

SECOND REGULAR SESSION

HOUSE BILL NO. 2315

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PRICE IV.

4547H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 213.010 and 213.055, RSMo, and to enact in lieu thereof two new sections relating to employment discrimination.

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

Section A. Sections 213.010 and 213.055, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 213.010 and 213.055, to read as follows:

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

2 (1) **"Address status", the status of having or not having a physical home address**
3 **and a person's ability or willingness to disclose information relating to whether he or she**
4 **has or does not have a physical home address;**

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

13 ~~[(2)]~~ (3) "Because" or "because of", as it relates to the adverse decision or action, the
14 protected criterion was the motivating factor;

15 ~~[(3)]~~ (4) "Commission", the Missouri commission on human rights;

16 ~~[(4)]~~ (5) "Complainant", a person who has filed a complaint with the commission
17 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.

18 ~~[(5)]~~ **(6)** "Disability", a physical or mental impairment which substantially limits one
19 or more of a person's major life activities, being regarded as having such an impairment, or a
20 record of having such an impairment, which with or without reasonable accommodation does
21 not interfere with performing the job, utilizing the place of public accommodation, or
22 occupying the dwelling in question. For purposes of this chapter, the term "disability" does
23 not include current, illegal use of or addiction to a controlled substance as such term is
24 defined by section 195.010; however, a person may be considered to have a disability if that
25 person:

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

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

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

34 ~~[(6)]~~ **(7)** "Discrimination", conduct proscribed herein, taken because of race, color,
35 religion, national origin, ancestry, sex, ~~[or]~~ **or address status** as ~~[it relates]~~ **they relate** to
36 employment, disability, or familial status as it relates to housing;

37 ~~[(7)]~~ **(8)** "Dwelling", any building, structure or portion thereof which is occupied as,
38 or designed or intended for occupancy as, a residence by one or more families, and any vacant
39 land which is offered for sale or lease for the construction or location thereon of any such
40 building, structure or portion thereof;

41 ~~[(8)]~~ **(9)** "Employer", a person engaged in an industry affecting commerce who has
42 six or more employees for each working day in each of twenty or more calendar weeks in the
43 current or preceding calendar year, and shall include the state, or any political or civil
44 subdivision thereof, or any person employing six or more persons within the state but does
45 not include corporations and associations owned or operated by religious or sectarian
46 organizations. "Employer" shall not include:

47 (a) The United States;

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

49 (c) An individual employed by an employer;

50 (d) An Indian tribe;

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

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

55 ~~[(9)]~~ **(10)** "Employment agency" includes any person or agency, public or private,
56 regularly undertaking with or without compensation to procure employees for an employer or
57 to procure for employees opportunities to work for an employer;

58 ~~[(10)]~~ **(11)** "Executive director", the executive director of the Missouri commission
59 on human rights;

60 ~~[(11)]~~ **(12)** "Familial status", one or more individuals who have not attained the age of
61 eighteen years being domiciled with:

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

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

67 ~~[(12)]~~ **(13)** "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)]~~ **(14)** "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)]~~ **(15)** "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)]~~ **(16)** "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)]~~ **(17)** "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)]~~ (18) "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)]~~ (19) "Respondent", a person who is alleged to have engaged in a prohibited
108 discriminatory practice in a complaint filed with the commission;

109 ~~[(19)]~~ (20) "The motivating factor", the employee's protected classification actually
110 played a role in the adverse action or decision and had a determinative influence on the
111 adverse decision or action;

112 ~~[(20)]~~ (21) "Unlawful discriminatory practice", any act that is unlawful under this
113 chapter.

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, **address status**, 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 **or her** compensation, terms, conditions, or
6 privileges of employment, because of such individual's race, color, religion, national origin,
7 sex, ancestry, age, **address status**, or disability;

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

13 (2) For a labor organization to exclude or to expel from its membership any
14 individual or to discriminate in any way against any of its members or against any employer

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

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

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

50 3. Nothing contained in this chapter shall be interpreted to require any employer,
51 employment agency, labor organization, or joint labor-management committee subject to this

52 chapter to grant preferential treatment to any individual or to any group because of the race,
53 color, religion, national origin, sex, ancestry, age, **address status**, or disability of such
54 individual or group on account of an imbalance which may exist with respect to the total
55 number or percentage of persons of any race, color, religion, national origin, sex, ancestry,
56 age, **address status**, or disability employed by any employer, referred or classified for
57 employment by any employment agency or labor organization, admitted to membership or
58 classified by any labor organization, or admitted to or employed in any apprenticeship or
59 other training program, in comparison with the total number or percentage of persons of such
60 race, color, religion, national origin, sex, ancestry, age, **address status**, or disability in any
61 community, state, section, or other area, or in the available workforce in any community,
62 state, section, or other area.

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

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