

AN ACT relating to Christmas.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Any business or business owner that exhibits a Christmas display shall be immune from civil liability arising out of the exhibition of the display.

(2) The immunity in subsection (1) of this section shall not extend to civil liability arising from a malfunction of the display that results in physical injury.

➔Section 2. KRS 341.370 is amended to read as follows:

- (1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:
 - (a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or
 - (b) He has been discharged for misconduct or dishonesty connected with his most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or
 - (c) He has left his most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his most recent work voluntarily without good cause attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for:
 1. Leaving his next most recent suitable work which was concurrent with his most recent work;

2. Leaving work which is one hundred (100) road miles or more, as measured on a one (1) way basis, from his home to accept work which is less than one hundred (100) road miles from his home;
 3. Accepting work which is a bona fide job offer with a reasonable expectation of continued employment; or
 4.
 - a. Leaving work to accompany the worker's spouse to a different state when the spouse is reassigned by the military.
 - b. Subdivision a. of this subparagraph shall apply only if the state of relocation has adopted a statute substantially similar to that subdivision.
- (2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for the additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.
- (3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the Education and Workforce Development Cabinet and the worker in writing of the alleged voluntary quitting or the discharge for misconduct. Nothing in this subsection shall restrict the right of the secretary to disqualify a worker whose employer has refused or failed to notify the Education and Workforce Development Cabinet of the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary quitting or discharge for misconduct is known to the secretary prior to the time benefits are paid to the worker. The exercise of the right by the secretary, in the absence of timely notice from the employer, shall not relieve the employer's reserve account or reimbursing employer's account of benefit charges under the provisions of subsection (3) of KRS

341.530.

- (4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding the week of unemployment was seasonal, intermittent, or temporary in nature, most recent work may be construed as that work last preceding the seasonal, intermittent, or temporary work.
- (5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.
- (6) "Discharge for misconduct" as used in this section shall include but not be limited to, separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work. **"Discharge for misconduct" shall not include separation initiated by an employer for saying "Merry Christmas" or a similar holiday greeting.**
- (7) "Duration of any period of unemployment," as that term is used in this section, shall

be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until the worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

➔Section 3. KRS 344.040 is amended to read as follows:

- (1) It is an unlawful practice for an employer:
 - (a) To fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, because of the individual's race, color, religion, national origin, sex, age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking;
 - (b) To limit, segregate, or classify employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect status as an employee, because of the individual's race, color, religion, national origin, sex, or age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking;~~or~~
 - (c) To require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products outside the course of employment, as long as the person complies with any workplace policy concerning smoking;or
 - (d) To discharge an employee for saying "Merry Christmas" or a similar holiday greeting.*

- (2) (a) A difference in employee contribution rates for smokers and nonsmokers in relation to an employer-sponsored health plan shall not be deemed to be an unlawful practice in violation of this section.
- (b) The offering of incentives or benefits offered by an employer to employees who participate in a smoking cessation program shall not be deemed to be an unlawful practice in violation of this section.