

SECOND REGULAR SESSION

# HOUSE BILL NO. 2837

## 101ST GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE WINDHAM.

5749H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

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

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

Section A. Sections 213.010, 213.040, 213.050, 213.055, 213.065, 213.070, 213.075,  
2 213.101, and 213.111, RSMo, are repealed and nine new sections enacted in lieu thereof, to  
3 be known as sections 213.010, 213.040, 213.050, 213.055, 213.065, 213.070, 213.075,  
4 213.101, and 213.111, to read as follows:

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

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

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

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

13 [(4)] (3) "Complainant", a person who has filed a complaint with the commission  
14 alleging that another person has engaged in a prohibited discriminatory practice;

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15           ~~[(5)]~~ (4) "Disability", a physical or mental impairment which substantially limits one  
16 or more of a person's major life activities, being regarded as having such an impairment, or a  
17 record of having such an impairment, which with or without reasonable accommodation does  
18 not interfere with performing the job, utilizing the place of public accommodation, or  
19 occupying the dwelling in question. For purposes of this chapter, the term "disability" does  
20 not include current, illegal use of or addiction to a controlled substance as such term is  
21 defined by section 195.010; however, a person may be considered to have a disability if that  
22 person:

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

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

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

31           ~~[(6)]~~ (5) "Discrimination", ~~[conduct proscribed herein, taken because of]~~ **any unfair**  
32 **treatment based on** race, color, religion, national origin, ancestry, sex, or age as it relates to  
33 employment, disability, or familial status as it relates to housing;

34           ~~[(7)]~~ (6) "Dwelling", any building, structure or portion thereof which is occupied as,  
35 or designed or intended for occupancy as, a residence by one or more families, and any vacant  
36 land which is offered for sale or lease for the construction or location thereon of any such  
37 building, structure or portion thereof;

38           ~~[(8)]~~ (7) "Employer", ~~[a person engaged in an industry affecting commerce who has~~  
39 ~~six or more employees for each working day in each of twenty or more calendar weeks in the~~  
40 ~~current or preceding calendar year, and shall include]~~ **includes** the state, or any political or  
41 civil subdivision thereof, or any person employing six or more persons within the state, **and**  
42 **any person directly acting in the interest of an employer** but does not include corporations  
43 and associations owned ~~[or]~~ **and** operated by religious or sectarian ~~[organizations.~~  
44 ~~"Employer" shall not include:~~

45           ~~(a) The United States;~~

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

47           ~~(c) An individual employed by an employer;~~

48           ~~(d) An Indian tribe;~~

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

51 ~~(f) A bona fide private membership club, other than a labor organization, that is~~  
52 ~~exempt from taxation under 26 U.S.C. Section 501(e)]~~ **groups;**

53 ~~[(9)]~~ **(8)** "Employment agency" includes any person or agency, public or private,  
54 regularly undertaking with or without compensation to procure employees for an employer or  
55 to procure for employees opportunities to work for an employer **and includes any person**  
56 **acting in the interest of such a person;**

57 ~~[(10)]~~ **(9)** "Executive director", the executive director of the Missouri commission on  
58 human rights;

59 ~~[(11)]~~ **(10)** "Familial status", one or more individuals who have not attained the age of  
60 eighteen years being domiciled with:

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

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

67 ~~[(12)]~~ **(11)** "Human rights fund", a fund established to receive civil penalties as  
68 required by federal regulations and as set forth by subdivision (2) of subsection 11 of section  
69 213.075, and which will be disbursed to offset additional expenses related to compliance with  
70 the Department of Housing and Urban Development regulations;

71 ~~[(13)]~~ **(12)** "Labor organization" includes any organization which exists for the  
72 purpose, in whole or in part, of collective bargaining or of dealing with employers concerning  
73 grievances, terms or conditions of employment, or for other mutual aid or protection in  
74 relation to employment;

75 ~~[(14)]~~ **(13)** "Local commissions", any commission or agency established prior to  
76 August 13, 1986, by an ordinance or order adopted by the governing body of any city,  
77 constitutional charter city, town, village, or county;

78 ~~[(15)]~~ **(14)** "Person" includes one or more individuals, corporations, partnerships,  
79 associations, organizations, labor organizations, legal representatives, mutual companies,  
80 joint stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries, or other  
81 organized groups of persons;

82 ~~[(16)]~~ **(15)** "Places of public accommodation", all places or businesses offering or  
83 holding out to the general public, goods, services, privileges, facilities, advantages or  
84 accommodations for the peace, comfort, health, welfare and safety of the general public or  
85 such public places providing food, shelter, recreation and amusement, including, but not  
86 limited to:

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

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

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

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

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

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

105 ~~[(17)]~~ (16) "Rent" includes to lease, to sublease, to let and otherwise to grant for  
106 consideration the right to occupy premises not owned by the occupant;

107 ~~[(18)]~~ (17) "Respondent", a person who is alleged to have engaged in a prohibited  
108 discriminatory practice in a complaint filed with the commission;

109 ~~[(19)] "The motivating factor", the employee's protected classification actually played~~  
110 ~~a role in the adverse action or decision and had a determinative influence on the adverse~~  
111 ~~decision or action;~~

112 ~~[(20)]~~ (18) "Unlawful discriminatory practice", any act that is unlawful under this  
113 chapter.

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

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

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

8 (3) To make, print, or publish, or cause to be made, printed, or published any notice,  
9 statement or advertisement, with respect to the sale or rental of a dwelling that indicates any  
10 preference, limitation, or discrimination ~~[because of]~~ **based on** race, color, religion, national

11 origin, ancestry, sex, disability, or familial status, or an intention to make any such preference,  
12 limitation, or discrimination;

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

16 (5) To induce or attempt to induce any person to sell or rent any dwelling by  
17 representations regarding the entry or prospective entry into the neighborhood of a person or  
18 persons [~~because~~] of a particular race, color, religion, national origin, ancestry, sex, disability,  
19 or familial status;

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

22 (a) That buyer or renter;

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

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

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

29 (a) That person;

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

32 (c) Any person associated with that person.

33 2. For purposes of this section and sections 213.045 and 213.050, discrimination  
34 includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

95 8. Nothing in this section and sections 213.045 and 213.050 limits the applicability of  
96 any reasonable local or state restriction regarding the maximum number of occupants  
97 permitted to occupy a dwelling, nor does any provision in this section and sections 213.045  
98 and 213.050 regarding familial status apply with respect to housing for older persons.

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

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

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

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

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

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

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

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

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

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

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

130 12. Nothing in this chapter shall prohibit a religious organization, association, or  
131 society, or any nonprofit institution or organization operated, supervised or controlled by or in  
132 conjunction with a religious organization, association, or society, from limiting the sale, rental  
133 or occupancy of dwellings which it owns or operates for other than a commercial purpose to  
134 persons of the same religion, or from giving preference to such persons, unless membership in  
135 such religion is restricted on account of race, color, or national origin. Nor shall anything in  
136 this chapter prohibit a private club not in fact open to the public, which as an incident to its  
137 primary purpose or purposes provides lodging which it owns or operates for other than a  
138 commercial purpose, from limiting the rental or occupancy of such lodging to its members or  
139 from giving preference to its members.

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

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

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

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

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

213.050. It shall be unlawful to deny any person access to or membership or  
2 participation in any multiple listing service, real estate brokers' organization or other service



3 organization, or facility relating to the business of selling or renting dwellings, [~~because~~] **on**  
4 **account** of race, color, religion, national origin, ancestry, sex, disability, or familial status.

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

2 (1) For an employer, because of the race, color, religion, national origin, sex, ancestry,  
3 age or disability of any individual:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

213.075. 1. ~~[As a jurisdictional condition precedent to filing a civil action under this~~  
 2 ~~chapter,] Any person claiming to be aggrieved by an unlawful discriminatory practice ~~[shall]~~~~

3 **may** make, sign and file with the commission a verified complaint in writing, within one  
 4 hundred eighty days of the alleged act of discrimination, which shall state the name and  
 5 address of the ~~[employer, employment agency, labor organization, or place of public~~  
 6 ~~accommodation] person~~ alleged to have committed the unlawful discriminatory practice and  
 7 which shall set forth the particulars thereof and such other information as may be required by  
 8 the commission. The complainant's agent, attorney or the attorney general may, in like  
 9 manner, make, sign and file such complaint. ~~[The failure to timely file a complaint with the~~  
 10 ~~commission shall deprive the commission of jurisdiction to investigate the complaint. The~~  
 11 ~~commission shall make a determination as to its jurisdiction with respect to all complaints.~~  
 12 ~~Notwithstanding any other provision of this chapter to the contrary, if a complaint is not filed~~  
 13 ~~with the commission within one hundred eighty days of the alleged act of discrimination, the~~  
 14 ~~commission shall lack jurisdiction to take any action on such a complaint other than to~~  
 15 ~~dismiss the complaint for lack of jurisdiction. The failure to timely file a complaint with the~~  
 16 ~~commission may be raised as a complete defense by a respondent or defendant at any time,~~

17 ~~either during the administrative proceedings before the commission, or in subsequent~~  
18 ~~litigation, regardless of whether the commission has issued the person claiming to be~~  
19 ~~aggrieved a letter indicating his or her right to bring a civil action and regardless of whether~~  
20 ~~the employer asserted the defense before the commission.]~~

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

33         3. After the filing of any complaint, the executive director shall, with the assistance of  
34 the commission's staff, promptly investigate the complaint, and if the director determines  
35 after the investigation that probable cause exists for crediting the allegations of the complaint,  
36 the executive director shall immediately endeavor to eliminate the unlawful discriminatory  
37 practice complained of by conference, conciliation and persuasion, and shall report the results  
38 to the commission. The investigation, determination of probable cause and conciliation shall  
39 be conducted according to such rules, regulations and guidelines as the commission shall  
40 prescribe.

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

47         5. In case of failure to eliminate such discriminatory practice as found in the  
48 investigation, if in the judgment of the chairperson of the commission circumstances so  
49 warrant, there shall be issued and served in the name of the commission, a written notice,  
50 together with a copy of the complaint, as it may have been amended, requiring the person  
51 named in the complaint, hereinafter referred to as "respondent", to answer the charges of the  
52 complaint at a hearing, at a time and place to be specified in the notice, before a panel of at  
53 least three members of the commission sitting as the commission or before a hearing

54 examiner licensed to practice law in this state who shall be appointed by the executive  
55 director and approved by the commission. The place of the hearing shall be in the office of  
56 the commission or such other place designated by it, except that if the respondent so requests,  
57 in writing, the hearing shall be held in the county of such person's residence or business  
58 location at the time of the alleged unlawful discriminatory practice. A copy of the notice shall  
59 also be served on the complainants.

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

63         7. The commission shall be a party to the action and shall be represented before the  
64 panel or the hearing examiner by the office of the attorney general or, when so delegated by  
65 the attorney general, a staff attorney of the commission. Neither the hearing examiner nor  
66 any member of the panel shall have participated in the investigation of the complaint.  
67 Evidence concerning endeavors at conciliation shall be excluded.

68         8. The respondent may file a written verified answer to the complaint and appear at  
69 the hearing in person or otherwise with or without counsel, and submit testimony. At the  
70 discretion of the hearing examiner or the panel, the complainant may be allowed to intervene,  
71 thereby becoming a party to the action with the right to present testimony in person or by  
72 counsel, provided the complainant at all times shall be treated as a party for the purpose of  
73 discovery and the taking of depositions. The commission or complainant intervenor shall  
74 have the power to reasonably and fairly amend any complaint, and the respondent shall have  
75 like power to amend any answer. The testimony taken at the hearing shall be under oath and  
76 be transcribed.

77         9. In any contested case before the commission, any party may take and use written  
78 interrogatories, requests for production of documents and other materials, and requests for  
79 admissions, and all other forms of discovery authorized by rules of civil procedure in the  
80 same manner, upon, and under the same conditions, and upon the same notice, as is or may  
81 hereafter be provided for with respect to the taking and using of written interrogatories,  
82 requests for production of documents and other materials, and requests for admissions, and all  
83 other forms of discovery authorized by rules of civil procedure in civil actions in the circuit  
84 court. The panel or hearing examiner shall have the authority to impose sanctions in the same  
85 manner as set forth in the rules of civil procedure.

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

87         11. When the case is heard by a panel of the commission, the chairperson of the  
88 commission shall select the hearing panel and the presiding officer. The presiding officer  
89 shall have full authority to call and examine witnesses, admit or exclude evidence and rule

90 upon all motions and objections. The panel shall state its findings of fact and conclusions of  
91 law, and if, upon all the evidence at the hearing, the panel finds:

92 (1) That a respondent has engaged in an unlawful discriminatory practice as defined  
93 in this chapter, the commission shall issue and cause to be served on the respondent an order  
94 requiring the respondent to cease and desist from the unlawful discriminatory practice. The  
95 order shall require the respondent to take such affirmative action, as in the panel's judgment  
96 will implement the purposes of this chapter, including, but not limited to, payment of back  
97 pay; hiring; reinstatement or upgrading; restoration to membership in any respondent labor  
98 organization; the extension of full, equal and unsegregated housing; the extension of full,  
99 equal and unsegregated public accommodations; extension of a commercial real estate loan or  
100 other financial assistance; extension or restoration of membership or participation in any  
101 multiple listing service or other real estate service organization or facility; payment of actual  
102 damages; and the submission of a report of the manner of compliance;

103 (2) That a respondent has engaged or is about to engage in a violation of section  
104 213.040, 213.045, 213.050, or 213.070, to the extent that the alleged violation of section  
105 213.070 relates to or involves a violation of one or more of such other sections or relates to or  
106 involves the encouraging, aiding, or abetting of a violation of such other sections, the  
107 commission may, in addition to the relief provided in subdivision (1) of this subsection, assess  
108 a civil penalty against the respondent, for purposes of vindicating the public interest:

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

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

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

119

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

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

125 13. When the case is heard by a hearing examiner, the examiner shall have all powers  
126 described in subdivision (8) of section 213.030 and subsection 11 of this section, for the

127 purpose of the hearing. The hearing examiner shall make findings of fact and conclusions of  
128 law and shall recommend to the commission an order granting such relief as provided in  
129 subsection 11 of this section or dismissing the complaint as to the respondent as provided in  
130 subsection 12 of this section, in accordance with such findings.

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

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

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

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

6 [~~2~~. The general assembly hereby expressly abrogates the case of *McBryde v. Ritenour*  
7 *School District*, 207 S.W.3d 162 (Mo.App. E.D. 2006), and its progeny as it relates to the  
8 necessity and appropriateness of the issuance of a business judgment instruction. In all civil  
9 actions brought under this chapter, a jury shall be given an instruction expressing the business  
10 judgment rule.

11 [~~3~~. If an employer in a case brought under this chapter files a motion pursuant to rule  
12 74.04 of the Missouri rules of civil procedure, the court shall consider the burden-shifting  
13 analysis of *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), and its progeny to be  
14 highly persuasive for analysis in cases not involving direct evidence of discrimination.

15 [~~4~~. The general assembly hereby expressly abrogates by this statute the cases of  
16 *Daugherty v. City of Maryland Heights*, 231 S.W.3d 814 (Mo. 2007) and its progeny as they  
17 relate to the contributing factor standard and abandonment of the burden-shifting framework  
18 established in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973).

19 [~~5~~. The general assembly hereby expressly abrogates by this statute the holding in  
20 *Hurst v. Kansas City Mo. School District*, 437 S.W.3d 327 (Mo.App. W.D. 2014), that  
21 Missouri Approved Instruction 19.01 may be applied to actions brought pursuant to this

22 ~~chapter, and the holding in Thomas v. McKeever's Enterprises, Inc., 388 S.W.3d 206~~  
23 ~~(Mo.App. W.D. 2012), that juries shall not be instructed that plaintiffs bear the burden of~~  
24 ~~establishing "but for" causation in actions brought pursuant to this chapter.~~

25 ~~6. The general assembly hereby abrogates all Missouri approved jury instructions~~  
26 ~~specifically addressing civil actions brought under this chapter which were in effect prior to~~  
27 ~~August 28, 2017.]~~

213.111. 1. If, after one hundred eighty days from the filing of a complaint alleging  
2 an unlawful discriminatory practice pursuant to section 213.055, 213.065 or 213.070 to the  
3 extent that the alleged violation of section 213.070 relates to or involves a violation of section  
4 213.055 or 213.065, or subdivision (3) of subsection 1 of section 213.070 as it relates to  
5 employment and public accommodations, the commission has not completed its  
6 administrative processing and the person aggrieved so requests in writing, the commission  
7 shall issue to the person claiming to be aggrieved a letter indicating his or her right to bring a  
8 civil action within ninety days of such notice against the respondent named in the complaint.  
9 If, after the filing of a complaint pursuant to sections 213.040, 213.045, 213.050 and 213.070,  
10 to the extent that the alleged violation of section 213.070 relates to or involves a violation of  
11 sections 213.040, 213.045 and 213.050, or subdivision (3) of subsection 1 of section 213.070  
12 as it relates to housing, and the person aggrieved so requests in writing, the commission shall  
13 issue to the person claiming to be aggrieved a letter indicating his or her right to bring a civil  
14 action within ninety days of such notice against the respondent named in the complaint. ~~[The~~  
15 ~~commission may not at any other time or for any other reason issue a letter indicating a~~  
16 ~~complainant's right to bring a civil action.]~~ Such an action may be brought in any circuit court  
17 in any county in which the unlawful discriminatory practice is alleged to have ~~[been~~  
18 ~~committed]~~ **occurred**, either before a circuit or associate circuit judge. Upon issuance of this  
19 notice, the commission shall terminate all proceedings relating to the complaint. No person  
20 may file or reinstate a complaint with the commission after the issuance of a notice under this  
21 section relating to the same practice or act. Any action brought in court under this section  
22 shall be filed within ninety days from the date of the commission's notification letter to the  
23 individual but no later than two years after the alleged cause occurred or its reasonable  
24 discovery by the alleged injured party.

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

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



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

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

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

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

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

46 ~~(d) In the case of a respondent who has more than five hundred employees in each of~~  
47 ~~twenty or more calendar weeks in the current or preceding calendar year, five hundred~~  
48 ~~thousand dollars.~~

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

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