

1 AN ACT relating to wage theft.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section, unless the context requires otherwise:*

6 *(a) "Employee" means any individual employed by an employer; and*

7 *(b) "Employer" means any individual, partnership, association, corporation,*
8 *business trust, or any person or persons acting directly or indirectly in the*
9 *interest of an employer in relation to an employee.*

10 *(2) A person is guilty of theft of wages when an employer, with the intent to defraud:*

11 *(a) Fails to pay an employee all wages, salary, gratuities, earnings, or*
12 *commissions at the employee's rate of pay or at the rate or rates of pay*
13 *required by law, including any applicable statute, regulation, rule,*
14 *ordinance, government resolution or policy, contract, or other legal*
15 *authority, whichever rate of pay is greater;*

16 *(b) Directly or indirectly causes any employee to give a receipt for wages for a*
17 *greater amount than that actually paid to the employee for services*
18 *rendered;*

19 *(c) Directly or indirectly demands or receives from any employee any rebate or*
20 *refund from the wages owed the employee under contract of employment*
21 *with the employer; or*

22 *(d) Makes or attempts to make it appear in any manner that the wages paid to*
23 *any employee were greater than the amount actually paid to the employee.*

24 *(3) Theft of wages is a Class A misdemeanor unless the value of the wages is:*

25 *(a) Five hundred dollars (\$500) or more but less than ten thousand dollars*
26 *(\$10,000), in which case it is a Class D felony; or*

27 *(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C*

1 *felony.*

2 ➔Section 2. KRS 336.080 is amended to read as follows:

3 The secretary may have inspected any place of employment affected by or subject to any
4 law of this state relating to the employment of labor, except places of employment within
5 the jurisdiction of the Department for Natural Resources. In the discharge of his or her
6 duties, the secretary or the secretary's authorized deputy may enter places of employment
7 at any reasonable time *and without unreasonable delay.* Upon request, the cabinet shall
8 furnish to any employer a detailed report of any inspection in his or her place of business.

9 ➔Section 3. KRS 337.020 is amended to read as follows:

10 Every employer doing business in this state shall, as often as semimonthly, pay to each of
11 its employees all wages or salary earned to a day not more than eighteen (18) days prior to
12 the date of that payment. Any employee who is absent at the time fixed for payment, or
13 who, for any other reason, is not paid at that time, shall be paid thereafter at any time
14 upon six (6) days' demand. No employer subject to this section shall, by any means,
15 secure exemption from it. Every such employee shall have a right of action against any
16 such employer for the full amount of his wages due on each regular pay day *and the right*
17 *to be paid at certain times. In addition to any other remedies set forth in this chapter, if*
18 *payment is not made within ten (10) days of the demand, the commissioner may charge*
19 *and collect the wages earned by the employee at the employee's rate of pay, or at the*
20 *rates required by state or federal law, whichever is greater.* The provisions of this
21 section do not apply to those individuals defined in KRS 337.010(2)(a)2.

22 ➔Section 4. KRS 337.070 is amended to read as follows:

23 All employers who employ ten (10) or more and pay their employees by check or
24 otherwise, making deductions from the salaries and wages due said employees, shall state
25 specifically the amount for which the deductions are made, *the rate of pay and the basis*
26 *thereof, the total number of hours worked, and the total amount of gross pay earned by*
27 *the employee during that period.* ~~and~~ Each such employer at the time of payment of

1 salary or wage to each employee shall furnish the employee a paper or electronic
 2 statement giving the amount of each deduction and the general purpose for which the
 3 deduction is made. If an employer provides an electronic statement, then the employer
 4 shall provide access to a computer and printer for review and printing by the employee.

5 ➔Section 5. KRS 337.320 is amended to read as follows:

6 (1) Every employer shall keep a record of:

7 (a) **The name, address, and occupation of each employee;**

8 (b) **The rate of pay, and the amount paid each pay period to each employee**~~[(The~~
 9 ~~amount paid each pay period to each employee)];~~

10 (c)~~[(b)]~~ The hours worked each day and each week by each employee, **including**
 11 **for all employees paid at piece rate, the number of pieces completed at each**
 12 **piece rate;**

13 (d) **A list of personnel policies provided to the employee, including the date the**
 14 **policies were given to the employee and a brief description of the policies;**

15 (e) **A copy of the statement provided to each employee pursuant to Section 4 of**
 16 **this Act;** and

17 (f)~~[(e)]~~ Such other information as the commissioner requires.

18 (2) Such records shall be kept on file for at least **three (3) years**~~[one (1) year]~~ after
 19 entry. They shall be open to the inspection and transcript of the commissioner or the
 20 commissioner's authorized representative at any reasonable time, and every
 21 employer shall furnish to the commissioner or the commissioner's authorized
 22 representative on demand a sworn statement of them. The commissioner may
 23 require the statement to be upon forms prescribed or approved by him or her.

24 (3) **If the records maintained by the employer do not provide sufficient information**
 25 **to determine the exact amount of back wages due an employee, the commissioner**
 26 **may make a determination of wages due based on available evidence.**

27 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) At the start of employment, an employer shall provide each employee a written
3 notice containing the following information:

4 (a) The rate or rates of pay and basis thereof, including whether the employee
5 is paid by the hour, shift, day, week, salary, piece, commission, or other
6 method, and the specific application of any additional rates;

7 (b) Allowances, if any, claimed pursuant to permitted meals and lodging;

8 (c) Paid vacation, sick time, or other accruals of paid time off and the terms of
9 use;

10 (d) The employee's employment status and whether the employee is exempt
11 from minimum wage or overtime requirements or from other provisions of
12 this chapter;

13 (e) A list of deductions that may be made from the employee's pay;

14 (f) The number of days in the pay period, the regularly scheduled pay day, and
15 the pay day on which the employee will receive the first payment of wages
16 earned;

17 (g) The legal name of the employer and the operating name of the employer, if
18 different from the legal name;

19 (h) The physical address of the employer's main office or principal place of
20 business and a mailing address, if different; and

21 (i) The telephone number of the employer.

22 (2) The employer shall keep a copy of the written notice set forth in subsection (1) of
23 this section signed by each employee acknowledging receipt of the notice. The
24 notice shall be provided to each employee in English and must include text
25 provided by the commissioner that informs employees that they may request, by
26 indicating on the form, that the notice be provided in a particular language other
27 than English. If a request is made, the employer shall provide the notice in the

1 language requested by the employee. The commissioner shall make available to
2 employers the text to be included in the English version of the notice required by
3 this section and shall assist employers with the translation of the notice into the
4 languages requested by employees.

5 (3) The employer shall provide employees with any written changes to the
6 information contained in the notice set forth in subsection (1) of this section prior
7 to the date the changes take effect.

8 ➔Section 7. KRS 337.990 is amended to read as follows:

9 The following civil penalties shall be imposed, in accordance with the provisions in KRS
10 336.985, for violations of the provisions of this chapter:

11 (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be
12 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than
13 one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the
14 wages when due him under KRS 337.020 shall constitute a separate offense.

15 (2) Any employer who violates KRS 337.050 or Section 6 of this Act shall be assessed
16 a civil penalty of not less than one hundred dollars (\$100) nor more than one
17 thousand dollars (\$1,000).

18 (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not
19 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
20 for each offense and shall make full payment to the employee by reason of the
21 violation. Each failure to pay an employee the wages as required by KRS 337.055
22 shall constitute a separate offense.

23 (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not
24 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
25 and shall also be liable to the affected employee for the amount withheld, plus
26 interest at the rate of ten percent (10%) per annum.

27 (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil

1 penalty of not less than one hundred dollars (\$100) nor more than one thousand
2 dollars (\$1,000) for each offense and shall make full payment to the employee by
3 reason of the violation.

4 (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty
5 of not less than one hundred dollars (\$100) nor more than one thousand dollars
6 (\$1,000) for each offense and each day that the failure continues shall be deemed a
7 separate offense.

8 (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS
9 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the
10 commissioner or the commissioner's authorized representative in the performance
11 of his or her duties under KRS 337.295, or fails to keep and preserve any records as
12 required under KRS 337.320 and 337.325, or falsifies any record, or refuses to
13 make any record or transcription thereof accessible to the commissioner or the
14 commissioner's authorized representative shall be assessed a civil penalty of not less
15 than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). A
16 civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for any
17 subsequent violation of KRS 337.285(4) to (9) and each day the employer violates
18 KRS 337.285(4) to (9) shall constitute a separate offense and penalty.

19 (8) Any employer who pays or agrees to pay wages at a rate less than the rate applicable
20 under KRS 337.275 and 337.285, or any wage order issued pursuant thereto shall be
21 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than
22 one thousand dollars (\$1,000).

23 (9) Any employer who discharges or in any other manner discriminates against any
24 employee because the employee has made any complaint to his or her employer, to
25 the commissioner, or to the commissioner's authorized representative that he or she
26 has not been paid wages in accordance with KRS 337.275 and 337.285 or
27 regulations issued thereunder, or because the employee has caused to be instituted

1 or is about to cause to be instituted any proceeding under or related to KRS
2 337.385, or because the employee has testified or is about to testify in any such
3 proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345,
4 and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than
5 one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

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

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

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

13 (b) Instituted, or caused to be instituted, any proceeding under or related to KRS
14 337.420 to 337.433; or

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