

SECOND REGULAR SESSION

# HOUSE BILL NO. 1401

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PRICE.

3025H.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Section A. Sections 213.010 and 213.055, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 213.010 and 213.055, to read as follows: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:

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

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

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

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

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

17           ~~[(5)]~~ **(6)** "Disability", a physical or mental impairment which substantially limits one or  
18 more of a person's major life activities, being regarded as having such an impairment, or a record  
19 of having such an impairment, which with or without reasonable accommodation does not  
20 interfere with performing the job, utilizing the place of public accommodation, or occupying the  
21 dwelling in question. For purposes of this chapter, the term "disability" does not include current,  
22 illegal use of or addiction to a controlled substance as such term is defined by section 195.010;  
23 however, a person may be considered to have a disability if that person:

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

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

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

32           ~~[(6)]~~ **(7)** "Discrimination", conduct proscribed herein, taken because of race, color,  
33 religion, national origin, ancestry, sex, ~~[or]~~ age **or address status** as ~~[it relates]~~ **they relate** to  
34 employment, disability, or familial status as it relates to housing;

35           ~~[(7)]~~ **(8)** "Dwelling", any building, structure, or portion thereof which is occupied as, or  
36 designed or intended for occupancy as, a residence by one or more families, and any vacant land  
37 which is offered for sale or lease for the construction or location thereon of any such building,  
38 structure, or portion thereof;

39           ~~[(8)]~~ **(9)** "Employer", a person engaged in an industry affecting commerce who has six  
40 or more employees for each working day in each of twenty or more calendar weeks in the current  
41 or preceding calendar year, and shall include the state, or any political or civil subdivision  
42 thereof, or any person employing six or more persons within the state but does not include  
43 corporations and associations owned or 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 exempt  
52 from taxation under 26 U.S.C. Section 501(c);

53           ~~[(9)]~~ **(10)** "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;

56           ~~[(10)]~~ **(11)** "Executive director", the executive director of the Missouri commission on  
57 human rights;

58           ~~[(11)]~~ **(12)** "Familial status", one or more individuals who have not attained the age of  
59 eighteen years being domiciled with:

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

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

65           ~~[(12)]~~ **(13)** "Human rights fund", a fund established to receive civil penalties as required  
66 by federal regulations and as set forth by subdivision (2) of subsection 11 of section 213.075, and  
67 which will be disbursed to offset additional expenses related to compliance with the Department  
68 of Housing and Urban Development regulations;

69           ~~[(13)]~~ **(14)** "Labor organization" includes any organization which exists for the purpose,  
70 in whole or in part, of collective bargaining or of dealing with employers concerning grievances,  
71 terms or conditions of employment, or for other mutual aid or protection in relation to  
72 employment;

73           ~~[(14)]~~ **(15)** "Local commissions", any commission or agency established prior to August  
74 13, 1986, by an ordinance or order adopted by the governing body of any city, constitutional  
75 charter city, town, village, or county;

76           ~~[(15)]~~ **(16)** "Person" includes one or more individuals, corporations, partnerships,  
77 associations, organizations, labor organizations, legal representatives, mutual companies, joint  
78 stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries, or other organized  
79 groups of persons;

80           ~~[(16)]~~ **(17)** "Places of public accommodation", all places or businesses offering or  
81 holding out to the general public, goods, services, privileges, facilities, advantages, or  
82 accommodations for the peace, comfort, health, welfare, and safety of the general public or such  
83 public places providing food, shelter, recreation, and amusement, including, but not limited to:

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

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

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

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

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

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

102 ~~[(17)]~~ (18) "Rent" includes to lease, to sublease, to let, and otherwise to grant for  
103 consideration the right to occupy premises not owned by the occupant;

104 ~~[(18)]~~ (19) "Respondent", a person who is alleged to have engaged in a prohibited  
105 discriminatory practice in a complaint filed with the commission;

106 ~~[(19)]~~ (20) "The motivating factor", the employee's protected classification actually  
107 played a role in the adverse action or decision and had a determinative influence on the adverse  
108 decision or action;

109 ~~[(20)]~~ (21) "Unlawful discriminatory practice", any act that is unlawful under this  
110 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, ~~[or]~~ disability, **or address status** 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 privileges  
6 of employment, because of such individual's race, color, religion, national origin, sex, ancestry,  
7 age, ~~[or]~~ disability, **or address status**;

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 **or her** status as an employee, because of such  
11 individual's race, color, religion, national origin, sex, ancestry, age, ~~[or]~~ disability, **or address**  
12 **status**;

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

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

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

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

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

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