

SECOND REGULAR SESSION

HOUSE BILL NO. 1527

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RAZER.

3726H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, and 213.101, RSMo, and to enact in lieu thereof nine new sections relating to discrimination based on sexual orientation or gender identity.

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

Section A. Sections 213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, and 213.101, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, and 213.101, to read as follows:

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

- (1) “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) “Because” or “because of”, as it relates to the adverse decision or action, the protected criterion was the motivating factor;
- (3) “Commission”, the Missouri commission on human rights;
- (4) “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.

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

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

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

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

29 (6) “Discrimination”, conduct proscribed herein, taken because of race, color, religion,
30 national origin, ancestry, sex, [ø] **sexual orientation, gender identity**, age as it relates to
31 employment, disability, or familial status as it relates to housing. **Discrimination includes any**
32 **unfair treatment based on a person’s presumed or assumed race, color, religion, national**
33 **origin, ancestry, sex, sexual orientation, gender identity, age as it relates to employment,**
34 **disability, or familial status as it relates to housing, regardless of whether the presumption**
35 **or assumption as to such characteristic is correct;**

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

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

46 (a) The United States;

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

48 (c) An individual employed by an employer;

49 (d) An Indian tribe;

50 (e) Any department or agency of the District of Columbia subject by statute to
51 procedures of the competitive service, as defined in 5 U.S.C. Section ~~[2404]~~ **2102**; or

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

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

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

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

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

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

66 (12) **"Gender identity", the gender-related identity, appearance, mannerisms, or**
67 **other gender-related characteristics of an individual, with or without regard to the**
68 **individual's assigned sex at birth;**

69 (13) "Human rights fund", a fund established to receive civil penalties as required by
70 federal regulations and as set forth by subdivision (2) of subsection 11 of section 213.075, and
71 which will be disbursed to offset additional expenses related to compliance with the Department
72 of Housing and Urban Development regulations;

73 ~~[(13)]~~ (14) "Labor organization" includes any organization which exists for the purpose,
74 in whole or in part, of collective bargaining or of dealing with employers concerning grievances,
75 terms or conditions of employment, or for other mutual aid or protection in relation to
76 employment;

77 ~~[(14)]~~ (15) "Local commissions", any commission or agency established prior to August
78 13, 1986, by an ordinance or order adopted by the governing body of any city, constitutional
79 charter city, town, village, or county;

80 ~~[(15)]~~ (16) "Person" includes one or more individuals, corporations, partnerships,
81 associations, organizations, labor organizations, legal representatives, mutual companies, joint
82 stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries, or other organized
83 groups of persons;

84 ~~[(16)]~~ (17) "Places of public accommodation", all places or businesses offering or
85 holding out to the general public, goods, services, privileges, facilities, advantages or

86 accommodations for the peace, comfort, health, welfare and safety of the general public or such
87 public places providing food, shelter, recreation and amusement, including, but not limited to:

88 (a) Any inn, hotel, motel, or other establishment which provides lodging to transient
89 guests, other than an establishment located within a building which contains not more than five
90 rooms for rent or hire and which is actually occupied by the proprietor of such establishment as
91 ~~his~~ **the proprietor's** residence;

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

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

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

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

102 (f) Any establishment which is physically located within the premises of any
103 establishment otherwise covered by this section or within the premises of which is physically
104 located any such covered establishment, and which holds itself out as serving patrons of such
105 covered establishment;

106 ~~[(17)]~~ **(18)** "Rent" includes to lease, to sublease, to let and otherwise to grant for
107 consideration the right to occupy premises not owned by the occupant;

108 ~~[(18)]~~ **(19)** "Respondent", a person who is alleged to have engaged in a prohibited
109 discriminatory practice in a complaint filed with the commission;

110 ~~[(19)]~~ **(20)** "Sexual orientation", **one's actual or perceived emotional or physical**
111 **attraction to, or romantic or physical relationships with, members of the same gender,**
112 **members of a different gender, or members of any gender; or the lack of any emotional or**
113 **physical attraction to, or romantic or physical relationships with, anyone. The term**
114 **"sexual orientation" includes a history of such attraction or relationship or a history of no**
115 **such attraction or relationship;**

116 **(21)** "The motivating factor", the employee's protected classification actually played a
117 role in the adverse action or decision and had a determinative influence on the adverse decision
118 or action;

119 ~~[(20)]~~ **(22)** "Unlawful discriminatory practice", any act that is unlawful under this
120 chapter.

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

- 2 (1) To seek to eliminate and prevent discrimination because of race, color, religion,
3 national origin, ancestry, sex, **sexual orientation, gender identity**, age as it relates to
4 employment, disability, or familial status as it relates to housing and to take other actions against
5 discrimination because of race, color, religion, national origin, ancestry, sex, **sexual orientation,**
6 **gender identity**, age, disability, or familial status as provided by law; and the commission is
7 hereby given general jurisdiction and power for such purposes;
- 8 (2) To implement the purposes of this chapter first by conference, conciliation and
9 persuasion so that persons may be guaranteed their civil rights and goodwill be fostered;
- 10 (3) To formulate policies to implement the purposes of this chapter and to make
11 recommendations to agencies and officers of the state and political subdivisions in aid of such
12 policies and purposes;
- 13 (4) To appoint such employees as it may deem necessary, fix their compensation within
14 the appropriations provided and in accordance with the wage structure established for other state
15 agencies, and prescribe their duties;
- 16 (5) To obtain upon request and utilize the services of all governmental departments and
17 agencies to be paid from appropriations to this commission;
- 18 (6) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out
19 the provisions of this chapter and the policies and practices of the commission in connection
20 therewith;
- 21 (7) To receive, investigate, initiate, and pass upon complaints alleging discrimination
22 in employment, housing or in places of public accommodations because of race, color, religion,
23 national origin, ancestry, sex, **sexual orientation, gender identity**, age as it relates to
24 employment, disability, or familial status as it relates to housing and to require the production
25 for examination of any books, papers, records, or other materials relating to any matter under
26 investigation;
- 27 (8) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, to
28 take the testimony of any person under oath, and, in connection therewith, to require the
29 production for examination of any books, papers or other materials relating to any matter under
30 investigation or in question before the commission;
- 31 (9) To issue publications and the results of studies and research which will tend to
32 promote goodwill and minimize or eliminate discrimination in housing, employment or in places
33 of public accommodation because of race, color, religion, national origin, ancestry, sex, **sexual**
34 **orientation, gender identity**, age as it relates to employment, disability, or familial status as it
35 relates to housing;
- 36 (10) To provide each year to the governor and to the general assembly a full written
37 report of all its activities and of its recommendations;

38 (11) To adopt an official seal;

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

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

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

48 2. No rule or portion of a rule promulgated under the authority of this chapter shall
49 become effective unless it has been promulgated pursuant to the provisions of [~~section 536.024~~]
50 **chapter 536**.

213.040. 1. It shall be an unlawful housing practice:

2 (1) To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate
3 for the sale or rental of, to deny or otherwise make unavailable, a dwelling to any person because
4 of race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity,**
5 disability, or familial status;

6 (2) To discriminate against any person in the terms, conditions, or privileges of sale or
7 rental of a dwelling, or in the provision of services or facilities in connection therewith, because
8 of race, color, religion, national origin, ancestry, sex, **sexual orientation, gender identity,**
9 disability, or familial status;

10 (3) To make, print, or publish, or cause to be made, printed, or published any notice,
11 statement or advertisement, with respect to the sale or rental of a dwelling that indicates any
12 preference, limitation, or discrimination because of race, color, religion, national origin, ancestry,
13 sex, **sexual orientation, gender identity,** disability, or familial status, or an intention to make
14 any such preference, limitation, or discrimination;

15 (4) To represent to any person because of race, color, religion, national origin, ancestry,
16 sex, **sexual orientation, gender identity,** disability, or familial status that any dwelling is not
17 available for inspection, sale, or rental when such dwelling is in fact so available;

18 (5) To induce or attempt to induce any person to sell or rent any dwelling by
19 representations regarding the entry or prospective entry into the neighborhood of a person or
20 persons because of a particular race, color, religion, national origin, ancestry, sex, **sexual**
21 **orientation, gender identity,** disability, or familial status;

22 (6) To discriminate in the sale or rental of, or to otherwise make unavailable or deny, a
23 dwelling to any buyer or renter because of a disability of:

- 24 (a) That buyer or renter;
- 25 (b) A person residing in or intending to reside in that dwelling after it is so sold, rented,
26 or made available; or
- 27 (c) Any person associated with that buyer or renter;
- 28 (7) To discriminate against any person in the terms, conditions, or privileges of sale or
29 rental of a dwelling, or in the provision of services or facilities in connection with such dwelling,
30 because of a disability of:
- 31 (a) That person;
- 32 (b) A person residing in or intending to reside in that dwelling after it is so sold, rented,
33 or made available; or
- 34 (c) Any person associated with that person.
- 35 2. For purposes of this section and sections 213.045 and 213.050, discrimination
36 includes:
- 37 (1) A refusal to permit, at the expense of the person with the disability, reasonable
38 modifications of existing premises occupied or to be occupied by such person if such
39 modifications may be necessary to afford such person full enjoyment of the premises, except that,
40 in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for
41 a modification on the renter's agreeing to restore the interior of the premises to the condition that
42 existed before the modification, reasonable wear and tear excepted;
- 43 (2) A refusal to make reasonable accommodations in rules, policies, practices, or
44 services, when such accommodations may be necessary to afford such person equal opportunity
45 to use and enjoy a dwelling; or
- 46 (3) In connection with the design and construction of covered multifamily dwellings for
47 first occupancy after March 13, 1991, a failure to design and construct those dwellings in such
48 a manner that:
- 49 (a) The public use and common use portions of such dwellings are readily accessible to
50 and usable by persons with a disability;
- 51 (b) All the doors designed to allow passage into and within all premises within such
52 dwellings are sufficiently wide to allow passage by persons with a disability in wheelchairs; and
- 53 (c) All premises within such dwellings contain the following features of adaptive design:
- 54 a. An accessible route into and through the dwelling;
- 55 b. Light switches, electrical outlets, thermostats, and other environmental controls in
56 accessible locations;
- 57 c. Reinforcements in bathroom walls to allow later installation of grab bars; and
- 58 d. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver
59 about the space.

60 3. As used in subdivision (3) of subsection 2 of this section, the term “covered
61 multifamily dwelling” means:

62 (1) Buildings consisting of four or more units if such buildings have one or more
63 elevators; and

64 (2) Ground floor units in other buildings consisting of four or more units.

65 4. Compliance with the appropriate requirements of the American National Standard for
66 Buildings and Facilities providing accessibility and usability for people with physical disabilities,
67 commonly cited as “ANSI A117.1”, suffices to satisfy the requirements of paragraph (a) of
68 subdivision (3) of subsection 2 of this section.

69 5. Where a unit of general local government has incorporated into its laws the
70 requirements set forth in subdivision (3) of subsection 2 of this section, compliance with such
71 laws shall be deemed to satisfy the requirements of that subdivision. Such compliance shall be
72 subject to the following provisions:

73 (1) A unit of general local government may review and approve newly constructed
74 covered multifamily dwellings for the purpose of making determinations as to whether the design
75 and construction requirements of subdivision (3) of subsection 2 of this section are met;

76 (2) The commission shall encourage, but may not require, the units of local government
77 to include in their existing procedures for the review and approval of newly constructed covered
78 multifamily dwellings, determinations as to whether the design and construction of such
79 dwellings are consistent with subdivision (3) of subsection 2 of this section, and shall provide
80 technical assistance to units of local government and other persons to implement the
81 requirements of subdivision (3) of subsection 2 of this section;

82 (3) Nothing in this chapter shall be construed to require the commission to review or
83 approve the plans, designs or construction of all covered dwellings, to determine whether the
84 design and construction of such dwellings are consistent with the requirements of subdivision
85 (3) of subsection 2 of this section.

86 6. Nothing in this chapter shall be construed to invalidate or limit any law of the state
87 or political subdivision of the state, or other jurisdiction in which this chapter shall be effective,
88 that requires dwellings to be designed and constructed in a manner that affords persons with
89 disabilities greater access than is required by this chapter.

90 7. Nothing in this section and sections 213.045 and 213.050 requires that a dwelling be
91 made available to an individual whose tenancy would constitute a direct threat to the health or
92 safety of other individuals or whose tenancy would result in substantial physical damage to the
93 property of others.

94 8. Nothing in this section and sections 213.045 and 213.050 limits the applicability of
95 any reasonable local or state restriction regarding the maximum number of occupants permitted

96 to occupy a dwelling, nor does any provision in this section and sections 213.045 and 213.050
97 regarding familial status apply with respect to housing for older persons.

98 9. As used in this section and sections 213.045 and 213.050, "housing for older persons"
99 means housing:

100 (1) Provided under any state or federal program that the commission determines is
101 specifically designed and operated to assist elderly persons, as defined in the state or federal
102 program;

103 (2) Intended for, and solely occupied by, persons sixty-two years of age or older; or

104 (3) Intended and operated for occupancy by at least one person fifty-five years of age or
105 older per unit. In determining whether housing qualifies as housing for older persons under this
106 subsection, the commission shall develop regulations which require at least the following factors:

107 (a) The existence of significant facilities and services specifically designed to meet the
108 physical or social needs of older persons, or if the provision of such facilities and services is not
109 practicable, that such housing is necessary to provide important housing opportunities for older
110 persons; and

111 (b) That at least eighty percent of the units are occupied by at least one person fifty-five
112 years of age or older per unit; and

113 (c) The publication of, and adherence to, policies and procedures which demonstrate an
114 intent by the owner or manager to provide housing for persons fifty-five years of age or older.

115 10. Housing shall not fail to meet the requirements for housing for older persons by
116 reason of:

117 (1) Persons residing in such housing as of August 28, 1992, who do not meet the age
118 requirements of subdivision (2) or (3) of subsection 9 of this section, provided that new
119 occupants of such housing meet the age requirements of subdivision (2) or (3) of subsection 9
120 of this section; or

121 (2) Unoccupied units, provided that such units are reserved for occupancy by persons
122 who meet the age requirements of subdivision (2) or (3) of subsection 9 of this section.

123 11. Nothing in this section or section 213.045 or 213.050 shall prohibit conduct against
124 a person because such person has been convicted by any court of competent jurisdiction of the
125 illegal manufacture or distribution of a controlled substance, as defined by section 195.010.

126 12. Nothing in this chapter shall prohibit a religious organization, association, or society,
127 or any nonprofit institution or organization operated, supervised or controlled by or in
128 conjunction with a religious organization, association, or society, from limiting the sale, rental
129 or occupancy of dwellings which it owns or operates for other than a commercial purpose to
130 persons of the same religion, or from giving preference to such persons, unless membership in
131 such religion is restricted on account of race, color, or national origin. Nor shall anything in this

132 chapter prohibit a private club not in fact open to the public, which as an incident to its primary
 133 purpose or purposes provides lodging which it owns or operates for other than a commercial
 134 purpose, from limiting the rental or occupancy of such lodging to its members or from giving
 135 preference to its members.

136 13. Nothing in this chapter, other than the prohibitions against discriminatory advertising
 137 in subdivision (3) of subsection 1 of this section, shall apply to:

138 (1) The sale or rental of any single family house by a private individual owner, provided
 139 the following conditions are met:

140 (a) The private individual owner does not own or have any interest in more than three
 141 single family houses at any one time; and

142 (b) The house is sold or rented without the use of a real estate broker, agent or
 143 salesperson or the facilities of any person in the business of selling or renting dwellings and
 144 without publication, posting or mailing of any advertisement. If the owner selling the house does
 145 not reside in it at the time of the sale or was not the most recent resident of the house prior to
 146 such sale, the exemption in this section applies to only one such sale in any twenty-four-month
 147 period; or

148 (2) Rooms or units in dwellings containing living quarters occupied or intended to be
 149 occupied by no more than four families living independently of each other, if the owner actually
 150 maintains and occupies one of such living quarters as his or her residence.

213.045. It shall be unlawful for any bank, building and loan association, insurance
 2 company or other corporation, association, firm or enterprise whose business consists in whole
 3 or in part in the making of commercial real estate loans, to deny a loan or other financial
 4 assistance because of race, color, religion, national origin, ancestry, sex, **sexual orientation,**
 5 **gender identity,** disability or familial status to a person applying therefor for the purpose of
 6 purchasing, construction, improving, repairing, or maintaining a dwelling, or to discriminate
 7 against ~~him~~ **such person** in fixing of the amount, interest rate, duration or other terms or
 8 conditions of such loan or other financial assistance, because of the race, color, religion, national
 9 origin, ancestry, sex, **sexual orientation, gender identity,** disability, or familial status of such
 10 person or of any person associated with ~~him~~ **such person** in connection with such loan or other
 11 financial assistance, or of the present or prospective owners, lessees, tenants, or occupants, of
 12 the dwellings in relation to which such loan or other financial assistance is to be made or given.

213.050. It shall be unlawful to deny any person access to or membership or participation
 2 in any multiple listing service, real estate brokers' organization or other service organization, or
 3 facility relating to the business of selling or renting dwellings, because of race, color, religion,
 4 national origin, ancestry, sex, **sexual orientation, gender identity,** disability, or familial status.

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

2 (1) For an employer, because of the race, color, religion, national origin, sex, **sexual**
3 **orientation, gender identity**, ancestry, age 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] such individual's** compensation, terms, conditions,
6 or privileges of employment, because of such individual's race, color, religion, national origin,
7 sex, **sexual orientation, gender identity**, ancestry, age or disability;

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

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, **sexual**
16 **orientation, gender identity**, ancestry, age or disability of any individual; or to limit, segregate,
17 or 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] such**
20 **individual's** status as an employee or as an applicant for employment, because of such
21 individual's race, color, religion, national origin, sex, **sexual orientation, gender identity**,
22 ancestry, age or disability; or for any employer, labor organization, or joint labor-management
23 committee controlling apprenticeship or other training or retraining, including on-the-job training
24 programs to discriminate against any individual because of **[his] such individual's** race, color,
25 religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age or disability in
26 admission to, or employment in, any program established to provide apprenticeship or other
27 training;

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

37 employment any individual because of his or her race, color, religion, national origin, sex, **sexual**
38 **orientation, gender identity**, ancestry, age or disability.

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

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

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

213.065. 1. All persons within the jurisdiction of the state of Missouri are free and equal
2 and shall be entitled to the full and equal use and enjoyment within this state of any place of
3 public accommodation, as hereinafter defined, without discrimination or segregation because of
4 race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, or
5 disability.

6 2. It is an unlawful discriminatory practice for any person, directly or indirectly, to
7 refuse, withhold from or deny any other person, or to attempt to refuse, withhold from or deny
8 any other person, any of the accommodations, advantages, facilities, services, or privileges made
9 available in any place of public accommodation, as defined in section 213.010 and this section,
10 or to segregate or discriminate against any such person in the use thereof because of race, color,
11 religion, national origin, sex, **sexual orientation, gender identity**, ancestry, or disability.

12 3. The provisions of this section shall not apply to a private club, a place of
13 accommodation owned by or operated on behalf of a religious corporation, association or society,
14 or other establishment which is not in fact open to the public, unless the facilities of such
15 establishments are made available to the customers or patrons of a place of public
16 accommodation as defined in section 213.010 and this section.

 213.070. 1. It shall be an unlawful discriminatory practice for an employer, employment
2 agency, labor organization, or place of public accommodation:

3 (1) To aid, abet, incite, compel, or coerce the commission of acts prohibited under this
4 chapter or to attempt to do so;

5 (2) To retaliate or discriminate in any manner against any other person because such
6 person has opposed any practice prohibited by this chapter or because such person has filed a
7 complaint, testified, assisted, or participated in any manner in any investigation, proceeding or
8 hearing conducted pursuant to this chapter;

9 (3) For the state or any political subdivision of this state to discriminate on the basis of
10 race, color, religion, national origin, sex, **sexual orientation, gender identity**, ancestry, age, as
11 it relates to employment, disability, or familial status as it relates to housing; or

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

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

 213.101. 1. The provisions of this chapter shall be construed to accomplish the purposes
2 thereof and any law inconsistent with any provision of this chapter shall not apply. Nothing
3 contained in this chapter shall be deemed to repeal any of the provisions of any law of this state
4 relating to discrimination because of race, color, religion, national origin, sex, **sexual**
5 **orientation, gender identity**, ancestry, age, disability, or familial status.

6 2. The general assembly hereby expressly abrogates the case of *McBryde v. Ritenour*
7 School District, 207 S.W.3d 162 (Mo.App. E.D. 2006), and its progeny as it relates to the
8 necessity and appropriateness of the issuance of a business judgment instruction. In all civil
9 actions brought under this chapter, a jury shall be given an instruction expressing the business
10 judgment rule.

11 3. If an employer in a case brought under this chapter files a motion pursuant to rule
12 74.04 of the Missouri rules of civil procedure, the court shall consider the burden-shifting
13 analysis of *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), and its progeny to be
14 highly persuasive for analysis in cases not involving direct evidence of discrimination.

15 4. The general assembly hereby expressly abrogates by this statute the cases of
16 *Daugherty v. City of Maryland Heights*, 231 S.W.3d 814 (Mo. 2007) and its progeny as they
17 relate to the contributing factor standard and abandonment of the burden-shifting framework
18 established in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973).

19 5. The general assembly hereby expressly abrogates by this statute the holding in *Hurst*
20 *v. Kansas City Mo. School District*, 437 S.W.3d 327 (Mo.App. W.D. 2014), that Missouri
21 Approved Instruction 19.01 may be applied to actions brought pursuant to this chapter, and the
22 holding in *Thomas v. McKeever's Enterprises, Inc.*, 388 S.W.3d 206 (Mo.App. W.D. 2012), that
23 juries shall not be instructed that plaintiffs bear the burden of establishing "but for" causation
24 in actions brought pursuant to this chapter.

25 6. The general assembly hereby abrogates all Missouri-approved jury instructions
26 specifically addressing civil actions brought under this chapter which were in effect prior to
27 August 28, ~~[2017]~~ **2019**.

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