

1 AN ACT relating to voting leave.

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 *As used in Sections 1 to 4 and 5 of this Act:*

6 *(1) "Cabinet" means the Education and Labor Cabinet;*

7 *(2) "Election" has the same meaning as in Section 6 of this Act;*

8 *(3) "Employee" means any individual employed by any employer, including but not*
9 *limited to individuals employed by the state or any of its political subdivisions,*
10 *instrumentalities, or instrumentalities of political subdivisions;*

11 *(4) "Employer" means any person, individual, corporation, partnership, agency, or*
12 *firm who employs an employee and includes any person, individual, corporation,*
13 *partnership, agency, or firm acting directly or indirectly in the interest of an*
14 *employer in relation to an employee; and*

15 *(5) "Person" means one (1) or more individuals, partnerships, corporations, legal*
16 *representatives, trustees, trustees in bankruptcy, or voluntary associations.*

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

19 *(1) An employer shall grant reasonable leave from work for an employee to vote in*
20 *any election in this state in accordance with KRS 118.035.*

21 *(2) An employer shall not discharge, threaten to discharge, demote, deny a*
22 *promotion to, sanction, discipline, retaliate against, harass, or otherwise*
23 *discriminate against an employee with respect to compensation, terms,*
24 *conditions, or privileges of employment because the employee:*

25 *(a) Requested leave under subsection (1) of this section; or*

26 *(b) Assisted another employee's attempt to request leave under subsection (1) of*
27 *this section.*

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

3 (1) Every person subject to Sections 1 to 4 and 5 of this Act:

4 (a) Shall post in a conspicuous area of the workplace and in large and readable
5 font the following: "All employees have a constitutional right to four hours
6 leave for the purposes of voting."; and

7 (b) May post in a conspicuous area of the workplace information on how to
8 schedule time off consistent with the employer's stated policy for requesting
9 leave, if the employer has such a policy.

10 (2) The cabinet shall furnish to employers posters consistent with subsection (1)(a) of
11 this section upon request free of charge and include contact information for the
12 cabinet.

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

15 (1) Notwithstanding any other criminal and administrative remedies, a person or
16 class of persons alleging a violation of Sections 1 to 4 of this Act may bring a civil
17 action in the county where the plaintiff resides or has his or her principal place of
18 business against any person who is responsible or who knowingly participated in
19 the violation.

20 (2) The civil action brought under subsection (1) of this section may seek:

21 (a) Appropriate injunctive relief;

22 (b) Actual damages;

23 (c) Actual expenses incurred, including court costs and attorney's fees; and

24 (d) Punitive damages.

25 ➔Section 5. KRS 337.990 is amended to read as follows:

26 The following civil penalties shall be imposed by the Education and Labor Cabinet, in
27 accordance with the provisions in KRS 336.985, for violations of the provisions of this

1 chapter:

- 2 (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be
3 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than
4 one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the
5 wages when due him under KRS 337.020 shall constitute a separate offense.
- 6 (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not
7 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- 8 (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not
9 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
10 for each offense and shall make full payment to the employee by reason of the
11 violation. Each failure to pay an employee the wages as required by KRS 337.055
12 shall constitute a separate offense.
- 13 (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not
14 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
15 and shall also be liable to the affected employee for the amount withheld, plus
16 interest at the rate of ten percent (10%) per annum.
- 17 (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil
18 penalty of not less than one hundred dollars (\$100) nor more than one thousand
19 dollars (\$1,000) for each offense and shall make full payment to the employee by
20 reason of the violation.
- 21 (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty
22 of not less than one hundred dollars (\$100) nor more than one thousand dollars
23 (\$1,000) for each offense and each day that the failure continues shall be deemed a
24 separate offense.
- 25 (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS
26 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the
27 commissioner or the commissioner's authorized representative in the performance

1 of his or her duties under KRS 337.295, or fails to keep and preserve any records as
2 required under KRS 337.320 and 337.325, or falsifies any record, or refuses to
3 make any record or transcription thereof accessible to the commissioner or the
4 commissioner's authorized representative shall be assessed a civil penalty of not
5 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
6 A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for
7 any subsequent violation of KRS 337.285(4) to (9) and each day the employer
8 violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.

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

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

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

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

- 1 (a) Made any complaint to his or her employer, the commissioner, or any other
2 person; or
- 3 (b) Instituted, or caused to be instituted, any proceeding under or related to KRS
4 337.420 to 337.433; or
- 5 (c) Testified, or is about to testify, in any such proceedings.

6 **(12) Any employer who violates Sections 1 to 4 of this Act shall be assessed a civil**
7 **penalty of not less than one hundred dollars (\$100) nor more than one thousand**
8 **dollars (\$1,000) per incident, and if the employer is a corporation it shall, upon**
9 **conviction, forfeit its charter.**

10 ➔Section 6. KRS 118.015 is amended to read as follows:

11 As used in this chapter, unless the context otherwise requires:

- 12 (1) A "political party" is an affiliation or organization of electors representing a
13 political policy and having a constituted authority for its government and
14 regulation, and whose candidate received at least twenty percent (20%) of the total
15 vote cast at the last preceding election at which presidential electors were voted for;
- 16 (2) The word "election" used in reference to a state, district, county, or city election,
17 includes the decisions of questions submitted to the qualified voters as well as the
18 choice of officers by them;
- 19 (3) A "ballot" or "official ballot" means the official presentation of offices and
20 candidates to be voted for, including write-in candidates, and all public questions
21 submitted for determination, and shall include a voting machine ballot, a paper
22 ballot, an absentee ballot, a federal provisional ballot, a federal provisional absentee
23 ballot, or a supplemental paper ballot which has been authorized for the use of the
24 voters in any primary, regular election, or special election by the Secretary of State
25 or the county clerk;
- 26 (4) "Ballot box" means any box, bag, or other container that can be locked, sealed, or
27 otherwise rendered tamper-resistant, for receiving ballots;

- 1 (5) "Election officer" means any person tasked with election administration within this
2 state, as context dictates the defined role, including but not limited to the Secretary
3 of State and his or her employees, members of the State Board of Elections and
4 staff, members of the county boards of election and staff, precinct election officers,
5 election officials, and poll workers;
- 6 (6) "Voting equipment" means any physical component of a voting system and
7 includes voting machines where voting machines are in operation;
- 8 (7) "Voting machine" or "machine" means a part of a voting system that consists of:
9 (a) A direct recording electronic voting machine that:
10 1. Records votes by means of a ballot display provided with mechanical or
11 electro-operated components that may be actuated by the voter;
12 2. Processes the data by means of a computer program;
13 3. Records voting data and ballot images in internal and external memory
14 components; and
15 4. Produces a tabulation of the voting data stored in a removable memory
16 component and on a printed copy; or
17 (b) One (1) or more electronic devices that operate independently or as a
18 combination of a ballot marking device and an electronic or automatic vote
19 tabulating device;
- 20 (8) "Voting system" means:
21 (a) The total combination of physical, mechanical, electromechanical, or
22 electronic equipment, including the software, hardware, firmware, and
23 documentation required to program, control, and support that equipment, that
24 is used to:
25 1. Define ballots;
26 2. Cast and count votes;
27 3. Report or display election results; and

- 1 4. Maintain and produce any audit trail information; and
- 2 (b) The practices and associated documentation used to:
- 3 1. Identify system components and versions of those components;
- 4 2. Test the system during its development and maintenance;
- 5 3. Maintain records of system errors and defects;
- 6 4. Determine specific system changes to be made to a system after the
- 7 initial qualification of the system; and
- 8 5. Make available any materials to the voter, such as notices, instructions,
- 9 forms, or paper ballots;
- 10 (9) The word "resident" used in reference to a candidate in a state, district, county, or
- 11 city election shall mean actual resident, without regard to the residence of the
- 12 spouse of the candidate;
- 13 (10) "Political organization" means a political group not constituting a political party
- 14 within the meaning of subsection (1) of this section but whose candidate received
- 15 two percent (2%) or more of the vote of the state at the last preceding election for
- 16 presidential electors;~~and~~
- 17 (11) "Political group" means a political group not constituting a political party or a
- 18 political organization within the meaning of subsections (1) and (10) of this section;
- 19 **(12) "Employee" means any individual employed by an employer, including but not**
- 20 **limited to individuals employed by the state or any of its political subdivisions,**
- 21 **instrumentalities, or instrumentalities of political subdivisions;**
- 22 **(13) "Employer" means any person, individual, corporation, partnership, agency, or**
- 23 **firm who employs an employee and includes any person, individual, corporation,**
- 24 **partnership, agency, or firm acting directly or indirectly in the interest of an**
- 25 **employer in relation to an employee; and**
- 26 **(14) "Supervisor" means any individual having authority, in the interest of the**
- 27 **employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign,**

1 *reward, or discipline other employees, or responsibility to direct them, or to adjust*
2 *their grievances, or effectively to recommend any of these actions, if in*
3 *connection with the foregoing the exercise of the authority is not of a merely*
4 *routine or clerical nature but requires the use of independent judgment.*

5 ➔Section 7. KRS 118.995 is amended to read as follows:

- 6 (1) Any person who violates any of the provisions of KRS 118.136 shall be guilty of a
7 Class A misdemeanor.
- 8 (2) If the Secretary of State violates any of the provisions of subsection (4) of KRS
9 118.215, he shall be guilty of a Class D felony.
- 10 (3) Any person who violates subsection (5) of KRS 118.176 shall be guilty of a Class A
11 misdemeanor.
- 12 (4) If any county clerk violates any of the provisions of subsection (5) of KRS 118.305,
13 he shall be guilty of a Class D felony.
- 14 *(5) Any supervisor who prohibits an employee from exercising his or her rights*
15 *under KRS 118.035 shall be guilty of a Class A misdemeanor.*