

SENATE BILL NO. 76

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHNELTING.

0918S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 213.010, RSMo, and to enact in lieu thereof one new section relating to prohibited discriminatory practices.

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

Section A. Section 213.010, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 213.010,
3 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;

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

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

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

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

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

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

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

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

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

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

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

64 "Employer" shall not include:

65 (a) The United States;

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

68 (c) An individual employed by an employer;

69 (d) An Indian tribe;

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

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

76 (9) "Employment agency" includes any person or agency,
77 public or private, regularly undertaking with or without
78 compensation to procure employees for an employer or to
79 procure for employees opportunities to work for an employer;

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

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

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

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

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

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

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

109 (15) "Person" includes one or more individuals,
110 corporations, partnerships, associations, organizations,
111 labor organizations, legal representatives, mutual
112 companies, joint stock companies, trusts, trustees, trustees

113 in bankruptcy, receivers, fiduciaries, or other organized
114 groups of persons;

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

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

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

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

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

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

143 (f) Any establishment which is physically located
144 within the premises of any establishment otherwise covered

145 by this section or within the premises of which is
146 physically located any such covered establishment, and which
147 holds itself out as serving patrons of such covered
148 establishment;

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

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

155 (19) **"Sex", the two categories of humans, male and**
156 **female, into which individuals are divided based on an**
157 **individual's reproductive biology at birth and the**
158 **individual's genome. The term "sex" shall not be construed**
159 **to include sexual orientation or gender identity;**

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

164 [(20)] (21) "Unlawful discriminatory practice", any
165 act that is unlawful under this chapter.

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