

1 AN ACT relating to earned paid sick 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 *(1) As used in this section:*

6 *(a) "Child" means a biological, adopted, or foster child, stepchild, or legal*
7 *ward of an employee if the child is less than eighteen (18) years old, or is*
8 *over eighteen (18) years old but incapable of self-care due to a mental or*
9 *physical disability;*

10 *(b) "Earned paid sick leave" means the time off from work that is provided by*
11 *an employer to an employee as computed under this section that can be used*
12 *for purposes set forth in this section and is compensated at the same hourly*
13 *rate as the employee earns from his or her employment at the time the*
14 *employee uses the paid sick leave; however, the hourly rate shall not be less*
15 *than the minimum hourly wage under KRS 337.275;*

16 *(c) "Employee" has the same meaning as in KRS 337.010(1)(e);*

17 *(d) "Employer" has the same meaning as in KRS 337.010(1)(d);*

18 *(e) "Health care provider" means any person licensed under federal or state*
19 *law to provide health care services, or any other person authorized to*
20 *provide health care by a licensed health care professional, including but not*
21 *limited to physicians, osteopaths, nurses, advanced practice registered*
22 *nurses, physician assistants, and psychologists;*

23 *(f) "Parent" means a biological, adoptive, or foster parent of an employee or*
24 *an employee's spouse, or other person who assumed the responsibilities of*
25 *parenthood when the employee or the employee's spouse was a child; and*

26 *(g) "Spouse" means the person to whom an employee is married.*

27 *(2) Each employer shall provide earned paid sick leave to each employee working for*

1 the employer in the state. An employee shall begin accruing earned paid sick
2 leave beginning on his or her date of hire or on the effective date of this Act,
3 whichever is later, but employees shall not be entitled to use accrued earned sick
4 leave until the ninetieth calendar day following commencement of employment.
5 For every thirty (30) hours worked, the employee shall accrue one (1) hour of
6 earned paid sick leave. An employee exempt from overtime requirements under
7 state or federal law shall be assumed to work forty (40) hours each week unless
8 his or her normal work week is less than forty (40) hours, in which case earned
9 paid sick leave shall accrue based on that normal work week.

10 (3) The employer shall not be required to permit the employee to accrue at any one
11 (1) time, or carry forward from one (1) year to the next, more than forty (40)
12 hours of earned paid sick leave if the employer has less than ten (10) employees
13 or more than seventy-two (72) hours of earned paid sick leave if the employer has
14 ten (10) or more employees.

15 (4) An employer is considered to be in compliance with this section if the employer
16 offers any other fully paid leave that may be used for the purposes set forth in this
17 section in the manner provided for in this section and is accrued at a rate equal to
18 or greater than the rate described in this section. Nothing in this section shall be
19 construed to discourage or prohibit any employer from allowing the accrual of
20 earned paid sick leave at a faster rate, or the use of earned paid sick leave at an
21 earlier date, than this section requires.

22 (5) An employer shall permit an employee to use accrued earned paid sick leave
23 pursuant to this section for any of the following:

24 (a) Time needed for the diagnosis, care, or medical treatment of, or recovery
25 from, an employee's mental or physical illness, injury, or other health
26 condition;

27 (b) Time needed for the diagnosis, care, or medical treatment of, or recovery

1 from, a mental or physical illness, injury, or other health condition of the
2 employee's child, parent, or spouse; and

3 (c) Time needed due to circumstances resulting from the employee or the
4 employee's child, parent, or spouse being a victim of domestic violence, so
5 long as the leave is to allow the victim to:

6 1. Obtain medical attention needed to recover from physical or mental
7 injury or disability caused by the domestic violence;

8 2. Obtain services from a victim services organization;

9 3. Relocate due to domestic violence or sexual assault;

10 4. Obtain a restraining or protective order; or

11 5. Participate in any civil or criminal proceedings related to the domestic
12 violence.

13 (6) If the employee's need to use earned paid sick leave is foreseeable, the employer
14 may require advance notice, not to exceed seven (7) days prior to the date such
15 leave is to begin, of the intention to use earned paid sick leave and the expected
16 duration of the leave. The employee shall make a reasonable effort to schedule
17 the use of earned paid sick leave in a manner that does not unduly disrupt the
18 operations of the employer.

19 (7) If the employee's need to use earned paid sick leave is not foreseeable, an
20 employer may require an employee to give notice of the intention to use earned
21 paid sick leave as soon as practicable. For earned paid sick leave of more than
22 three (3) days, an employer may require reasonable documentation that the leave
23 is being used for a purpose permitted under this section. If the leave is used
24 pursuant to subsection (5)(a) or (b) of this section, documentation signed by a
25 health care provider who is treating the employee or the employee's child, parent,
26 or spouse indicating the need for the leave and the anticipated necessary number
27 of days of leave shall be considered reasonable documentation. If the leave is

1 used pursuant to subsection (5)(c) of this section, a court record, a law
2 enforcement report, or documentation signed by an attorney, police officer,
3 counselor, or representative of a victim services organization shall be considered
4 reasonable documentation.

5 (8) Unless an employee policy or collective bargaining agreement provides for the
6 payment of unused accrued earned paid sick leave benefits upon termination, an
7 employee shall not be entitled to payment of unused accrued earned paid sick
8 leave benefits upon termination of employment.

9 (9) Nothing in this section shall be deemed to require any employer to provide earned
10 paid sick leave for an employee's leave for any purpose other than those
11 described in this section.

12 (10) An employer shall not:

13 (a) Retaliate against an employee because the employee requests or uses earned
14 paid sick leave in accordance with this section or the employer's own earned
15 paid sick leave policy, or files a complaint alleging the employer's violation
16 of this section; or

17 (b) Count earned paid sick leave as an absence that may result in disciplinary
18 action against the employee.

19 (11) Each employer subject to this section shall, at the time of hiring, provide notice to
20 each employee of the entitlement to earned paid sick leave, the amount of earned
21 paid sick leave provided, and the terms under which earned paid sick leave may
22 be used.

23 (12) Nothing in this section shall be construed to prohibit an employer from:

24 (a) Taking disciplinary action against an employee who used earned paid sick
25 leave for purposes other than those described in this section; or

26 (b) Adopting a policy whereby an employee may donate unused accrued earned
27 paid sick leave to another employee.

1 (13) (a) An employee shall not be required to use earned paid sick leave for any
 2 absence during a period of time in which, by mutual consent of the
 3 employee and the employer, the employee works an equivalent number of
 4 additional hours during the same or the next pay period as the hours not
 5 worked due to reasons permitted in this section.

6 (b) An employer shall not require an employee to work additional hours to
 7 make up hours in which the employee was absent or require the employee to
 8 find a replacement employee to cover hours during which the employee is
 9 using earned paid sick leave.

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

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

14 (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be
 15 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than
 16 one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the
 17 wages when due him or her under KRS 337.020 shall constitute a separate
 18 offense;~~[-]~~

19 (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not
 20 less than one hundred dollars (\$100) nor more than one thousand dollars
 21 (\$1,000);~~[-]~~

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

27 (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not

- 1 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
2 and shall also be liable to the affected employee for the amount withheld, plus
3 interest at the rate of ten percent (10%) per annum;[]
- 4 (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil
5 penalty of not less than one hundred dollars (\$100) nor more than one thousand
6 dollars (\$1,000) for each offense and shall make full payment to the employee by
7 reason of the violation;[]
- 8 (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty
9 of not less than one hundred dollars (\$100) nor more than one thousand dollars
10 (\$1,000) for each offense and each day that the failure continues shall be deemed a
11 separate offense;[]
- 12 (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS
13 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the
14 commissioner or the commissioner's authorized representative in the performance
15 of his or her duties under KRS 337.295, or fails to keep and preserve any records as
16 required under KRS 337.320 and 337.325, or falsifies any record, or refuses to
17 make any record or transcription thereof accessible to the commissioner or the
18 commissioner's authorized representative shall be assessed a civil penalty of not
19 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
20 A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for
21 any subsequent violation of KRS 337.285(4) to (9) and each day the employer
22 violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty;[]
- 23 (8) Any employer who pays or agrees to pay wages at a rate less than the rate
24 applicable under KRS 337.275 and 337.285, or any wage order issued pursuant
25 thereto shall be assessed a civil penalty of not less than one hundred dollars (\$100)
26 nor more than one thousand dollars (\$1,000);[]
- 27 (9) Any employer who discharges or in any other manner discriminates against any

1 employee because the employee has made any complaint to his or her employer, to
2 the commissioner, or to the commissioner's authorized representative that he or she
3 has not been paid wages in accordance with KRS 337.275 and 337.285 or
4 regulations issued thereunder, or because the employee has caused to be instituted
5 or is about to cause to be instituted any proceeding under or related to KRS
6 337.385, or because the employee has testified or is about to testify in any such
7 proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345,
8 and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than
9 one hundred dollars (\$100) nor more than one thousand dollars (\$1,000);~~+~~

10 (10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not
11 less than one hundred dollars (\$100) nor more than one thousand dollars
12 (\$1,000);~~+~~

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

16 (a) Made any complaint to his or her employer, the commissioner, or any other
17 person; or

18 (b) Instituted, or caused to be instituted, any proceeding under or related to KRS
19 337.420 to 337.433; or

20 (c) Testified, or is about to testify, in any such proceedings; **and**

21 **(12) Any employer who violates Section 1 of this Act shall be assessed a civil penalty**
22 **of not less than five hundred dollars (\$500) for each offense. Each day of**
23 **violation shall constitute a separate offense, and the violation as it affects each**
24 **individual employee shall constitute a separate offense. The Attorney General, or**
25 **any person authorized to act on his or her behalf, shall initiate enforcement of**
26 **this penalty.**