

338.121 Request for inspection -- Discrimination against employee prohibited -- Recourse.

- (1) Any employee, or representative of employees, who believes that a violation of an occupational safety and health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the commissioner of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employees or representative of employees, and a copy shall be provided the employer or the employer's agent no later than at the time of inspection, except that, upon the request of the person giving such notice, his or her name and the names of individual employees referred to therein shall not appear in such copy.
- (2) If upon receipt of notification, reasonable grounds are believed to exist for such violation or danger, then a special inspection shall be made in accordance with the provisions of KRS 338.101 and 338.111. If no reasonable grounds are believed to exist for such violation of danger, then the commissioner shall notify the employee or the representative of the employees in writing of such determination.
- (3)
 - (a) No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or herself or others of any right afforded by this chapter; and
 - (b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person in violation of this subsection may, within a reasonable time after such violation occurs, file a complaint with the commissioner alleging such discrimination. Upon receipt of such complaint, the commissioner shall cause such investigation to be made as deemed appropriate. If upon such investigation, the commissioner determines that the provisions of this subsection have been violated, he or she shall issue a citation to the employer which may be challenged or contested in accordance with the provisions of this chapter and the review commission may order all appropriate relief including rehiring and reinstatement of the employee to his or her former position with back pay. Upon an initial determination by the commissioner that an employee has been discharged by an employer in violation of subsection (3)(a) of this section, the secretary of the Education and Labor Cabinet may order reinstatement of the employee pending a final determination and order of the review commission.

Effective: July 1, 2022

History: Amended 2022 Ky. Acts ch. 236, sec. 124, effective July 1, 2022. -- Amended 2010 Ky. Acts ch. 24, sec. 1758, effective July 15, 2010. -- Amended 1992 Ky. Acts ch. 134, sec. 1, effective July 14, 1992. -- Amended 1986 Ky. Acts ch. 177, sec. 1, effective July 15, 1986. -- Created 1972 Ky. Acts ch. 251, sec. 13.