

AN ACT relating to breast-feeding.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

*(1) For an employee who is a nursing mother, the employer shall for three (3) years after the birth of a child:*

*(a) Provide reasonable time, either compensated or uncompensated, throughout the day to express breast milk for her nursing child. The decision to provide compensated time shall be in the sole discretion of the employer, unless modified by a collective bargaining agreement; and*

*(b) Make a reasonable accommodation to provide appropriate private space that is not a bathroom stall.*

*(2) An employer may be exempted from the provisions of subsection (1) of this section if providing time or an appropriate private space for expressing breast milk would substantially disrupt the employer's operations.*

*(3) An employer shall not retaliate or discriminate against an employee who exercises or attempts to exercise the rights provided under this section.*

*(4) The department shall enforce the provisions of this section by bringing a civil action for temporary or permanent injunctive relief, economic damages, including prospective lost wages for a period not to exceed one (1) year, investigative costs, and court costs. The Attorney General may conduct an investigation of an alleged violation and enter into a settlement agreement with the employer. Such investigation shall not be a prerequisite to bringing a court action.*

➔Section 2. KRS 337.990 is amended to read as follows:

The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:

- (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the wages when due him under KRS 337.020 shall constitute a separate offense.
- (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense and shall make full payment to the employee by reason of the violation. Each failure to pay an employee the wages as required by KRS 337.055 shall constitute a separate offense.
- (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) and shall also be liable to the affected employee for the amount withheld, plus interest at the rate of ten percent (10%) per annum.
- (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense and shall make full payment to the employee by reason of the violation.
- (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense and each day that the failure continues shall be deemed a separate offense.
- (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the commissioner or the commissioner's authorized representative in the performance of his or her duties under KRS 337.295, or fails to keep and preserve any records as

required under KRS 337.320 and 337.325, or falsifies any record, or refuses to make any record or transcription thereof accessible to the commissioner or the commissioner's authorized representative shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for any subsequent violation of KRS 337.285(4) to (9) and each day the employer violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.

- (8) Any employer who pays or agrees to pay wages at a rate less than the rate applicable under KRS 337.275 and 337.285, or any wage order issued pursuant thereto shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (9) Any employer who discharges or in any other manner discriminates against any employee because the employee has made any complaint to his or her employer, to the commissioner, or to the commissioner's authorized representative that he or she has not been paid wages in accordance with KRS 337.275 and 337.285 or regulations issued thereunder, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to KRS 337.385, or because the employee has testified or is about to testify in any such proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (11) Any person who violates KRS 337.530 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (12) Any contractor or subcontractor who violates any wage or work hours provision in any contract under KRS 337.505 to 337.550 shall be assessed a civil penalty of not

less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense, and the contractor or subcontractor shall make full restitution to all employees to whom he or she is legally indebted by reason of said violation. The prime contractor shall be jointly and severally liable with a subcontractor for wages due an employee of the subcontractor. For a flagrant or repeated violation the offending contractor or subcontractor shall be barred from bidding on, or working on, any and all public works contracts, either in his or her name or in the name of any other company, firm, or other entity in which he or she might be interested for a period of two (2) years from the date of the last offense. Each day of violation shall constitute a separate offense, and the violation as affects each individual worker shall constitute a separate offense.

- (13) Any public authority, public official, or member of a public authority who willfully fails to comply or to require compliance with KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each day of violation shall constitute a separate offense. If a public authority, public official or member of a public authority willfully or negligently fails to comply with KRS 337.505 to 337.550 and the failure results in damages, injury or loss to any person, the public authority, public official, or member of a public authority may be held liable in a civil action.
- (14) A person shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) when that person discharges or in any other manner discriminates against an employee because the employee has:
- (a) Made any complaint to his or her employer, the commissioner, or any other person; or
  - (b) Instituted, or caused to be instituted, any proceeding under or related to KRS 337.420 to 337.433 and Section 1 of this Act; or

(c) Testified, or is about to testify, in any such proceedings.

**(15) Any employer who violates Section 1 of this Act shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).**