

SENATE BILL NO. 267

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BECK.

0094S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 213.010, 213.030, 213.055, and 213.070, RSMo, and to enact in lieu thereof four new sections relating to unlawful discrimination practices.

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

Section A. Sections 213.010, 213.030, 213.055, and
2 213.070, RSMo, are repealed and four new sections enacted in
3 lieu thereof, to be known as sections 213.010, 213.030, 213.055,
4 and 213.070, 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, **or pregnancy,**

50 **childbirth, or any medical condition related to pregnancy or**
51 **childbirth, as such terms relate to employment;**

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

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

66 "Employer" shall not include:

67 (a) The United States;

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

70 (c) An individual employed by an employer;

71 (d) An Indian tribe;

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

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

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

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

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

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

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

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

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

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

111 (15) "Person" includes one or more individuals,
112 corporations, partnerships, associations, organizations,
113 labor organizations, legal representatives, mutual

114 companies, joint stock companies, trusts, trustees, trustees
115 in bankruptcy, receivers, fiduciaries, or other organized
116 groups of persons;

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

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

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

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

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

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

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

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

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

157 (19) "The motivating factor", the employee's protected
158 classification actually played a role in the adverse action
159 or decision and had a determinative influence on the adverse
160 decision or action;

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

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

3 (1) To seek to eliminate and prevent discrimination
4 because of race, color, religion, national origin, ancestry,
5 sex, age as it relates to employment, disability, [or]
6 familial status as it relates to housing, **or pregnancy,**
7 **childbirth, or any medical condition related to pregnancy or**
8 **childbirth, as such terms relate to employment,** and to take
9 other actions against discrimination because of race, color,
10 religion, national origin, ancestry, sex, age, disability,
11 [or] familial status, **or pregnancy, childbirth, or any**
12 **medical condition related to pregnancy or childbirth,** as
13 provided by law; and the commission is hereby given general
14 jurisdiction and power for such purposes;

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

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

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

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

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

34 (7) To receive, investigate, initiate, and pass upon
35 complaints alleging discrimination in employment, housing or
36 in places of public accommodations because of race, color,
37 religion, national origin, ancestry, sex, age as it relates
38 to employment, disability, [or] familial status as it
39 relates to housing, **or pregnancy, childbirth, or any medical**
40 **condition related to pregnancy or childbirth, as such terms**
41 **relate to employment**, and to require the production for
42 examination of any books, papers, records, or other
43 materials relating to any matter under investigation;

44 (8) To hold hearings, subpoena witnesses, compel their
45 attendance, administer oaths, to take the testimony of any
46 person under oath, and, in connection therewith, to require

47 the production for examination of any books, papers or other
48 materials relating to any matter under investigation or in
49 question before the commission;

50 (9) To issue publications and the results of studies
51 and research which will tend to promote goodwill and
52 minimize or eliminate discrimination in housing, employment
53 or in places of public accommodation because of race, color,
54 religion, national origin, ancestry, sex, age as it relates
55 to employment, disability, [or] familial status as it
56 relates to housing, **or pregnancy, childbirth, or any medical**
57 **condition related to pregnancy or childbirth, as such terms**
58 **relate to employment;**

59 (10) To provide each year to the governor and to the
60 general assembly a full written report of all its activities
61 and of its recommendations;

62 (11) To adopt an official seal;

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

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

74 (14) To establish a human rights fund as defined in
75 section 213.010, for the purposes of administering sections
76 213.040, 213.045, 213.050, 213.070, 213.075, and 213.076.

77 2. No rule or portion of a rule promulgated under the
78 authority of this chapter shall become effective unless it

79 has been promulgated pursuant to the provisions of section
80 536.024.

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

3 (1) For an employer, because of the race, color,
4 religion, national origin, sex, ancestry, age [or],
5 disability, **pregnancy, childbirth, or medical condition**
6 **related to pregnancy or childbirth**, 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 **or her** compensation, terms,
10 conditions, or privileges of employment, because of such
11 individual's race, color, religion, national origin, sex,
12 ancestry, age [or], disability, **pregnancy, childbirth, or**
13 **medical condition related to pregnancy or childbirth;**

14 (b) To limit, segregate, or classify his employees or
15 his employment applicants in any way which would deprive or
16 tend to deprive any individual of employment opportunities
17 or otherwise adversely affect his status as an employee,
18 because of such individual's race, color, religion, national
19 origin, sex, ancestry, age [or], disability, **pregnancy,**
20 **childbirth, or medical condition related to pregnancy or**
21 **childbirth;**

22 (2) For a labor organization to exclude or to expel
23 from its membership any individual or to discriminate in any
24 way against any of its members or against any employer or
25 any individual employed by an employer because of race,
26 color, religion, national origin, sex, ancestry, age or
27 disability of any individual; or to limit, segregate, or
28 classify its membership, or to classify or fail or refuse to
29 refer for employment any individual, in any way which would
30 deprive or tend to deprive any individual of employment

31 opportunities, or would limit such employment opportunities
32 or otherwise adversely affect his status as an employee or
33 as an applicant for employment, because of such individual's
34 race, color, religion, national origin, sex, ancestry, age
35 [or], disability, **pregnancy, childbirth, or medical**
36 **condition related to pregnancy or childbirth;** or for any
37 employer, labor organization, or joint labor-management
38 committee controlling apprenticeship or other training or
39 retraining, including on-the-job training programs to
40 discriminate against any individual because of his race,
41 color, religion, national origin, sex, ancestry, age [or],
42 disability, **pregnancy, childbirth, or medical condition**
43 **related to pregnancy or childbirth,** in admission to, or
44 employment in, any program established to provide
45 apprenticeship or other training;

46 (3) For any employer or employment agency to print or
47 circulate or cause to be printed or circulated any
48 statement, advertisement or publication, or to use any form
49 of application for employment or to make any inquiry in
50 connection with prospective employment, which expresses,
51 directly or indirectly, any limitation, specification, or
52 discrimination, because of race, color, religion, national
53 origin, sex, ancestry, age [or], disability, **pregnancy,**
54 **childbirth, or medical condition related to pregnancy or**
55 **childbirth,** unless based upon a bona fide occupational
56 qualification or for an employment agency to fail or refuse
57 to refer for employment, or otherwise to discriminate
58 against, any individual because of his or her race, color,
59 religion, national origin, sex, ancestry, age [as it relates
60 to employment, or], disability, **pregnancy, childbirth, or**
61 **medical condition related to pregnancy or childbirth,** or to
62 classify or refer for employment any individual because of

63 his or her race, color, religion, national origin, sex,
64 ancestry, age [or], disability, **pregnancy, childbirth, or**
65 **medical condition related to pregnancy or childbirth.**

66 2. Notwithstanding any other provision of this
67 chapter, it shall not be an unlawful employment practice for
68 an employer to apply different standards of compensation, or
69 different terms, conditions or privileges of employment
70 pursuant to a bona fide seniority or merit system, or a
71 system which measures earnings by quantity or quality of
72 production or to employees who work in different locations,
73 provided that such differences or such systems are not the
74 result of an intention or a design to discriminate, and are
75 not used to discriminate, because of race, color, religion,
76 sex, national origin, ancestry, age [or], disability,
77 **pregnancy, childbirth, or any medical condition related to**
78 **pregnancy or childbirth,** nor shall it be an unlawful
79 employment practice for an employer to give and to act upon
80 the results of any professionally developed ability test,
81 provided that such test, its administration, or action upon
82 the results thereof, is not designed, intended or used to
83 discriminate because of race, color, religion, national
84 origin, sex, ancestry, age [or], disability, **pregnancy,**
85 **childbirth, or any medical condition related to pregnancy or**
86 **childbirth.**

87 3. Nothing contained in this chapter shall be
88 interpreted to require any employer, employment agency,
89 labor organization, or joint labor-management committee
90 subject to this chapter to grant preferential treatment to
91 any individual or to any group because of the race, color,
92 religion, national origin, sex, ancestry, age [or],
93 disability, **pregnancy, childbirth, or medical condition**
94 **related to pregnancy or childbirth,** of such individual or

95 group on account of an imbalance which may exist with
96 respect to the total number or percentage of persons of any
97 race, color, religion, national origin, sex, ancestry, age
98 [or], disability, **pregnancy, childbirth, or medical**
99 **condition related to pregnancy or childbirth**, employed by
100 any employer, referred or classified for employment by any
101 employment agency or labor organization, admitted to
102 membership or classified by any labor organization, or
103 admitted to or employed in any apprenticeship or other
104 training program, in comparison with the total number or
105 percentage of persons of such race, color, religion,
106 national origin, sex, ancestry, age [or], disability,
107 **pregnancy, childbirth, or medical condition related to**
108 **pregnancy or childbirth**, in any community, state, section,
109 or other area, or in the available workforce in any
110 community, state, section, or other area.

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

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, ancestry, age, as it relates to
16 employment, disability, [or] familial status as it relates
17 to housing, **or pregnancy, childbirth, or any medical**
18 **condition related to pregnancy or childbirth, as such terms**
19 **relate to employment;** or

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

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

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