

1 AN ACT relating to wages for employment.

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 (1) *As used in this section:*

6 (a) *"Salary history":*

7 1. *Includes the applicant's current or prior wages, benefits, or other*
8 *compensation; and*

9 2. *Does not include any objective measure of the applicant's productivity*
10 *such as revenue, sales, or other production reports; and*

11 (b) *"To inquire" means any direct or indirect statement, question, prompting,*
12 *or other communication, orally or in writing, personally or through an*
13 *agent, to gather information from or about an applicant, using any mode of*
14 *communication, including but not limited to application forms and*
15 *interviews.*

16 (2) *It shall be an unlawful discriminatory practice for an employer, employment*
17 *agency, or employee or agent thereof to:*

18 (a) *Inquire about the salary history of an applicant for employment;*

19 (b) *Consider or rely on the salary history of an applicant in determining the*
20 *salary, benefits, or other compensation for the applicant during the hiring*
21 *process, including the negotiation of a contract; or*

22 (c) *Refuse to hire, or otherwise disfavor, injure, or retaliate against an*
23 *applicant for not disclosing his or her salary history to the employer,*
24 *employment agency, or employee or agent thereof.*

25 (3) *Notwithstanding subsection (2)(b) of this section, if an applicant voluntarily and*
26 *without prompting discloses salary history to an employer, employment agency,*
27 *or employee or agent thereof, then the employer, employment agency, or*

1 employee or agent thereof may consider salary history in determining salary,
2 benefits, and other compensation for the applicant, and may verify the applicant's
3 salary history after the employer, employment agency, or employee or agent
4 thereof makes an offer of employment to the applicant that includes an amount of
5 compensation.

6 (4) This section shall not apply to:

7 (a) Any actions taken by an employer, employment agency, or employee or
8 agent thereof pursuant to any federal, state, or local law that specifically
9 authorizes the disclosure or verification of salary history for employment
10 purposes, or specifically requires knowledge of salary history to determine
11 an employee's compensation;

12 (b) An applicant for internal transfer or promotion with his or her current
13 employer;

14 (c) Any attempt by an employer, employment agency, or employee or agent
15 thereof, to verify an applicant's disclosure of nonsalary-related information
16 or conduct a background check, except that if such a verification or
17 background check discloses the applicant's salary history, the disclosure
18 shall not be relied upon for purposes of determining the salary, benefits, or
19 other compensation of the applicant during the hiring process, including
20 the negotiation of a contract; or

21 (d) Public employee positions for which salary, benefits, or other compensation
22 are determined pursuant to procedures established by collective bargaining.

23 (5) Employers shall post notice of this section's requirements in a conspicuous place
24 at every workplace, job site, or other location or property under the employer's
25 control frequently visited by their employees or applicants and shall send a copy
26 of this notice to each labor union or representative of workers with which the
27 employer has a collective bargaining agreement or other agreement or

1 *understanding. The notice shall be posted in English, Spanish, and any language*
2 *spoken by at least five percent (5%) of the employees at the workplace, job site, or*
3 *other location at which it is posted.*

4 ➔Section 2. KRS 337.990 is amended to read as follows:

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

- 8 (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be
9 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than
10 one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the
11 wages when due him *or her* under KRS 337.020 shall constitute a separate offense.
- 12 (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not
13 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- 14 (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not
15 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
16 for each offense and shall make full payment to the employee by reason of the
17 violation. Each failure to pay an employee the wages as required by KRS 337.055
18 shall constitute a separate offense.
- 19 (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not
20 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
21 and shall also be liable to the affected employee for the amount withheld, plus
22 interest at the rate of ten percent (10%) per annum.
- 23 (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil
24 penalty of not less than one hundred dollars (\$100) nor more than one thousand
25 dollars (\$1,000) for each offense and shall make full payment to the employee by
26 reason of the violation.
- 27 (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty

1 of not less than one hundred dollars (\$100) nor more than one thousand dollars
2 (\$1,000) for each offense and each day that the failure continues shall be deemed a
3 separate offense.

4 (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS
5 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the
6 commissioner or the commissioner's authorized representative in the performance
7 of his or her duties under KRS 337.295, or fails to keep and preserve any records as
8 required under KRS 337.320 and 337.325, or falsifies any record, or refuses to
9 make any record or transcription thereof accessible to the commissioner or the
10 commissioner's authorized representative shall be assessed a civil penalty of not
11 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
12 A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for
13 any subsequent violation of KRS 337.285(4) to (9) and each day the employer
14 violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.

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

19 (9) Any employer who discharges or in any other manner discriminates against any
20 employee because the employee has made any complaint to his or her employer, to
21 the commissioner, or to the commissioner's authorized representative that he or she
22 has not been paid wages in accordance with KRS 337.275 and 337.285 or
23 regulations issued thereunder, or because the employee has caused to be instituted
24 or is about to cause to be instituted any proceeding under or related to KRS
25 337.385, or because the employee has testified or is about to testify in any such
26 proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345,
27 and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than

- 1 one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- 2 (10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not
- 3 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- 4 (11) A person shall be assessed a civil penalty of not less than one hundred dollars
- 5 (\$100) nor more than one thousand dollars (\$1,000) when that person discharges or
- 6 in any other manner discriminates against an employee because the employee has:
- 7 (a) Made any complaint to his or her employer, the commissioner, or any other
- 8 person;~~[-or]~~
- 9 (b) Instituted, or caused to be instituted, any proceeding under or related to KRS
- 10 337.420 to 337.433; or
- 11 (c) Testified, or is about to testify, in any such proceedings.
- 12 **(12) A person who fails to comply with Section 1 of this Act shall be assessed a civil**
- 13 **penalty of not less than one hundred dollars (\$100) nor more than one thousand**
- 14 **dollars (\$1,000) for each offense.**