

1 AN ACT relating to civil rights.

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

3 ➔Section 1. KRS 344.030 is amended to read as follows:

4 For the purposes of KRS 344.030 to 344.110:

5 (1) "Qualified individual with a disability" means an individual with a disability as  
6 defined in KRS 344.010 who, with or without reasonable accommodation, can  
7 perform the essential functions of the employment position that the individual holds  
8 or desires unless an employer demonstrates that he is unable to reasonably  
9 accommodate an employee's or prospective employee's disability without undue  
10 hardship on the conduct of the employers' business. Consideration shall be given to  
11 the employer's judgment as to what functions of a job are essential, and if an  
12 employer has prepared a written description before advertising or interviewing  
13 applicants for the job, this description shall be considered evidence of the essential  
14 functions of the job.

15 (2) "Employer" means a person who has at least one (1) employee~~eight (8) or more~~  
16 ~~employees~~ within the state in each of twenty (20) or more calendar weeks in the  
17 current or preceding calendar year and an agent of such a person~~, except for~~  
18 ~~purposes of determining discrimination based on disability, employer means a~~  
19 ~~person engaged in an industry affecting commerce who has fifteen (15) or more~~  
20 ~~employees for each working day in each of twenty (20) or more calendar weeks in~~  
21 ~~the current or preceding calendar year, and any agent of that person, except that, for~~  
22 ~~two (2) years following July 14, 1992, an employer means a person engaged in an~~  
23 ~~industry affecting commerce who has twenty five (25) or more employees for each~~  
24 ~~working day in each of twenty (20) or more calendar weeks in the current or~~  
25 ~~preceding year, and any agent of that person}. For the purposes of determining~~  
26 discrimination based on disability, employer shall not include:

27 (a) The United States, a corporation wholly owned by the government of the

1 United States, or an Indian tribe; or

2 (b) A bona fide private membership club (other than a labor organization) that is  
3 exempt from taxation under Section 501(c) of the Internal Revenue Service  
4 Code of 1986.

5 (3) "Employment agency" means a person regularly undertaking with or without  
6 compensation to procure employees for an employer or to procure for employees  
7 opportunities to work for an employer and includes an agent of such person.

8 (4) "Labor organization" means a labor organization and an agent of such an  
9 organization, and includes an organization of any kind, an agency or employee  
10 representation committee, group, association, or plan so engaged in which  
11 employees participate and which exists for the purpose, in whole or in part, of  
12 dealing with employers concerning grievances, labor disputes, wages, rates of pay,  
13 hours, or other terms or conditions of employment, and a conference, general  
14 committee, joint or system board, or joint council so engaged which is subordinate  
15 to a national or international labor organization.

16 (5) (a) "Employee" means an individual employed by an employer, but does not  
17 include an individual employed by his parents, spouse, or child, or an  
18 individual employed to render services as a domestic in the home of the  
19 employer.

20 (b) Notwithstanding any voluntary agreement entered into between the United  
21 States Department of Labor and a franchisee, neither a franchisee nor a  
22 franchisee's employee shall be deemed to be an employee of the franchisor for  
23 any purpose under this chapter.

24 (c) Notwithstanding any voluntary agreement entered into between the United  
25 States Department of Labor and a franchisor, neither a franchisor nor a  
26 franchisor's employee shall be deemed to be an employee of the franchisee for  
27 any purpose under this chapter.

- 1 (d) For purposes of this subsection, "franchisee" and "franchisor" have the same  
2 meanings as in 16 C.F.R. sec. 436.1.
- 3 (6) "Reasonable accommodation" means making existing facilities used by employees  
4 readily accessible to and usable by individuals with disabilities, job restructuring,  
5 part-time or modified work schedules, reassignment to a vacant position,  
6 acquisition or modification of equipment or devices, appropriate adjustment or  
7 modifications of examinations, training materials or policies, the provision of  
8 qualified readers or interpreters, and other similar accommodations for individuals  
9 with disabilities.
- 10 (7) "Religion" means all aspects of religious observance and practice, as well as belief,  
11 unless an employer demonstrates that he is unable to reasonably accommodate to an  
12 employee's or prospective employee's religious observance or practice without  
13 undue hardship on the conduct of the employer's business.
- 14 (8) The terms "because of sex" or "on the basis of sex" include, but are not limited to,  
15 because of or on the basis of pregnancy, childbirth, or related medical conditions;  
16 and women affected by pregnancy, childbirth, or related medical conditions shall be  
17 treated the same for all employment-related purposes, including receipt of benefits  
18 under fringe benefit programs, as other persons not so affected but similar in their  
19 ability or inability to work, and nothing in this section shall be interpreted to permit  
20 otherwise.
- 21 (9) "Undue hardship," for purposes of disability discrimination, means an action  
22 requiring significant difficulty or expense, when considered in light of the following  
23 factors:
- 24 (a) The nature and cost of the accommodation needed;
- 25 (b) The overall financial resources of the facility or facilities involved in the  
26 provision of the reasonable accommodation; the number of persons employed  
27 at the facility; the effect on expenses and resources; or the impact otherwise of

- 1           such accommodation upon the operation of the facility;
- 2           (c) The overall financial resources of the covered entity; the overall size of the
- 3           business of a covered entity with respect to the number of its employees; and
- 4           the number, type, and location of its facilities; and
- 5           (d) The type of operation or operations of the covered entity, including the
- 6           composition, structure, and functions of the workforce of such entity; the
- 7           geographic separateness, administrative, or fiscal relationship of the facility or
- 8           facilities in question to the covered entity.