

1 AN ACT relating to wages and hours.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO
4 READ AS FOLLOWS:

5 *The minimum wage and overtime compensation requirements under KRS 337.275 and*
6 *337.285 shall not apply to:*

7 *(1) Any individual employed in agriculture;*

8 *(2) Any individual employed in a bona fide executive, administrative, supervisory, or*
9 *professional capacity, or in the capacity of outside salesman, or as an outside*
10 *collector as the terms are defined by administrative regulations of the*
11 *commissioner;*

12 *(3) Any individual employed by the United States;*

13 *(4) Any individual employed in domestic service in or about a private home. The*
14 *provisions of this section shall include individuals employed in domestic service*
15 *in or about the home of an employer where there is more than one (1) domestic*
16 *servant regularly employed;*

17 *(5) Any individual classified and given a certificate by the commissioner showing a*
18 *status of learner, apprentice, worker with a disability, sheltered workshop*
19 *employee, and student under administrative procedures and administrative*
20 *regulations prescribed and promulgated by the commissioner. This certificate*
21 *shall authorize employment at the wages, less than the established fixed*
22 *minimum fair wage rates, and for the period of time fixed by the commissioner*
23 *and stated in the certificate issued to the person;*

24 *(6) Employees of retail stores, service industries, hotels, motels, and restaurant*
25 *operations whose average annual gross volume of sales made for business done is*
26 *less than ninety-five thousand dollars (\$95,000) for the five (5) preceding years*
27 *exclusive of excise taxes at the retail level or if the employee is the parent, spouse,*

- 1 child, or other member of his or her employer's immediate family;
- 2 (7) Any individual employed as a baby-sitter in an employer's home, or an individual
3 employed as a companion by a sick, convalescing, or elderly person or by the
4 person's immediate family, to care for that sick, convalescing, or elderly person
5 and whose principal duties do not include housekeeping;
- 6 (8) Any individual engaged in the delivery of newspapers to the consumer;
- 7 (9) Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and
8 18A, provided that the secretary of the Personnel Cabinet shall have the authority
9 to prescribe by administrative regulation those emergency employees, or others,
10 who shall receive overtime pay rates necessary for the efficient operation of
11 government and the protection of affected employees;
- 12 (10) Any employee employed by an establishment which is an organized nonprofit
13 camp, religious, or nonprofit educational conference center, if it does not operate
14 for more than two hundred ten (210) days in any calendar year;
- 15 (11) Any employee whose function is to provide twenty-four (24) hour residential care
16 on the employer's premises in a parental role to children who are primarily
17 dependent, neglected, and abused and who are in the care of private, nonprofit
18 childcaring facilities licensed by the Cabinet for Health and Family Services
19 under KRS 199.640;
- 20 (12) Any individual whose function is to provide twenty-four (24) hour residential care
21 in his or her own home as a family caregiver, family home provider, or adult
22 foster care provider and who is approved to provide family caregiver services to
23 an adult with a disability through a contractual relationship with a community
24 board for mental health or individuals with an intellectual disability established
25 under KRS 210.370 to 210.460 or through a contractual relationship with a
26 certified waiver provider as defined in 907 KAR 7:005 sec. 1(5), or is certified or
27 licensed by the Cabinet for Health and Family Services to provide adult foster

1 care;

2 (13) A direct seller as defined in the Internal Revenue Code of 1986, 26 U.S.C. sec.

3 3508(b)(2); or

4 (14) Any individual whose function is to provide behavior support services, behavior

5 programming services, case management services, community living support

6 services, positive behavior support services, or respite services through a

7 contractual relationship with a certified waiver provider, as defined in 907 KAR

8 7:005 sec. 1(5), pursuant to a 1915(c) home and community based services waiver

9 program, as defined in 907 KAR 7:005 sec. 1(2).

10 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO
11 READ AS FOLLOWS:

12 (1) Except as provided in subsection (3) of this section, no employer shall be subject

13 to any liability or punishment under this chapter for failure to pay an employee

14 minimum wages, or to pay an employee overtime compensation for or on account

15 of any of the following:

16 (a) Traveling to and from the actual place of performance of the principal

17 activity or activities which an employee is employed to perform; and

18 (b) Activities which are preliminary to or subsequent to said principal activity

19 or activities, which occur either prior to the time on any particular workday

20 at which an employee commences, or subsequent to the time on any

21 particular workday at which he or she ceases, such principal activity or

22 activities.

23 (2) For the purposes of this section, the use of an employer's vehicle by an employee

24 for travel and activities performed by an employee which are incidental to the use

25 of such vehicle for commuting shall not be considered part of the employee's

26 principal activities if:

27 (a) The travel is within the normal commuting area for the employer's business

- 1 or establishment; and
- 2 **(b) The use of the employer's vehicle is subject to an agreement on the part of**
- 3 **the employer and the employee or representative of the employee.**
- 4 **(3) Notwithstanding subsection (1) of this section, the employer may be liable if the**
- 5 **activity is compensable by either:**
- 6 **(a) An express provision of a written or nonwritten contract in effect at the time**
- 7 **of the activity between the employee, his or her agent, or collective-**
- 8 **bargaining representative and his or her employer; or**
- 9 **(b) A custom or practice in effect at the time of the activity at the employer's**
- 10 **establishment or other place where the employee is employed which covers**
- 11 **an activity not inconsistent with a written or nonwritten contract in effect at**
- 12 **the time of the activity between the employee, his or her agent or collective**
- 13 **bargaining representative, and his or her employer.**
- 14 **(4) For the purposes of subsection (3) of this section, an activity shall be considered**
- 15 **compensable under the contract provision or the custom or practice only when it**
- 16 **is engaged in during the portion of the day with respect to which it is so made**
- 17 **compensable.**
- 18 **(5) In the application of the minimum wage and overtime compensation provisions of**
- 19 **this chapter, in determining the time for which an employer employs an employee**
- 20 **with respect to traveling or other preliminary or subsequent activities described in**
- 21 **subsection (1) of this section, there shall be counted all that time, but only that**
- 22 **time, during which the employee engages in any such activity which is**
- 23 **compensable within the meaning of subsections (2) and (3) of this section.**
- 24 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO
- 25 READ AS FOLLOWS:
- 26 **(1) As used in this section, "bona fide meal period" means a time when an employee**
- 27 **is completely relieved from any duties for the purposes of eating a meal. The**

1 employee is not completely relieved if he or she is required to perform any duties,
 2 whether active or inactive, while eating.

3 (2) Employers shall pay employees for time spent eating food during a work shift
 4 unless the employer provides a bona fide meal period.

5 (3) No payment shall be owed to an employee for time spent eating during a work-
 6 shift if the employer provides a bona fide meal period.

7 →Section 4. KRS 337.010 is amended to read as follows:

8 ~~[(1)]~~As used in this chapter, unless the context requires otherwise:

9 (1)~~[(a)]~~ "Commissioner" means the commissioner of the Department of Workplace
 10 Standards under the direction and supervision of the secretary of the Education and
 11 Labor Cabinet;

12 (2)~~[(b)]~~ "Department" means the Department of Workplace Standards in the
 13 Education and Labor Cabinet;

14 (3)~~[(c)]~~ (a)~~[(1)]~~ "Wages" includes any compensation due to an employee by reason
 15 of his or her employment, including salaries, commissions, vested vacation
 16 pay, overtime pay, severance or dismissal pay, earned bonuses, and any other
 17 similar advantages agreed upon by the employer and the employee or
 18 provided to employees as an established policy. The wages shall be payable in
 19 legal tender of the United States, checks on banks, direct deposits, or payroll
 20 card accounts convertible into cash on demand at full face value, subject to
 21 the allowances made in this chapter. However, an employee may not be
 22 charged an activation fee and the payroll card account shall provide the
 23 employee with the ability, without charge, to make at least one (1) withdrawal
 24 per pay period for any amount up to and including the full account balance.

25 (b)~~[(2)]~~ For the purposes of calculating hourly wage rates for scheduled
 26 overtime for professional firefighters, as defined in KRS 95A.210(8), "wages"
 27 shall not include the distribution to qualified professional firefighters by local

1 governments of supplements received from the Firefighters Foundation
 2 Program Fund. For the purposes of calculating hourly wage rates for
 3 unscheduled overtime for professional firefighters, as defined in KRS
 4 95A.210(9), "wages" shall include the distribution to qualified professional
 5 firefighters by local governments of supplements received from the
 6 Firefighters Foundation Program Fund;

7 ~~(4)(d)~~ "Employer" is any person, either individual, corporation, partnership, agency,
 8 or firm who employs an employee and includes any person, either individual,
 9 corporation, partnership, agency, or firm acting directly or indirectly in the interest
 10 of an employer in relation to an employee;~~and~~

11 ~~(5)(e)~~ "Employee" is any person employed by or suffered or permitted to work for
 12 an employer, except that:

13 ~~(a)(1)~~ Notwithstanding any voluntary agreement entered into between the
 14 United States Department of Labor and a franchisee, neither a franchisee nor a
 15 franchisee's employee shall be deemed to be an employee of the franchisor for
 16 any purpose under this chapter; and

17 ~~(b)(2)~~ Notwithstanding any voluntary agreement entered into between the
 18 United States Department of Labor and a franchisor, neither a franchisor nor a
 19 franchisor's employee shall be deemed to be an employee of the franchisee for
 20 any purpose under this chapter.

21 For purposes of this paragraph, "franchisee" and "franchisor" have the
 22 same meanings as in 16 C.F.R. sec. 436.1~~f~~

23 ~~(2) As used in KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405,~~
 24 ~~unless the context requires otherwise:~~

25 ~~(a) "Employee" is any person employed by or suffered or permitted to work~~
 26 ~~for an employer, but shall not include:~~

27 ~~1. Any individual employed in agriculture;~~

- 1 ~~2.— Any individual employed in a bona fide executive, administrative,~~
2 ~~supervisory, or professional capacity, or in the capacity of outside~~
3 ~~salesman, or as an outside collector as the terms are defined by~~
4 ~~administrative regulations of the commissioner;~~
- 5 ~~3.— Any individual employed by the United States;~~
- 6 ~~4.— Any individual employed in domestic service in or about a private~~
7 ~~home. The provisions of this section shall include individuals employed~~
8 ~~in domestic service in or about the home of an employer where there is~~
9 ~~more than one (1) domestic servant regularly employed;~~
- 10 ~~5.— Any individual classified and given a certificate by the commissioner~~
11 ~~showing a status of learner, apprentice, worker with a disability,~~
12 ~~sheltered workshop employee, and student under administrative~~
13 ~~procedures and administrative regulations prescribed and promulgated~~
14 ~~by the commissioner. This certificate shall authorize employment at the~~
15 ~~wages, less than the established fixed minimum fair wage rates, and for~~
16 ~~the period of time fixed by the commissioner and stated in the certificate~~
17 ~~issued to the person;~~
- 18 ~~6.— Employees of retail stores, service industries, hotels, motels, and~~
19 ~~restaurant operations whose average annual gross volume of sales made~~
20 ~~for business done is less than ninety five thousand dollars (\$95,000) for~~
21 ~~the five (5) preceding years exclusive of excise taxes at the retail level~~
22 ~~or if the employee is the parent, spouse, child, or other member of his or~~
23 ~~her employer's immediate family;~~
- 24 ~~7.— Any individual employed as a baby sitter in an employer's home, or an~~
25 ~~individual employed as a companion by a sick, convalescing, or elderly~~
26 ~~person or by the person's immediate family, to care for that sick,~~
27 ~~convalescing, or elderly person and whose principal duties do not~~

- 1 include housekeeping;
- 2 8.— Any individual engaged in the delivery of newspapers to the consumer;
- 3 9.— Any individual subject to the provisions of KRS Chapters 7, 16, 27A,
- 4 30A, and 18A provided that the secretary of the Personnel Cabinet shall
- 5 have the authority to prescribe by administrative regulation those
- 6 emergency employees, or others, who shall receive overtime pay rates
- 7 necessary for the efficient operation of government and the protection of
- 8 affected employees;
- 9 10.— Any employee employed by an establishment which is an organized
- 10 nonprofit camp, religious, or nonprofit educational conference center, if
- 11 it does not operate for more than two hundred ten (210) days in any
- 12 calendar year;
- 13 11.— Any employee whose function is to provide twenty four (24) hour
- 14 residential care on the employer's premises in a parental role to children
- 15 who are primarily dependent, neglected, and abused and who are in the
- 16 care of private, nonprofit childcaring facilities licensed by the Cabinet
- 17 for Health and Family Services under KRS 199.640 to 199.670;
- 18 12.— Any individual whose function is to provide twenty four (24) hour
- 19 residential care in his or her own home as a family caregiver, family
- 20 home provider, or adult foster care provider and who is approved to
- 21 provide family caregiver services to an adult with a disability through a
- 22 contractual relationship with a community board for mental health or
- 23 individuals with an intellectual disability established under KRS
- 24 210.370 to 210.460 or through a contractual relationship with a certified
- 25 waiver provider as defined in 907 KAR 7:005 sec. 1(5), or is certified or
- 26 licensed by the Cabinet for Health and Family Services to provide adult
- 27 foster care;

1 ~~13. A direct seller as defined in Section 3508(b)(2) of the Internal Revenue~~
2 ~~Code of 1986; or~~

3 ~~14. Any individual whose function is to provide behavior support services,~~
4 ~~behavior programming services, case management services, community~~
5 ~~living support services, positive behavior support services, or respite~~
6 ~~services through a contractual relationship with a certified waiver~~
7 ~~provider, as defined in 907 KAR 7:005 sec. 1(5), pursuant to a 1915(e)~~
8 ~~home and community based services waiver program, as defined in 907~~
9 ~~KAR 7:005 sec. 1(2);~~

10 ~~(6)(b)~~ "Agriculture" means farming in all its branches, including ***but not limited to***
11 cultivation and tillage of the soil; dairying; production, cultivation, growing, and
12 harvesting of any agricultural or horticultural ***commodities***~~[commodity]; ***the***~~ raising
13 of livestock, bees, furbearing animals, or poultry; and any practice, including any
14 forestry or lumbering operations, performed ***by a farmer or*** on a farm in
15 conjunction with ***the*** farming operations, including preparation ***for market,***~~[and]~~
16 delivery~~[of produce]~~ to storage ***or,***~~[,]~~ to market~~[,]~~ or to carriers for transportation to
17 market;

18 ~~(7)(e)~~ "Gratuity" means voluntary monetary contribution received by an employee
19 from a guest, patron, or customer for services rendered;

20 ~~(8)(d)~~ "Tipped employee" means any employee engaged in an occupation in which
21 he or she customarily and regularly receives more than thirty dollars (\$30) per
22 month in tips; and

23 ~~(9)(e)~~ "U.S.C." means the United States Code.

24 ➔Section 5. KRS 337.385 is amended to read as follows:

25 (1) Except as provided in subsection (3) of this section, any employer who pays any
26 employee less than wages and overtime compensation to which such employee is
27 entitled under or by virtue of KRS 337.020 to 337.285 shall be liable to such

1 employee affected for the full amount of such wages and overtime compensation,
2 less any amount actually paid to such employee by the employer, for an additional
3 equal amount as liquidated damages, and for costs and such reasonable attorney's
4 fees as may be allowed by the court.

5 (2) If, in any action commenced to recover such unpaid wages or liquidated damages,
6 the employer shows to the satisfaction of the court that the act or omission giving
7 rise to such action was in good faith and that he or she had reasonable grounds for
8 believing that his or her act or omission was not a violation of KRS 337.020 to
9 337.285, the court may, in its sound discretion, award no liquidated damages, or
10 award any amount thereof not to exceed the amount specified in this section. Any
11 agreement between such employee and the employer to work for less than the
12 applicable wage rate shall be no defense to such action. Such action may be
13 maintained in any court of competent jurisdiction by any one (1) or more
14 employees for and in behalf of himself, herself, or themselves.

15 (3) If the court finds that the employer has subjected the employee to forced labor or
16 services as defined in KRS 529.010, the court shall award the employee
17 liquidated~~[punitive]~~ damages not less than three (3) times the full amount of the
18 wages and overtime compensation due, less any amount actually paid to such
19 employee by the employer, and for costs and such reasonable attorney's fees as may
20 be allowed by the court, including interest thereon.

21 (4) At the written request of any employee paid less than the amount to which he or she
22 is entitled under the provisions of KRS 337.020 to 337.285, the commissioner may
23 take an assignment of such wage claim in trust for the assigning employee and may
24 bring any legal action necessary to collect such claim, and the employer shall be
25 required to pay the costs and such reasonable attorney's fees as may be allowed by
26 the court. The commissioner in case of suit shall have power to join various
27 claimants against the same employer in one (1) action.

1 (5) An employer shall not discharge or in any other manner discriminate against any
2 employee who:

3 (a) Made any complaint to his or her employer, to the commissioner, or to the
4 commissioner's authorized representative that he or she has not been paid
5 wages in accordance with KRS 337.275 and 337.285 or administrative
6 regulations issued thereunder;

7 (b) Caused to be instituted or is about to cause to be instituted any proceeding
8 under or related to KRS 337.385; or

9 (c) Testified or is about to testify in any proceeding.

10 (6) Any employer who violates subsection (5) of this section shall be liable to the
11 employee for his or her lost wages and overtime compensation, less any amount
12 actually paid to the employee, for an equal amount as liquidated damages, and
13 for costs and reasonable attorney fees, and any other relief ordered by the court
14 for any action initiated under this section.

15 (7) Except as provided in Section 13 of this Act, any action to enforce any provision
16 of KRS Chapter 337 may be commenced within three (3) years after the cause of
17 action accrued. Any action initiated under this section shall be forever barred
18 unless commenced within three (3) years after the cause of action accrued.

19 (8) Relief awarded in any claim to enforce any provision of KRS Chapter 337 shall
20 not include an award of punitive damages or an award of damages for emotional
21 distress, humiliation, or embarrassment.

22 ➔Section 6. KRS 337.990 is amended to read as follows:

23 The following civil penalties shall be imposed by the Education and Labor Cabinet, in
24 accordance with the provisions in KRS 336.985, for violations of the provisions of this
25 chapter:

26 (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be
27 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than

1 one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the
2 wages when due him under KRS 337.020 shall constitute a separate offense.

3 ~~[(2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not
4 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).]~~

5 (2)~~[(3)]~~ Any employer who violates KRS 337.055 shall be assessed a civil penalty of
6 not less than one hundred dollars (\$100) nor more than one thousand dollars
7 (\$1,000) for each offense and shall make full payment to the employee by reason of
8 the violation. Each failure to pay an employee the wages as required by KRS
9 337.055 shall constitute a separate offense.

10 (3)~~[(4)]~~ Any employer who violates KRS 337.060 shall be assessed a civil penalty of
11 not less than one hundred dollars (\$100) nor more than one thousand dollars
12 (\$1,000) and shall also be liable to the affected employee for the amount withheld,
13 plus interest at the rate of ten percent (10%) per annum.

14 (4)~~[(5)]~~ Any employer who violates the provisions of KRS 337.065 shall be assessed a
15 civil penalty of not less than one hundred dollars (\$100) nor more than one
16 thousand dollars (\$1,000) for each offense and shall make full payment to the
17 employee by reason of the violation.

18 (5)~~[(6)]~~ Any person who fails to comply with KRS 337.070 shall be assessed a civil
19 penalty of not less than one hundred dollars (\$100) nor more than one thousand
20 dollars (\$1,000) for each offense and each day that the failure continues shall be
21 deemed a separate offense.

22 (6)~~[(7)]~~ Any employer who violates any provision of KRS 337.275 to 337.325, KRS
23 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the
24 commissioner or the commissioner's authorized representative in the performance
25 of his or her duties under KRS 337.295, or fails to keep and preserve any records as
26 required under KRS 337.320 and 337.325, or falsifies any record, or refuses to
27 make any record or transcription thereof accessible to the commissioner or the

1 commissioner's authorized representative shall be assessed a civil penalty of not
2 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
3 A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for
4 any subsequent violation of KRS 337.285(4) to (9) and each day the employer
5 violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.

6 ~~(7)~~⁽⁸⁾ Any employer who pays or agrees to pay wages at a rate less than the rate
7 applicable under KRS 337.275 and 337.285, or any wage order issued pursuant
8 thereto shall be assessed a civil penalty of not less than one hundred dollars (\$100)
9 nor more than one thousand dollars (\$1,000).

10 ~~(8)~~⁽⁹⁾ Any employer who discharges or in any other manner discriminates against
11 any employee because the employee has made any complaint to his or her
12 employer, to the commissioner, or to the commissioner's authorized representative
13 that he or she has not been paid wages in accordance with KRS 337.275 and
14 337.285 or regulations issued thereunder, or because the employee has caused to be
15 instituted or is about to cause to be instituted any proceeding under or related to
16 KRS 337.385, or because the employee has testified or is about to testify in any
17 such proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS
18 337.345, and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not
19 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

20 ~~[(10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not
21 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).]~~

22 ~~(9)~~⁽¹¹⁾ A person shall be assessed a civil penalty of not less than one hundred dollars
23 (\$100) nor more than one thousand dollars (\$1,000) when that person discharges or
24 in any other manner discriminates against an employee because the employee has:

- 25 (a) Made any complaint to his or her employer, the commissioner, or any other
26 person; or
27 (b) Instituted, or caused to be instituted, any proceeding under or related to KRS

1 337.420 to 337.433; or

2 (c) Testified, or is about to testify, in any such proceedings.

3 ➔Section 7. KRS 95A.250 is amended to read as follows:

4 (1) (a) An eligible local government shall be entitled to receive an annual supplement
5 of three thousand dollars (\$3,000) and, beginning July 1, 2018, an annual
6 supplement of four thousand dollars (\$4,000) for each qualified professional
7 firefighter it employs, plus an amount equal to the required employer's
8 contribution on the supplement to the defined benefit pension plan, or to a
9 plan qualified under Section 401(a) or Section 457 of the Internal Revenue
10 Code of 1954 as amended.

11 (b) The employer's contribution to any of these plans on the supplement shall not
12 exceed the required employer's contribution to the County Employees
13 Retirement System pursuant to KRS Chapter 78 for the hazardous duty
14 category. The pension contribution on the supplement shall be paid whether
15 the professional firefighter entered the system under hazardous duty coverage
16 or nonhazardous coverage.

17 (c) The local unit of government shall pay the amount received for retirement
18 coverage to the appropriate retirement system to cover the required employer
19 contribution on the supplement.

20 (d) Should the foundation program funds be insufficient to pay employer
21 contributions to the system, then the total amount available for pension
22 payments shall be prorated to each eligible government so that each receives
23 the same percentage of required pension costs attributable to the supplement.

24 (e) 1. In addition to the payments received under paragraphs (a) and (b) of this
25 subsection, but only if sufficient funds are available to fully reimburse
26 each eligible local government for the employer contributions to the
27 pension system, each local government shall receive an administrative

1 expense reimbursement in an amount equal to seven and sixty-five one-
2 hundredths percent (7.65%) of the total annual supplement received
3 greater than three thousand one hundred dollars (\$3,100) for each
4 qualified professional firefighter it employs, subject to the cap
5 established by subparagraph 3. of this paragraph.

6 2. The local government may use the moneys received under this
7 paragraph in any manner it deems necessary to partially cover the costs
8 of administering the payments received under paragraph (a) of this
9 subsection.

10 3. The total amount distributed under this paragraph shall not exceed the
11 total sum of two hundred fifty thousand dollars (\$250,000) for each
12 fiscal year. If there are insufficient funds to provide for full
13 reimbursement as provided in subparagraph 1. of this paragraph, then
14 the amount shall be distributed pro rata to each eligible local
15 government so that each receives the same percentage attributable to its
16 total receipt of the cash salary supplement.

17 (2) (a) Each qualified professional firefighter, whose local government receives a
18 supplement pursuant to subsection (1)(a) of this section due to employment of
19 the firefighter, shall receive distribution of the supplement from that local
20 government in twelve (12) equal monthly installments with his or her pay for
21 the last pay period of each month. The monthly distribution shall be
22 calculated by dividing the supplement amount established in subsection (1)(a)
23 of this section by twelve (12).

24 (b) The supplement disbursed to a qualified professional firefighter pursuant to
25 this section shall not be considered "wages" as defined by KRS
26 337.010(3)(a)~~[337.010(1)(c)-1.]~~ and shall not be included in the hourly wage
27 rate for calculation of overtime pursuant to KRS 337.285 for scheduled

1 overtime. The supplement shall be included in the hourly wage rates for
2 calculation of overtime for unscheduled overtime pursuant to KRS 337.285.

3 (c) To determine the addition to the hourly wage rate for calculation of overtime
4 on unscheduled overtime, the annual supplement shall be divided by two
5 thousand eighty (2,080). The overtime rate for unscheduled overtime shall be
6 calculated by adding the quotient, which is the amount of the annual
7 supplement divided by two thousand eighty (2,080), to the hourly wage rate
8 and multiplying the total by one and one-half (1.5). The enhanced overtime
9 rate shall be paid only for unscheduled overtime. Scheduled overtime shall be
10 paid at one and one-half (1.5) times the regular hourly wage rate, excluding
11 the supplement.

12 (3) (a) The Kentucky Community and Technical College System shall be entitled to
13 receive annually a supplement equal to the amount determined in subsection
14 (1) of this section for each Kentucky fire and rescue training coordinator
15 employed by the Kentucky Community and Technical College System who
16 meets the qualifications for individual firefighters required in KRS 95A.230,
17 plus an amount equal to the required employer's contribution on the
18 supplement to the defined benefit pension plan.

19 (b) The Department of Military Affairs shall be entitled to receive annually a
20 supplement equal to the amount determined in subsection (1) of this section
21 for each civilian firefighter employed by the Department of Military Affairs
22 who meets the qualifications for individual firefighters required in KRS
23 95A.230, plus an amount equal to the required employer's contribution on the
24 supplement to the defined benefit pension plan.

25 (c) Each fire and rescue training coordinator employed by the Kentucky
26 Community and Technical College System and each civilian firefighter
27 employed by the Department of Military Affairs, whose employer receives a

1 supplement pursuant to this subsection, shall receive distribution from that
2 employer of the supplement which his or her qualifications brought to the
3 employer. The supplement distributed shall be in addition to his or her regular
4 salary.

5 ➔Section 8. KRS 337.020 is amended to read as follows:

6 Every employer doing business in this state shall, as often as semimonthly, pay to each of
7 its employees all wages or salary earned to a day not more than eighteen (18) days prior
8 to the date of that payment. Any employee who is absent at the time fixed for payment, or
9 who, for any other reason, is not paid at that time, shall be paid thereafter at any time
10 upon six (6) days' demand. No employer subject to this section shall, by any means,
11 secure exemption from it. Every such employee shall have a right of action against any
12 such employer for the full amount of his wages due on each regular pay day. The
13 provisions of this section do not apply to those individuals defined in subsection (2) of
14 Section 1 of this Act~~[KRS 337.010(2)(a)2]~~.

15 ➔Section 9. KRS 337.420 is amended to read as follows:

16 (1) "Employee" means any individual employed by any employer, including but not
17 limited to individuals employed by the state or any of its political subdivisions,
18 instrumentalities, or instrumentalities of political subdivisions.

19 (2) "Employer" means a person who has two (2) or more employees within the state in
20 each of twenty (20) or more calendar weeks in the current or preceding calendar
21 year and an agent of such a person.

22 (3) "Wage rate" means all compensation for employment, including payment in kind
23 and amounts paid by employers for employee benefits, as defined by the
24 commissioner in regulations issued under KRS 337.420 to 337.433 and
25 337.990(9)~~[337.990(11)]~~.

26 (4) "Employ" includes to suffer or permit to work.

27 (5) "Occupation" includes any industry, trade, business, or branch thereof, or any

1 employment or class of employment.

2 (6) "Commissioner" means the commissioner of the Department of Workplace
3 Standards under the direction and supervision of the secretary of the Education and
4 Labor Cabinet.

5 (7) "Person" includes one (1) or more individuals, partnerships, corporations, legal
6 representatives, trustees, trustees in bankruptcy, or voluntary associations.

7 ➔Section 10. KRS 337.423 is amended to read as follows:

8 (1) No employer shall discriminate between employees in the same establishment on
9 the basis of sex, by paying wages to any employee in any occupation in this state at
10 a rate less than the rate at which he or she pays any employee of the opposite sex
11 for comparable work on jobs which have comparable requirements relating to skill,
12 effort and responsibility. Differentials which are paid pursuant to established
13 seniority systems or merit increase systems, which do not discriminate on the basis
14 of sex, shall not be included within this prohibition. Nothing in KRS 337.420 to
15 337.433 and 337.990(9)~~[337.990(11)]~~ shall apply to any employer who is subject to
16 the federal Fair Labor Standards Act of 1938, as amended, when that act imposes
17 comparable or greater requirements than contained in KRS 337.420 to 337.433 and
18 337.990(9)~~[337.990(11)]~~ and when the employer files with the commissioner of the
19 Department of Workplace Standards a statement that the employer is covered by the
20 federal Fair Labor Standards Act of 1938, as amended.

21 (2) An employer who is paying a wage differential in violation of KRS 337.420 to
22 337.433 and 337.990(9)~~[337.990(11)]~~ shall not, in order to comply with it, reduce
23 the wage rates of any employee.

24 (3) No person shall cause or attempt to cause an employer to discriminate against any
25 employee in violation of KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~.

26 (4) No employer may discharge or discriminate against any employee by reason of any
27 action taken by such employee to invoke or assist in any manner the enforcement of

1 KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~.

2 ➔Section 11. KRS 337.425 is amended to read as follows:

3 (1) For this purpose, the commissioner, or the commissioner's authorized
4 representative, may enter the place of employment of any employer to inspect and
5 copy payrolls and other employment records, to compare character of work and
6 operations on which persons employed by him or her are engaged, to question such
7 persons, and to obtain other information necessary to the administration and
8 enforcement of KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~.

9 (2) The commissioner or the commissioner's authorized representative may examine
10 witnesses under oath, and require by subpoena the attendance and testimony of
11 witnesses and the production of any documentary evidence relating to the subject
12 matter of any investigation undertaken pursuant to KRS 337.420 to 337.433 and
13 337.990(9)~~[337.990(11)]~~. If a person fails to attend, testify or produce documents
14 under or in response to a subpoena, the Circuit Court in the judicial circuit where
15 the hearing is being held, on application of the commissioner or the commissioner's
16 representative, may issue an order requiring the person to appear before the
17 commissioner or the commissioner's authorized representative, or to produce
18 documentary evidence, and any failure to obey the order of the court may be
19 punished by the court as contempt.

20 (3) The commissioner may endeavor to eliminate pay practices unlawful under KRS
21 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~ by informal methods of
22 conference, conciliation and persuasion, and supervise the payment of wages owing
23 to any employee under KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~.

24 (4) The commissioner may issue regulations not inconsistent with the purpose of KRS
25 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~, necessary or appropriate to carry
26 out its provisions.

27 ➔Section 12. KRS 337.427 is amended to read as follows:

- 1 (1) Any employer who violates the provisions of KRS 337.423 shall be liable to the
2 employee or employees affected in the amount of their unpaid wages, and in
3 instances of willful violation in employee suits under subsection (2) of this section,
4 up to an additional equal amount as liquidated damages.
- 5 (2) Action to recover the liability may be maintained in any court of competent
6 jurisdiction by any one (1) or more employees for and in behalf of himself, herself,
7 or themselves and other employees similarly situated. The court in the action shall,
8 in cases of violation in addition to any judgment awarded to the plaintiff or
9 plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of
10 the action.
- 11 (3) An agreement by any employee to work for less than the wage to which the
12 employee is entitled under KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~
13 shall not be a bar to any such action, or to a voluntary wage restitution of the full
14 amount due under KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~.
- 15 (4) At the written request of any employee claiming to have been paid less than the
16 wage to which he may be entitled under KRS 337.420 to 337.433 and
17 337.990(9)~~[337.990(11)]~~, the commissioner may bring any legal action necessary in
18 behalf of the employee to collect the claim for unpaid wages. The commissioner
19 shall not be required to pay the filing fee, or other costs, in connection with the
20 action. The commissioner shall have power to join various claims against the
21 employer in one (1) cause of action.
- 22 (5) In proceedings under this section, the court may order other affirmative action as
23 appropriate, including reinstatement of employees discharged in violation of KRS
24 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~.
- 25 (6) The commissioner may on his or her own motion petition any court of competent
26 jurisdiction to restrain violations of KRS 337.423, and petition for such affirmative
27 relief as the court may deem appropriate, including restoration of unpaid wages and

1 reinstatement of employees, consistent with the purpose of KRS 337.420 to 337.433
2 and 337.990(9)~~[337.990(11)]~~.

3 ➔Section 13. KRS 337.430 is amended to read as follows:

4 Court action under KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~ may be
5 commenced no later than six (6) months after the cause of action occurs.

6 ➔Section 14. KRS 337.433 is amended to read as follows:

7 Every person subject to KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~ shall keep
8 an abstract or copy of KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~ posted in a
9 conspicuous place in or about the premises where any employee is employed. Employers
10 shall be furnished copies or abstracts of KRS 337.420 to 337.433 and
11 337.990(9)~~[337.990(11)]~~ by the state on request without charge.

12 ➔Section 15. The following KRS sections are repealed:

13 337.050 Time and a half for work done on seventh day of week -- Exceptions.

14 337.355 Lunch period requirements.

15 337.365 Rest periods for employees.