

1 AN ACT relating to wages.

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

3 ➔Section 1. KRS 337.010 is amended to read as follows:

- 4 (1) As used in this chapter, unless the context requires otherwise:
- 5 (a) "Commissioner" means the commissioner of the Department of Workplace  
6 Standards under the direction and supervision of the secretary of the  
7 Education and Labor Cabinet;
- 8 (b) "Department" means the Department of Workplace Standards in the  
9 Education and Labor Cabinet;
- 10 (c) 1. "Wages" includes any compensation due to an employee by reason of  
11 his or her employment, including salaries, commissions, vested vacation  
12 pay, overtime pay, severance or dismissal pay, earned bonuses, and any  
13 other similar advantages agreed upon by the employer and the employee  
14 or provided to employees as an established policy. The wages shall be  
15 payable in legal tender of the United States, checks on banks, direct  
16 deposits, or payroll card accounts convertible into cash on demand at  
17 full face value, subject to the allowances made in this chapter. However,  
18 an employee may not be charged an activation fee and the payroll card  
19 account shall provide the employee with the ability, without charge, to  
20 make at least one (1) withdrawal per pay period for any amount up to  
21 and including the full account balance.
- 22 2. For the purposes of calculating hourly wage rates for scheduled  
23 overtime for professional firefighters, as defined in KRS 95A.210(8),  
24 "wages" shall not include the distribution to qualified professional  
25 firefighters by local governments of supplements received from the  
26 Firefighters Foundation Program Fund. For the purposes of calculating  
27 hourly wage rates for unscheduled overtime for professional firefighters,

1 as defined in KRS 95A.210(9), "wages" shall include the distribution to  
2 qualified professional firefighters by local governments of supplements  
3 received from the Firefighters Foundation Program Fund;

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

8 (e) "Employee" is any person employed by or suffered or permitted to work for  
9 an employer, except that:

10 1. Notwithstanding any voluntary agreement entered into between the  
11 United States Department of Labor and a franchisee, neither a franchisee  
12 nor a franchisee's employee shall be deemed to be an employee of the  
13 franchisor for any purpose under this chapter; and

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

18 For purposes of this paragraph, "franchisee" and "franchisor" have the same  
19 meanings as in 16 C.F.R. sec. 436.1.

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

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

24 1. Any individual employed in agriculture;

25 2. Any individual employed in a bona fide executive, administrative,  
26 supervisory, or professional capacity, or in the capacity of outside  
27 salesman, or as an outside collector as the terms are defined by

- 1 administrative regulations of the commissioner;
- 2 3. Any individual employed by the United States;
- 3 4. Any individual employed in domestic service in or about a private
- 4 home. The provisions of this section shall include individuals employed
- 5 in domestic service in or about the home of an employer where there is
- 6 more than one (1) domestic servant regularly employed;
- 7 5. Any individual classified and given a certificate by the commissioner
- 8 showing a status of learner, apprentice, worker with a disability,
- 9 sheltered workshop employee, and student under administrative
- 10 procedures and administrative regulations prescribed and promulgated
- 11 by the commissioner. This certificate shall authorize employment at the
- 12 wages, less than the established fixed minimum fair wage rates, and for
- 13 the period of time fixed by the commissioner and stated in the certificate
- 14 issued to the person;
- 15 6. Employees of retail stores, service industries, hotels, motels, and
- 16 restaurant operations whose average annual gross volume of sales made
- 17 for business done is less than five hundred thousand dollars
- 18 (\$500,000)~~[ninety five thousand dollars (\$95,000)]~~ for the five (5)
- 19 preceding years exclusive of excise taxes at the retail level or if the
- 20 employee is the parent, spouse, child, or other member of his or her
- 21 employer's immediate family;
- 22 7. Any individual employed as a baby-sitter in an employer's home, or an
- 23 individual employed as a companion by a sick, convalescing, or elderly
- 24 person or by the person's immediate family, to care for that sick,
- 25 convalescing, or elderly person and whose principal duties do not
- 26 include housekeeping;
- 27 8. Any individual engaged in the delivery of newspapers to the consumer;

- 1           9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A,  
2           30A, and 18A provided that the secretary of the Personnel Cabinet shall  
3           have the authority to prescribe by administrative regulation those  
4           emergency employees, or others, who shall receive overtime pay rates  
5           necessary for the efficient operation of government and the protection of  
6           affected employees;
- 7           10. Any employee employed by an establishment which is an organized  
8           nonprofit camp, religious, or nonprofit educational conference center, if  
9           it does not operate for more than two hundred ten (210) days in any  
10          calendar year;
- 11          11. Any employee whose function is to provide twenty-four (24) hour  
12          residential care on the employer's premises in a parental role to children  
13          who are primarily dependent, neglected, and abused and who are in the  
14          care of private, nonprofit childcaring facilities licensed by the Cabinet  
15          for Health and Family Services under KRS 199.640 to 199.670;
- 16          12. Any individual whose function is to provide twenty-four (24) hour  
17          residential care in his or her own home as a family caregiver, family  
18          home provider, or adult foster care provider and who is approved to  
19          provide family caregiver services to an adult with a disability through a  
20          contractual relationship with a community board for mental health or  
21          individuals with an intellectual disability established under KRS  
22          210.370 to 210.460 or through a contractual relationship with a certified  
23          waiver provider as defined in 907 KAR 7:005 sec. 1(5), or is certified or  
24          licensed by the Cabinet for Health and Family Services to provide adult  
25          foster care;
- 26          13. A direct seller as defined in Section 3508(b)(2) of the Internal Revenue  
27          Code of 1986; or

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

8           (b) "Agriculture" means farming in all its branches, including cultivation and  
 9           tillage of the soil; dairying; production, cultivation, growing, and harvesting  
 10          of any agricultural or horticultural commodity; raising of livestock, bees,  
 11          furbearing animals, or poultry; and any practice, including any forestry or  
 12          lumbering operations, performed on a farm in conjunction with farming  
 13          operations, including preparation and delivery of produce to storage, to  
 14          market, or to carriers for transportation to market;

15          (c) "Gratuity" means voluntary monetary contribution received by an employee  
 16          from a guest, patron, or customer for services rendered;

17          (d) "Tipped employee" means any employee engaged in an occupation in which  
 18          he or she customarily and regularly receives more than thirty dollars (\$30) per  
 19          month in tips; and

20          (e) "U.S.C." means the United States Code.

21          ➔Section 2. KRS 337.275 is amended to read as follows:

22          (1) (a) Except as may otherwise be provided by this chapter, every employer shall  
 23          pay to each of his or her employees wages at a rate of not less than:

24                 1. Ten dollars (\$10) an hour beginning on the effective date of this Act;

25                 2. Eleven dollars and fifty cents (\$11.50) an hour beginning on July 1,  
 26                 2026;

27                 3. Twelve dollars and fifty cents (\$12.50) an hour beginning on July 1,

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2027;

4. Fourteen dollars (\$14) an hour beginning on July 1, 2028; and

5. Fifteen dollars (\$15) an hour beginning on July 1, 2029~~[five dollars and eighty five cents (\$5.85) an hour beginning on June 26, 2007, not less than six dollars and fifty five cents (\$6.55) an hour beginning July 1, 2008, and not less than seven dollars and twenty five cents (\$7.25) an hour beginning July 1, 2009].~~

**(b)** If the federal minimum hourly wage as prescribed by 29 U.S.C. sec. 206(a)(1) is increased in excess of the minimum hourly wage in effect under this subsection, the minimum hourly wage under this subsection shall be increased to the same amount, effective on the same date as the federal minimum hourly wage rate. If the state minimum hourly wage is increased to the federal minimum hourly wage, it shall include only the federal minimum hourly rate prescribed in 29 U.S.C. sec. 206(a)(1) and shall not include other wage rates or conditions, exclusions, or exceptions to the federal minimum hourly wage rate. In addition, the increase to the federal minimum hourly wage rate does not extend or modify the scope or coverage of the minimum wage rate required under this chapter.

(2) Notwithstanding the provisions of subsection (1) of this section, for any employee engaged in an occupation in which he or she customarily and regularly receives more than thirty dollars (\$30) per month in tips from patrons or others, the employer may pay as a minimum not less than the hourly wage rate required to be paid a tipped employee under the federal minimum hourly wage law as prescribed by 29 U.S.C. sec. 203. The employer shall establish by his or her records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in 29 U.S.C. sec. 203 was received by the employee. No employer shall use all or part of any tips or gratuities received by

1 employees toward the payment of the statutory minimum hourly wage as required  
2 by 29 U.S.C. sec. 203. Nothing, however, shall prevent employees from entering  
3 into an agreement to divide tips or gratuities among themselves.

4 (3) Nothing in this chapter shall be construed to restrict the power of any city,  
5 county, urban-county government, charter county government, consolidated local  
6 government, or unified local government to adopt and enforce minimum wage  
7 rate ordinances in excess of the requirements of this section so long as they  
8 comply with at least the minimum applicable standards set forth in this section.  
9 In the case of a consolidated local government, the governing body of the  
10 consolidated local government is the only local governing body that may establish  
11 a minimum wage under this subsection, and the minimum wage set by that  
12 governing body shall apply countywide.