

CHAPTER 8

(SB 28)

AN ACT relating to apprenticeship programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 343.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

- (1) "Apprentice" means a ~~worker~~~~person~~ at least sixteen (16) years of age, *except where a higher minimum age standard is otherwise fixed by law*, who *is employed to learn an apprenticeable occupation as provided in 29 C.F.R. Part 29*~~has entered into an apprenticeship agreement with an employer or an association of employers or an organization of employees~~;
- (2) "Apprenticeship agreement" means a *written agreement, complying with 29 C.F.R. Part 29 between an apprentice and either the apprentice's program sponsor, or an apprenticeship committee acting as agent for the program sponsors, which contains the terms and conditions of the employment and training of the apprentice*~~voluntary written agreement entered into by the apprentice or through his or her parent or guardian with an employer, or an apprenticeship and training committee acting as agent for an employer, which agreement contains the terms and conditions of the employment and training of the apprentice to enable the apprentice to learn the trade, craft or business of the employer~~;
- (3) "Commissioner" means commissioner of the Department of Workplace Standards, under the direction and supervision of the secretary of the Labor Cabinet, or any person authorized to act in his or her behalf, having jurisdiction over laws or regulations governing wages and hours of employees working in this state;
- (4) "Council" means *the Commonwealth's* apprenticeship and training council, *which provides advice and guidance to the Kentucky Labor Cabinet regarding the Commonwealth's apprenticeship program*;
- (5) "Supervisor" means supervisor of apprenticeship and training;
- (6) "Trainee" means a person at least sixteen (16) years of age who has entered into an on-the-job training agreement with an employer or an association of employers or an organization of employees in a construction occupation under a program which has been approved by a federal agency as promoting equal employment opportunity in conjunction with federal-aid construction projects;
- (7) "Apprenticeship program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, *as required under 29 C.F.R. Pts. 29 and 30* including such matters as the requirement for a written apprenticeship agreement;
- (8) "On-the-job training program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of a trainee, including such matters as the requirement for a written on-the-job training agreement other than an apprenticeship program; provided, however, that said program has been approved by a federal agency as promoting equal employment opportunity in conjunction with federal-aid construction projects;
- (9) "Sponsor" means any person, association, committee, or organization in whose name or title the program is or is to be registered, irrespective of whether such entity is an employer;
- (10) "Employer" means any person or organization employing an apprentice or trainee whether or not such person or organization is a party to an apprenticeship or on-the-job training agreement with the apprentice or trainee; and
- (11) "Related instruction" means an organized and systematic form of instruction designed to provide the apprentice or trainee with knowledge of the theoretical and technical subjects related to *the apprentice's occupation*~~his or her trade~~.

➔Section 2. KRS 343.020 is amended to read as follows:

- (1) (a) The Governor shall appoint an Apprenticeship and Training Council composed of four (4) representatives from employer organizations, four (4) representatives from employee organizations, and *three (3)*~~one (1)~~ at-large *members*~~member~~ who shall serve for a term of four (4) years and until their

successors are appointed and qualified. The commissioner of the Department of Workplace Standards, the commissioner of the Department for Workforce Investment, and the chancellor for the Technical Institutions' Branch in the Kentucky Community and Technical College System shall be ex officio members of the council. The chairman shall be elected by vote of the Apprenticeship and Training Council.

- (b) The regular members of the council shall each have one (1) vote. In the event of a tie vote among the regular members, the commissioner of the Department of Workplace Standards shall have the right to cast the tie-breaking vote. Each member of the council shall receive his or her actual and necessary expenses incurred in attending its meetings.
 - (c) The council shall meet at the call of the commissioner and shall aid him or her in formulating policies for the effective administration of this chapter. The commissioner with the *advice*~~{aid}~~ of the council shall have the authority to make and revise such rules and regulations as he or she may deem appropriate to carry out the provisions and purposes of this chapter.
- (2) (a) ***On the effective date of this Act, the term of the at-large members appointed on December 31, 2011 shall expire***~~[June 25, 2009, the terms of the council members appointed on September 12, 2006, shall end]~~, and the Governor shall ***appoint three (3) at-large members representing the general public***~~[make the following appointments]~~ to the Apprenticeship and Training Council:
- ~~1. Two (2) representatives from employer organizations, and two (2) representatives from employee organizations to serve for terms that shall expire on December 31, 2009;~~
 - ~~2. Two (2) representatives from employer organizations, and two (2) representatives from employee organizations to serve for terms that shall expire on December 31, 2010; and~~
 - ~~3. One (1) at large member to serve for a term that shall expire on December 31, 2011.]~~
- (b) Subsequent members shall serve terms of four (4) years and shall serve until their successors are appointed and qualified.
- (3) The council shall be attached to the Labor Cabinet for administrative purposes.

➔Section 3. KRS 343.040 is amended to read as follows:

The supervisor, under the direction of the commissioner and with the advice and guidance of the council, may:

- (1) Administer this chapter in cooperation with the apprenticeship and training council;
- (2) Set up conditions and training standards for apprenticeship or on-the-job training programs and agreements;
- (3) Act as secretary to the council;
- (4) Approve, if in his or her opinion approval is to the best interest of both parties, any apprenticeship or on-the-job training program and agreement submitted to him or her by the parties thereto, that meets the standards established under this chapter;
- (5) Keep a record of apprenticeship and on-the-job training programs and agreements and their disposition;
- (6) Issue certificates of completion of apprenticeship and on-the-job training; and
- (7) Perform such other duties as are necessary to carry out the intention of this chapter.

➔Section 4. KRS 343.050 is amended to read as follows:

Every apprenticeship or on-the-job training agreement approved under this chapter shall contain:

- (1) The names *and signatures* of the contracting parties *and the signature of a parent or guardian if the apprentice is a minor*;
- (2) The date of birth of the apprentice or trainee;
- (3) A statement of the *occupation*~~[trade, craft]~~ or business which the apprentice or trainee is to be taught and the time at which the apprenticeship or on-the-job training will begin and end;
- (4) A statement showing:
 - (a) *1. The number of hours to be spent by the apprentice or trainee in work on the job in a time-based program; or*

2. *A description of the skill sets to be attained by completion of a competency-based program, including the on-the-job training component; or*
 3. *The minimum number of hours to be spent by the apprentice and a description of the skill sets to be attained by completion of a hybrid program; and*
- (b) The number of hours~~[, if any,]~~ to be spent in related~~[and supplementary]~~ instruction *in technical subjects related to the occupation, which shall be not less than one hundred forty-four (144) hours per year;*
- (5) A statement setting forth a schedule of the processes in the *occupation*~~[trade]~~ or industry divisions in which the apprentice or trainee is to be taught and the approximate time to be spent at each process;
 - (6) A statement of the graduating scale of compensation to be paid the apprentice or trainee, and whether the required school time shall be compensated;
 - (7) A statement providing for a period of probation *not to exceed twenty-five percent (25%) of the length of the program or one (1) year, whichever is shorter,*~~[of not more than four (4) months]~~ during which the apprenticeship or on-the-job training agreement *may*~~[shall]~~ be *canceled*~~[terminated]~~ by~~[the supervisor at the request of]~~ either party *to the agreement upon written notice to the registration agency, without adverse impact on the sponsor*~~[in writing, and providing that after the probation period the apprenticeship or on-the-job training agreement may be terminated by the supervisor by mutual agreement of the parties, or by the supervisor for good and sufficient reason]; and~~
 - (8) A provision that all controversies or differences concerning the apprenticeship or on-the-job training agreement which cannot be adjusted by the parties shall be submitted to the supervisor for determination as provided in KRS 343.070.

➔Section 5. KRS 343.060 is amended to read as follows:

No apprentice or trainee agreements submitted for approval under this chapter shall be effective until *written approval of the agreement is provided*~~[approved]~~ by the supervisor. Every apprenticeship or on-the-job training agreement, so submitted, shall be signed by the *contracting parties and the parent or guardian if the apprentice or trainee is a minor*~~[employer, or by an association of employers or an organization of employees as provided in this chapter, and by the apprentice or trainee. If the apprentice or trainee is a minor, the agreement shall be signed by his parent or guardian]~~. Where a minor enters into an apprenticeship or on-the-job training agreement under this chapter for a period of training extending into his majority, the apprenticeship or on-the-job training agreement shall likewise be binding for the period covered during his majority.

➔Section 6. KRS 343.070 is amended to read as follows:

- (1) Upon the complaint of either party to the agreement, or upon his or her own initiative, the supervisor may investigate or determine if there has been a violation of the terms of the apprenticeship or on-the-job training agreement approved under this chapter. He may conduct inquiries and other proceedings necessary to any investigation and determination. The parties to the agreement shall, after reasonable notice, be given an informal hearing *before the supervisor*~~[All informal hearings, investigations, and determinations shall be made under authority of reasonable administrative regulations promulgated by the council subject to the approval of the commissioner.]~~
- (2) The determination of the supervisor shall be filed with the commissioner. If no appeal therefrom is filed with the commissioner within fifteen (15) days, the determination shall become final. Any party aggrieved by any determination or action of the supervisor may appeal to the commissioner, who shall hold an administrative hearing in accordance with KRS Chapter 13B.
- (3) Any party to an apprenticeship or on-the-job training agreement aggrieved by a final order of the commissioner may appeal to the Franklin Circuit Court.

➔Section 7. KRS 343.080 is amended to read as follows:

- (1) Nothing in this chapter or in any apprenticeship or on-the-job training agreement approved under this chapter shall operate to invalidate:
 - (a) Any apprenticeship or on-the-job training provision in any collective agreement between employers and employees setting up higher standards; *or*

(b) Any special provision for veterans, minority persons, or women in the standards, apprentice qualifications, or operation of the program, or in the apprenticeship agreement, which is not otherwise prohibited by law, executive order, or administrative regulation;

- (2) ~~provided, that~~ None of the terms or provisions of this chapter shall apply to any person, firm, corporation, or ~~occupation~~~~[craft]~~, unless such person, firm, corporation, or ~~occupation~~~~[craft]~~ voluntarily elects that the terms and provisions of this chapter shall apply.

➔Section 8. KRS 343.090 is amended to read as follows:

- (1) It is the public policy of this state to foster, encourage and develop interest and training in manual and industrial arts, and to encourage the entrance into voluntary agreements of apprenticeship and on-the-job training which will equip ~~workers~~~~[young people]~~ for profitable employment.
- (2) Any contracts or practices which tend to stifle the opportunity as set forth in subsection (1) are contrary to the public policy of this state.

Signed by Governor March 19, 2014.