

1 AN ACT relating to wages.

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

3 ➔Section 1. KRS 337.420 is amended to read as follows:

4 ***As used in KRS 337.420 to 337.433:***

- 5 (1) "Employee" means any individual employed by any employer, including but not  
6 limited to individuals employed by the state or any of its political subdivisions,  
7 instrumentalities, or instrumentalities of political subdivisions.
- 8 (2) "Employer" means a person who has two (2) or more employees within the state in  
9 each of twenty (20) or more calendar weeks in the current or preceding calendar  
10 year and an agent of such a person.
- 11 (3) "Wage rate" means all compensation for employment, including payment in kind  
12 and amounts paid by employers for employee benefits, as defined by the  
13 commissioner in regulations issued under KRS 337.420 to 337.433 and  
14 337.990(14).
- 15 (4) "Employ" includes to suffer or permit to work.
- 16 (5) ***"Equivalent jobs" means jobs or occupations that are equal within the meaning***  
17 ***of the federal Equal Pay Act of 1963, 29 U.S.C. sec. 206(d), or jobs or***  
18 ***occupations that are dissimilar but whose requirements are equivalent, when***  
19 ***viewed as a composite of skill, effort, responsibility, and working***  
20 ***conditions***~~["Occupation" includes any industry, trade, business, or branch thereof,~~  
21 ~~or any employment or class of employment].~~
- 22 (6) "Commissioner" means the commissioner of the Department of Workplace  
23 Standards under the direction and supervision of the secretary of the Labor Cabinet.
- 24 (7) "Person" includes one (1) or more individuals, partnerships, corporations, legal  
25 representatives, trustees, trustees in bankruptcy, or voluntary associations.
- 26 ➔Section 2. KRS 337.423 is amended to read as follows:
- 27 (1) No employer shall discriminate between employees in ***this state***~~the same~~

1 establishment] on the basis of sex, **race, or national origin** by:

2 **(a) Paying wages to any employee[ in any occupation in this state] at a rate less**  
 3 **than the rate at which he or she pays any employee of the opposite sex or of a**  
 4 **different race or national origin** for[ comparable] work on **equivalent** jobs;  
 5 **or**

6 **(b) Paying wages to employees in a job that is dominated by employees of a**  
 7 **particular sex, race, or national origin at a rate less than the rate at which**  
 8 **the employer pays employees in another job that is dominated by employees**  
 9 **of the opposite sex or of a different race or national origin for work on**  
 10 **equivalent jobs**[which have comparable requirements relating to skill, effort  
 11 and responsibility. Differentials which are paid pursuant to established  
 12 seniority systems or merit increase systems, which do not discriminate on the  
 13 basis of sex, shall not be included within this prohibition. Nothing in KRS  
 14 337.420 to 337.433 and 337.990(14) shall apply to any employer who is  
 15 subject to the federal Fair Labor Standards Act of 1938, as amended, when  
 16 that act imposes comparable or greater requirements than contained in KRS  
 17 337.420 to 337.433 and 337.990(14) and when the employer files with the  
 18 commissioner of the Department of Workplace Standards a statement that the  
 19 employer is covered by the federal Fair Labor Standards Act of 1938, as  
 20 amended].

21 **(2) Notwithstanding subsection (1) of this section, it shall not be a violation of this**  
 22 **section for an employer to pay different wage rates if the wage rate differentials**  
 23 **are based on:**

24 **(a) A bona fide seniority or merit system that does not discriminate on the basis**  
 25 **of sex, race, or national origin;**

26 **(b) A system that measures earnings by quantity or quality of product; or**

27 **(c) A bona fide factor other than sex, race, or national origin, except that wage**

1                    *rate differentials based on varying market rates for equivalent jobs are not*  
2                    *an exception allowed under this paragraph.*

3     **(3)** An employer who is paying a wage differential in violation of KRS 337.420 to  
4           337.433 and 337.990(14) shall not, in order to comply with it, reduce the wage rates  
5           of any employee.

6     ~~**(4)**~~ ~~(3)~~ No person shall cause or attempt to cause an employer to discriminate against  
7           any employee in violation of KRS 337.420 to 337.433 and 337.990(14).

8     ~~**(5)**~~ ~~(4)~~ No employer may discharge or discriminate against any employee by reason  
9           of any action taken by such employee to invoke or assist in any manner the  
10          enforcement of KRS 337.420 to 337.433 and 337.990(14).

11          ➔Section 3. KRS 337.425 is amended to read as follows:

12     (1) For this purpose, the commissioner, or the commissioner's authorized  
13           representative, may enter the place of employment of any employer to inspect and  
14           copy payrolls and other employment records, to compare character of work and  
15           operations on which persons employed by him or her are engaged, to question such  
16           persons, and to obtain other information necessary to the administration and  
17           enforcement of KRS 337.420 to 337.433 and 337.990(14).

18     (2) The commissioner or the commissioner's authorized representative may examine  
19           witnesses under oath, and require by subpoena the attendance and testimony of  
20           witnesses and the production of any documentary evidence relating to the subject  
21           matter of any investigation undertaken pursuant to KRS 337.420 to 337.433 and  
22           337.990(14). If a person fails to attend, testify or produce documents under or in  
23           response to a subpoena, the Circuit Court in the judicial circuit where the hearing is  
24           being held, on application of the commissioner or the commissioner's  
25           representative, may issue an order requiring the person to appear before the  
26           commissioner or the commissioner's authorized representative, or to produce  
27           documentary evidence, and any failure to obey the order of the court may be

1 punished by the court as contempt.

2 (3) The commissioner may endeavor to eliminate pay practices unlawful under KRS  
3 337.420 to 337.433 and 337.990(14) by informal methods of conference,  
4 conciliation and persuasion, and supervise the payment of wages owing to any  
5 employee under KRS 337.420 to 337.433 and 337.990(14).

6 (4) The commissioner shall promulgate administrative~~[may issue]~~ regulations in  
7 accordance with KRS Chapter 13A to specify:

8 (a) Criteria for determining whether a job is dominated by employees of a  
9 particular sex, race, or national origin, except that these administrative  
10 regulations shall not include a list of jobs;

11 (b) Acceptable methodology for determining equivalent skill, effort,  
12 responsibility, and working conditions of a job; and

13 (c) Any other matters~~[not inconsistent with the purpose of KRS 337.420 to~~  
14 ~~337.433 and 337.990(14),]~~ necessary or appropriate to carry out the~~[its]~~  
15 provisions of KRS 337.420 to 337.433 and 337.990(14).

16 ➔Section 4. Administrative regulations required under the amendments in Section  
17 3 of this Act shall be promulgated on or before July 1, 2018.

18 ➔Section 5. Section 2 of this Act takes effect on July 1, 2019.