

1 AN ACT relating to a drug-free workplace.

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) "Industrial hemp products" means the plant Cannabis sativa L. and any*  
7 *part of the plant, whether growing or not, with a delta-9*  
8 *tetrahydrocannabinol concentration of not more than three-tenths of one*  
9 *percent (0.3%) on a dry weight basis;*

10 *(b) "Public employee" means a person who is regularly employed by a public*  
11 *employer; and*

12 *(c) "Public employer" means:*

13 *1. Any department, office, board, agency, commission, authority, or*  
14 *branch of state government; or*

15 *2. Any department, office, board, agency, commission, authority, or*  
16 *branch of a city, county, urban-county government, charter county,*  
17 *unified local government, or consolidated local government.*

18 *(2) If a public employer has a drug-free workplace and has drug-testing policies and*  
19 *procedures for any employees, then the public employer shall have an appeals*  
20 *process for a public employee who may receive a finding of a violation of the*  
21 *drug policy after being drug tested.*

22 *(3) The appeals process shall be done in accordance with KRS 18A.095 for state*  
23 *employees and KRS Chapter 13B for all other public employees.*

24 *(4) A public employer shall set aside a violation of the policy if the public employee*  
25 *can show a purchase receipt and use of a legal industrial hemp product as long*  
26 *as the test result corresponds with the industrial hemp product purchased.*

27 *(5) Private employers may review their drug-free policies and include an appeals*

1        **process allowing exemption for the use of legal industrial hemp products.**

2        ➔Section 2. KRS 18A.043 is amended to read as follows:

3        **(1)** The secretary of the Personnel Cabinet shall promulgate administrative regulations  
4        in accordance with KRS Chapter 13A, to implement the provisions of the Federal  
5        Drug-Free Workplace Act of 1988, Subtitle D of Public Law 100-690, so that the  
6        Commonwealth of Kentucky can certify that it has met the requirements designed to  
7        promote a drug-free workplace for all state employees.

8        **(2) If the administrative regulations permit or require drug testing, then the**  
9        **administrative regulations shall include an appeals process for a state employee**  
10       **who may fail a drug test.**

11       ➔Section 3. KRS 304.13-167 is amended to read as follows:

12       (1) Every workers' compensation insurer shall adhere to a uniform classification system  
13       and uniform experience rating system filed with the commissioner by an advisory  
14       organization designated by the commissioner.

15       (2) Every workers' compensation insurer shall report its experience in accordance with  
16       the statistical plans and other reporting requirements in use by an advisory  
17       organization designated by the commissioner.

18       (3) A workers' compensation insurer may develop subclassifications of the uniform  
19       classification system upon which rates may be made. These subclassifications and  
20       their filing shall be subject to the provisions of this chapter applicable to filings  
21       generally.

22       (4) A workers' compensation insurer may develop rating plans which identify loss  
23       experience as a factor to be used. These rating plans and their filing shall be subject  
24       to the provisions of this chapter applicable to filings generally.

25       (5) The commissioner shall disapprove subclassifications, rating plans, or other  
26       variations from manual rules filed by a workers' compensation insurer if the insurer  
27       fails to demonstrate that the data thereby produced can be reported consistent with

1 the uniform classification system and experience rating system and in such a fashion  
2 so as to allow for the application of experience rating filed by the advisory  
3 organization.

4 (6) (a) The commissioner shall approve rating plans for workers' compensation  
5 insurance that give specific identifiable consideration in the setting of rates to  
6 employers who implement a drug-free workplace program pursuant to  
7 administrative regulations adopted by the Department of Workers' Claims in  
8 the Labor Cabinet. The administrative regulations shall include the  
9 following:

10 1. For public employers, the drug-free workplace program shall meet the  
11 requirements of Sections 1 and 2 of this Act; and

12 2. For private employers, the drug-free workplace program may include  
13 an appeals process for the use of industrial hemp products similar to  
14 Sections 1 and 2 of this Act.

15 (b) The plans shall take effect January 1, 2008, shall be actuarially sound, and  
16 shall state the savings anticipated to result from such drug-free workplace  
17 programs.

18 (c) The credit shall be at least five percent (5%) unless the commissioner  
19 determines that five percent (5%) is actuarially unsound.

20 (d) The commissioner is also authorized to develop a schedule of premium credits  
21 for workers' compensation insurance for employers who have safety programs  
22 that contain certain criteria for safety programs.

23 (e) The commissioner shall consult with the commissioner of the Department of  
24 Workers' Claims in the Labor Cabinet in setting such criteria. A drug-free  
25 workplace credit under this subsection shall not be available to employers  
26 who receive a credit under KRS 304.13-412 or KRS Chapter 351.

27 ➔Section 4. This Act may be cited as Shauna's Law.