

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

- (1) Any employee, or representative authorized by the employees, who believes that a violation of an occupational safety and health standard exists that threatens physical harm, or that an imminent danger exists in their workplace, 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, including the date the violation is alleged to have occurred, and shall be signed by the employees or the representative authorized by the employees, and a copy shall be provided to the employer or the employer's agent no later than at the time of inspection, except that, upon written request of an employee giving such notice, his or her name shall not appear in such copy.
- (2) If upon receipt of notification, reasonable grounds evidence any violation or danger in the workplace, then a special inspection shall be made in accordance with the provisions of KRS 338.101 and 338.111. If no reasonable grounds evidence a potential violation or danger, then the commissioner shall notify the employee or the representative authorized by 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 thirty (30) days 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 within six (6) months of the occurrence of the violation, which may be challenged or contested in accordance with the provisions of this chapter and the review commission may order the rehiring and reinstatement of the employee to his or her former position with back pay.

Effective: June 27, 2025

History: Amended 2025 Ky. Acts ch. 105, sec. 4, effective June 27, 2025. -- 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.