

FIRST REGULAR SESSION

HOUSE BILL NO. 319

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ELMER (Sponsor), JONES (110), KORMAN, FUNDERBURK, REDMON, JONES (50), SPENCER, HOUGH, HINSON, DIEHL, CROSS AND FREDERICK (Co-sponsors).

0494L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 285, RSMo, by adding thereto one new section relating to unlawful employment practices.

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

Section A. Chapter 285, RSMo, is amended by adding thereto one new section, to be known as section 285.575, to read as follows:

285.575. 1. This section shall be known and may be cited as the "Whistleblower's Protection Act".

2. As used in this section, the following terms shall mean:

(1) "Because" or "because of", as it relates to a decision or action, the person's status as a protected person was a motivating factor;

(2) "Employer", a person engaged in an industry affecting commerce who has six or more employees for each working day in each of twenty or more calendar weeks in a current or preceding calendar year, and shall include the state, or any political or civil subdivision thereof but does not include an individual employed by an employer, or a bona fide private membership club, other than a labor organization, which is exempt from taxation under 26 U.S.C. Section 501(c), or corporations and associations owned and operated by religious or sectarian groups;

(3) "Proper authorities", a governmental or law enforcement agency, or an officer or the employee's human resources representative employed by the employer;

(4) "Protected person", a person who has reported to the proper authorities an unlawful act of the employer or its agent or serious misconduct of the employer or its agent

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 that violates a clear mandate of public policy as articulated in a constitutional provision,
18 statute, regulation promulgated under statute, or rule created by a governmental body, or
19 a person who has refused to carry out a directive issued by an employer or its agent that
20 if completed would be a violation of the law. Additionally, a person who engages in
21 conduct otherwise protected by statute or regulation is a protected person.

22 3. This section is intended to codify the existing common law exceptions to the at-
23 will employment doctrine, and to limit their future expansion by the courts. This section
24 shall provide the exclusive remedy for any and all unlawful employment practices
25 articulated herein and hereby abrogates any common law causes of action to the contrary.

26 4. It shall be an unlawful employment practice for an employer, as defined in
27 subdivision (2) of subsection 2 of this section, to discharge or retaliate against an individual
28 defined as a protected person in this section, because of that person's status as a protected
29 person.

30 5. A protected person aggrieved by a violation of this section shall have a private
31 right of action for damages for violations of this section which may be filed in a circuit
32 court of competent jurisdiction. The Missouri human rights commission shall not have
33 jurisdiction to review or adjudicate claims brought under this section. The court may
34 grant as relief, as it deems appropriate, any permanent or temporary injunction,
35 temporary restraining order, or other order, and may award to the plaintiff actual and
36 punitive damages.

37 6. Any party to any action initiated under this section may demand a trial by jury.

38 7. The court may award to the plaintiff actual and punitive damages. An award
39 of damages shall include all future pecuniary losses, emotional pain, suffering,
40 inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses,
41 and punitive damages awarded under this section.

42 8. The total amount of damages awarded by the court for each complainant shall
43 not exceed:

44 (1) Actual back pay, interest on back pay, other equitable relief, and other damages
45 up to the limits in subdivision (2) of this subsection; and

46 (2) (a) In the case of a respondent who has more than five and fewer than one
47 hundred one employees in each of twenty or more calendar weeks in the current or
48 preceding calendar year, fifty thousand dollars.

49 (b) In the case of a respondent who has more than one hundred and fewer than two
50 hundred one employees in each of twenty or more calendar weeks in the current or
51 preceding calendar year, one hundred thousand dollars.

52 **(c) In the case of a respondent who has more than two hundred and fewer than five**
53 **hundred one employees in each of twenty or more calendar weeks in the current or**
54 **preceding calendar year, two hundred thousand dollars.**

55 **(d) In the case of a respondent who has more than five hundred employees in each**
56 **of twenty or more calendar weeks in the current or preceding calendar year, three hundred**
57 **thousand dollars.**

58 **9. The limits set forth in subsection 8 of this section shall increase or decrease in the**
59 **same amounts as any corresponding limits are increased or decreased in 42 U.S.C. Section**
60 **1981a(b)(3).**

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