necessary to provide important housing  
168 opportunities for older persons; and

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

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

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

178 (1) Persons residing in such housing as of August 28,  
179 1992, who do not meet the age requirements of subdivision  
180 (2) or (3) of subsection 9 of this section, provided that  
181 new occupants of such housing meet the age requirements of  
182 subdivision (2) or (3) of subsection 9 of this section; or

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

187 11. Nothing in this section or section 213.045 or  
188 213.050 shall prohibit conduct against a person because such  
189 person has been convicted by any court of competent  
190 jurisdiction of the illegal manufacture or distribution of a  
191 controlled substance, as defined by section 195.010.

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

208 13. Nothing in this chapter, other than the  
209 prohibitions against discriminatory advertising in



210 subdivision (3) of subsection 1 of this section, shall apply  
211 to:

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

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

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

227 (2) Rooms or units in dwellings containing living  
228 quarters occupied or intended to be occupied by no more than  
229 four families living independently of each other, if the  
230 owner actually maintains and occupies one of such living  
231 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] **on the basis** of race, color, religion,  
7 national origin, ancestry, sex, **sexual orientation, gender**  
8 **identity**, disability, **veteran status**, or familial status to  
9 a person applying therefor for the purpose of purchasing,  
10 construction, improving, repairing, or maintaining a

11 dwelling, or to discriminate against [him] **such person** in  
12 fixing of the amount, interest rate, duration or other terms  
13 or conditions of such loan or other financial assistance,  
14 [because] **on the basis** of the race, color, religion,  
15 national origin, ancestry, sex, **sexual orientation, gender**  
16 **identity**, disability, **veteran status**, or familial status of  
17 such person or of any person associated with [him] **such**  
18 **person** in connection with such loan or other financial  
19 assistance, or of the present or prospective owners,  
20 lessees, tenants, or occupants, of the dwellings in relation  
21 to which such loan or other financial assistance is to be  
22 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] **on the basis** of  
6 race, color, religion, national origin, ancestry, sex,  
7 **sexual orientation, gender identity**, disability, **veteran**  
8 **status**, or familial status.

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

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

7 (a) To fail or refuse to hire or to discharge any  
8 individual, or otherwise to discriminate against any  
9 individual with respect to [his] **such individual's**  
10 compensation, terms, conditions, or privileges of  
11 employment, [because] **on the basis** of such individual's  
12 race, color, religion, national origin, sex, **sexual**

13 **orientation, gender identity,** ancestry, age [or],  
14 disability, **or veteran status;**

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

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

45 **sexual orientation, gender identity**, ancestry, age [or],  
46 disability, **or veteran status** in admission to, or employment  
47 in, any program established to provide apprenticeship or  
48 other training;

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

69 2. Notwithstanding any other provision of this  
70 chapter, it shall not be an unlawful employment practice for  
71 an employer to apply different standards of compensation, or  
72 different terms, conditions or privileges of employment  
73 pursuant to a bona fide seniority or merit system, or a  
74 system which measures earnings by quantity or quality of  
75 production or to employees who work in different locations,  
76 provided that such differences or such systems are not the

77 result of an intention or a design to discriminate, and are  
78 not used to discriminate, [because] on the basis of race,  
79 color, religion, sex, **sexual orientation, gender identity,**  
80 national origin, ancestry, age [or], disability, **or veteran**  
81 **status,** nor shall it be an unlawful employment practice for  
82 an employer to give and to act upon the results of any  
83 professionally developed ability test, provided that such  
84 test, its administration, or action upon the results  
85 thereof, is not designed, intended or used to discriminate  
86 [because] on the basis of race, color, religion, national  
87 origin, sex, **sexual orientation, gender identity,** ancestry,  
88 age [or], disability, **or veteran status.**

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

109 **status** in any community, state, section, or other area, or  
110 in the available workforce in any community, state, section,  
111 or other area.

112 4. Notwithstanding any other provision of this  
113 chapter, it shall not be an unlawful employment practice for  
114 the state or any political subdivision of the state to  
115 comply with the provisions of 29 U.S.C. Section 623 relating  
116 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]** on  
6 **the basis** of race, color, religion, national origin, sex,  
7 **sexual orientation, gender identity, ancestry, [or]**  
8 disability, **or veteran status**.

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

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

25 made available to the customers or patrons of a place of  
26 public accommodation as defined in section 213.010 and this  
27 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,  
17 **veteran status,** or familial status as it relates to housing;  
18 or

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

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

213.075. 1. [As a jurisdictional condition precedent  
2 to filing a civil action under this chapter,] Any person  
3 claiming to be aggrieved by an unlawful discriminatory  
4 practice [shall] **may** make, sign and file with the commission

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

33 2. Any complaint which is filed with the federal Equal  
34 Employment Opportunity Commission or other federal agencies  
35 with which the commission has a work-sharing or deferral  
36 agreement, or with a local commission which has been



37 certified as substantially equivalent by the commission,  
38 shall be deemed filed with the commission on the date that  
39 such complaint is received by such federal agency or local  
40 commission. A copy of all complaints filed with a local  
41 commission with the authority to enforce the provisions of  
42 this chapter is to be forwarded to the commission within  
43 seven days of the filing thereof with such local  
44 commission. If a local commission has jurisdiction to hear  
45 a complaint filed with the commission, such complaint shall  
46 be deemed to have been filed with the local commission on  
47 the date on which such complaint was filed with the  
48 commission. The commission shall, within seven days of the  
49 receipt of a complaint which a local commission has  
50 jurisdiction to hear, forward a copy thereof to such local  
51 commission.

52         3. After the filing of any complaint, the executive  
53 director shall, with the assistance of the commission's  
54 staff, promptly investigate the complaint, and if the  
55 director determines after the investigation that probable  
56 cause exists for crediting the allegations of the complaint,  
57 the executive director shall immediately endeavor to  
58 eliminate the unlawful discriminatory practice complained of  
59 by conference, conciliation and persuasion, and shall report  
60 the results to the commission. The investigation,  
61 determination of probable cause and conciliation shall be  
62 conducted according to such rules, regulations and  
63 guidelines as the commission shall prescribe.

64         4. A person who is not named as a respondent in a  
65 complaint, but who is identified as a respondent in the  
66 course of investigation, may be joined as an additional or  
67 substitute respondent upon written notice, pursuant to such  
68 rules, regulations, and guidelines as the commission shall

69 prescribe. Such notice, in addition to complying with the  
70 requirements of such rules, regulations, and guidelines,  
71 shall also state the reason why the person to whom the  
72 notice is addressed has been joined as a party.

73         5. In case of failure to eliminate such discriminatory  
74 practice as found in the investigation, if in the judgment  
75 of the chairperson of the commission circumstances so  
76 warrant, there shall be issued and served in the name of the  
77 commission, a written notice, together with a copy of the  
78 complaint, as it may have been amended, requiring the person  
79 named in the complaint, hereinafter referred to as  
80 "respondent", to answer the charges of the complaint at a  
81 hearing, at a time and place to be specified in the notice,  
82 before a panel of at least three members of the commission  
83 sitting as the commission or before a hearing examiner  
84 licensed to practice law in this state who shall be  
85 appointed by the executive director and approved by the  
86 commission. The place of the hearing shall be in the office  
87 of the commission or such other place designated by it,  
88 except that if the respondent so requests, in writing, the  
89 hearing shall be held in the county of such person's  
90 residence or business location at the time of the alleged  
91 unlawful discriminatory practice. A copy of the notice  
92 shall also be served on the complainants.

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

97         7. The commission shall be a party to the action and  
98 shall be represented before the panel or the hearing  
99 examiner by the office of the attorney general or, when so  
100 delegated by the attorney general, a staff attorney of the

101 commission. Neither the hearing examiner nor any member of  
102 the panel shall have participated in the investigation of  
103 the complaint. Evidence concerning endeavors at  
104 conciliation shall be excluded.

105 8. The respondent may file a written verified answer  
106 to the complaint and appear at the hearing in person or  
107 otherwise with or without counsel, and submit testimony. At  
108 the discretion of the hearing examiner or the panel, the  
109 complainant may be allowed to intervene, thereby becoming a  
110 party to the action with the right to present testimony in  
111 person or by counsel, provided the complainant at all times  
112 shall be treated as a party for the purpose of discovery and  
113 the taking of depositions. The commission or complainant  
114 intervenor shall have the power to reasonably and fairly  
115 amend any complaint, and the respondent shall have like  
116 power to amend any answer. The testimony taken at the  
117 hearing shall be under oath and be transcribed.

118 9. In any contested case before the commission, any  
119 party may take and use written interrogatories, requests for  
120 production of documents and other materials, and requests  
121 for admissions, and all other forms of discovery authorized  
122 by rules of civil procedure in the same manner, upon, and  
123 under the same conditions, and upon the same notice, as is  
124 or may hereafter be provided for with respect to the taking  
125 and using of written interrogatories, requests for  
126 production of documents and other materials, and requests  
127 for admissions, and all other forms of discovery authorized  
128 by rules of civil procedure in civil actions in the circuit  
129 court. The panel or hearing examiner shall have the  
130 authority to impose sanctions in the same manner as set  
131 forth in the rules of civil procedure.

132           10. The hearing shall be conducted in the manner  
133 provided by chapter 536.

134           11. When the case is heard by a panel of the  
135 commission, the chairperson of the commission shall select  
136 the hearing panel and the presiding officer. The presiding  
137 officer shall have full authority to call and examine  
138 witnesses, admit or exclude evidence and rule upon all  
139 motions and objections. The panel shall state its findings  
140 of fact and conclusions of law, and if, upon all the  
141 evidence at the hearing, the panel finds:

142           (1) That a respondent has engaged in an unlawful  
143 discriminatory practice as defined in this chapter, the  
144 commission shall issue and cause to be served on the  
145 respondent an order requiring the respondent to cease and  
146 desist from the unlawful discriminatory practice. The order  
147 shall require the respondent to take such affirmative  
148 action, as in the panel's judgment will implement the  
149 purposes of this chapter, including, but not limited to,  
150 payment of back pay; hiring; reinstatement or upgrading;  
151 restoration to membership in any respondent labor  
152 organization; the extension of full, equal and unsegregated  
153 housing; the extension of full, equal and unsegregated  
154 public accommodations; extension of a commercial real estate  
155 loan or other financial assistance; extension or restoration  
156 of membership or participation in any multiple listing  
157 service or other real estate service organization or  
158 facility; payment of actual damages; and the submission of a  
159 report of the manner of compliance;

160           (2) That a respondent has engaged or is about to  
161 engage in a violation of section 213.040, 213.045, 213.050,  
162 or 213.070, to the extent that the alleged violation of  
163 section 213.070 relates to or involves a violation of one or

164 more of such other sections or relates to or involves the  
165 encouraging, aiding, or abetting of a violation of such  
166 other sections, the commission may, in addition to the  
167 relief provided in subdivision (1) of this subsection,  
168 assess a civil penalty against the respondent, for purposes  
169 of vindicating the public interest:

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

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

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

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

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

193 13. When the case is heard by a hearing examiner, the  
194 examiner shall have all powers described in subdivision (8)

195 of section 213.030 and subsection 11 of this section, for  
196 the purpose of the hearing. The hearing examiner shall make  
197 findings of fact and conclusions of law and shall recommend  
198 to the commission an order granting such relief as provided  
199 in subsection 11 of this section or dismissing the complaint  
200 as to the respondent as provided in subsection 12 of this  
201 section, in accordance with such findings.

202 14. A panel of at least three members of the  
203 commission, sitting as the commission, shall review the  
204 record, findings and recommended order of the hearing  
205 examiner. The panel shall thereafter accept or amend the  
206 recommended order which shall become the order of the  
207 commission. All orders shall be served on the complainant  
208 and respondent, and copies shall be delivered to the  
209 attorney general and such other public officers as the  
210 commission deems proper.

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

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

218 213.101. [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] **on the basis** of race,  
7 color, religion, national origin, sex, **sexual orientation,**  
8 **gender identity,** ancestry, age, disability, **veteran status,**  
9 or familial status.

10 [2. The general assembly hereby expressly abrogates  
11 the case of *McBryde v. Ritenour School District*, 207 S.W.3d  
12 162 (Mo.App. E.D. 2006), and its progeny as it relates to  
13 the necessity and appropriateness of the issuance of a  
14 business judgment instruction. In all civil actions brought  
15 under this chapter, a jury shall be given an instruction  
16 expressing the business judgment rule.

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

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

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

39 6. The general assembly hereby abrogates all Missouri-  
40 approved jury instructions specifically addressing civil

41 actions brought under this chapter which were in effect  
42 prior to August 28, 2017.]

213.111. 1. If, after one hundred eighty days from  
2 the filing of a complaint alleging an unlawful  
3 discriminatory practice pursuant to section 213.055, 213.065  
4 or 213.070 to the extent that the alleged violation of  
5 section 213.070 relates to or involves a violation of  
6 section 213.055 or 213.065, or subdivision (3) of subsection  
7 1 of section 213.070 as it relates to employment and public  
8 accommodations, the commission has not completed its  
9 administrative processing and the person aggrieved so  
10 requests in writing, the commission shall issue to the  
11 person claiming to be aggrieved a letter indicating his or  
12 her right to bring a civil action within ninety days of such  
13 notice against the respondent named in the complaint. [If,  
14 after the filing of a complaint] **Any person alleging an**  
15 **unlawful discriminatory practice** pursuant to sections  
16 213.040, 213.045, 213.050 and 213.070, to the extent that  
17 the alleged violation of section 213.070 relates to or  
18 involves a violation of sections 213.040, 213.045 and  
19 213.050, or subdivision (3) of subsection 1 of section  
20 213.070 as it relates to housing, [and the person aggrieved  
21 so requests in writing, the commission shall issue to the  
22 person claiming to be aggrieved a letter indicating his or  
23 her right to bring a civil action within ninety days of such  
24 notice against the respondent named in the complaint. The  
25 commission may not at any other time or for any other reason  
26 issue a letter indicating a complainant's right to bring a  
27 civil action] **may file a petition in the circuit court of**  
28 **the county in which the alleged unlawful discriminatory**  
29 **practice occurred without first filing a complaint with the**  
30 **commission.** Such an action may be brought in any circuit



31 court in any county in which the unlawful discriminatory  
32 practice is alleged to have [been committed] **occurred**,  
33 either before a circuit or associate circuit judge. Upon  
34 issuance of this notice, the commission shall terminate all  
35 proceedings relating to the complaint. No person may file  
36 or reinstate a complaint with the commission after the  
37 issuance of a notice under this section relating to the same  
38 practice or act. Any action brought in court under this  
39 section shall be filed within ninety days from the date of  
40 the commission's notification letter to the individual but  
41 no later than two years after the alleged cause occurred or  
42 its reasonable discovery by the alleged injured party.

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

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

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

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

61 (2) (a) In the case of a respondent who has more than  
62 five and fewer than one hundred one employees in each of

63 twenty or more calendar weeks in the current or preceding  
64 calendar year, fifty thousand dollars;

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

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

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

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

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

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

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

10 (2) "Employer", an entity that has six or  
11 more employees for each working day in each of  
12 twenty or more calendar weeks in the current or  
13 preceding calendar year. "Employer" shall not  
14 include the state of Missouri or its agencies,  
15 instrumentalities, or political subdivisions,  
16 including but not limited to any public  
17 institution of higher education, a corporation

18 wholly owned by the state of Missouri, an  
19 individual employed by an employer, or  
20 corporations and associations owned or operated  
21 by religious or sectarian organizations;

22 (3) "Proper authorities", a governmental  
23 or law enforcement agency, an officer of an  
24 employee's employer, the employee's supervisor  
25 employed by the employer, or the employee's  
26 human resources representative employed by the  
27 employer;

28 (4) "Protected person", an employee of an  
29 employer who has reported to the proper  
30 authorities an unlawful act of his or her  
31 employer; an employee of an employer who reports  
32 to his or her employer serious misconduct of the  
33 employer that violates a clear mandate of public  
34 policy as articulated in a constitutional  
35 provision, statute, or regulation promulgated  
36 under statute; or an employee of an employer who  
37 has refused to carry out a directive issued by  
38 his or her employer that if completed would be a  
39 violation of the law. An employee of an  
40 employer is not a protected person if:

41 (a) The employee is a supervisory,  
42 managerial, or executive employee or an officer  
43 of his or her employer and the unlawful act or  
44 serious misconduct reported concerns matters  
45 upon which the employee is employed to report or  
46 provide professional opinion; or

47 (b) The proper authority or person to whom  
48 the employee makes his or her report is the  
49 person whom the employee claims to have  
50 committed the unlawful act or violation of a  
51 clear mandate of public policy;

52 (5) "The motivating factor", the  
53 employee's protected classification actually  
54 played a role in the adverse decision or action  
55 and had a determinative influence on the adverse  
56 decision or action.

57 3. This section is intended to codify the  
58 existing common law exceptions to the at-will  
59 employment doctrine and to limit their future  
60 expansion by the courts. This section, in  
61 addition to chapter 213 and chapter 287, shall

62 provide the exclusive remedy for any and all  
63 claims of unlawful employment practices.

64 4. It shall be an unlawful employment  
65 practice for an employer to discharge an  
66 individual defined as a protected person in this  
67 section because of that person's status as a  
68 protected person.

69 5. A protected person aggrieved by a  
70 violation of this section shall have a private  
71 right of action for actual damages for  
72 violations of this section but not for punitive  
73 damages. However, if a private right of action  
74 for damages exists under another statutory or  
75 regulatory scheme, whether under state or  
76 federal law, no private right of action shall  
77 exist under this statute.

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

80 7. A protected person aggrieved by a  
81 violation of this section shall have a private  
82 right of action that may be filed in a court of  
83 competent jurisdiction. The only remedies  
84 available in such an action shall be:

85 (1) Back pay;

86 (2) Reimbursement of medical bills  
87 directly related to a violation of this section;  
88 and

89 (3) Additionally, if a protected person  
90 proves, by clear and convincing evidence, that  
91 the conduct of the employer was outrageous  
92 because of the employer's evil motive or  
93 reckless indifference to the rights of others,  
94 then, such person may receive double the amount  
95 awarded under subdivisions (1) and (2) of this  
96 subsection, as liquidated damages. In applying  
97 this subdivision, the provisions of section  
98 510.263 shall be applied as though liquidated  
99 damages were punitive damages and as though the  
100 amounts referenced in subdivisions (1) and (2)  
101 of this subsection were compensatory damages.

102 8. The court, in addition to the damages  
103 set forth in subsection 7 of this section, may  
104 award the prevailing party court costs and  
105 reasonable attorney fees; except that a

106 prevailing respondent may be awarded reasonable  
107 attorney fees only upon a showing that the case  
108 was without foundation.]

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