

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 2099

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ELMER.

6309L.01P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 213, RSMo, by adding thereto one new section relating to the whistleblower's protection act.

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

Section A. Chapter 213, RSMo, is amended by adding thereto one new section, to be
2 known as section 213.200, to read as follows:

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

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

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

**6 (2) "Employer", a person engaged in an industry affecting commerce who has one
7 or more employees for each working day in each of twenty or more calendar weeks in a
8 current or preceding calendar year, but does not include the state or any public entity with
9 the status of a governmental body, or any political or civil subdivision thereof, or
10 corporations and associations owned and operated by religious or sectarian groups;**

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

**13 (4) "Protected person", a person who has reported to the proper authorities an
14 unlawful act of the employer or its agent or serious misconduct of the employer or its agent
15 that violates a clear mandate of public policy as articulated in a constitutional provision,
16 statute, regulation promulgated under statute, or rule created by a governmental body, or
17 a person who has refused to carry out a directive issued by an employer or its agent that**

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.

18 if completed would be a violation of the law. Additionally, a person who engages in
19 conduct otherwise protected by statute or regulation is a protected person.

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

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

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

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

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

40 8. The total amount of punitive damages awarded by the court for each
41 complainant shall not exceed:

42 (1) In the case of a respondent who has fewer than one hundred one employees in
43 each of twenty or more calendar weeks in the current or preceding calendar year, fifty
44 thousand dollars;

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

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

51 (4) In the case of a respondent who has more than five hundred employees in each
52 of twenty or more calendar weeks in the current or preceding calendar year, three hundred
53 thousand dollars.

✓