

1 AN ACT relating to workers' compensation.

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

3 ➔Section 1. KRS 342.610 is amended to read as follows:

4 (1) Every employer subject to this chapter shall be liable for compensation for injury,
5 occupational disease, or death without regard to fault as a cause of the injury,
6 occupational disease, or death.

7 (2) **(a)** A contractor who subcontracts all or any part of a contract and his or her
8 carrier shall be liable for the payment of compensation to the employees of the
9 subcontractor unless the subcontractor primarily liable for the payment of such
10 compensation:

11 **1.** Has secured the payment of compensation as provided for in this
12 chapter; **or**

13 **2.** ***Has no employees subject to this chapter and has either not elected to***
14 ***come under the provisions of this chapter pursuant to KRS 342.012 or***
15 ***has voluntarily filed a valid employee's written notice of rejection form***
16 ***with the commissioner pursuant to KRS 342.395.***

17 **(b)** Any contractor or his or her carrier who shall become liable for such
18 compensation may recover the amount of such compensation paid and
19 necessary expenses from the subcontractor primarily liable therefor. A person
20 who contracts with another:

21 **1.[(a)]** To have work performed consisting of the removal, excavation, or
22 drilling of soil, rock, or mineral, or the cutting or removal of timber
23 from land; or

24 **2.[(b)]** To have work performed of a kind which is a regular or recurrent
25 part of the work of the trade, business, occupation, or profession of such
26 person;

27 shall for the purposes of this section be deemed a contractor, and such other

1 person a subcontractor. This subsection shall not apply to the owner or lessee
2 of land principally used for agriculture.

3 (3) Liability for compensation shall not apply to injury, occupational disease, or death
4 to the employee if the employee willfully intended to injure or kill himself, herself,
5 or another.

6 (4) If an employee voluntarily introduced an illegal, nonprescribed substance or
7 substances or a prescribed substance or substances in amounts in excess of
8 prescribed amounts into his or her body detected in the blood, as measured by a
9 scientifically reliable test, that could cause a disturbance of mental or physical
10 capacities, it shall be presumed that the illegal, nonprescribed substance or
11 substances or the prescribed substance or substances in amounts in excess of
12 prescribed amounts caused the injury, occupational disease, or death of the
13 employee and liability for compensation shall not apply to the injury, occupational
14 disease, or death to the employee.

15 (5) If injury or death results to an employee through the deliberate intention of his or
16 her employer to produce such injury or death, the employee or the employee's
17 dependent as herein defined shall receive the amount provided in this chapter in a
18 lump sum to be used, if desired, to prosecute the employer. The dependents may
19 bring suit against the employer for any amount they desire. If injury or death results
20 to an employee through the deliberate intention of his or her employer to produce
21 such injury or death, the employee or the employee's dependents may take under
22 this chapter, or in lieu thereof, have a cause of action at law against the employer as
23 if this chapter had not been passed, for such damage so sustained by the employee,
24 his dependents or personal representatives as is recoverable at law. If a suit is
25 brought under this subsection, all right to compensation under this chapter shall
26 thereby be waived as to all persons. If a claim is made for the payment of
27 compensation or any other benefit provided by this chapter, all rights to sue the

1 employer for damages on account of such injury or death shall be waived as to all
2 persons.

3 (6) Prior to issuing any building permit pursuant to KRS 198B.060(10), every local
4 building official shall require proof of workers' compensation coverage from the
5 builder before a permit is issued. A person who is exempt under the exception
6 contained in KRS 342.650(2), and any contractor otherwise exempt from this
7 chapter, shall so certify to the local building official, in writing and on a form
8 prescribed by the commissioner, in lieu of providing proof of workers'
9 compensation coverage.

10 (7) Every employer subject to this chapter, at its principal office and such other
11 locations where employees customarily report for payroll and personnel matters,
12 shall post a notice stating the name of its workers' compensation insurance carrier
13 and policy number, setting forth the means to access medical care for injuries, the
14 employee's obligation to give notice of accidents, and such other matters concerning
15 the employee's rights under this chapter as may be required by the commissioner so
16 as to afford every employee the opportunity to become informed about the
17 employer's workers' compensation program. The format and contents of the notice
18 shall be established by the commissioner through administrative regulation, and
19 copies shall be provided to the employer by its insurance carrier.