

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 (Effective June 29, 2021) is amended to read as
4 follows:

5 (1) As used in this chapter, unless the context requires otherwise:

6 (a) "Commissioner" means the commissioner of the Department of Workplace
7 Standards under the direction and supervision of the secretary of the Labor
8 Cabinet;

9 (b) "Department" means the Department of Workplace Standards in the Labor
10 Cabinet;

11 (c) 1. "Wages" includes any compensation due to an employee by reason of his
12 or her employment, including salaries, commissions, vested vacation
13 pay, overtime pay, severance or dismissal pay, earned bonuses, and any
14 other similar advantages agreed upon by the employer and the employee
15 or provided to employees as an established policy. The wages shall be
16 payable in legal tender of the United States, checks on banks, direct
17 deposits, or payroll card accounts convertible into cash on demand at
18 full face value, subject to the allowances made in this chapter. However,
19 an employee may not be charged an activation fee and the payroll card
20 account shall provide the employee with the ability, without charge, to
21 make at least one (1) withdrawal per pay period for any amount up to
22 and including the full account balance.

23 2. For the purposes of calculating hourly wage rates for scheduled overtime
24 for professional firefighters, as defined in KRS 95A.210~~[(8)]~~, "wages"
25 shall not include the distribution to qualified professional firefighters by
26 local governments of supplements received from the Firefighters
27 Foundation Program Fund. For the purposes of calculating hourly wage

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

5 (d) 1. "Employer" is any person, either individual, corporation, partnership,
6 agency, or firm who employs an employee and includes any person,
7 either individual, corporation, partnership, agency, or firm acting
8 directly or indirectly in the interest of an employer in relation to an
9 employee;~~and~~

10 2. "Small employer" is any employer that employs less than twenty-five
11 (25) employees; and

12 3. "Large employer" is any employer that employs twenty-five (25) or
13 more employees;

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

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

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

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

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

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

- 3 1. Any individual employed in agriculture;
- 4 2. Any individual employed in a bona fide executive, administrative,
5 supervisory, or professional capacity, or in the capacity of outside
6 salesman, or as an outside collector as the terms are defined by
7 administrative regulations of the commissioner;
- 8 3. Any individual employed by the United States;
- 9 4. Any individual employed in domestic service in or about a private home.

10 The provisions of this section shall include individuals employed in
11 domestic service in or about the home of an employer where there is
12 more than one (1) domestic servant regularly employed;

- 13 5. Any individual classified and given a certificate by the commissioner
14 showing a status of learner, apprentice, worker with a disability,
15 sheltered workshop employee, and student under administrative
16 procedures and administrative regulations prescribed and promulgated
17 by the commissioner. This certificate shall authorize employment at the
18 wages, less than the established fixed minimum fair wage rates, and for
19 the period of time fixed by the commissioner and stated in the certificate
20 issued to the person;
- 21 6. Employees of retail stores, service industries, hotels, motels, and
22 restaurant operations whose average annual gross volume of sales made
23 for business done is less than five hundred thousand dollars
24 (\$500,000)~~[ninety-five thousand dollars (\$95,000)]~~ for the five (5)
25 preceding years exclusive of excise taxes at the retail level or if the
26 employee is the parent, spouse, child, or other member of his or her
27 employer's immediate family;

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

- 1 210.370 to 210.460 or through a contractual relationship with a certified
2 waiver provider as defined in 907 KAR 7:005 sec. 1(5), or is certified or
3 licensed by the Cabinet for Health and Family Services to provide adult
4 foster care;
- 5 13. A direct seller as defined in Section 3508(b)(2) of the Internal Revenue
6 Code of 1986; or
- 7 14. Any individual whose function is to provide behavior support services,
8 behavior programming services, case management services, community
9 living support services, positive behavior support services, or respite
10 services through a contractual relationship with a certified waiver
11 provider, as defined in 907 KAR 7:005 sec. 1(5), pursuant to a 1915(c)
12 home and community based services waiver program, as defined in 907
13 KAR 7:005 sec. 1(2);
- 14 (b) "Agriculture" means farming in all its branches, including cultivation and
15 tillage of the soil; dairying; production, cultivation, growing, and harvesting of
16 any agricultural or horticultural commodity; raising of livestock, bees,
17 furbearing animals, or poultry; and any practice, including any forestry or
18 lumbering operations, performed on a farm in conjunction with farming
19 operations, including preparation and delivery of produce to storage, to
20 market, or to carriers for transportation to market;
- 21 (c) "Gratuity" means voluntary monetary contribution received by an employee
22 from a guest, patron, or customer for services rendered;
- 23 (d) "Tipped employee" means any employee engaged in an occupation in which
24 he or she customarily and regularly receives more than thirty dollars (\$30) per
25 month in tips; and
- 26 (e) "U.S.C." means the United States Code.
- 27 ➔Section 2. KRS 337.275 is amended to read as follows:

- 1 (1) (a) Except as may otherwise be provided by this chapter, every employer ~~shall~~
2 pay to each of his employees wages at a rate of not less than five dollars and
3 eighty-five cents (\$5.85) an hour beginning on June 26, 2007, not less than six
4 dollars and fifty-five cents (\$6.55) an hour beginning July 1, 2008, and not
5 less than seven dollars and twenty-five cents (\$7.25) an hour beginning July 1,
6 2009. classified as a small employer as defined by subsection (1) of Section
7 1 of this Act shall pay to each of his or her employees wages at a rate of no
8 less than:
9 1. Ten dollars (\$10) an hour beginning on the effective date of this Act;
10 2. Ten dollars and fifty cents (\$10.50) an hour beginning on July 1,
11 2023;
12 3. Eleven dollars (\$11) an hour beginning on July 1, 2024;
13 4. Eleven dollars and fifty cents (\$11.50) an hour beginning on July 1,
14 2025; and
15 5. Twelve dollars (\$12) an hour beginning on July 1, 2026.
16 (b) Except as may otherwise be provided by this chapter, every employer
17 classified as a large employer as defined by subsection (1) of Section 1 of
18 this Act shall pay to each of his or her employees wages at a rate of no less
19 than:
20 1. Ten dollars (\$10) an hour beginning on the effective date of this Act;
21 2. Eleven dollars and fifty cents (\$11.50) an hour beginning on July 1,
22 2023;
23 3. Twelve dollars and fifty cents (\$12.50) an hour beginning on July 1,
24 2024;
25 4. Fourteen dollars (\$14) an hour beginning on July 1, 2025; and
26 5. Fifteen dollars (\$15) an hour beginning on July 1, 2026.
27 (c) If the federal minimum hourly wage as prescribed by 29 U.S.C. sec. 206(a)(1)

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

11 (2) Notwithstanding the provisions of subsection (1) of this section, for any employee
12 engaged in an occupation in which he or she customarily and regularly receives
13 more than thirty dollars (\$30) per month in tips from patrons or others, the employer
14 may pay as a minimum not less than the hourly wage rate required to be paid a
15 tipped employee under the federal minimum hourly wage law as prescribed by 29
16 U.S.C. sec. 203. The employer shall establish by his or her records that for each
17 week where credit is taken, when adding tips received to wages paid, not less than
18 the minimum rate prescribed in 29 U.S.C. sec. 203 was received by the employee.
19 No employer shall use all or part of any tips or gratuities received by employees
20 toward the payment of the statutory minimum hourly wage as required by 29 U.S.C.
21 sec. 203. Nothing, however, shall prevent employees from entering into an
22 agreement to divide tips or gratuities among themselves.

23 **(3) Nothing in this chapter shall be construed to restrict the power of any city,**
24 **county, urban-county government, charter county government, consolidated local**
25 **government, or unified local government to adopt and enforce minimum wage**
26 **rate ordinances in excess of the requirements of this section so long as they**
27 **comply with at least the minimum applicable standards set forth in this section.**

1 *In the case of a consolidated local government, the governing body of the*
2 *consolidated local government is the only local governing body that may establish*
3 *a minimum wage under this subsection, and the minimum wage set by that*
4 *governing body shall apply countywide.*