

1 AN ACT relating to employers.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) An employer that requires employees, as a condition of employment, to be*
6 *immunized against disease shall grant exceptions for a sincerely held religious*
7 *belief or conscientious objection against immunization.*

8 *(2) Employers may require employees to swear or affirm their belief or objection on*
9 *a form that substantially complies with the following:*

10 *"I, [employee name], swear or affirm, by checking and initialing the*
11 *appropriate line or lines below, that I:*

12 *..... Hold a sincere religious belief*

13 *..... Have a firm, fixed, and sincere objection*

14 *that prohibits me from receiving immunization against disease.*

15 *[Employee signature] [Date]....."*

16 *(3) No additional substantiation or documentation of an employee's belief or*
17 *objection shall be required.*

18 ➔Section 2. KRS 344.040 is amended to read as follows:

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

20 (a) To fail or refuse to hire, or to discharge any individual, or otherwise to
21 discriminate against an individual with respect to compensation, terms,
22 conditions, or privileges of employment, because of the individual's race,
23 color, religion, national origin, sex, age forty (40) and over, because the
24 person is a qualified individual with a disability, or because the individual is a
25 smoker or nonsmoker, as long as the person complies with any workplace
26 policy concerning smoking;

27 (b) To limit, segregate, or classify employees in any way which would deprive or

1 tend to deprive an individual of employment opportunities or otherwise
2 adversely affect status as an employee, because of the individual's race, color,
3 religion, national origin, sex, or age forty (40) and over, because the person is
4 a qualified individual with a disability, or because the individual is a smoker
5 or nonsmoker, as long as the person complies with any workplace policy
6 concerning smoking;

7 (c) To fail to make reasonable accommodations for any employee with limitations
8 related to pregnancy, childbirth, or a related medical condition who requests
9 an accommodation, including but not limited to the need to express breast
10 milk, unless the employer can demonstrate the accommodation would impose
11 an undue hardship on the employer's program, enterprise, or business. The
12 following shall be required as to reasonable accommodations:

- 13 1. An employee shall not be required to take leave from work if another
14 reasonable accommodation can be provided;
- 15 2. The employer and employee shall engage in a timely, good faith, and
16 interactive process to determine effective reasonable accommodations;
17 and
- 18 3. If the employer has a policy to provide, would be required to provide, is
19 currently providing, or has provided a similar accommodation to other
20 classes of employees, then a rebuttable presumption is created that the
21 accommodation does not impose an undue hardship on the employer;
22 ~~or~~

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

27 **(e) To require as a condition of employment that any employee be immunized**

1 *against disease when that employee has a sincerely held religious belief or*
2 *conscientious objection against immunization.*

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

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

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

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

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