

CHAPTER 157

(HB 320)

AN ACT relating to civil procedure.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

The following actions shall be commenced within three (3) years after the cause of action accrued:

- (1) *An action against an employer for wrongful discharge in violation of public policy; and*
- (2) *An action for a violation of KRS 344.030 to 344.110 or 344.372.*

➔Section 2. KRS 337.385 is amended to read as follows:

- (1) Except as provided in subsection (3) of this section, any employer who pays any employee less than wages and overtime compensation to which such employee is entitled under or by virtue of KRS 337.020 to 337.285 shall be liable to such employee affected for the full amount of such wages and overtime compensation, less any amount actually paid to such employee by the employer, for an additional equal amount as liquidated damages, and for costs and such reasonable attorney's fees as may be allowed by the court.
- (2) If, in any action commenced to recover such unpaid wages or liquidated damages, the employer shows to the satisfaction of the court that the act or omission giving rise to such action was in good faith and that he or she had reasonable grounds for believing that his or her act or omission was not a violation of KRS 337.020 to 337.285, the court may, in its sound discretion, award no liquidated damages, or award any amount thereof not to exceed the amount specified in this section. Any agreement between such employee and the employer to work for less than the applicable wage rate shall be no defense to such action. Such action may be maintained in any court of competent jurisdiction by any one (1) or more employees for and in behalf of himself, herself, or themselves.
- (3) If the court finds that the employer has subjected the employee to forced labor or services as defined in KRS 529.010, the court shall award the employee punitive damages not less than three (3) times the full amount of the wages and overtime compensation due, less any amount actually paid to such employee by the employer, and for costs and such reasonable attorney's fees as may be allowed by the court, including interest thereon.
- (4) At the written request of any employee paid less than the amount to which he or she is entitled under the provisions of KRS 337.020 to 337.285, the commissioner may take an assignment of such wage claim in trust for the assigning employee and may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs and such reasonable attorney's fees as may be allowed by the court. The commissioner in case of suit shall have power to join various claimants against the same employer in one (1) action.
- (5) *Any court or administrative action under any provision of this chapter, not otherwise subject to an express period of limitations, shall be commenced within three (3) years after the cause of action accrued.*

➔Section 3. KRS 454.210 is amended to read as follows:

- (1) As used in this section, "person" includes an individual, his *or her* executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this Commonwealth.
- (2) ~~{(a)—}~~A court may exercise personal jurisdiction over a person who *is a party to a civil action on any basis consistent with the Kentucky Constitution and the Constitution of the United States, including but not limited to* ~~{acts directly or by an agent, as to a claim arising from}~~ the person's:
 - (a)~~{1-}~~ Transacting any business in this Commonwealth;
 - (b)~~{2-}~~ Contracting to supply services or goods in this Commonwealth;
 - (c)~~{3-}~~ Causing tortious injury by an act or omission in this Commonwealth;
 - (d)~~{4-}~~ Causing tortious injury in this Commonwealth by an act or omission, *including but not limited to designing, manufacturing, or marketing products, including product components, outside this*

Commonwealth, which are used or consumed in this Commonwealth or regularly available for purchase in this Commonwealth ~~outside this Commonwealth~~ if he *or she* ~~regularly~~ does or solicits business, or engages in any other ~~persistent~~ course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth~~, provided that the tortious injury occurring in this Commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth~~;

~~(e)5-~~ Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when the seller knew such person would use, consume, or be affected by, the goods in this Commonwealth, if he *or she* also ~~regularly~~ does or solicits business, or engages in any other ~~persistent~~ course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;

~~(f)6-~~ Having an interest in, using, or possessing real property in this Commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such in personam jurisdiction shall not be imposed on a nonresident who did not himself *or herself* voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated;

~~(g)7-~~ Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting;

~~(h)8-~~ Committing sexual intercourse in this state which intercourse causes the birth of a child when:

1.~~a-~~ The father or mother or both are domiciled in this state;

2.~~b-~~ There is a repeated pattern of intercourse between the father and mother in this state; or

3.~~c-~~ Said intercourse is a tort or a crime in this state; or

~~(i)9-~~ Making a telephone solicitation, as defined in KRS 367.46951, or a charitable solicitation as defined in KRS 367.650 via telecommunication, into the Commonwealth.

~~[(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.]~~

(3) (a) When personal jurisdiction is authorized by this section, service of process may be made:

1. In any manner authorized by the Kentucky Rules of Civil Procedure;

2. On such person, or any agent of such person, in any county in this Commonwealth, where he *or she* may be found; or

3. On the Secretary of State who, for this purpose, shall be deemed to be the statutory agent of such person.

(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint. The clerk shall execute the summons either by:

1. Sending by certified mail two (2) true copies to the Secretary of State and shall also mail with the summons two (2) attested copies of plaintiff's complaint; or

2. Transmitting an electronically attested copy of the complaint and summons to the Secretary of State via the Kentucky Court of Justice electronic filing system.

(c) The Secretary of State shall, within seven (7) days of receipt thereof in his *or her* office, mail a copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by certified mail, return receipt requested, and shall bear the return address of the Secretary of State. The clerk shall make the usual return to the court, and in addition the Secretary of State shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his *or her* return the registry receipt, if any. Summons shall be deemed to be served on the return of the Secretary of State and the action shall proceed as provided in the Rules of Civil Procedure.

(d) The clerk mailing the summons to the Secretary of State shall mail to him *or her*, at the same time, a fee of ten dollars (\$10), which shall be taxed as costs in the action. The fee for a summons transmitted electronically pursuant to this subsection shall be transmitted to the Secretary of State on a periodic basis.

- (4) When the exercise of personal jurisdiction is authorized by this section, any action or suit may be brought in the county wherein the plaintiff resides or where the cause of action or any part thereof arose.
- (5) A court of this Commonwealth may exercise jurisdiction on any other basis authorized in the Kentucky Revised Statutes or by the Rules of Civil Procedure, notwithstanding this section.

Became law without Governor's signature April 10, 2024.