

1 AN ACT relating to unemployment insurance.

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

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

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

- 1 4. Leaving work to accompany the worker's spouse to a different state,
2 military base of assignment, or duty station that is one hundred (100)
3 road miles or more, as measured on a one (1) way basis, from the
4 worker's home when the spouse is reassigned by the military; or
5 (d) He or she fails to act in good faith to secure suitable work.
- 6 (2) A worker shall be disqualified from receiving benefits for any week with respect to
7 which he or she knowingly made a false statement to establish his or her right to or
8 the amount of his or her benefits, and, within the succeeding twenty-four (24)
9 months, for the additional weeks immediately following the date of discovery, not
10 to exceed a total of fifty-two (52), as may be determined by the secretary.
- 11 (3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this
12 section unless the employer, within a reasonable time as prescribed by regulations
13 promulgated by the secretary, notifies the cabinet and the worker in writing of the
14 alleged voluntary quitting or the discharge for misconduct. Nothing in this
15 subsection shall restrict the right of the secretary to disqualify a worker whose
16 employer has refused or failed to notify the Education and Labor Cabinet of the
17 alleged voluntary quitting or discharge for misconduct, if the alleged voluntary
18 quitting or discharge for misconduct is known to the secretary prior to the time
19 benefits are paid to the worker. The exercise of the right by the secretary, in the
20 absence of timely notice from the employer, shall not relieve the employer's reserve
21 account or reimbursing employer's account of benefit charges under the provisions
22 of subsection (3) of KRS 341.530.
- 23 (4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work
24 shall be construed as that work which occurred after the first day of the worker's
25 base period and which last preceded the week of unemployment with respect to
26 which benefits are claimed; except that, if the work last preceding the week of
27 unemployment was seasonal, intermittent, or temporary in nature, most recent work

1 may be construed as that work last preceding the seasonal, intermittent, or
2 temporary work.

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

8 (6) (a) No worker shall be disqualified or held ineligible under the provisions of
9 this section or KRS 341.350 who leaves work, is unable to work, or is
10 separated from employment due to circumstances directly resulting from
11 domestic violence and abuse as defined in KRS 403.720, or from dating
12 violence and abuse, sexual assault, or stalking as those terms are defined in
13 KRS 456.010, and with respect to which the worker:

14 1. Fears domestic violence and abuse, dating violence and abuse, sexual
15 assault, or stalking at or en route to or from the worker's place of
16 employment;

17 2. Wishes to relocate to another geographic area in order to avoid future
18 domestic violence and abuse, dating violence and abuse, sexual
19 assault, or stalking against the worker, the worker's family, or
20 coworkers; or

21 3. Believes that leaving work is necessary for the future safety and health
22 of the worker, the worker's family, or coworkers.

23 (b) To assist in the determination as to whether a worker has experienced
24 domestic violence and abuse, dating violence and abuse, sexual assault, or
25 stalking for the purpose of benefit eligibility, the worker shall provide
26 documentation of domestic or dating violence and abuse, sexual assault, or
27 stalking as prescribed in administrative regulations promulgated by the

secretary, including but not limited to police or court records, a sworn statement by the worker, or other documentation of domestic or dating violence and abuse, sexual assault, or stalking from a shelter worker, attorney, member of the clergy, or medical or other professional from whom the worker has sought assistance.

(c) All documentation of evidence shall be kept confidential unless consent for disclosure is given in writing by the worker.

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

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

➔Section 2. KRS 341.530 is amended to read as follows:

(1) The Office of Unemployment Insurance shall maintain a reserve account for each subject employer making contributions to the fund and a reimbursing employer

1 account for each subject employer making payment in lieu of contributions, and
2 shall, except as provided in KRS 341.590, credit to such account the total amount of
3 all contributions or benefit reimbursement paid by the employer on his or her own
4 behalf. Nothing in this section or elsewhere in this chapter shall be construed to
5 grant any employer or individual who is or was in his or her employ prior claims or
6 rights to the amounts paid by him or her into the fund.

7 (2) (a) Except as provided in subsection (3) of this section, all regular benefits paid to
8 an eligible worker in accordance with KRS 341.380 plus the extended benefits
9 paid in accordance with KRS 341.700 to 341.740, subject to the provisions of
10 paragraphs ~~[(a) and](b)~~ and (c) of this subsection, shall be charged against
11 the reserve account or reimbursing employer account of his or her most recent
12 employer. No employer shall be deemed to be the most recent employer
13 unless the eligible worker to whom benefits are payable shall have worked for
14 such employer in each of ten (10) weeks whether or not consecutive back to
15 the beginning of the worker's base period. Shared work benefits paid to an
16 eligible worker in accordance with KRS 341.4161 to 341.4173 shall be
17 charged against the reserve account or reimbursing employer account of the
18 shared work employer.

19 ~~(b) [(a)]~~ Subject employers, which are not governmental entities as defined in
20 KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in
21 accordance with KRS 341.700 to 341.740; and

22 ~~(c) [(b)]~~ Subject employers which are governmental entities, as defined in KRS
23 341.069, shall be charged for all extended benefits paid in accordance with
24 KRS 341.700 to 341.740 for compensable weeks occurring on or after
25 January 1, 1979, and for one-half (1/2) of the extended benefits paid for
26 compensable weeks occurring prior to such date.

27 (3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an

1 eligible worker and chargeable to a contributing employer's reserve account under
2 such subsection shall be charged against the pooled account if such worker was
3 discharged by such employer for misconduct connected with his or her most recent
4 work for such employer, voluntarily left his or her most recent work with such
5 employer without good cause attributable to the employment, or the employer has
6 continued to provide part-time employment and wages, without interruption, to the
7 same extent that was provided from the date of hire, and the employer within a
8 reasonable time, as prescribed by regulation of the secretary, notifies the office, in
9 writing, of the alleged voluntary quitting, discharge for misconduct or continuing
10 part-time employment; provided, however, that no employer making payments to
11 the fund in lieu of contributions shall be relieved of charges by reason of this
12 subsection.

13 (4) Notwithstanding the provisions of subsection (3) of this section, no contributing
14 employer's reserve account shall be relieved of any charges for benefits relating to
15 an improper benefit payment to a worker established after October 21, 2013, if:

16 (a) The improper benefit payment was made because the employer, or an agent of
17 the employer, was at fault for failing to respond timely or adequately to the
18 request of the secretary for information relating to a claim for benefits; and

19 (b) The employer, or an agent of the employer, has a pattern of failing to respond
20 timely or adequately to requests under paragraph (a) of this subsection. For
21 purposes of this paragraph, a "pattern of failing" means at least six (6) failures
22 occur in a calendar year or the failure to respond to two percent (2%) of such
23 requests in a calendar year, whichever is greater.

24 (5) Any determination under subsection (4) of this section shall be transmitted to the
25 last known physical or electronic address provided by the employer and may be
26 appealed in accordance with the provisions of KRS 341.420(2).

27 (6) Each subject employer's reserve account or reimbursing account shall, unless

1 terminated as of the computation date (as defined in subsection (5) of KRS
2 341.270), be charged with all benefits paid to eligible workers which are chargeable
3 to such reserve account or reimbursing account under subsection (2) of this section.
4 A subject employer's reserve account or reimbursing account shall be deemed to be
5 terminated if he or she has ceased to be subject to this chapter, and his or her
6 account has been closed and any balance remaining therein has been transferred to
7 the fund's pooled account or to a successor's account as provided in KRS 341.540 or
8 has been refunded if the employer is a reimbursing employer.

9 (7) Notwithstanding subsection (1) of this section, two (2) or more nonprofit Internal
10 Revenue Code sec. 501(c)(3) organizations may jointly request the secretary to
11 establish a group reserve account or reimbursing account for such nonprofit
12 organizations. Two (2) or more governmental entities may jointly request the
13 secretary to establish a group reserve account or reimbursing account, and once
14 established, such account shall remain in effect at least two (2) calendar years and
15 thereafter until either dissolved at the discretion of the secretary or upon filing
16 application for dissolution by the group members. Each member of a group shall be
17 jointly and severally liable for all payments due under this chapter from each or all
18 of such group members. The secretary shall prescribe such procedures as he or she
19 deems necessary for the establishment, maintenance, and dissolution of a group
20 reserve account or reimbursing account.

21 (8) Any subject contributing employer may at any time on or before December 31,
22 2011, make voluntary payments to the fund, additional to the contributions required
23 under KRS 341.260 and 341.270. Effective January 1, 2012, any subject
24 contributing employer with a negative reserve account balance may make voluntary
25 payments to the fund every other calendar year, in addition to the contributions
26 required under KRS 341.260 and 341.270. Notwithstanding any other provision of
27 this chapter, contributions paid on or before the computation date and voluntary

1 payments made within twenty (20) days following the mailing of notices of new
2 rates shall be credited to an employer's reserve account as of the computation date,
3 provided no voluntary payments shall be used in computing an employer's rate
4 unless the payment is made prior to the expiration of one hundred~~[-and]~~ twenty
5 (120) days after the beginning of the year for which the rate is effective. Voluntary
6 payments by any employer shall not exceed any negative balance they may have in
7 their reserve account as of the computation date. Any employer who is delinquent
8 in the payment of contributions, penalties, or interest as of the computation date
9 shall be entitled to make voluntary payments only after the amount of the
10 delinquency is paid in full.

11 (9) Notwithstanding any other provisions of this chapter, any benefits paid to an
12 eligible worker for reasons related to a state or federal state of emergency or
13 disaster declaration or pursuant to subsection (6) of Section 1 of this Act shall be
14 paid from the pooled account provided in KRS 341.550 and not from the reserve
15 account of the employer of that individual. The reserve account shall not be charged
16 for benefits related to a state of emergency or disaster declaration or to benefits
17 payable under subsection (6) of Section 1 of this Act. Payments related to a state
18 or federal state of emergency or disaster declaration shall be accounted for
19 separately to allow the secretary to seek reimbursement from the federal
20 government.

21 ➔Section 3. KRS 341.125 is amended to read as follows:

22 (1) It shall be the duty of the secretary of the Education and Labor Cabinet to
23 administer this chapter; and he or she shall have power and authority to make such
24 expenditures, require such reports, make such investigations, and take such other
25 action not specifically assigned to the cabinet, as he or she deems necessary for the
26 proper administration of this chapter.

27 (2) The secretary is authorized, subject to the provisions of KRS Chapters 12, 42, 45,

1 and 45A, to appoint, fix the compensation, and prescribe duties and powers of such
2 officers and employees as may be necessary in the performance of his or her duties
3 under this chapter. All positions shall be filled by persons selected and appointed on
4 a nonpartisan merit basis. The secretary shall not employ or pay any person who is
5 an officer or committee member of any political party organization. The secretary
6 may delegate to any such person so appointed such power and authority as he or she
7 deems reasonable and proper for the effective administration of this chapter.

8 (3) The salary and expenses of the secretary and his or her staff shall be considered a
9 proper cost of the administration of this chapter, to be charged to the unemployment
10 compensation administration fund in that proportion which the cost of such services
11 rendered in the administration of this chapter bears to the overall cost of the
12 services rendered in the administration of the cabinet.

13 (4) The secretary shall submit to the Governor an annual report covering the
14 administration and operation of this chapter and make such recommendations for
15 amendments to this chapter as he or she deems proper.

16 (5) In the administration of this chapter the secretary shall cooperate to the fullest
17 extent possible with any agency of this state or any other state or of the United
18 States and shall take such action, through the adoption of appropriate rules,
19 regulations, administrative methods, and standards, as may be necessary to secure
20 for this state and its citizens all the advantages available under the provisions of the
21 Social Security Act, as amended, that relate to unemployment compensation, the
22 Federal Unemployment Tax Act, as amended, the Wagner-Peyser Act, as amended,
23 and the Federal-State Extended Unemployment Compensation Act of 1970.

24 **(6) The secretary shall establish a program to train employees involved in the**
25 **processing of unemployment insurance claims on issues related to domestic**
26 **violence and abuse as defined in KRS 403.720 and dating violence and abuse,**
27 **sexual assault, or stalking as those terms are defined in KRS 456.010. The**

1 secretary shall provide a report on or before September 30 of each year to the
2 Legislative Research Commission detailing the number of claims filed under
3 subsection (6) of Section 1 of this Act.

4 ➔Section 4. KRS 341.360 is amended to read as follows:

5 (1) No worker may be paid benefits for any week of unemployment:

6 (a) With respect to which a strike or other bona fide labor dispute which caused
7 him or her to leave or lose his or her employment is in active progress in the
8 establishment in which he or she is or was employed, except that benefits may
9 be paid unless the employer notifies the Office of Unemployment Insurance in
10 writing within seven (7) days after the beginning of such alleged strike or
11 labor dispute of the alleged existence of such strike or labor dispute. For the
12 purpose of this subsection, a lockout shall not be deemed to be a strike or a
13 bona fide labor dispute and no worker shall be denied benefits by reason of a
14 lockout;

15 (b) For which he or she has received or is seeking unemployment compensation
16 under an unemployment compensation law of another state or of the United
17 States, except as otherwise provided by an arrangement between this state and
18 such other state or the United States; but if the appropriate agency of such
19 state or of the United States finally determines that he or she is not entitled to
20 such unemployment compensation, this subsection shall not apply;

21 (c) 1. Which, when based on service in an instructional, research, or principal
22 administrative capacity in an institution of higher education as defined
23 in KRS 341.067(2) or in an educational institution as defined in KRS
24 341.067(4), begins during the period between two (2) successive
25 academic years, or during a similar period between two (2) regular
26 terms, whether or not successive, or during a period of paid sabbatical
27 leave provided for in the individual's contract, if the worker performs

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

1 paragraph when such service is performed by the worker in an
2 institution of higher education or an educational institution, as defined in
3 KRS 341.067(2) or (4), while the worker is in the employ of an
4 educational service agency, and such unemployment begins during the
5 periods and pursuant to the conditions specified in subparagraphs 1., 2.,
6 and 3. of this paragraph. For purposes of this paragraph, the term
7 "educational service agency" means a governmental agency or
8 governmental entity which is established and operated exclusively for
9 the purpose of providing such services to one (1) or more institutions of
10 higher education or educational institutions.~~[-]~~

11 Notwithstanding any other provision of this paragraph, any benefits paid to a
12 worker based on service other than as defined in subparagraph 1. of this
13 paragraph performed in an institution of higher education as defined in KRS
14 341.067(2) shall be deemed to have been paid as a result of Office of
15 Unemployment Insurance error and not recoverable by the cabinet or such
16 institution if such payment is improper by virtue of the retroactive application
17 to October 30, 1983, of subparagraph 2. of this paragraph; or

18 (d) With respect to which the worker is suspended from work for misconduct, as
19 defined in KRS 341.370~~(2)~~~~[(6)]~~, connected with the work.

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

26 (3) (a) Benefits shall not be paid on the basis of services performed by an alien
27 unless such alien is an individual who was lawfully admitted for permanent

1 residence at the time such services were performed, was lawfully present for
2 purposes of performing such services, or was residing in the United States
3 under color of law at the time such services were performed, including an
4 alien who was lawfully present in the United States as a result of the
5 application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the
6 Immigration and Nationality Act.

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

10 (c) In the case of an individual whose application for benefits would otherwise be
11 approved, no determination that benefits to such individual are not payable
12 because of his or her alien status shall be made except upon a preponderance
13 of the evidence.

14 ➔Section 5. KRS 341.550 is amended to read as follows:

15 (1) The cabinet shall maintain a pooled account for contributing employers to which
16 shall be credited:

17 (a) Payments received from the federal government under the provisions of
18 Section 204(a)(1) of the "Federal-State Extended Unemployment
19 Compensation Act of 1970," and amendments thereto;

20 (b) All realized earnings and gains on investments of the fund;

21 (c) Except as provided in KRS 341.540, any balance remaining in the reserve
22 account of any previously subject contributing employer after such employer
23 has ceased to be subject to this chapter;

24 (d) Any payments into or amounts in the fund not allocable to any employer's
25 reserve account; and

26 (e) Any payments collected under subsection (2) of this section.

27 (2) (a) Except as provided in KRS 341.530(4), any benefits paid through error which

1 would otherwise have been chargeable to the reserve account of a
2 contributory employer shall be charged against the pooled account. However,
3 no employer making payments to the fund in lieu of contributions shall be
4 relieved of charges by reason of this subsection.

5 (b) The repayment of benefits paid erroneously as provided in subsection (1) of
6 KRS 341.415 shall be credited to the pooled account. The pooled account
7 shall be credited with any sums deducted from future benefits as provided in
8 KRS 341.415 and shall be credited to the pooled account, provided the
9 benefits were charged to the pooled account by reason of KRS 341.530(3), or
10 paragraph (a) of this subsection. Except as provided in KRS 341.415(1), if the
11 benefits were charged to and paid by any employer making payments to the
12 fund in lieu of contributions, the amount of the repayment or the sum
13 deducted from future benefits shall be credited to the reimbursing account of
14 that employer, and may upon written request from the employer be refunded
15 without interest.

16 (3) One-half (1/2) of the benefits paid to an eligible worker in accordance with KRS
17 341.700 to 341.740 shall be charged against the pooled account, except that during
18 a period in which federal payments to states under Section 204 of the Federal-State
19 Extended Unemployment Compensation Act of 1970 are reduced under an order
20 issued under Section 252 of the Balanced Budget and Emergency Deficit Control
21 Act of 1985 (Public Law 99-177), one-half (1/2) of the benefits paid to an eligible
22 worker in accordance with KRS 341.700 to 341.740, reduced by an amount equal to
23 the difference of one-half (1/2) of the benefits paid to an eligible worker in
24 accordance with KRS 341.700 to 341.740 and the amount of the federal payment,
25 shall be charged against the pooled account.

26 **(4) Notwithstanding any other provisions of this chapter, any benefits paid into the**
27 **pooled account by an employer or benefits paid to an eligible worker pursuant to**

1 subsection (6) of Section 1 of this Act shall not impact an employer's experience
2 rating for purposes of calculating the employer's unemployment insurance tax
3 rate.

4 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) The secretary shall promulgate administrative regulations in accordance with
7 KRS Chapter 13A to implement subsection (6) of Section 1 of this Act that
8 include but are not limited to the following:

9 (a) A special filing, verification, review, determination, and appeals process for
10 an eligible worker applying for unemployment benefits;

11 (b) A confidential verification process designed to detect fraudulent claims
12 which also safeguards the privacy of the worker to the greatest extent
13 possible; and

14 (c) A process for creating and disseminating educational materials for both
15 employers and workers explaining the process for claims filed pursuant to
16 subsection (6) of Section 1 of this Act.

17 (2) For purposes of this section, the secretary shall not:

18 (a) Consider an employer a party to a claim for unemployment benefits filed
19 pursuant to subsection (6) of Section 1 of this Act;

20 (b) Permit an employer to challenge or appeal a determination of benefits paid
21 to an eligible worker pursuant to subsection (6) of Section 1 of this Act; or

22 (c) Require unemployment referees to compel employers to submit factual
23 evidence regarding the worker's relationship or incident that caused
24 separation from work without first receiving the express consent of the
25 worker.