

1 AN ACT relating to employee privacy.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO  
4 READ AS FOLLOWS:

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

6 *(a) "Electronic monitoring" means the collection of information on the*  
7 *premises of an employer concerning employees' activities or*  
8 *communications by any means other than direct observation, including the*  
9 *use of a computer, telephone, recorder, wire, radio, camera, or other device*  
10 *for capturing visual images or oral communications, but not including the*  
11 *collection of information for security purposes in common areas of the*  
12 *employer's premises which are held out for use by the public;*

13 *(b) "Employee" means any person who performs services for and under the*  
14 *control of an employer; and*

15 *(c) "Employer" has the same meaning as in KRS 337.010(1)(d).*

16 *(2) Except as provided in subsection (5) of this section, an employer who engages in*  
17 *any type of electronic monitoring of employees shall provide prior written notice*  
18 *to all affected employees informing the employees of the types of monitoring*  
19 *which may occur. The notice shall include:*

20 *(a) The form of communication or behavior that is monitored;*

21 *(b) The technical means used to monitor the employees;*

22 *(c) Whether the monitoring is conducted on a continuous, random, or as-*  
23 *needed basis;*

24 *(d) Who has access to the information obtained through the monitoring; and*

25 *(e) How the information obtained through the monitoring is being used.*

26 *(3) The employer shall post, in a conspicuous and accessible place which is readily*  
27 *available for viewing by its employees, the notice required in subsection (2) of this*

1 section.

2 (4) Affected employees shall be notified by the employer whenever there is a change  
3 in any of the information required in the notice under subsection (2) of this  
4 section.

5 (5) When an employer has reasonable grounds to believe that an employee is  
6 engaged in conduct that is illegal, and that electronic monitoring will produce  
7 evidence of this misconduct, the employer may conduct monitoring without  
8 giving prior written notice.

9 ➔Section 2. KRS 336.990 is amended to read as follows:

10 (1) Upon proof that any person employed by the Labor Cabinet as a labor inspector has  
11 taken any part in any strike, lockout or similar labor dispute, the person shall forfeit  
12 his or her office.

13 (2) The following civil penalties shall be imposed, in accordance with the provisions in  
14 KRS 336.985, for violations of the provisions of this chapter:

15 (a) Any person who violates KRS 336.110 or 336.130 shall for each offense be  
16 assessed a civil penalty of not less than one hundred dollars (\$100) nor more  
17 than one thousand dollars (\$1,000);

18 (b) Any corporation, association, organization, or person that violates KRS  
19 336.190 and 336.200 shall be assessed a civil penalty of not less than one  
20 hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each  
21 offense. Each act of violation, and each day during which such an agreement  
22 remains in effect, shall constitute a separate offense;

23 (c) Any employer who violates the provisions of KRS 336.220 or Section 1 of  
24 this Act shall be assessed a civil penalty of not less than one hundred dollars  
25 (\$100) nor more than one thousand dollars (\$1,000) for each violation; and

26 (d) Any labor organization who violates KRS 336.135 shall be assessed a civil  
27 penalty of not less than one hundred dollars (\$100) nor more than one

1           thousand dollars (\$1,000) for each offense.

2       (3) Any labor organization, employer, or other person who directly or indirectly  
3       violates KRS 336.130(3) shall be guilty of a Class A misdemeanor.

4       (4) Any person aggrieved as a result of any violation or threatened violation of KRS  
5       336.130(3) may seek abatement of the violation or threatened violation by  
6       petitioning a court of competent jurisdiction for injunctive relief and shall be  
7       entitled to costs and reasonable attorney fees if he or she prevails in the action.

8       (5) Any person injured as a result of any violation or threatened violation of KRS  
9       336.130(3) may recover all damages resulting from the violation or threatened  
10      violation and shall be entitled to costs and reasonable attorney fees if he or she  
11      prevails in the action.