

1 AN ACT relating to unemployment insurance.

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

3 ➔Section 1. KRS 341.370 is amended to read as follows:

- 4 (1) A worker shall be disqualified from receiving benefits for the duration of any period
5 of unemployment with respect to which:
- 6 (a) He ***or she*** has failed without good cause either to apply for available, suitable
7 work when so directed by the employment office or the secretary or to accept
8 suitable work when offered him ***or her***, or to return to his ***or her*** customary
9 self-employment when so directed by the secretary; or
- 10 (b) He ***or she*** has been discharged for misconduct or dishonesty connected with
11 his ***or her*** most recent work, or from any work which occurred after the first
12 day of the worker's base period and which last preceded his ***or her*** most recent
13 work, but legitimate activity in connection with labor organizations or failure
14 to join a company union shall not be construed as misconduct; or
- 15 (c) He ***or she*** has left his ***or her*** most recent suitable work or any other suitable
16 work which occurred after the first day of the worker's base period and which
17 last preceded his ***or her*** most recent work voluntarily without good cause
18 attributable to the employment. No otherwise eligible worker shall be
19 disqualified from receiving benefits for:
- 20 1. Leaving his ***or her*** next most recent suitable work which was concurrent
21 with his ***or her*** most recent work;
- 22 2. Leaving work which is one hundred (100) road miles or more, as
23 measured on a one (1) way basis, from his ***or her*** home to accept work
24 which is less than one hundred (100) road miles from his ***or her*** home;
- 25 3. Accepting work which is a bona fide job offer with a reasonable
26 expectation of continued employment; or
- 27 4. Leaving work to accompany the worker's spouse to a different state,

1 military base of assignment, or duty station that is one hundred (100)
2 road miles or more, as measured on a one (1) way basis, from the
3 worker's home when the spouse is reassigned by the military.

4 (2) A worker shall be disqualified from receiving benefits for any week with respect to
5 which he or she knowingly made a false statement to establish his or her right to or
6 the amount of his or her benefits, and, within the succeeding twenty-four (24)
7 months, for the additional weeks immediately following the date of discovery, not
8 to exceed a total of fifty-two (52), as may be determined by the secretary.

9 (3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this
10 section unless the employer, within a reasonable time as prescribed by regulations
11 promulgated by the secretary, notifies the Education and Workforce Development
12 Cabinet and the worker in writing of the alleged voluntary quitting or the discharge
13 for misconduct. Nothing in this subsection shall restrict the right of the secretary to
14 disqualify a worker whose employer has refused or failed to notify the Education
15 and Workforce Development Cabinet of the alleged voluntary quitting or discharge
16 for misconduct, if the alleged voluntary quitting or discharge for misconduct is
17 known to the secretary prior to the time benefits are paid to the worker. The
18 exercise of the right by the secretary, in the absence of timely notice from the
19 employer, shall not relieve the employer's reserve account or reimbursing
20 employer's account of benefit charges under the provisions of subsection (3) of KRS
21 341.530.

22 (4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work
23 shall be construed as that work which occurred after the first day of the worker's
24 base period and which last preceded the week of unemployment with respect to
25 which benefits are claimed; except that, if the work last preceding the week of
26 unemployment was seasonal, intermittent, or temporary in nature, most recent work
27 may be construed as that work last preceding the seasonal, intermittent, or

1 temporary work.

2 (5) No worker shall be disqualified or held ineligible under the provisions of this
3 section or KRS 341.350, who is separated from employment pursuant to a labor
4 management contract or agreement, or pursuant to an established employer plan,
5 program, or policy, which permits the employer to close the plant or facility for
6 purposes of vacation or maintenance.

7 (6) (a) No worker shall be disqualified or held ineligible under the provisions of
8 this section or KRS 341.350, who leaves work, is unable to work, or is
9 separated from employment due to circumstances directly resulting from
10 domestic violence and abuse as defined in KRS 403.720, or from dating
11 violence and abuse, sexual assault, or stalking as defined in KRS 456.010,
12 and with respect to which:

13 1. The worker fears domestic violence and abuse, dating violence and
14 abuse, sexual assault, or stalking at or en route to or from the
15 worker's place of employment;

16 2. The worker wishes to relocate to another geographic area in order to
17 avoid future domestic violence and abuse, dating violence and abuse,
18 sexual assault, or stalking against the worker, the worker's family, or
19 coworkers; or

20 3. The worker believes that leaving work is necessary for the future
21 safety and health of the worker, the worker's family, or coworkers.

22 (b) To assist in the determination as to whether a worker has experienced
23 domestic violence and abuse, dating violence and abuse, sexual assault, or
24 stalking for the purpose of benefit eligibility, the worker shall provide
25 documentation of domestic or dating violence and abuse, sexual assault, or
26 stalking as prescribed in administrative regulations promulgated by the
27 secretary, including but not limited to police or court records, a sworn

1 statement by the worker, or other documentation of domestic or dating
 2 violence and abuse, sexual assault, or stalking from a shelter worker,
 3 attorney, member of the clergy, or medical or other professional from whom
 4 the worker has sought assistance.

5 (c) All documentation of evidence shall be kept confidential unless consent for
 6 disclosure is given in writing by the worker.

7 (Z) "Discharge for misconduct" as used in this section shall include but not be limited
 8 to, separation initiated by an employer for falsification of an employment
 9 application to obtain employment through subterfuge; knowing violation of a
 10 reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if
 11 the worker cannot show good cause for absences or tardiness; damaging the
 12 employer's property through gross negligence; refusing to obey reasonable
 13 instructions; reporting to work under the influence of alcohol or drugs or consuming
 14 alcohol or drugs on employer's premises during working hours; conduct
 15 endangering safety of self or co-workers; and incarceration in jail following
 16 conviction of a misdemeanor or felony by a court of competent jurisdiction, which
 17 results in missing at least five (5) days work.

18 (8)~~(7)~~ "Duration of any period of unemployment," as that term is used in this section,
 19 shall be the period of time beginning with the worker's discharge, voluntary
 20 quitting, or failure to apply for or accept suitable work and running until the worker
 21 has worked in each of ten (10) weeks, whether or not consecutive, and has earned
 22 ten (10) times his or her weekly benefit rate in employment covered under the
 23 provisions of this chapter or a similar law of another state or of the United States.

24 ➔Section 2. KRS 341.530 is amended to read as follows:

25 (1) The Office of Unemployment Insurance, Department of Workforce Investment,
 26 shall maintain a reserve account for each subject employer making contributions to
 27 the fund and a reimbursing employer account for each subject employer making

1 payment in lieu of contributions, and shall, except as provided in KRS 341.590,
2 credit to such account the total amount of all contributions or benefit reimbursement
3 paid by the employer on his or her own behalf. Nothing in this section or elsewhere
4 in this chapter shall be construed to grant any employer or individual who is or was
5 in his or her employ prior claims or rights to the amounts paid by him or her into
6 the fund.

7 (2) (a) Except as provided in subsection (3) of this section, all regular benefits paid to
8 an eligible worker in accordance with KRS 341.380 plus the extended benefits
9 paid in accordance with KRS 341.700 to 341.740, subject to the provisions of
10 paragraphs ~~[(a) and]~~(b) and (c) of this subsection, shall be charged against the
11 reserve account or reimbursing employer account of his or her most recent
12 employer. No employer shall be deemed to be the most recent employer unless
13 the eligible worker to whom benefits are payable shall have worked for such
14 employer in each of ten (10) weeks whether or not consecutive back to the
15 beginning of the worker's base period.

16 (b)~~[(a)]~~ Subject employers, which are not governmental entities as defined in
17 KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in
18 accordance with KRS 341.700 to 341.740; and

19 (c)~~[(b)]~~ Subject employers which are governmental entities, as defined in KRS
20 341.069, shall be charged for all extended benefits paid in accordance with
21 KRS 341.700 to 341.740 for compensable weeks occurring on or after January
22 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable
23 weeks occurring prior to such date.

24 (3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an
25 eligible worker and chargeable to a contributing employer's reserve account under
26 such subsection shall be charged against the pooled account if such worker was
27 discharged by such employer for misconduct connected with his or her most recent

1 work for such employer, voluntarily left his or her most recent work with such
2 employer without good cause attributable to the employment, voluntarily left the
3 employer to protect himself or herself or his or her family or coworkers from
4 domestic violence and abuse as defined in KRS 403.720 or dating violence and
5 abuse, sexual assault, or stalking as defined in KRS 456.010, or the employer has
6 continued to provide part-time employment and wages, without interruption, to the
7 same extent that was provided from the date of hire, and the employer within a
8 reasonable time, as prescribed by regulation of the secretary, notifies the office, in
9 writing, of the alleged voluntary quitting, discharge for misconduct or continuing
10 part-time employment; provided, however, that no employer making payments to
11 the fund in lieu of contributions shall be relieved of charges by reason of this
12 subsection.

13 (4) Notwithstanding the provisions of subsection (3) of this section, no contributing
14 employer's reserve account shall be relieved of any charges for benefits relating to
15 an improper benefit payment to a worker established after October 21, 2013, if:

16 (a) The improper benefit payment was made because the employer, or an agent of
17 the employer, was at fault for failing to respond timely or adequately to the
18 request of the secretary for information relating to a claim for benefits; and

19 (b) The employer, or an agent of the employer, has a pattern of failing to respond
20 timely or adequately to requests under paragraph (a) of this subsection. For
21 purposes of this paragraph, a "pattern of failing" means at least six (6) failures
22 occur in a calendar year or the failure to respond to two percent (2%) of such
23 requests in a calendar year, whichever is greater.

24 (5) Any determination under subsection (4) of this section shall be transmitted to the
25 last known physical or electronic address provided by the employer and may be
26 appealed in accordance with the provisions of KRS 341.420(2).

27 (6) Each subject employer's reserve account or reimbursing account shall, unless

1 terminated as of the computation date ~~{(as defined in subsection (5) of KRS~~
2 341.270~~)}}, be charged with all benefits paid to eligible workers which are
3 chargeable to such reserve account or reimbursing account under subsection (2) of
4 this section. A subject employer's reserve account or reimbursing account shall be
5 deemed to be terminated if he or she has ceased to be subject to this chapter, and his
6 or her account has been closed and any balance remaining therein has been
7 transferred to the fund's pooled account or to a successor's account as provided in
8 KRS 341.540 or has been refunded if the employer is a reimbursing employer.~~

9 (7) Notwithstanding subsection (1) of this section, two (2) or more nonprofit Internal
10 Revenue Code sec. 501(c)(3) organizations may jointly request the secretary to
11 establish a group reserve account or reimbursing account for such nonprofit
12 organizations. Two (2) or more governmental entities may jointly request the
13 secretary to establish a group reserve account or reimbursing account, and once
14 established, such account shall remain in effect at least two (2) calendar years and
15 thereafter until either dissolved at the discretion of the secretary or upon filing
16 application for dissolution by the group members. Each member of a group shall be
17 jointly and severally liable for all payments due under this chapter from each or all
18 of such group members. The secretary shall prescribe such procedures as he or she
19 deems necessary for the establishment, maintenance, and dissolution of a group
20 reserve account or reimbursing account.

21 (8) Any subject contributing employer may at any time on or before December 31,
22 2011, make voluntary payments to the fund, additional to the contributions required
23 under KRS 341.260 and 341.270. Effective January 1, 2012, any subject
24 contributing employer with a negative reserve account balance may make voluntary
25 payments to the fund every other calendar year, in addition to the contributions
26 required under KRS 341.260 and 341.270. Notwithstanding any other provision of
27 this chapter, contributions paid on or before the computation date and voluntary

1 payments made within twenty (20) days following the mailing of notices of new
2 rates shall be credited to an employer's reserve account as of the computation date,
3 provided no voluntary payments shall be used in computing an employer's rate
4 unless the payment is made prior to the expiration of one hundred~~and~~ twenty
5 (120) days after the beginning of the year for which the rate is effective. Voluntary
6 payments by any employer shall not exceed any negative balance they may have in
7 their reserve account as of the computation date. Any employer who is delinquent in
8 the payment of contributions, penalties, or interest as of the computation date shall
9 be entitled to make voluntary payments only after the amount of the delinquency is
10 paid in full.

11 ➔Section 3. KRS 341.125 is amended to read as follows:

- 12 (1) It shall be the duty of the secretary of the Education and Workforce Development
13 Cabinet to administer this chapter; and he or she shall have power and authority to
14 make such expenditures, require such reports, make such investigations, and take
15 such other action not specifically assigned to the cabinet, as he or she deems
16 necessary for the proper administration of this chapter.
- 17 (2) The secretary is authorized, subject to the provisions of KRS Chapters 12, 42, 45,
18 and 45A, to appoint, fix the compensation, and prescribe duties and powers of such
19 officers and employees as may be necessary in the performance of his or her duties
20 under this chapter. All positions shall be filled by persons selected and appointed on
21 a nonpartisan merit basis. The secretary shall not employ or pay any person who is
22 an officer or committee member of any political party organization. The secretary
23 may delegate to any such person so appointed such power and authority as he or she
24 deems reasonable and proper for the effective administration of this chapter.
- 25 (3) The salary and expenses of the secretary and his or her staff shall be considered a
26 proper cost of the administration of this chapter, to be charged to the unemployment
27 compensation administration fund in that proportion which the cost of such services

1 rendered in the administration of this chapter bears to the overall cost of the services
2 rendered in the administration of the cabinet.

3 (4) The secretary shall submit to the Governor an annual report covering the
4 administration and operation of this chapter and make such recommendations for
5 amendments to this chapter as he or she deems proper.

6 (5) In the administration of this chapter, the secretary shall cooperate to the fullest
7 extent possible with any agency of this state or any other state or of the United
8 States and shall take such action, through the adoption of appropriate rules,
9 regulations, administrative methods, and standards, as may be necessary to secure
10 for this state and its citizens all the advantages available under the provisions of the
11 Social Security Act, as amended, that relate to unemployment compensation, the
12 Federal Unemployment Tax Act, as amended, the Wagner-Peyser Act, as amended,
13 and the Federal-State Extended Unemployment Compensation Act of 1970.

14 **(6) The secretary shall establish a program to train employees involved in the**
15 **processing of unemployment insurance claims on issues related to domestic**
16 **violence and abuse as defined in KRS 403.720 and dating violence and abuse,**
17 **sexual assault, or stalking as defined in KRS 456.010. The secretary shall provide**
18 **a report on or before September 30 of each year to the Legislative Research**
19 **Commission detailing the number of claims filed under subsection (6) of Section**
20 **1 of this Act.**

21 ➔Section 4. KRS 341.360 is amended to read as follows:

22 (1) No worker may be paid benefits for any week of unemployment:

23 (a) With respect to which a strike or other bona fide labor dispute which caused
24 him or her to leave or lose his or her employment is in active progress in the
25 establishment in which he or she is or was employed, except that benefits may
26 be paid unless the employer notifies the Office of Unemployment Insurance,
27 Department of Workforce Investment, in writing within seven (7) days after

1 the beginning of such alleged strike or labor dispute of the alleged existence of
2 such strike or labor dispute. For the purpose of this subsection, a lockout shall
3 not be deemed to be a strike or a bona fide labor dispute and no worker shall
4 be denied benefits by reason of a lockout;

5 (b) For which he or she has received or is seeking unemployment compensation
6 under an unemployment compensation law of another state or of the United
7 States, except as otherwise provided by an arrangement between this state and
8 such other state or the United States; but if the appropriate agency of such
9 state or of the United States finally determines that he or she is not entitled to
10 such unemployment compensation, this subsection shall not apply;

11 (c) 1. Which, when based on service in an instructional, research, or principal
12 administrative capacity in an institution of higher education as defined in
13 KRS 341.067(2) or in an educational institution as defined in KRS
14 341.067(4), begins during the period between two (2) successive
15 academic years, or during a similar period between two (2) regular
16 terms, whether or not successive, or during a period of paid sabbatical
17 leave provided for in the individual's contract, if the worker performs
18 such services in the first of such academic years or terms and if there is a
19 contract or a reasonable assurance that the worker will perform such
20 services in any such capacity for any institution or institutions of higher
21 education or an educational institution in the second of such academic
22 years or such terms; or

23 2. Which, when based on service other than as defined in subparagraph 1.
24 of this paragraph, in an institution of higher education or an educational
25 institution, as defined in KRS 341.067(2) or (4), begins during the
26 period between two (2) successive academic years or terms, if the
27 worker performs such services in the first of such academic years or

1 terms and there is a reasonable assurance that the worker will perform
2 such services in the second of such academic years or terms; except that
3 if benefits are denied to any worker under this paragraph and such
4 worker was not offered an opportunity to perform such services for such
5 institution of higher education or such educational institution for the
6 second of such academic years or terms, such worker shall be entitled to
7 a retroactive payment of benefits for each week for which the worker
8 filed a timely claim for benefits and for which benefits were denied
9 solely by reason of this paragraph; or

10 3. Which, when based on service in any capacity defined in subparagraphs
11 1. and 2. of this paragraph, begins during an established and customary
12 vacation period or holiday recess if the worker performs any such
13 services in the period immediately before such vacation period or
14 holiday recess, and there is a reasonable assurance that such worker will
15 perform any such services in the period immediately following such
16 vacation period or holiday recess; or

17 4. Based on service in any capacity defined in subparagraph 1. or 2. of this
18 paragraph when such service is performed by the worker in an institution
19 of higher education or an educational institution, as defined in KRS
20 341.067(2) or (4), while the worker is in the employ of an educational
21 service agency, and such unemployment begins during the periods and
22 pursuant to the conditions specified in subparagraphs 1., 2., and 3. of
23 this paragraph. For purposes of this paragraph, the term "educational
24 service agency" means a governmental agency or governmental entity
25 which is established and operated exclusively for the purpose of
26 providing such services to one (1) or more institutions of higher
27 education or educational institutions.[-]

1 Notwithstanding any other provision of this paragraph, any benefits paid to a
2 worker based on service other than as defined in subparagraph 1. of this
3 paragraph performed in an institution of higher education as defined in KRS
4 341.067(2) shall be deemed to have been paid as a result of Office of
5 Unemployment Insurance, Department of Workforce Investment, error and
6 not recoverable by the cabinet or such institution if such payment is improper
7 by virtue of the retroactive application to October 30, 1983, of subparagraph
8 2. of this paragraph; or

9 (d) With respect to which the worker is suspended from work for misconduct, as
10 defined in KRS 341.370(7)~~[(6)]~~, connected with the work.

11 (2) Benefits shall not be paid to any individual on the basis of any services,
12 substantially all of which consist of participating in sports or athletic events or
13 training or preparing to so participate, for any week which commences during the
14 period between two (2) successive sport seasons or similar periods and there is a
15 reasonable assurance that such individual will perform such services in the later of
16 such seasons or similar periods.

17 (3) (a) Benefits shall not be paid on the basis of services performed by an alien unless
18 such alien is an individual who was lawfully admitted for permanent residence
19 at the time such services were performed, was lawfully present for purposes of
20 performing such services, or was residing in the United States under color of
21 law at the time such services were performed, including an alien who was
22 lawfully present in the United States as a result of the application of the
23 provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and
24 Nationality Act.

25 (b) Any data or information required of individuals applying for benefits to
26 determine whether benefits are not payable to them because of their alien
27 status shall be uniformly required from all applicants for benefits.

1 (c) In the case of an individual whose application for benefits would otherwise be
2 approved, no determination that benefits to such individual are not payable
3 because of his *or her* alien status shall be made except upon a preponderance
4 of the evidence.