

HB 205 -- Unlawful Discriminatory Practices under the Missouri Human Rights Law

Sponsor: Elmer

This bill changes the laws regarding unlawful discriminatory practices as they relate to the Missouri Human Rights Law. In its main provisions, the bill:

(1) Adds the definition of "because" or "because of" as it relates to a decision or action to be the protected criterion was a motivating factor;

(2) Revises the definition of "employer" by specifying that it is a person engaged in an industry affecting commerce who has six or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year and does not include the federal government; a corporation owned by the federal government; an individual employed by an employer; an Indian tribe; private membership clubs, excluding labor organizations; and corporations and associations owned and operated by religious or sectarian groups;

(3) Defines "other protected person" as a person who has reported to the proper authorities an unlawful act of the employer or its agent; a person who reports to an employer serious misconduct of the employer that violates state law or regulation; a person who has refused to carry out a directive issued by the employer that if completed would be a violation of the law; or a person who engages in conduct otherwise protected by statute or regulation;

(4) Adds the definition of "proper authorities" which includes governmental or law enforcement agencies or an officer or the employee's human resources representative employed by the employer;

(5) Specifies that it will be an unlawful discriminatory practice to discharge a person because of his or her status as an other protected person;

(6) Specifies that Chapter 213, RSMo, will provide the exclusive remedy for any and all unlawful employment practices and nullifies any common law causes of action to the contrary;

(7) Requires courts to rely heavily upon judicial interpretations of Title VII of the Civil Rights Act of 1964, the Age Discrimination Employment Act of 1967, and the Americans With Disabilities Act in interpreting and applying the provisions of Chapter 213 in employment cases;

(8) Specifies that the legislature intends expressly to abrogate *McBryde v. Ritenour School District*, 207 S.W.3d 162 (Mo. App. E.D.) as it relates to the necessity and appropriateness of the issuance of a business judgment instruction;

(9) Recommends that certain specified frameworks for analysis should be considered highly persuasive if an employer in a Chapter 213 case files a Rule 74.04 of the Missouri Rules of Civil Procedure motion as a tool in removing factually insubstantial cases from crowded dockets;

(10) Prohibits the prevailing party in a case brought alleging discharge of an other protected person from being entitled to attorney fees;

(11) Allows any party in an unlawful discriminatory employment practice complaint to demand a trial by jury;

(12) Specifies that the amount of all damages awarded cannot exceed the amount of the actual back pay plus interest and punitive damages of up to \$50,000 in the case of an employer with six to 100 employees in each of 20 or more weeks in the current or preceding calendar year; up to \$100,000 for an employer with 101 to 200 employees; up to \$200,000 for an employer with 201 to 500 employees; and up to \$300,000 for an employer with more than 500 employees. The maximum award amounts do not apply to unlawful discrimination actions regarding housing, commercial real estate loans, and selling or renting by real estate agencies;

(13) Requires the plaintiff to prove that the protected criterion was the motivating factor in the alleged unlawful decision or action in any employment-related civil action; and

(14) Prohibits punitive damages from being awarded against the state or any of its political subdivisions.