

HB 1219 -- Unlawful Discriminatory Employment Practices

Sponsor: Elmer

This bill changes the laws regarding unlawful discriminatory employment practices under the Missouri Human Rights Law and establishes the Whistleblower Protection Act.

UNLAWFUL DISCRIMINATORY EMPLOYMENT PRACTICES UNDER THE MISSOURI HUMAN RIGHTS LAW

The bill:

- (1) Defines the term "because of" or "because", as it relates to a decision or action, to mean the protected criterion was a motivating factor;
- (2) Revises the term "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 an individual employed by an employer; certain tax-exempt private membership clubs, excluding labor organizations; and corporations and associations owned and operated by religious or sectarian groups;
- (3) Specifies that it is a duty of the judicial branch to reduce the cost of litigation and end disputes timely;
- (4) Specifies that any party to certain unlawful discriminatory practice actions may demand a trial by jury;
- (5) Specifies that an award of damages must include all future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, and punitive damages awarded;
- (6) Specifies that the amount of damages awarded for each plaintiff cannot exceed the amount of the actual back pay plus interest, court costs, reasonable attorney fees, and other damages of up to \$50,000 in the case of an employer with six to 99 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 199 employees; up to \$200,000 for an employer with 201 to 499 employees; and up to \$300,000 for an employer with more than 500 employees; and
- (7) Prohibits punitive damages from being awarded against the state or any of its political subdivisions except for claims for discriminatory housing practices authorized in Section 213.040, RSMo.

WHISTLEBLOWER PROTECTION ACT

The Whistleblower Protection Act is established which places in statute existing common law exceptions to the at-will employment doctrine making it an unlawful employment practice for an employer to discharge or retaliate against an individual who is a protected person. The bill:

(1) Defines the term "because of" or "because", as it relates to a decision or action, to mean the protected criterion was a motivating factor;

(2) Defines "proper authorities" as a governmental or law enforcement agency or an officer or the employee's human resources representative employed by the employer;

(3) Defines "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 or its agent that violates a state law or regulation or a rule of a governmental entity; a person who has refused to carry out a directive issued by the employer or its agent that if completed would be a violation of the law; or a person who engages in conduct otherwise protected by statute or regulation;

(4) Specifies that the provisions of the act will provide the exclusive remedy for any and all unlawful employment practices described in the act and voids any common law causes of action to the contrary;

(5) Specifies that a protected person aggrieved by a violation will have a private right of action for damages in a circuit court. The Missouri Human Rights Commission will not have jurisdiction to review or adjudicate claims brought under these provisions. The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order and may award to the plaintiff actual and punitive damages;

(6) Specifies that any party to an action under these provisions may demand a trial by jury; and

(7) Specifies that the court may award the plaintiff actual and punitive damages. An award of damages must include all future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, and punitive damages awarded. The amount of all damages awarded for each complainant cannot exceed the amount of the actual back pay plus interest, other equitable relief, and other damages of up to \$50,000 in the case of an employer with six to 99 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 199 employees; up to \$200,000 for an employer with 201 to 499 employees; and up to \$300,000 for an employer with more than 500 employees.