

1           0AN ACT relating to call centers.

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

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

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

6           *(a) "Call center" means a facility or operation where workers receive incoming*  
7           *and make outgoing telephone calls, e-mail messages, or other electronic*  
8           *communication to provide customer assistance or other customer service.*

9           *(b) "Employer" means any business enterprise that employs for the purpose of*  
10          *staffing customer service or back-office operations:*

11          *1. Fifty (50) or more employees, excluding part-time employees; or*

12          *2. Fifty (50) or more employees who, in the aggregate, work at least one*  
13          *thousand five hundred (1,500) hours per week, not including overtime*  
14          *hours.*

15          *(c) "Part-time employee" means an employee who is employed by an employer*  
16          *for an average of fewer than twenty (20) hours per week or for fewer than*  
17          *six (6) of the twelve (12) months preceding the date on which notice is*  
18          *required under this section.*

19          *(d) "State agency" means any state executive branch agency.*

20       *(2) An employer that intends to relocate from Kentucky to a foreign country a call*  
21       *center, or one (1) or more facilities or operating units within a call center*  
22       *comprising at least thirty percent (30%) of the total volume of the call center or*  
23       *operating unit when measured against the average call volume of operations or*  
24       *substantially similar operations over the previous twelve (12) months, shall notify*  
25       *the secretary of the Labor Cabinet at least one hundred and twenty (120) days*  
26       *before such a relocation.*

27       *(3) (a) Beginning six (6) months after the effective date of this Act, and every six*

1           (6) months thereafter, the secretary of the Labor Cabinet shall compile a list  
2           of every employer that has relocated to a foreign country a call center or  
3           one (1) or more facilities or operating units within a call center comprising  
4           at least thirty percent (30%) of the total volume of the call center or  
5           operating unit when measured against the average call volume of  
6           operations or substantially similar operations over the previous twelve (12)  
7           months.

8           (b) The secretary of the Labor Cabinet shall make the list of employers  
9           available to the public, prominently display the list on the Internet Web site  
10           of the Labor Cabinet, and distribute the list to all state agencies.

11           (4) (a) Except as provided in paragraph (c) of this subsection, and notwithstanding  
12           any other provision of law, an employer that appears on the list described in  
13           subsection (3) of this section shall not be eligible for any direct or indirect  
14           state grants, state-guaranteed loans, or state tax benefit for five (5) years  
15           after the date the list is published.

16           (b) Except as provided in paragraph (c) of this subsection, and notwithstanding  
17           any other provision of law, an employer that appears on the list described in  
18           subsection (3) of this section shall remit to the secretary of the Labor  
19           Cabinet the unamortized value of any state grant, state-guaranteed loan,  
20           state tax benefit, or any other state governmental support it has previously  
21           received.

22           (c) The secretary of the Labor Cabinet, in consultation with the appropriate  
23           state agency proving a loan or grant, may waive the ineligibility  
24           requirement provided under this subsection if the employer applying for the  
25           loan or grant has demonstrated that a lack of the loan or grant would result  
26           in substantial job loss in the Kentucky, or would harm the environment in  
27           Kentucky.

1 (5) The head of each state agency shall ensure that all state-business-related call  
2 center and customer service work is performed by state contractors or other  
3 agents or subcontractors entirely within Kentucky. State contractors who perform  
4 such work outside of Kentucky shall have two (2) years following the effective  
5 date of this Act to comply with this subsection; provided, that if any such  
6 contractor that performs work outside of Kentucky adds customer service  
7 employees who will perform work on such contracts, those new employees shall  
8 immediately be employed in Kentucky.

9 (6) No provision of this section shall be construed to permit the withholding or denial  
10 of payments, compensation, or other benefits under any other state law, including  
11 unemployment insurance benefits, disability payments, or worker retraining or  
12 readjustment funds, to workers employed by employers that relocate to a foreign  
13 country.

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

15 The following civil penalties shall be imposed, in accordance with the provisions in KRS  
16 336.985, for violations of the provisions of this chapter:

- 17 (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be  
18 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than  
19 one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the  
20 wages when due him under KRS 337.020 shall constitute a separate offense.
- 21 (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not  
22 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- 23 (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not  
24 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)  
25 for each offense and shall make full payment to the employee by reason of the  
26 violation. Each failure to pay an employee the wages as required by KRS 337.055  
27 shall constitute a separate offense.

- 1 (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not  
2 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)  
3 and shall also be liable to the affected employee for the amount withheld, plus  
4 interest at the rate of ten percent (10%) per annum.
- 5 (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil  
6 penalty of not less than one hundred dollars (\$100) nor more than one thousand  
7 dollars (\$1,000) for each offense and shall make full payment to the employee by  
8 reason of the violation.
- 9 (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty  
10 of not less than one hundred dollars (\$100) nor more than one thousand dollars  
11 (\$1,000) for each offense and each day that the failure continues shall be deemed a  
12 separate offense.
- 13 (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS  
14 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the  
15 commissioner or the commissioner's authorized representative in the performance  
16 of his or her duties under KRS 337.295, or fails to keep and preserve any records as  
17 required under KRS 337.320 and 337.325, or falsifies any record, or refuses to  
18 make any record or transcription thereof accessible to the commissioner or the  
19 commissioner's authorized representative shall be assessed a civil penalty of not less  
20 than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). A  
21 civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for any  
22 subsequent violation of KRS 337.285(4) to (9) and each day the employer violates  
23 KRS 337.285(4) to (9) shall constitute a separate offense and penalty.
- 24 (8) Any employer who pays or agrees to pay wages at a rate less than the rate applicable  
25 under KRS 337.275 and 337.285, or any wage order issued pursuant thereto shall be  
26 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than  
27 one thousand dollars (\$1,000).

1 (9) Any employer who discharges or in any other manner discriminates against any  
2 employee because the employee has made any complaint to his or her employer, to  
3 the commissioner, or to the commissioner's authorized representative that he or she  
4 has not been paid wages in accordance with KRS 337.275 and 337.285 or  
5 regulations issued thereunder, or because the employee has caused to be instituted  
6 or is about to cause to be instituted any proceeding under or related to KRS  
7 337.385, or because the employee has testified or is about to testify in any such  
8 proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345,  
9 and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than  
10 one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

11 (10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not  
12 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

13 (11) A person shall be assessed a civil penalty of not less than one hundred dollars  
14 (\$100) nor more than one thousand dollars (\$1,000) when that person discharges or  
15 in any other manner discriminates against an employee because the employee has:

16 (a) Made any complaint to his or her employer, the commissioner, or any other  
17 person; or

18 (b) Instituted, or caused to be instituted, any proceeding under or related to KRS  
19 337.420 to 337.433; or

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

21 **(12) Any employer who violates subsection (2) of Section 1 of this Act shall be**  
22 **assessed a civil penalty of not more than ten thousand dollars (\$10,000) for each**  
23 **day of such a violation.**

24 ➔Section 3. This Act may be called the Save Kentucky Call Center Jobs Act of  
25 2018.

26 ➔Section 4. This Act takes effect January 1, 2019.