

SENATE BILL NO. 428

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CARTER.

1694S.02I

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 213.010 and 213.020, RSMo, and to enact in lieu thereof two 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 and 213.020, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 213.010 and 213.020, 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); or

76 (g) **A corporation or association that is exempt from
77 federal taxation pursuant to 26 U.S.C. 501(c) and that is
78 either:**

79 **a. Owned or operated by one or more religious or
80 sectarian organizations; or**

81 **b. Organized and operated for religious purposes.**

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

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

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

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

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

100 (12) "Human rights fund", a fund established to
101 receive civil penalties as required by federal regulations
102 and as set forth by subdivision (2) of subsection 11 of
103 section 213.075, and which will be disbursed to offset
104 additional expenses related to compliance with the
105 Department of Housing and Urban Development regulations;

106 (13) "Labor organization" includes any organization
107 which exists for the purpose, in whole or in part, of
108 collective bargaining or of dealing with employers
109 concerning grievances, terms or conditions of employment, or
110 for other mutual aid or protection in relation to employment;

111 (14) "Local commissions", any commission or agency
112 established prior to August 13, 1986, by an ordinance or

113 order adopted by the governing body of any city,
114 constitutional charter city, town, village, or county;

115 (15) "Person" includes one or more individuals,
116 corporations, partnerships, associations, organizations,
117 labor organizations, legal representatives, mutual
118 companies, joint stock companies, trusts, trustees, trustees
119 in bankruptcy, receivers, fiduciaries, or other organized
120 groups of persons;

121 (16) "Places of public accommodation", all places or
122 businesses offering or holding out to the general public,
123 goods, services, privileges, facilities, advantages or
124 accommodations for the peace, comfort, health, welfare and
125 safety of the general public or such public places providing
126 food, shelter, recreation and amusement, including, but not
127 limited to:

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

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

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

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

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

149 (f) Any establishment which is physically located
150 within the premises of any establishment otherwise covered
151 by this section or within the premises of which is
152 physically located any such covered establishment, and which
153 holds itself out as serving patrons of such covered
154 establishment;

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

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

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

165 (20) "Unlawful discriminatory practice", any act that
166 is unlawful under this chapter.

213.020. 1. There is hereby created a "Missouri
2 Commission on Human Rights". It shall consist of eleven
3 members, with no less than one from each of the
4 congressional districts of this state, serving without
5 compensation, to be appointed by the governor with the
6 advice and consent of the senate. One of the members shall
7 be appointed chairperson by the governor. Appointments to
8 the commission shall be for a term of six years. No more
9 than six members at any one time shall be members of the
10 same political party. In the event of the death or

11 resignation of any member, his successor shall be appointed
12 to serve for the unexpired period of the term for which such
13 member had been appointed.

14 2. The function of the commission shall be to
15 encourage fair treatment for and to foster mutual
16 understanding and respect among, and to discourage
17 discrimination against, any racial, ethnic, religious or
18 other group protected by this chapter, members of these
19 groups or persons with disabilities.

20 3. Any local commission created and established prior
21 to August 13, 1986, by an ordinance adopted by the governing
22 body of any city, constitutional charter city, town,
23 village, or county, shall have the power and authority to
24 seek to eliminate and prevent discrimination in employment,
25 housing, and public accommodation, and to establish related
26 programs, which shall be certified by the commission as
27 substantially equivalent. The power and authority of such
28 commissions to initiate and pursue administrative
29 proceedings and remedies shall be solely as provided in **this**
30 **section and** section 213.135.

31 4. (1) **Enforcement of this chapter, and the local**
32 **exercise of delegated authority to regulate unlawful**
33 **discriminatory practices, by local commissions shall be**
34 **consistent with the scope, exemptions, definitions, and**
35 **standard of causation set out in this chapter.**

36 (2) **Any ordinance enacted by the governing body of any**
37 **city, constitutional charter city, town, village, or county**
38 **to regulate unlawful discriminatory practices shall contain**
39 **the following provisions:**

40 (a) **The "motivating factor" standard of causation set**
41 **out in 213.010 shall be the standard of causation in**

42 determining liability under every local ordinance regulating
43 unlawful discriminatory practices;

44 (b) The exemptions that exist under this chapter
45 pursuant to subdivision (8) of section 213.010 and
46 subsection 3 of section 213.065 shall be incorporated in
47 every local ordinance regulating unlawful discriminatory
48 practices and apply equally as exemptions under such local
49 ordinance;

50 (c) The provisions of section 213.101 pertaining to
51 construction of statutes shall apply to the construction of
52 every local ordinance regulating unlawful discriminatory
53 practices; and

54 (d) All of the definitions set forth in section
55 213.010 shall apply to every local ordinance regulating
56 unlawful discriminatory practices.

57 (3) A local ordinance regulating unlawful
58 discriminatory practices may only regulate acts that
59 constitute an unlawful discriminatory practice under this
60 chapter.

61 (4) No authority is delegated to any city,
62 constitutional charter city, town, village, or county to
63 enact an antidiscrimination ordinance that purports to
64 regulate an act that is not an unlawful discriminatory
65 practice under this chapter.

66 (5) No local ordinance regulating unlawful
67 discriminatory practices shall be deemed to create a private
68 cause of action.

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