

1 AN ACT relating to unemployment insurance.

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

3 ➔Section 1. KRS 341.070 is amended to read as follows:

4 As used in this chapter, unless the context clearly requires otherwise, "subject employer"  
5 means:

- 6 (1) Any employing unit which in any calendar quarter in either the current or preceding  
7 calendar year paid for service in covered employment wages of fifteen hundred  
8 dollars (\$1,500) or more.
- 9 (2) Any employing unit which for some portion of a day in each of twenty (20)  
10 different calendar weeks, whether or not such weeks are consecutive, in either the  
11 current or the preceding calendar year, had in covered employment at least one (1)  
12 worker (irrespective of whether the same worker was in employment in each such  
13 day).
- 14 (3) Any employing unit for which service in covered employment, as defined in  
15 paragraph (d) of subsection (1) of KRS 341.050, is performed.
- 16 (4) Any employing unit for which service in covered employment, as defined in  
17 paragraph (e) or (h) of subsection (1) of KRS 341.050, is performed.
- 18 (5) Any employing unit for which service in covered employment, as defined in  
19 paragraph (f) or (h) of subsection (1) of KRS 341.050, is performed.
- 20 (6) Any employing unit for which service in covered employment, as defined in  
21 paragraph (g) or (h) of subsection (1) of KRS 341.050, is performed.
- 22 (7) ***(a)*** Any employing unit that ***is the transferee of all or part of an employing unit***  
23 ***that is or has been a subject employer at the time of the transfer;***  
24 ~~*or*~~~~*succeeds to or acquires the organization, trade, or business, or substantially*~~  
25 ~~*all of the assets of another employing unit which at the time of such*~~  
26 ~~*succession or acquisition is a subject employer, or which succeeds to or*~~  
27 ~~*acquires a portion of the organization, trade, or business of another employing*~~

1           ~~unit, which portion, if treated as a separate employing unit, would be, at the~~  
2           ~~time of the succession or acquisition, a subject employer under subsection (1),~~  
3           ~~(2), or (5) of this section].~~

4           **(b) Any employing unit that at the time of acquisition of all or part of a trade or**  
5           **business of a subject employer is not or has not previously been a subject**  
6           **employer.**

7           (8) Any employing unit for which service is or was performed with respect to which  
8           such employing unit is liable for any federal tax against which credit may be taken  
9           for contributions required to be paid into a state unemployment fund; or which, as a  
10          condition for approval of this chapter for full tax credit against the tax imposed by  
11          the Federal Unemployment Tax Act, is required, pursuant to such act, to be a  
12          "subject employer" under this chapter.

13          (9) Any employing unit which has elected to become subject to this chapter, pursuant to  
14          subsection (3) of KRS 341.250.

15          (10) For purposes of subsections (1) through (6) of this section, covered employment  
16          shall include service which would constitute covered employment but for the fact  
17          that such service is deemed to be performed entirely within another state pursuant to  
18          an election under an arrangement entered into (in accordance with KRS 341.145) by  
19          the secretary and an agency charged with the administration of any other state or  
20          federal unemployment compensation law.

21          (11) Any employing unit which, having become a subject employer under subsections  
22          (1) through (9) of this section, has not ceased to be a subject employer under KRS  
23          341.250.

24          (12) For purposes of subsections (2), (4), and (5) of this section, if any week includes  
25          both December 31 and January 1, the days of that week up to January 1 shall be  
26          deemed one (1) calendar week and the days beginning January 1 another week.

27          (13) Notwithstanding the provisions of this section or any other provision of this chapter,

1 no employing unit shall be initially determined a subject employer on the basis of  
2 covered employment performed more than five (5) calendar years prior to the year  
3 in which such determination is made, unless the secretary can show that the records  
4 of such employment experience were fraudulently concealed or withheld for the  
5 purpose of escaping liability under this chapter.

6 →Section 2. KRS 341.190 is amended to read as follows:

7 (1) **As used in this section:**

8 **(a) "Agent" means one who acts for or in the place of an individual, an**  
9 **employing unit, or a public official by the authority of that individual,**  
10 **employing unit, or public official; and**

11 **(b) "Public official" means an official, agency, or public entity within the**  
12 **executive branch of federal, state, or local government who or which has**  
13 **responsibility for administering or enforcing a law, or an elected official in**  
14 **federal, state, or local government.**

15 **(2)** Each employing unit shall keep true and accurate work records of all workers  
16 employed by it, of the wages paid by it to each worker, and such other information  
17 as the secretary of the Education and Workforce Development Cabinet considers  
18 necessary for the proper administration of this chapter. The records shall be open for  
19 inspection and subject to being copied by the secretary or his or her authorized  
20 representatives at any reasonable time and as often as necessary.

21 ~~**(3)**~~ ~~**(2)**~~ The secretary may require any employing unit to furnish to the cabinet at its  
22 central office from time to time information concerning the total amounts of wages  
23 paid, total number of persons employed, an individual record of each worker  
24 employed, an individual record of each worker whose employment has been  
25 terminated or who has been laid-off, an individual wage and hour record of each  
26 worker employed part time entitled to benefits, and other related matters, including  
27 hours worked, which the secretary considers necessary to the effective

1 administration of this chapter.

2 ~~(4)~~~~(3)~~ Information obtained from an employing unit or individual and other records  
3 made by the cabinet in the administration of this chapter are confidential and shall  
4 not be published or be open for public inspection, except as provided below **and in**  
5 **subsections (5) and (6) of this section:**

6 (a) **1. Public officials and the agents and contractors of public officials,**  
7 ~~Information and records may be made available to public employees~~ in  
8 the performance of their **official** duties, **may be provided information**  
9 **and records**, but the **public officials**~~agency~~ receiving the information  
10 and records shall assure the confidentiality, as required in this section, of  
11 all information and records so released, **Official duties do not include**  
12 **solicitation of contributions or expenditures to or on behalf of a**  
13 **candidate for public office or a political party;**

14 **2. A contractor shall include a temporary staffing engaged by the cabinet**  
15 **for any purpose in connection with the administration of this chapter;**  
16 **and**

17 **3. Disclosures shall be made under this subsection only if the recipient**  
18 **has entered into a written, enforceable and terminable agreement with**  
19 **the cabinet and has satisfied the safeguards set forth in federal**  
20 **statutes and regulations** ~~by entering into a written, enforceable, and~~  
21 ~~terminable agreement with the cabinet and by satisfying the safeguards~~  
22 ~~set forth in the federal confidentiality and disclosure requirements as~~  
23 ~~prescribed by 42 U.S.C. sec. 503, 26 U.S.C. sec. 3304, and 20 C.F.R.~~  
24 ~~sec. 603.9];~~

25 (b) **1. An individual**~~A claimant~~ or employing unit ~~for his legal representative~~  
26 ~~shall be provided, upon request, information and records maintained by~~  
27 the cabinet in the administration of **wage records**,~~his~~ claim,~~his~~

1 reserve account, ~~[his ]~~reimbursing employer account, or any proceeding  
2 under this chapter to which it is~~[he is ]~~a party.~~[;]~~

3 2. An agent of an individual or employing unit shall be provided the  
4 individual's or employing unit's information and records upon the  
5 presentation of a written release or other legally enforceable evidence  
6 of the informed consent of the individual or employing unit.

7 3. An attorney retained by an individual or employing unit in any  
8 proceeding under this chapter shall be provided the individual's or  
9 employing unit's information and records if the attorney asserts in  
10 writing that he or she is representing that individual or employing  
11 unit.

12 4. An elected official performing constituent services shall be provided  
13 the individual's or employing unit's information and records if the  
14 official presents reasonable written evidence that the individual or  
15 employing unit has authorized the disclosure;

16 (c) A third party other than an agent, or third party on an ongoing basis, shall  
17 be provided the individual or employing unit's information and records if  
18 the individual or employing unit to whom the information pertains provides  
19 a signed written release which shall specify:

20 1. The information and records to be disclosed;

21 2. The purpose for which the information and records are sought,  
22 specifying the expected service or benefit to the individual signing the  
23 release, or specifying their use in the administration or evaluation of  
24 the public program to which the release pertains;

25 3. Assurance that the information and records shall be used solely for  
26 that purpose;

27 4. All parties who may receive the information and records disclosed;

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5. That state government files shall be accessed to obtain information and records.

Disclosures shall be made under this subsection only if the recipient has entered into a written, enforceable, and terminable agreement with the cabinet and has satisfied the safeguards set forth in federal statutes and regulations;

(d) Precedential orders issued by the Unemployment Insurance Commission shall be released provided that Social Security numbers and employer identification numbers have been removed and the disclosure is otherwise consistent with federal and state law;

~~(e)~~ A public official with authority under state or federal law to obtain the information and records by subpoena, other than a clerk of court on behalf of a litigant, shall be provided information and records upon service of a duly issued subpoena;

~~(f)~~ A federal official, when required for the purposes of oversight and auditing of the unemployment insurance program, shall be provided information and records;

~~(g)~~ Statistical information derived from information and records obtained or made by the cabinet may be released to the Bureau of Labor Statistics under a cooperative agreement or may be published, if it in no way reveals the identity of any individual~~claimant~~ or employing unit; and

~~(h)~~ Nothing in this section shall preclude the secretary or any employee of the cabinet from testifying in any proceeding under this chapter or in any court, or from introducing as evidence information and~~or~~ records obtained or made by the cabinet in an action for violation of state or federal law to which the cabinet is a party or upon order of the court.

1 ~~(5)~~~~(4)~~ Disclosures shall be made under subsection ~~(4)~~~~(3)~~ of this section only if:

- 2 (a) The disclosure is necessary for the proper administration of the unemployment  
3 insurance program;
- 4 (b) No more than an incidental amount of staff time or a nominal processing cost  
5 is required to make the disclosure; or
- 6 (c) The cost of providing the information and records is paid by the recipient prior  
7 to the disclosure, consistent with federal laws and regulations, except this  
8 requirement shall not apply to disclosures made under subsection ~~(4)~~~~(3)~~~~(e)~~  
9 ~~and~~ ~~(f)~~ of this section **nor to disclosures made under subsection (4)(e) and**  
10 **(h) of this section** if the cabinet attempts without success to recover the cost  
11 of disclosure. For disclosures made to **other public officials**~~public~~  
12 ~~employees~~ under subsection ~~(4)~~~~(3)~~(a) of this section, this requirement shall  
13 be met if the **recipient**~~agency~~ provides a reciprocal benefit to the cabinet in  
14 the administration of the unemployment insurance program, or if a reasonable  
15 reimbursement for the disclosure shall be determined under federal law.

16 ~~(6)~~~~(5)~~ **Recipients of information and records disclosed under subsection (4)(a) and**  
17 **(c) of this section may redisclose the information and records only as follows:**

18 **(a) To the individual or employing unit who is the subject of the information**  
19 **and records;**

20 **(b) To an attorney or duly authorized agent representing the individual or**  
21 **employing unit;**

22 **(c) In any civil or criminal proceedings for or on behalf of the recipient;**

23 **(d) In response to a subpoena but only as provided in paragraphs (e) and (h) of**  
24 **subsection (4) of this section;**

25 **(e) A public official may redisclose to an agent or contractor, but only if the**  
26 **public official retains responsibility for the uses of the confidential**  
27 **information and records by the agent or contractor and subject to the**

1           safeguards set forth in the agreement required under subsection (4) of this  
 2           section;

3           (f) A public official may redisclose to another public official;

4           (g) A state or local child support enforcement agency may redisclose to its  
 5           agent under contract for the purpose of carrying out child support  
 6           enforcement; or

7           (h) When specifically authorized by a written release for redisclosure that meets  
 8           the requirements of paragraph (c) of subsection (4) of this section.

9           (7) Any disclosure or use of information and records that is inconsistent with the  
 10           provisions of this section shall be subject to the penalty prescribed in KRS  
 11           341.990(11).

12           (8)~~(6)~~ No information and~~or~~ records held confidential under subsection (4)~~(3)~~ of  
 13           this section shall be the subject matter or basis for any suit for slander or libel in any  
 14           court, but no employer or employee, or his representative, testifying before the  
 15           commission, the secretary, or any duly authorized representative thereof, shall be  
 16           exempt from punishment for perjury.

17           ➔Section 3. KRS 341.540 is amended to read as follows:

18           (1) As used in this section, unless the context clearly requires otherwise:

19           (a) "Substantially common" or "substantially the same" means that one (1) or  
 20           more individual or individuals own or exercise pervasive management or  
 21           control over both the predecessor and successor employing unit. Factors  
 22           indicating pervasive management or control include, but are not limited to,  
 23           whether the predecessor and successor share:

24           1. One (1) or more individuals or family members as owners~~in positions~~  
 25           ~~of management or ownership~~, on boards of directors, ~~or~~ as  
 26           shareholders, or executive or other officers; and

27           2. Titles to property, parent companies, workforce, assets, legal and



1 professional representation, physical location, client pools, marketing  
2 services, Web sites, telephone numbers, or e-mail addresses;

3 (b) "Trade" or "business" includes the employing unit's workforce;

4 (c) "Knowingly" means having actual knowledge of, or acting with deliberate  
5 ignorance or disregard for, the prohibition involved; and

6 (d) "Violates" or "attempts to violate" includes, but is not limited to, intended  
7 evasion, misrepresentation, or willful nondisclosure.

8 (2) (a) For the purpose of this chapter, if a subject employer transfers all or part of its  
9 trade or business~~[ to another employing unit]~~, the acquiring employing unit  
10 shall be deemed a successor if the transfer is in accordance with  
11 administrative regulations promulgated by the secretary, or if the transferring  
12 and acquiring employing units have substantially the same **pervasive senior**  
13 **management**, ownership,~~[management]~~ or control. If an employing unit is  
14 deemed a successor, the transferring employing unit shall be deemed a  
15 predecessor.

16 **(b) For the purpose of this chapter, if a nonsubject employer acquires all or**  
17 **part of the trade or business of a subject employer, the nonsubject employer**  
18 **shall file an application with the Office of Employment and Training,**  
19 **Department of Workforce Investment to establish an unemployment reserve**  
20 **account within forty-five (45) days of employing personnel. The application**  
21 **will be considered and processed in accordance with administrative**  
22 **regulations promulgated by the secretary and shall require information**  
23 **necessary to determine whether the nonsubject employer is a successor of**  
24 **the subject employer and to establish an initial unemployment contribution**  
25 **rate for the employer. Factors to be considered in the determination of**  
26 **successorship and the fixing of the initial rate shall include but not be**  
27 **limited to the employer's prior unemployment claims history, benefit**

1           charges, historical rate charges, and payment penalties assessed in the  
 2           previous five (5) years, in addition to the factors set forth in subsection  
 3           (6)(b) of this section. After consideration of these factors, and others that  
 4           the applicant may submit in justification of an initial rate determination,  
 5           the secretary shall set an appropriate contribution rate. Any determinations  
 6           of initial unemployment contribution rates made pursuant to this subsection  
 7           shall not be effective prior to January 1, 2018.

8       (3) (a) Notwithstanding subsection (2)(b) of this section, any successor to the trade  
 9           or business of a subject employer shall assume the resources and liabilities of  
 10          the predecessor's reserve account, including interest, and shall continue the  
 11          payment of all contributions and interest due under this chapter, except that  
 12          the successor shall not be required to assume the liability of any delinquent  
 13          contributions and interest of a predecessor or predecessors unless the cabinet  
 14          notifies the successor of the delinquency within six (6) months after the  
 15          department has notice of the succession; and

16       (b) Any nonsubject employer that is deemed a successor in whole or part upon  
 17       submission of the application referred to subsection (2)(b) of this section  
 18       shall be allowed to make a one (1) time voluntary payment to pay off or  
 19       reduce the negative reserve assumed from the predecessor. This payment  
 20       shall be made within sixty (60) days of receipt of the first notice of a  
 21       negative predecessor reserve account. This one (1) time voluntary payment  
 22       cannot exceed the amount of negative reserve assumed by the successor.

23       (4) The liability for delinquent contributions and interest imposed upon the successor  
 24       by subsection (3) of this section shall be secondary to the liability of the predecessor  
 25       or predecessors, and if the delinquency has been reduced to judgment, the order of  
 26       execution on the judgment shall be as follows:

27       (a) Against the assets, both real and personal, of the predecessor or predecessors;

- 1 (b) Against the assets, both real and personal, of the business acquired; and
- 2 (c) Against the assets, both real and personal, of the successor or acquirer.
- 3 (5) (a) Notwithstanding the provisions of subsection (3) of this section, any successor
- 4 to a portion of the trade or business of a subject employer, who is, or by
- 5 reason of the transfer becomes, a subject employer, shall assume the resources
- 6 and liabilities of the predecessor's reserve account in proportion to the
- 7 percentage of the payroll or employees assignable to the transferred portion. In
- 8 calculating the transferred portion, the secretary shall utilize the last four (4)
- 9 calendar quarters preceding the date of transfer for workers employed by the
- 10 successor subsequent to that date. The taxable payroll, benefit charges and the
- 11 potential benefit charges shall be assumed by the successors in a like
- 12 proportion.
- 13 (b) Notwithstanding the provisions of paragraph (a) of this subsection, if any
- 14 employing unit succeeds to a portion of the trade or business of another
- 15 employing unit; becomes, by reason of that succession, a subject employer
- 16 with substantially the same ownership, management, or control as the
- 17 predecessor employing unit; and lays off or terminates more than one-half
- 18 (1/2) of the original employees transferred within six (6) months of the date of
- 19 transfer; then the succession and creation of the new employing unit shall be
- 20 voided, and the benefits attributable to the lay-offs or terminations shall be
- 21 charged to the reserve account of the original employing unit.
- 22 (6) (a) The contribution rate of a successor in whole or in part, which was a subject
- 23 employer prior to succession, shall not be affected by the transfer of the
- 24 reserve account for the remainder of the rate year in which succession
- 25 occurred; except that the rate of the successor shall be recalculated and made
- 26 effective upon the first day of the calendar quarter immediately following the
- 27 date of the transfer if there is substantially common ownership, management,

1 or control of the predecessor and successor.

2 (b) The contribution rate of a successor in whole or in part, which was not a  
3 subject employer prior to succession, shall be determined by a review of the  
4 application required by subsection (2)(b) of this section, ~~for the calendar~~  
5 ~~year in which succession occurred, the same rate as that of its predecessor;~~  
6 ~~except if the secretary finds, after a thorough investigation based on the use~~  
7 ~~of objective factors, including but not limited to:~~

- 8 1. The cost of acquiring the business;
- 9 2. How long the original business enterprise was continued; and
- 10 3. Whether a substantial number of new employees were hired for  
11 performance of duties unrelated to the business activity prior to  
12 acquisition;

13 that the succession was solely for the purpose of obtaining a rate lower than  
14 that prescribed in KRS 341.270(1) and 341.272 for a new employing unit,  
15 then the unemployment experience of the predecessor shall not be transferred,  
16 the rate for a new employing unit shall be assigned, and the employing unit  
17 shall be otherwise deemed a successor for the purpose of KRS 341.070(7) and  
18 subsection (3) of this section.

19 (c) The contribution rate for a successor which becomes a subject employer  
20 through the simultaneous transfer, either in whole or in part, of two (2) or  
21 more predecessor reserve accounts shall be the rate determined in accordance  
22 with the provisions of KRS 341.270, by combining the reserve accounts  
23 succeeded to as of the computation date for determining rates for the calendar  
24 year in which succession occurred.

25 (d) The contribution rate of a successor which succeeds, either in whole or in part,  
26 to a predecessor's reserve account after a computation date, but prior to the  
27 beginning of the calendar year immediately following that computation date,

1 shall be the rate determined in accordance with KRS 341.270, by effecting the  
2 transfer of the reserve account as of the computation date immediately  
3 preceding the date of succession.

4 (7) Notwithstanding KRS 341.270, the contribution rate for an employing unit that  
5 knowingly violates or attempts to violate the provisions of this section or any other  
6 provision of the chapter related to determining the assignment of a contribution rate  
7 shall be the highest rate assignable under this chapter for the calendar year during  
8 which the violation or attempted violation occurred and the three (3) calendar years  
9 immediately following that year. If that employer's rate is already at the highest  
10 assignable rate, or if the amount of increase in the employer's rate would be less  
11 than an additional two percent (2%) for that year, then a penalty rate of  
12 contributions of an additional two percent (2%) of taxable wages shall be imposed  
13 for each year.

14 (8) In addition to the penalties prescribed in subsection (7) of this section and KRS  
15 341.990(9), any person who knowingly violates this section shall be subject to the  
16 penalties stipulated under KRS 341.990.

17 (9) (a) The secretary shall establish procedures to identify the transfer of a business  
18 for purposes of this section.

19 (b) The secretary shall have the authority and discretion to set a contribution  
20 rate upon the providing of justification by a subject employer and  
21 consideration of relevant factors, including but not limited to the factors set  
22 forth in subsections (2) and (6)(a) of this section.

23 ➔Section 4. KRS 341.614 is amended to read as follows:

24 (1) Effective January 1, 2014, there shall be a surcharge upon all subject contributing  
25 employers for any year there are insufficient funds in the unemployment  
26 compensation administration fund for the payment of interest on advances under  
27 Title XII of the Social Security Act or for the repayment of money, including any

1 interest thereon, received from any source related to the payment of interest on such  
2 advances.

3 (2) (a) The surcharge shall be twenty-two hundredths of one percent (0.22%) of the  
4 first nine thousand six hundred dollars (\$9,600) in wages paid to each worker  
5 by a subject contributing employer or his predecessor with respect to covered  
6 employment during any calendar year.

7 (b) Effective January 1, 2015, and each calendar year thereafter, the secretary  
8 shall adjust the surcharge percentage rate based on any increase to the taxable  
9 wage base for that calendar year as provided in KRS 341.030(7). The purpose  
10 of the adjustment shall be to maintain costs per worker comparable to the  
11 original surcharge. Any reduction in the surcharge percentage rate shall  
12 correspond to the increase to the taxable wage base for that calendar year and  
13 shall be rounded up to the nearest one-hundredth of one percent (0.01%).

14 (c) Notwithstanding paragraph (b) of this subsection, the secretary may reduce the  
15 surcharge percentage rate or suspend the surcharge for any calendar year based  
16 on the balance of the unemployment insurance interest payment fund and the  
17 projected amount due for interest on advances under Title XII of the Social  
18 Security Act and for repayment of money, including any interest thereon,  
19 received from any source related to the payment of interest on such advances.

20 (3) The surcharge established in this section shall be due and payable at the same time  
21 and in the same manner as employer contributions. Any surcharge collected shall be  
22 deposited in the unemployment insurance interest payment fund.

23 (4) Any surcharge unpaid on the date on which it is due and payable, pursuant to  
24 subsection (3) of this section, shall be subject to interest at the rate of one and one-  
25 half percent (1.5%) per month or fraction thereof, not to exceed ninety percent  
26 (90%) of the amount of such surcharge, from and after such date until payment is  
27 received by the cabinet, regardless of whether such delinquency has been reduced to

1 a judgment or not as provided in subsection (6) of this section or is the subject of an  
2 administrative appeal or court action. The interest collected shall be deposited in the  
3 unemployment insurance interest payment fund.

4 (5) A lien of the same nature and having the same force, effect, and priority as provided  
5 in KRS 341.310 shall commence on all property of a subject contributing employer  
6 delinquent in the payment of any surcharge or interest thereon.

7 (6) If, after due notice, any subject contributing employer defaults in payment of any  
8 surcharge or interest thereon, the amount due may be collected by a civil action  
9 instituted in the Franklin Circuit Court or the Franklin District Court depending on  
10 the jurisdictional amount in controversy, including interest and penalties, in the  
11 name of the state, and the subject contributing employer adjudged in default shall  
12 pay the costs of the action. Civil actions brought under this section shall be heard by  
13 the court, without the intervention of a jury, at the earliest possible date and shall be  
14 entitled to preference on the calendar of the court over all other civil actions, except  
15 petitions for judicial review under this chapter and cases arising under the Kentucky  
16 workers' compensation law.

17 (7) At or after the commencement of an action under subsection (6) of this section,  
18 attachment may be had against the property of the liable subject contributing  
19 employer for such surcharge and interest without execution of a bond, or, after  
20 judgment has been entered, an execution may be issued against the property of such  
21 employer without the execution of a bond.

22 (8) An action for the recovery of a surcharge or interest thereon under this section shall  
23 be barred, and any lien therefor shall be canceled and extinguished, unless collected  
24 or suit for collection has been filed within ten (10) years from the due date of such  
25 surcharge.

26 (9) Notwithstanding subsection (6) of this section, any delinquent surcharge or interest  
27 thereon may be collected in accordance with the levy and distraint provisions of this

1 chapter.

2 **(10) Any delinquent surcharge or interest collected after July 31, 2017, shall not be**  
3 **subject to the credit provisions contained in KRS 341.612 and shall be deposited**  
4 **into the penalty and interest account.**

5 ➔Section 5. KRS 341.990 is amended to read as follows:

- 6 (1) Except as otherwise provided in subsection (11) of this section, any employee of  
7 any state agency who violates any of the provisions of KRS 341.110 to 341.230  
8 shall be guilty of a Class B misdemeanor.
- 9 (2) Any person subpoenaed to appear and testify or produce evidence in an inquiry,  
10 investigation, or hearing conducted under this chapter who fails to obey the  
11 subpoena shall be guilty of a Class B misdemeanor.
- 12 (3) Any subject employer, or officer or agent of a subject employer, who violates  
13 subsection (1) of KRS 341.470 shall be guilty of a Class A misdemeanor.
- 14 (4) Any person who violates subsection (2) of KRS 341.470 shall be guilty of a Class A  
15 misdemeanor.
- 16 (5) Any person who knowingly makes a false statement or representation of a material  
17 fact or knowingly fails to disclose a material fact to the secretary to obtain or  
18 increase any benefit under this chapter or under an employment security law of any  
19 other state, or of the federal government, either for himself or for any other person,  
20 business entity, or organization shall be guilty of a Class A misdemeanor unless the  
21 value of the benefits procured or attempted to be procured is one hundred dollars  
22 (\$100) or more, in which case he shall be guilty of a Class D felony.
- 23 (6) (a) Any person who knowingly makes a false statement or representation, or who  
24 knowingly fails to disclose a material fact to prevent or reduce the payment of  
25 benefits to any worker entitled thereto, or to avoid becoming or remaining  
26 subject to this chapter, or to avoid or reduce any payment required of an  
27 employing unit under this chapter shall be guilty of a Class A misdemeanor



1 unless the liability avoided or attempted to be avoided is one hundred dollars  
2 (\$100) or more, in which case he shall be guilty of a Class D felony.

3 (b) Any person who willfully fails or refuses to furnish any reports required, or to  
4 produce or permit the inspection or copying of records required in this chapter  
5 shall be guilty of a Class B misdemeanor. Each such false statement,  
6 representation or failure and each day of failure or refusal shall constitute a  
7 separate offense.

8 (7) In any prosecution for the violation of subsection (5) or (6) of this section, it shall  
9 be a defense if the person relied on the advice of an employee or agent of the Office  
10 of Employment and Training, Department of Workforce Investment.

11 (8) Any person who willfully violates any provision of this chapter or any rule or  
12 regulation under it, the violation of which is made unlawful or the observance of  
13 which is required under the terms of this chapter, and for which no specific penalty  
14 is prescribed in this chapter or in any other applicable statute, shall be guilty of a  
15 violation. Each day the violation continues shall constitute a separate offense.

16 (9) In addition to the higher rates imposed under KRS 341.540(7), any person, whether  
17 or not an employing unit, who knowingly advises or assists an employing unit in the  
18 violation or attempted violation of KRS 341.540 or any other provision of this  
19 chapter related to determining the assignment of a contribution rate shall be subject  
20 to a civil monetary penalty of not less than five thousand dollars (\$5,000).

21 (10) Proceeds from all penalties imposed under subsection (9) of this section and KRS  
22 341.540 shall be deposited in the unemployment compensation administration  
23 account and shall be expended solely for the cost of administration of this chapter  
24 consistent with KRS 341.240.

25 (11) Any person who violates the confidentiality provision in KRS 341.190~~(4)~~~~(3)~~ shall  
26 be guilty of a Class A misdemeanor.