

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(As Amended at ARRS, August 10, 2021)

803 KAR 2:125. Posting of citation[~~Citations~~].

RELATES TO: KRS 338.101 [464]

STATUTORY AUTHORITY: KRS 338.051, 338.061 [~~KRS Chapter 13A~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires [~~Pursuant to the authority granted~~] the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. KRS 338.061 authorizes the board to establish, modify, or repeal standards and reference federal standards. This administrative regulation establishes procedures for [~~by KRS 338.051, the following rules and administrative regulations are adopted as they pertain to~~] the posting of citations by the employer.

Section 1. Definitions. (1) "Employee" is defined by KRS 338.015(2).

(2) "Employer" is defined by KRS 338.015(1).

(3) "Review commission" is defined by KRS 338.015(8).

(4) "Working days" means Monday through Friday and does not include Saturday, Sunday, federal, or state holidays, ~~and~~**as well as** the day of receipt of notice.

Section 2. Posting [of Citations]. (1) Upon receipt of any citation [~~under KRS Chapter 338~~], the employer shall immediately post the unedited [such] citation, or a copy of the unedited citation [~~a copy thereof, unedited~~], at or near each place the [an] alleged violation [~~referred to in the citation~~] occurred, except as **established in subsections (1) through (6) of this section**[~~provided below~~].

(2) ~~If~~**Where**, because of the nature of the employer's operations, it is not practicable to post the unedited citation, or a copy of the unedited citation, at or near each place of alleged violation, the unedited [such] citation, or a copy of the unedited citation, shall be posted [~~unedited~~] in a prominent place where it is [~~will be~~] readily observable by all affected employees such as a [~~For example, where employers are engaged in activities which are physically dispersed (see 803 KAR 2:060) the citation may be posted at the~~] location where [~~to which~~] employees report each day.

(3) The unedited citation, or a copy of the unedited citation, may be posted at the location employees carry out their activities if the employees do not primarily work at, or report to, a single location [~~Where employees do not primarily work at or report to a single location (see 803 KAR 2:060) the citation may be posted at the location from which the employees operate to carry out their activities~~].

(4) The employer shall [~~take steps to~~] ensure [~~that~~] the unedited citation or copy of the unedited citation **shall not be/is not** altered, defaced, or obscured [~~covered by other material which would obscure the citation. Notices of de minimis violations need not be posted~~].

(5)(a) [(2)] Each unedited citation, or copy of the unedited citation [~~a copy thereof~~], shall remain posted until the violation is [~~has been~~] abated, or for three (3) working days, whichever is later. (b) The filing by the employer of a notice [~~of intention~~] to contest shall not affect the [~~his~~] posting responsibility [~~under this section~~] unless [~~and until~~] the review commission issues a fi-

nal order vacating the citation.

~~(6)(a)/(3)(a)~~ An employer that receives ~~[to whom]~~ a citation shall ~~[has been issued may]~~ post a notice indicating the citation is contested in the same location where the unedited ~~[such]~~ citation, or copy of the unedited citation, is posted ~~[indicating that the citation is being contested before the review commission, and such].~~

(b) The notice may explain the reason~~[reasons]~~ for the ~~[such]~~ contest.

(c) The employer may ~~[also]~~ indicate specific ~~[that specified]~~ steps ~~[have been]~~ taken to abate the violation ~~[.~~

~~(4) Any employer failing to comply with the provisions of subsections (1) and (2) of this section shall be subject to citation and penalty of \$100 per first instance per authority of KRS 338.991].~~

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