

803 KAR 2:115. Penalties.

RELATES TO: KRS 338.141, 338.991

STATUTORY AUTHORITY: KRS 338.051, 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires 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 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 occupational safety and health penalty procedures followed by the Department of Workplace Standards.

Section 1. Definitions.

- (1) "Commissioner" is defined by KRS 338.015(7).
- (2) "Compliance safety and health officer" means a person authorized by the commissioner to conduct occupational safety and health inspections.
- (3) "Employee" is defined by KRS 338.015(2).
- (4) "Employer" is defined by KRS 338.015(1).
- (5) "Review commission" is defined by KRS 338.015(8).
- (6) "Working days" means Monday through Friday but does not include Saturday, Sunday, federal or state holidays, and the day of receipt of notice.

Section 2. Proposed Penalties.

- (1) After, or concurrent with, the issuance of a citation, and within a reasonable time, the commissioner shall notify, with delivery or receipt confirmation, the employer of the proposed penalty or that no penalty is proposed.
 - (2) A notice of proposed penalty shall state that the proposed penalty shall be deemed a final order of the review commission and not be subject to review by any court or agency if an employer, employee, or representative of the employer or employee fails to notify the commissioner in writing within fifteen (15) working days from the receipt of the proposed penalty that he or she intends to contest the proposed penalty.
 - (3) The commissioner shall determine the amount of any proposed penalty pursuant to KRS 338.991, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.
 - (4) Appropriate penalties may be proposed with respect to an alleged violation even though after being informed of an alleged violation by the compliance safety and health officer, the employer immediately abates, or initiates steps to abate, an alleged violation.
- (OSH 110; 1 Ky.R. 161; eff. 12-11-1974; TAm eff. 8-9-2007; TAm eff. 9-8-2011; 47 Ky.R. 1475, 2373; eff. 8-3-2021.)