

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM  
2021 SPECIAL SESSION  
**Unofficial Document**

Amend printed copy of **SB 2**

On page 8, after line 5, insert the following:

"➔Section 11. KRS 344.010 is amended to read as follows:

In this chapter:

- (1) "Person" includes one (1) or more individuals, labor organizations, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, fiduciaries, receivers, or other legal or commercial entity; the state, any of its political or civil subdivisions or agencies.
- (2) "Commission" means the Kentucky Commission on Human Rights.
- (3) "Commissioner" means a member of the commission.
- (4) "Disability" means, with respect to an individual:
  - (a) A physical or mental impairment that substantially limits one (1) or more of the major life activities of the individual;
  - (b) A record of such an impairment; or
  - (c) Being regarded as having such an impairment.

Persons with current or past controlled substances abuse or alcohol abuse problems and persons excluded from coverage by the Americans with Disabilities Act of 1990 (P.L. 101-336) shall be excluded from this section.

Amendment No. SFA 5

Rep. Sen. Stephen West

Committee Amendment \_\_\_\_\_

Signed: \_\_\_\_\_

Floor Amendment \_\_\_\_\_

LRC Drafter: \_\_\_\_\_

Adopted: \_\_\_\_\_

Date: \_\_\_\_\_

Rejected: \_\_\_\_\_

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- (5) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons, or the aiding, abetting, inciting, coercing, or compelling thereof made unlawful under this chapter.
- (6) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.
- (7) "Housing accommodations" includes improved and unimproved property and means any building, structure, lot or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied as the home or residence of one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building or structure.
- (8) "Real estate operator" means any individual or combination of individuals, labor organizations, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers, or other legal or commercial entity, the county, or any of its agencies, that is engaged in the business of selling, purchasing, exchanging, renting, or leasing real estate, or the improvements thereon, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental, or lease of real estate; or an individual employed by or acting on behalf of any of these.
- (9) "Real estate broker" or "real estate salesman" means any individual, whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents, or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or

who advertises or holds himself out as engaged in these activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrance upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for this purpose; or any person employed by or acting on behalf of any of these.

- (10) "Financial institution" means bank, banking organization, mortgage company, insurance company, or other lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of any of these.
- (11) "Licensing agency" means any public or private organization which has as one (1) of its duties the issuing of licenses or the setting of standards which an individual must hold or must meet as a condition to practicing a particular trade or profession or to obtaining certain employment within the state or as a condition to competing effectively with an individual who does hold a license or meet the standards.
- (12) "Credit transaction" shall mean any open or closed end credit transaction whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the course of the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations, or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for

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purchases of property or services therefrom may be deferred.

(13) "To rent" means to lease, to sublease, to let, or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(14) "Family" includes a single individual.

(15) (a) "Familial status" means one (1) or more individuals who have not attained the age of eighteen (18) years and are domiciled with:

1. A parent or another person having legal custody of the individual or individuals;  
or
2. The designee of a parent or other person having custody, with the written permission of the parent or other person.

(b) The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

(16) "Discriminatory housing practice" means an act that is unlawful under KRS 344.360, 344.367, 344.370, 344.380, or 344.680.

**(17) "COVID-19" means the novel coronavirus identified as SARS-CoV-2, or a virus mutating from SARS-Co-V-2, or any variant of SARS-CoV-2.**

**(18) "COVID-19 immunization" means the intentional introduction of a product that stimulates a person's immune system to produce immunity to COVID-19, protecting the person from that disease or conveying increased resistance to an infectious agent of COVID-19.**

➔Section 12. KRS 344.040 is amended to read as follows:

(1) It is an unlawful practice for an employer:

(a) To fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against an individual with respect to compensation, terms, conditions, or privileges of

employment, because of the individual's race, color, religion, national origin, sex, age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking;

- (b) To limit, segregate, or classify employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect status as an employee, because of the individual's race, color, religion, national origin, sex, or age forty (40) and over, *because the person declines COVID-19 immunization or refuses to disclose his or her COVID-19 immunization status,* because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking;
- (c) To fail to make reasonable accommodations for any employee with limitations related to pregnancy, childbirth, or a related medical condition who requests an accommodation, including but not limited to the need to express breast milk, unless the employer can demonstrate the accommodation would impose an undue hardship on the employer's program, enterprise, or business. The following shall be required as to reasonable accommodations:
1. An employee shall not be required to take leave from work if another reasonable accommodation can be provided;
  2. The employer and employee shall engage in a timely, good faith, and interactive process to determine effective reasonable accommodations; and
  3. If the employer has a policy to provide, would be required to provide, is currently providing, or has provided a similar accommodation to other classes of employees, then a rebuttable presumption is created that the accommodation

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does not impose an undue hardship on the employer;~~or~~

(d) To require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products outside the course of employment, as long as the person complies with any workplace policy concerning smoking; or

(e) To require as a condition of employment that any employee or applicant for employment submit to COVID-19 immunization or disclose his or her COVID-19 immunization status.

(2) (a) A difference in employee contribution rates for smokers and nonsmokers in relation to an employer-sponsored health plan shall not be deemed to be an unlawful practice in violation of this section.

(b) The offering of incentives or benefits offered by an employer to employees who participate in a smoking cessation program shall not be deemed to be an unlawful practice in violation of this section.

(3) (a) An employer shall provide written notice of the right to be free from discrimination in relation to pregnancy, childbirth, and related medical conditions, including the right to reasonable accommodations, to:

1. New employees at the commencement of employment; and
2. Existing employees not later than thirty (30) days after June 27, 2019.

(b) An employer shall conspicuously post a written notice of the right to be free from discrimination in relation to pregnancy, childbirth, and related medical conditions, including the right to reasonable accommodations, at the employer's place of business in an area accessible to employees.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

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**An employer shall not require the COVID-19 immunization of any employee or applicant for employment as a condition of employment. An employer shall not request any employee or applicant for employment to disclose his or her COVID-19 immunization status.**"; and

Re-number subsequent section accordingly.