

1 AN ACT relating to wages.

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

3 ➔Section 1. KRS 337.010 is amended to read as follows:

- 4 (1) As used in this chapter, unless the context requires otherwise:
- 5 (a) "Commissioner" means the commissioner of the Department of Workplace  
6 Standards under the direction and supervision of the secretary of the Labor  
7 Cabinet;
- 8 (b) "Department" means the Department of Workplace Standards in the Labor  
9 Cabinet;
- 10 (c) 1. "Wages" includes any compensation due to an employee by reason of his  
11 or her employment, including salaries, commissions, vested vacation  
12 pay, overtime pay, severance or dismissal pay, earned bonuses, and any  
13 other similar advantages agreed upon by the employer and the employee  
14 or provided to employees as an established policy. The wages shall be  
15 payable in legal tender of the United States, checks on banks, direct  
16 deposits, or payroll card accounts convertible into cash on demand at  
17 full face value, subject to the allowances made in this chapter. However,  
18 an employee may not be charged an activation fee and the payroll card  
19 account shall provide the employee with the ability, without charge, to  
20 make at least one (1) withdrawal per pay period for any amount up to  
21 and including the full account balance.
- 22 2. For the purposes of calculating hourly wage rates for scheduled overtime  
23 for professional firefighters, as defined in KRS 95A.210~~[(8)]~~, "wages"  
24 shall not include the distribution to qualified professional firefighters by  
25 local governments of supplements received from the Firefighters  
26 Foundation Program Fund. For the purposes of calculating hourly wage  
27 rates for unscheduled overtime for professional firefighters, as defined in

1                   KRS 95A.210~~[(9)]~~, "wages" shall include the distribution to qualified  
2                   professional firefighters by local governments of supplements received  
3                   from the Firefighters Foundation Program Fund;

4           (d) "Employer" is any person, either individual, corporation, partnership, agency,  
5           or firm who employs an employee and includes any person, either individual,  
6           corporation, partnership, agency, or firm acting directly or indirectly in the  
7           interest of an employer in relation to an employee; and

8           (e) "Employee" is any person employed by or suffered or permitted to work for an  
9           employer, except that:

10           1. Notwithstanding any voluntary agreement entered into between the  
11           United States Department of Labor and a franchisee, neither a franchisee  
12           nor a franchisee's employee shall be deemed to be an employee of the  
13           franchisor for any purpose under this chapter; and

14           2. Notwithstanding any voluntary agreement entered into between the  
15           United States Department of Labor and a franchisor, neither a franchisor  
16           nor a franchisor's employee shall be deemed to be an employee of the  
17           franchisee for any purpose under this chapter.

18           For purposes of this paragraph, "franchisee" and "franchisor" have the same  
19           meanings as in 16 C.F.R. sec. 436.1.

20           (2) As used in KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405, unless the  
21           context requires otherwise:

22           (a) "Employee" is any person employed by or suffered or permitted to work for an  
23           employer, but shall not include:

24           1. Any individual employed in agriculture;

25           2. Any individual employed in a bona fide executive, administrative,  
26           supervisory, or professional capacity, or in the capacity of outside  
27           salesman, or as an outside collector as the terms are defined by

- 1 administrative regulations of the commissioner;
- 2 3. Any individual employed by the United States;
- 3 4. Any individual employed in domestic service in or about a private home.
- 4 The provisions of this section shall include individuals employed in
- 5 domestic service in or about the home of an employer where there is
- 6 more than one (1) domestic servant regularly employed;
- 7 5. Any individual classified and given a certificate by the commissioner
- 8 showing a status of learner, apprentice, worker with a disability,
- 9 sheltered workshop employee, and student under administrative
- 10 procedures and administrative regulations prescribed and promulgated
- 11 by the commissioner. This certificate shall authorize employment at the
- 12 wages, less than the established fixed minimum fair wage rates, and for
- 13 the period of time fixed by the commissioner and stated in the certificate
- 14 issued to the person;
- 15 6. Employees of retail stores, service industries, hotels, motels, and
- 16 restaurant operations whose average annual gross volume of sales made
- 17 for business done is less than five hundred thousand dollars
- 18 (\$500,000)~~[ninety-five thousand dollars (\$95,000)]~~ for the five (5)
- 19 preceding years exclusive of excise taxes at the retail level or if the
- 20 employee is the parent, spouse, child, or other member of his or her
- 21 employer's immediate family;
- 22 7. Any individual employed as a baby-sitter in an employer's home, or an
- 23 individual employed as a companion by a sick, convalescing, or elderly
- 24 person or by the person's immediate family, to care for that sick,
- 25 convalescing, or elderly person and whose principal duties do not
- 26 include housekeeping;
- 27 8. Any individual engaged in the delivery of newspapers to the consumer;

- 1           9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A,  
2           30A, and 18A provided that the secretary of the Personnel Cabinet shall  
3           have the authority to prescribe by administrative regulation those  
4           emergency employees, or others, who shall receive overtime pay rates  
5           necessary for the efficient operation of government and the protection of  
6           affected employees;
- 7           10. Any employee employed by an establishment which is an organized  
8           nonprofit camp, religious, or nonprofit educational conference center, if  
9           it does not operate for more than two hundred ten (210) days in any  
10          calendar year;
- 11          11. Any employee whose function is to provide twenty-four (24) hour  
12          residential care on the employer's premises in a parental role to children  
13          who are primarily dependent, neglected, and abused and who are in the  
14          care of private, nonprofit childcaring facilities licensed by the Cabinet  
15          for Health and Family Services under KRS 199.640 to 199.670; or
- 16          12. Any individual whose function is to provide twenty-four (24) hour  
17          residential care in his or her own home as a family caregiver and who is  
18          approved to provide family caregiver services to an adult with a  
19          disability through a contractual relationship with a community board for  
20          mental health or individuals with an intellectual disability established  
21          under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet  
22          for Health and Family Services to provide adult foster care;
- 23          (b) "Agriculture" means farming in all its branches, including cultivation and  
24          tillage of the soil; dairying; production, cultivation, growing, and harvesting of  
25          any agricultural or horticultural commodity; raising of livestock, bees,  
26          furbearing animals, or poultry; and any practice, including any forestry or  
27          lumbering operations, performed on a farm in conjunction with farming

1 operations, including preparation and delivery of produce to storage, to  
2 market, or to carriers for transportation to market;

3 (c) "Gratuity" means voluntary monetary contribution received by an employee  
4 from a guest, patron, or customer for services rendered;

5 (d) "Tipped employee" means any employee engaged in an occupation in which  
6 he or she customarily and regularly receives more than thirty dollars (\$30) per  
7 month in tips; and

8 (e) "U.S.C." means the United States Code.

9 ➔Section 2. KRS 337.275 is amended to read as follows:

10 (1) (a) Except as may otherwise be provided by this chapter, every employer shall  
11 pay to each of his or her employees wages at a rate of not less than:~~[ five~~  
12 ~~dollars and eighty five cents (\$5.85) an hour beginning on June 26, 2007, not~~  
13 ~~less than six dollars and fifty five cents (\$6.55) an hour beginning July 1,~~  
14 ~~2008, and not less than]~~

15 1. Seven dollars and twenty-five cents (\$7.25) an hour beginning July 1,  
16 2009;

17 2. Eight dollars and twenty cents (\$8.20) an hour beginning on July 1,  
18 2020;

19 3. Nine dollars and fifteen cents (\$9.15) an hour beginning on July 1,  
20 2021;

21 4. Ten dollars and ten cents (\$10.10) an hour beginning on July 1, 2022;

22 5. Eleven dollars (\$11) an hour beginning on July 1, 2023;

23 6. Twelve dollars and five cents (\$12.05) an hour on July 1, 2024;

24 7. Thirteen dollars and ten cents (\$13.10) an hour on July 1, 2025;

25 8. Thirteen dollars and ninety-five cents (\$13.95) an hour on July 1,  
26 2026; and

27 9. Fifteen dollars (\$15) an hour on July 1, 2027.

1       **(b)** If the federal minimum hourly wage as prescribed by 29 U.S.C. sec. 206(a)(1)  
2       is increased in excess of the minimum hourly wage in effect under this  
3       subsection, the minimum hourly wage under this subsection shall be increased  
4       to the same amount, effective on the same date as the federal minimum hourly  
5       wage rate. If the state minimum hourly wage is increased to the federal  
6       minimum hourly wage, it shall include only the federal minimum hourly rate  
7       prescribed in 29 U.S.C. sec. 206(a)(1) and shall not include other wage rates  
8       or conditions, exclusions, or exceptions to the federal minimum hourly wage  
9       rate. In addition, the increase to the federal minimum hourly wage rate does  
10      not extend or modify the scope or coverage of the minimum wage rate  
11      required under this chapter.

12     (2) **(a)** Notwithstanding the provisions of subsection (1) of this section, for any  
13      employee engaged in an occupation in which he **or she** customarily and  
14      regularly receives more than thirty dollars (\$30) per month in tips from  
15      patrons or others, the employer may pay as a minimum not less than:

16      **1. Two dollars and thirteen cents (\$2.13) an hour beginning on the**  
17      **effective date of this Act;**

18      **2. Three dollars and five cents (\$3.05) an hour beginning on July 1,**  
19      **2021;**

20      **3. Three dollars and ninety-five cents (\$3.95) an hour beginning on July**  
21      **1, 2022; and**

22      **4. Four dollars and ninety cents (\$4.90) an hour beginning in July 1,**  
23      **2023.**

24      **(b)** ~~If the hourly wage rate required to be paid a tipped employee under~~ the  
25      federal minimum hourly wage ~~law~~ as prescribed by 29 U.S.C. sec. 203 **is**  
26      **increased in excess of the minimum hourly wage in effect under this**  
27      **subsection, the minimum hourly wage under this subsection shall be**

1            increased to the same amount, effective on the same date as the federal  
2            minimum hourly wage rate.

3            (c) The employer shall establish by his or her records that for each week where  
4            credit is taken, when adding tips received to wages paid, not less than the  
5            minimum rate prescribed in subsection (1) of this section~~[29 U.S.C. sec. 203]~~  
6            was received by the employee. No employer shall use all or part of any tips or  
7            gratuities received by employees toward the payment of the statutory  
8            minimum hourly wage as required by subsection (1) of this section~~[29 U.S.C.~~  
9            ~~sec. 203]~~. Nothing, however, shall prevent employees from entering into an  
10           agreement to divide tips or gratuities among themselves.

11           (3) Nothing in this chapter shall be construed to restrict the power of any city,  
12           county, urban-county government, charter county government, consolidated local  
13           government, or unified local government to adopt and enforce minimum wage  
14           rate ordinances in excess of the requirements of this section so long as they  
15           comply with at least the minimum applicable standards set forth in this section.  
16           In the case of a consolidated local government, the governing body of the  
17           consolidated local government is the only local governing body that may establish  
18           a minimum wage under this subsection, and the minimum wage set by that  
19           governing body shall apply countywide.