

1 AN ACT relating to workers' compensation.

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

3 ➔Section 1. KRS 342.630 is amended to read as follows:

4 The following shall constitute employers mandatorily subject to, and required to comply
5 with, the provisions of this chapter:

6 (1) Any person, other than one engaged solely in agriculture, that has in this state one
7 (1) or more employees subject to this chapter, **except a person who solely employs**
8 **non-residents of Kentucky performing work in Kentucky for a period of less than**
9 **ninety (90) days in any three hundred sixty-five (365) day period.**

10 (2) The state, any agency thereof, and each county, city of any class, school district,
11 sewer district, drainage district, tax district, public or quasipublic corporation, or
12 any other political subdivision or political entity of the state that has one (1) or more
13 employees subject to this chapter.

14 ➔Section 2. KRS 342.650 is amended to read as follows:

15 The following employees are exempt from the coverage of this chapter:

16 (1) Any person employed as a domestic servant in a private home by an employer who
17 has less than two (2) employees each regularly employed forty (40) or more hours a
18 week in domestic servant employment;

19 (2) Any person employed, for not exceeding twenty (20) consecutive work days, to do
20 maintenance, repair, remodeling, or similar work in or about the private home of the
21 employer, or if the employer has no other employees subject to this chapter, in or
22 about the premises where that employer carries on his or her trade, business, or
23 profession;

24 (3) Any person performing services in return for aid or sustenance only, received from
25 any religious or charitable organization;

26 (4) Any person for whom a rule of liability for injury or death is provided by the laws
27 of the United States, except those persons covered under Title IV, Public Law 91-

- 1 173, 91st Congress, commonly referred to as the Black Lung Benefits of the Federal
2 Coal Mine Health and Safety Act of 1969, or as amended;
- 3 (5) Any person employed in agriculture;
- 4 (6) Any person who would otherwise be covered but who elects not to be covered in
5 accordance with the administrative regulations promulgated by the commissioner;
- 6 (7) Any person participating as a driver or passenger in a voluntary vanpool or carpool
7 program while that person is on the way to or from his or her place of employment.
8 For the purposes of this subsection, carpool or vanpool means any method by which
9 two (2) or more employees are transported from their residences to their places of
10 employment;
- 11 (8) Members of a religious sect or division that is an adherent of established tenets or
12 teachings by reason of which members are conscientiously opposed to acceptance of
13 the benefits of any public or private insurance which makes payments in the event
14 of death, disability, old age, or retirement, or makes payments toward the cost of, or
15 provides services for, medical bills, including the benefits of any insurance system
16 established by the Federal Social Security Act, 42 U.S.C. secs. 301 et seq., and it is
17 the practice, and has been for ten (10) or more years, for members of the sect or
18 division to make reasonable provision for their dependent members;
- 19 (9) Any licensed or unlicensed, commissioned, ordained or unordained, or lay minister
20 of religion who has no set oral or written agreement with a church or religious
21 organization to receive a fixed regular payment for services provided to the church
22 or who works no more than ten (10) hours per week;~~and~~
- 23 (10) Any caretaker of a cemetery or property owned or operated by a church or religious
24 organization who provides general cleanup services, including but not limited to
25 mowing, raking, dusting, sweeping, and mopping which could be performed for
26 other individuals or organizations, who works no more than ten (10) hours per
27 week; and

1 *(11) Any person who is a resident of a state other than this state and is insured under*
2 *the workers' compensation law of a state other than this state who is employed in*
3 *this state for a period of less than ninety (90) days in any three hundred sixty-five*
4 *(365) day period.*

5 ➔Section 3. KRS 342.670 is amended to read as follows:

6 (1) If an employee, while working outside the territorial limits of this state, suffers an
7 injury on account of which the employee, or in the event of the employee's death,
8 his or her dependents, would have been entitled to the benefits provided by this
9 chapter had that injury occurred within this state, that employee, or in the event of
10 the employee's death resulting from that injury, his or her dependents, shall be
11 entitled to the benefits provided by this chapter, if at the time of the injury:

12 (a) His or her employment is principally localized in this state; or

13 (b) He or she is working under a contract of hire made in this state in employment
14 not principally localized in any state; or

15 (c) He or she is working under a contract of hire made in this state in employment
16 principally localized in another state whose workers' compensation law is not
17 applicable to his or her employer; or

18 (d) He or she is working under a contract of hire made in this state for
19 employment outside the United States and Canada.

20 (2) The payment or award of benefits under the workers' compensation law of another
21 state, territory, province, or foreign nation to an employee or his or her dependents
22 otherwise entitled on account of such injury or death to the benefits of this chapter
23 shall not be a bar to a claim for benefits under this chapter, if a claim under this
24 chapter is filed within two (2) years after that injury or death. If compensation is
25 paid or awarded under this chapter:

26 (a) The medical and related benefits furnished or paid for by the employer under
27 another jurisdiction's workers' compensation law on account of such injury or

1 death shall be credited against the medical and related benefits to which the
2 employee would have been entitled under this chapter had claim been made
3 solely under this chapter;

4 (b) The total amount of all income benefits paid or awarded the employee under
5 another jurisdiction's workers' compensation law shall be credited against the
6 total amount of income benefits which would have been due the employee
7 under this chapter, had claim been made solely under this chapter; and

8 (c) The total amount of death benefits paid or awarded under another
9 jurisdiction's workers' compensation law shall be credited against the total
10 amount of death benefits due under this chapter.

11 (3) If any employee is entitled to the benefits of this chapter by reason of an injury
12 sustained in this state in employment by an employer who is domiciled in another
13 state and who has not secured the payment of compensation as required by this
14 chapter, the employer or his carrier may file with the commissioner a certificate,
15 issued by the commission or agency of the other state having jurisdiction over
16 workers' compensation claims, certifying that the employer has secured the payment
17 of compensation under the workers' compensation law of the other state and that
18 with respect to the injury the employee is entitled to the benefits provided under that
19 law, and that the benefits to which the employee or his or her dependents is entitled
20 are at least as great as those to which he or she would be entitled if the injury
21 occurred and was processed under Kentucky law, under Kentucky coverage. In this
22 event:

23 (a) The filing of the certificate shall constitute an appointment by the employer or
24 his carrier of the commissioner as his or her agent for acceptance of the
25 service of process in any proceeding brought by the employee or his or her
26 dependents to enforce his, her, or their rights under this chapter on account of
27 the injury;

- 1 (b) The commissioner shall send to the employer or carrier, by certified mail to
2 the address shown on the certificate, a true copy of any notice of claim or
3 other process served on the commissioner by the employee or his or her
4 dependents in any proceeding brought to enforce his, her, or their rights under
5 this chapter;
- 6 (c) 1. If the employer is a qualified self-insurer under the workers'
7 compensation law of the other state, the employer shall, upon
8 submission of evidence satisfactory to the commissioner, of its ability to
9 meet its liability to the employee under this chapter, be deemed to be a
10 qualified self-insurer under this chapter;
- 11 2. If the employer's liability under the workers' compensation law of the
12 other state is insured, the employer's carrier, as to the employee or his or
13 her dependents only, shall be deemed to be an insurer authorized to
14 write insurance under and be subject to this chapter; however, unless its
15 contract with the employer requires it to pay an amount equivalent to the
16 compensation benefits provided by this chapter, its liability for income
17 benefits or medical and related benefits shall not exceed the amounts of
18 the benefits for which the insurer would have been liable under the
19 workers' compensation law of the other state;
- 20 (d) If the total amount for which the employer's insurance is liable under (c)
21 above is less than the total of the compensation benefits to which the
22 employee is entitled under this chapter, the commissioner may, if he or she
23 deems it necessary, require the employer to file security, satisfactory to the
24 commissioner, to secure the payment of benefits due the employee or his or
25 her dependents under this chapter; and
- 26 (e) Upon compliance with the preceding requirements of this subsection (3), the
27 employer, as to the employee only, shall be deemed to have secured the

1 payment of compensation under this chapter.

2 (4) Any professional athlete, coach, or trainer who has been hired outside this
3 Commonwealth by an employer domiciled in a foreign state, including professional
4 baseball, basketball, football, and ice-hockey clubs, is exempted from the provisions
5 of this chapter while that employee is temporarily within this Commonwealth doing
6 work for the employer, if the foreign employer has secured workers' compensation
7 insurance coverage under the workers' compensation law of the foreign state, so as
8 to cover the employee's employment while in this Commonwealth. The benefits
9 under the workers' compensation law of the foreign state shall be the exclusive
10 remedy against that employer and any affiliated club for any injury, whether
11 resulting in death or not, received by any employee while working for that employer
12 in this Commonwealth.

13 (5) As used in this section:

14 (a) "United States" includes only the states of the United States and the District of
15 Columbia;

16 (b) "State" includes any state of the United States, the District of Columbia, or
17 any province of Canada;

18 (c) "Carrier" includes any insurance company licensed to write workers'
19 compensation insurance in any state of the United States or any state or
20 provincial fund which insures employers against their liabilities under a
21 workers' compensation law;

22 (d) A person's employment is principally localized in this or another state when:

23 1. His or her employer has a place of business in this or the other state and
24 he or she regularly works at or from that place of business, or

25 2. If subparagraph 1. foregoing is not applicable, he or she is domiciled and
26 spends a substantial part of his or her working time in the service of his
27 or her employer in this or the other state;

1 (e) An employee whose duties require him or her to travel regularly in the service
2 of his or her employer in this and one (1) or more other states may, by written
3 agreement with his or her employer, provide that his or her employment is
4 principally localized in this or another state, and, unless the other state refuses
5 jurisdiction, the agreement shall be given effect under this chapter;

6 (f) "Workers' compensation law" includes "occupational disease law."

7 **(6) An employee who is not a resident of this state and is subject to the workers'**
8 **compensation law of another state who is employed in this state for a period of**
9 **less than ninety (90) days in any three hundred sixty-five (365) day period is not**
10 **required to be covered under KRS Chapter 342 and the exclusive workers'**
11 **compensation remedy for the employee would be under the law of the state to**
12 **which the employee is subject.**