

1 AN ACT relating to workplace standards.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) All employers shall have a written inclement weather plan for their employees.*

6 *The inclement weather plan shall contain the following:*

7 *(a) Inclement weather and natural disaster definitions;*

8 *(b) Employee reporting and pay requirements;*

9 *(c) Employee training requirements;*

10 *(d) Employee warning system requirements; and*

11 *(e) Evacuation procedures.*

12 *(2) All inclement weather plans shall comply with any established federal standards.*

13 *(3) No employer shall discharge or in any way discriminate against an employee*  
14 *who, due to imminent threat of death or serious physical injury as a result of an*  
15 *inclement weather condition:*

16 *(a) Fails to report to work;*

17 *(b) Leaves a work station or workplace; or*

18 *(c) Terminates his or her work duties except when the termination of work*  
19 *duties would result in endangering the health and safety of other persons.*

20 *(4) Employees alleging a violation of this section shall have a civil cause of action*  
21 *against the employer to recover compensatory and punitive damages, court costs,*  
22 *and reasonable attorney's fees.*

23 ➔Section 2. KRS 338.991 is amended to read as follows:

24 (1) Any employer who willfully or repeatedly violates the requirement of any section of  
25 this chapter, including any standard, regulation, or order promulgated pursuant to  
26 this chapter, may be assessed a civil penalty of up to seventy thousand dollars  
27 (\$70,000) for each violation, but not less than five thousand dollars (\$5,000) for

- 1 each willful violation.
- 2 (2) Any employer who has received a citation for a serious violation of the  
3 requirements of any section of this chapter, including any standard, regulation, or  
4 order promulgated pursuant to this chapter, shall be assessed a civil penalty of up to  
5 seven thousand dollars (\$7,000) for each violation.
- 6 (3) Any employer who has received a citation for a violation of the requirements of any  
7 section of this chapter, including any standard, regulation, or order promulgated  
8 pursuant to this chapter, and such violation is specifically determined not to be of a  
9 serious nature, may be assessed a civil penalty of up to seven thousand dollars  
10 (\$7,000) for each violation.
- 11 (4) Any employer who fails to correct a violation for which a citation has been issued  
12 within the period permitted for its correction may be assessed a civil penalty of up  
13 to seven thousand dollars (\$7,000) for each day during which such failure or  
14 violation continues.
- 15 (5) Any employer found to be in violation of subsection (3) of KRS 338.121 ***and***  
16 ***Section 1 of this Act*** shall be assessed a civil penalty of up to ten thousand dollars  
17 (\$10,000) for each violation.
- 18 (6) The review commission shall have the authority to modify all civil penalties and  
19 fines provided for in this chapter. The review commission may, at its discretion,  
20 suspend the time period allotted for correction of a violation during the review of an  
21 appeal from the violation in question.
- 22 (7) All civil penalties and fines collected under the provision of this chapter shall be  
23 paid into the general fund.
- 24 (8) Any employer or individual who knowingly makes any false statement,  
25 representation, or certification in any application, record, report, plan, or other  
26 document filed or required to be maintained pursuant to this chapter shall, upon  
27 conviction, be punished by a fine of not more than ten thousand dollars (\$10,000),

1 or by imprisonment for not more than six (6) months, or by both.

2 (9) Any person who gives advance notice of any investigation or inspection to be  
3 conducted under this chapter, without authority from the commissioner, shall, upon  
4 conviction, be punished by a fine of not more than one thousand dollars (\$1,000), or  
5 by imprisonment for not more than six (6) months, or by both.

6 (10) Any employer or individual who willfully causes bodily harm to any authorized  
7 representative of the commissioner while attempting to conduct an investigation or  
8 inspection under the provisions of this chapter, shall, upon conviction, be punished  
9 by a fine of not more than ten thousand dollars (\$10,000), or by imprisonment for  
10 not more than one (1) year, or by both.

11 (11) As used in this section, a serious violation shall be deemed to exist in a place of  
12 employment if there is a substantial probability that death or serious physical harm  
13 could result from a condition which exists, or from one (1) or more practices,  
14 means, methods, operations, or processes which have been adopted or are in use, in  
15 such place of employment unless the employer did not, and could not with the  
16 exercise of reasonable diligence, know of the presence of the violation.