

1 AN ACT relating to unemployment insurance.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) Any person suspected of fraudulently obtaining or attempting to obtain any*
6 *benefit under this chapter, or under any unemployment insurance law of any*
7 *other state or the federal government, shall be referred by the cabinet to the*
8 *Kentucky Justice and Public Safety Cabinet, the appropriate county attorney or*
9 *Commonwealth's attorney, and, if applicable, the United States Department of*
10 *Justice. The referral shall include:*

11 *(a) The name of the applicable employer, employee, claimant, and name used*
12 *in the suspected fraud;*

13 *(b) Any contact information the cabinet possesses for the suspected fraudulent*
14 *actor; and*

15 *(c) Any information filed with or reported to the cabinet regarding the*
16 *suspected fraud.*

17 *(2) The cabinet shall make the referral under subsection (1) of this section no later*
18 *than thirty (30) days after determining suspected fraud has occurred.*

19 *(3) Notwithstanding KRS Chapters 16 and 18A, if the cabinet determines that a*
20 *public employee or contractor has collected or attempted to collect unemployment*
21 *benefits while employed by or under contract with a public agency, as defined in*
22 *KRS 61.870, the public agency shall immediately terminate the individual's*
23 *employment or contract. An employee or contractor may appeal the*
24 *determination in accordance with KRS 341.420. An employee or contractor shall*
25 *also be subject to penalties under KRS 341.990.*

26 *(4) A legal disposition finding the employee or contractor guilty is not required to*
27 *terminate employment under this section.*

1 ➔Section 2. KRS 341.370 is amended to read as follows:

- 2 (1) A worker shall be disqualified from receiving benefits for the duration of any
3 period of unemployment with respect to which:
- 4 (a) He or she has failed without good cause either to apply for available, suitable
5 work when so directed by the employment office or the secretary, to accept an
6 interview from a prospective employer offering suitable work, or to accept
7 suitable work when offered him or her, or to return to his or her customary
8 self-employment when so directed by the secretary;
- 9 (b) He or she has been discharged for misconduct or dishonesty connected with
10 his or her most recent work, or from any work which occurred after the first
11 day of the worker's base period and which last preceded his or her most recent
12 work, but legitimate activity in connection with labor organizations or failure
13 to join a company union shall not be construed as misconduct;
- 14 (c) He or she has left his or her most recent suitable work or any other suitable
15 work which occurred after the first day of the worker's base period and which
16 last preceded his or her most recent work voluntarily without good cause
17 attributable to the employment. No otherwise eligible worker shall be
18 disqualified from receiving benefits for:
- 19 1. Leaving his or her next most recent suitable work which was concurrent
20 with his or her most recent work;
- 21 2. Leaving work which is one hundred (100) road miles or more, as
22 measured on a one (1) way basis, from his or her home to accept work
23 which is less than one hundred (100) road miles from his or her home;
- 24 3. Accepting work which is a bona fide job offer with a reasonable
25 expectation of continued employment; or
- 26 4. Leaving work to accompany the worker's spouse to a different state,
27 military base of assignment, or duty station that is one hundred (100)

1 road miles or more, as measured on a one (1) way basis, from the
2 worker's home when the spouse is reassigned by the military; or

3 (d) He or she fails to act in good faith to secure suitable work.

4 (2) A worker shall be disqualified from receiving benefits for any week with respect to
5 which he or she knowingly made a false statement to establish his or her right to or
6 the amount of his or her benefits, and, within the succeeding twenty-four (24)
7 months, for the additional weeks immediately following the date of discovery, not
8 to exceed a total of fifty-two (52), as may be determined by the secretary.

9 **(3) A worker shall be disqualified from receiving benefits for any week that he or she**
10 **is under investigation for knowingly making a false statement or representation**
11 **of material fact to obtain or increase his or her benefits. The disqualification**
12 **shall remain in effect until the cabinet or a law enforcement agency determines**
13 **that a fraudulent act did not occur.**

14 ~~(4)~~~~(3)~~ No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of
15 this section unless the employer, within a reasonable time as prescribed by
16 regulations promulgated by the secretary, notifies the cabinet and the worker in
17 writing of the alleged voluntary quitting or the discharge for misconduct. Nothing
18 in this subsection shall restrict the right of the secretary to disqualify a worker
19 whose employer has refused or failed to notify the Education and Labor Cabinet of
20 the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary
21 quitting or discharge for misconduct is known to the secretary prior to the time
22 benefits are paid to the worker. The exercise of the right by the secretary, in the
23 absence of timely notice from the employer, shall not relieve the employer's reserve
24 account or reimbursing employer's account of benefit charges under the provisions
25 of subsection (3) of KRS 341.530.

26 ~~(5)~~~~(4)~~ As used in this section and in subsection (3) of KRS 341.530, "most recent"
27 work shall be construed as that work which occurred after the first day of the

1 worker's base period and which last preceded the week of unemployment with
2 respect to which benefits are claimed; except that, if the work last preceding the
3 week of unemployment was seasonal, intermittent, or temporary in nature, most
4 recent work may be construed as that work last preceding the seasonal, intermittent,
5 or temporary work.

6 ~~(6)~~~~(5)~~ No worker shall be disqualified or held ineligible under the provisions of this
7 section or KRS 341.350, who is separated from employment pursuant to a labor
8 management contract or agreement, or pursuant to an established employer plan,
9 program, or policy, which permits the employer to close the plant or facility for
10 purposes of vacation or maintenance.

11 ~~(7)~~~~(6)~~ "Discharge for misconduct" as used in this section shall include but not be
12 limited to, separation initiated by an employer for falsification of an employment
13 application to obtain employment through subterfuge; knowing violation of a
14 reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if
15 the worker cannot show good cause for absences or tardiness; damaging the
16 employer's property through gross negligence; refusing to obey reasonable
17 instructions; reporting to work under the influence of alcohol or drugs or consuming
18 alcohol or drugs on employer's premises during working hours; conduct
19 endangering safety of self or co-workers; and incarceration in jail following
20 conviction of a misdemeanor or felony by a court of competent jurisdiction, which
21 results in missing at least five (5) days work.

22 ~~(8)~~~~(7)~~ "Duration of any period of unemployment," as that term is used in this
23 section, shall be the period of time beginning with the worker's discharge, voluntary
24 quitting, or failure to apply for or accept suitable work and running until the worker
25 has worked in each of ten (10) weeks, whether or not consecutive, and has earned
26 ten (10) times his or her weekly benefit rate in employment covered under the
27 provisions of this chapter or a similar law of another state or of the United States.

1 ➔Section 3. KRS 341.360 is amended to read as follows:

- 2 (1) No worker may be paid benefits for any week of unemployment:
- 3 (a) With respect to which a strike or other bona fide labor dispute which caused
- 4 him to leave or lose his employment is in active progress in the establishment
- 5 in which he is or was employed, except that benefits may be paid unless the
- 6 employer notifies the Office of Unemployment Insurance in writing within
- 7 seven (7) days after the beginning of such alleged strike or labor dispute of the
- 8 alleged existence of such strike or labor dispute. For the purpose of this
- 9 subsection, a lockout shall not be deemed to be a strike or a bona fide labor
- 10 dispute and no worker shall be denied benefits by reason of a lockout;
- 11 (b) For which he has received or is seeking unemployment compensation under
- 12 an unemployment compensation law of another state or of the United States,
- 13 except as otherwise provided by an arrangement between this state and such
- 14 other state or the United States; but if the appropriate agency of such state or
- 15 of the United States finally determines that he is not entitled to such
- 16 unemployment compensation, this subsection shall not apply;
- 17 (c) 1. Which, when based on service in an instructional, research, or principal
- 18 administrative capacity in an institution of higher education as defined
- 19 in KRS 341.067(2) or in an educational institution as defined in KRS
- 20 341.067(4), begins during the period between two (2) successive
- 21 academic years, or during a similar period between two (2) regular
- 22 terms, whether or not successive, or during a period of paid sabbatical
- 23 leave provided for in the individual's contract, if the worker performs
- 24 such services in the first of such academic years or terms and if there is
- 25 a contract or a reasonable assurance that the worker will perform such
- 26 services in any such capacity for any institution or institutions of higher
- 27 education or an educational institution in the second of such academic

- 1 years or such terms; or
- 2 2. Which, when based on service other than as defined in subparagraph 1.
- 3 of this paragraph, in an institution of higher education or an educational
- 4 institution, as defined in KRS 341.067(2) or (4), begins during the
- 5 period between two (2) successive academic years or terms, if the
- 6 worker performs such services in the first of such academic years or
- 7 terms and there is a reasonable assurance that the worker will perform
- 8 such services in the second of such academic years or terms; except that
- 9 if benefits are denied to any worker under this paragraph and such
- 10 worker was not offered an opportunity to perform such services for such
- 11 institution of higher education or such educational institution for the
- 12 second of such academic years or terms, such worker shall be entitled to
- 13 a retroactive payment of benefits for each week for which the worker
- 14 filed a timely claim for benefits and for which benefits were denied
- 15 solely by reason of this paragraph; or
- 16 3. Which, when based on service in any capacity defined in subparagraphs
- 17 1. and 2. of this paragraph, begins during an established and customary
- 18 vacation period or holiday recess if the worker performs any such
- 19 services in the period immediately before such vacation period or
- 20 holiday recess, and there is a reasonable assurance that such worker will
- 21 perform any such services in the period immediately following such
- 22 vacation period or holiday recess; or
- 23 4. Based on service in any capacity defined in subparagraph 1. or 2. of this
- 24 paragraph when such service is performed by the worker in an
- 25 institution of higher education or an educational institution, as defined in
- 26 KRS 341.067(2) or (4), while the worker is in the employ of an
- 27 educational service agency, and such unemployment begins during the

1 periods and pursuant to the conditions specified in subparagraphs 1., 2.,
2 and 3. of this paragraph. For purposes of this paragraph, the term
3 "educational service agency" means a governmental agency or
4 governmental entity which is established and operated exclusively for
5 the purpose of providing such services to one (1) or more institutions of
6 higher education or educational institutions;

7 Notwithstanding any other provision of this paragraph, any benefits paid to a
8 worker based on service other than as defined in subparagraph 1. of this
9 paragraph performed in an institution of higher education as defined in KRS
10 341.067(2) shall be deemed to have been paid as a result of Office of
11 Unemployment Insurance error and not recoverable by the cabinet or such
12 institution if such payment is improper by virtue of the retroactive application
13 to October 30, 1983, of subparagraph 2. of this paragraph; or

14 (d) With respect to which the worker is suspended from work for misconduct, as
15 defined in KRS 341.370~~(7)~~~~(6)~~, connected with the work.

16 (2) Benefits shall not be paid to any individual on the basis of any services,
17 substantially all of which consist of participating in sports or athletic events or
18 training or preparing to so participate, for any week which commences during the
19 period between two (2) successive sport seasons or similar periods and there is a
20 reasonable assurance that such individual will perform such services in the later of
21 such seasons or similar periods.

22 (3) (a) Benefits shall not be paid on the basis of services performed by an alien
23 unless such alien is an individual who was lawfully admitted for permanent
24 residence at the time such services were performed, was lawfully present for
25 purposes of performing such services, or was residing in the United States
26 under color of law at the time such services were performed, including an
27 alien who was lawfully present in the United States as a result of the

1 application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the
2 Immigration and Nationality Act.

3 (b) Any data or information required of individuals applying for benefits to
4 determine whether benefits are not payable to them because of their alien
5 status shall be uniformly required from all applicants for benefits.

6 (c) In the case of an individual whose application for benefits would otherwise be
7 approved, no determination that benefits to such individual are not payable
8 because of his alien status shall be made except upon a preponderance of the
9 evidence.