

1 AN ACT relating to a drug-free workplace.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Industrial hemp products" means the plant Cannabis sativa L. and any
7 part of the plant, whether growing or not, with a delta-9
8 tetrahydrocannabinol concentration of not more than three-tenths of one
9 percent (0.3%) on a dry weight basis;

10 (b) "Public employee" means a person who is regularly employed by a public
11 employer; and

12 (c) "Public employer" means the following employers:

13 1. Any department, office, board, agency, commission, authority, or
14 branch of state government; or

15 2. Any department, office, board, agency, commission, authority, or
16 branch of a city, county, urban-county government, charter county,
17 unified local government, or consolidated local government.

18 (2) If a public employer has a drug-free workplace and has drug-testing policies and
19 procedures for any employees, then the public employer shall have an appeals
20 process for a public employee who may receive a finding of a violation of the
21 drug policy after being drug tested.

22 (3) The appeals process shall be done in accordance with the procedures found in
23 KRS 18A.095 for state employees and KRS Chapter 13B for all other public
24 employees.

25 (4) A public employer shall set aside a violation of the policy if the public employee
26 can show a purchase receipt and use of a legal industrial hemp product as long
27 as the test result corresponds with the industrial hemp product purchased.

(5) Private employers may review their drug-free policies and include an appeals process allowing exemption for the use of legal industrial hemp products.

➔Section 2. KRS 18A.043 is amended to read as follows:

(1) The secretary of the Personnel Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A, to implement the provisions of the Federal Drug-Free Workplace Act of 1988, Subtitle D of Public Law 100-690, so that the Commonwealth of Kentucky can certify that it has met the requirements designed to promote a drug-free workplace for all state employees.

(2) If the administrative regulations permit or require drug testing, then the administrative regulations shall include an appeals process for a state employee who may fail a drug test.

➔Section 3. KRS 304.13-167 is amended to read as follows:

(1) Every workers' compensation insurer shall adhere to a uniform classification system and uniform experience rating system filed with the commissioner by an advisory organization designated by the commissioner.

(2) Every workers' compensation insurer shall report its experience in accordance with the statistical plans and other reporting requirements in use by an advisory organization designated by the commissioner.

(3) A workers' compensation insurer may develop subclassifications of the uniform classification system upon which rates may be made. These subclassifications and their filing shall be subject to the provisions of this chapter applicable to filings generally.

(4) A workers' compensation insurer may develop rating plans which identify loss experience as a factor to be used. These rating plans and their filing shall be subject to the provisions of this chapter applicable to filings generally.

(5) The commissioner shall disapprove subclassifications, rating plans, or other variations from manual rules filed by a workers' compensation insurer if the insurer

1 fails to demonstrate that the data thereby produced can be reported consistent with
2 the uniform classification system and experience rating system and in such a fashion
3 so as to allow for the application of experience rating filed by the advisory
4 organization.

5 (6) (a) The commissioner shall approve rating plans for workers' compensation
6 insurance that give specific identifiable consideration in the setting of rates to
7 employers who implement a drug-free workplace program pursuant to
8 administrative regulations adopted by the Department of Workers' Claims in
9 the Labor Cabinet. The administrative regulations shall include the
10 following:

- 11 1. For public employers, the drug-free workplace program shall contain
12 the requirements in Section 2 of this Act; and
- 13 2. For private employers, the drug-free workplace program may include
14 an appeals process for the use of industrial hemp products similar to
15 Section 2 of this Act.

16 (b) The plans shall take effect January 1, 2008, shall be actuarially sound, and
17 shall state the savings anticipated to result from such drug-free workplace
18 programs.

19 (c) The credit shall be at least five percent (5%) unless the commissioner
20 determines that five percent (5%) is actuarially unsound.

21 (d) The commissioner is also authorized to develop a schedule of premium credits
22 for workers' compensation insurance for employers who have safety programs
23 that contain certain criteria for safety programs.

24 (e) The commissioner shall consult with the commissioner of the Department of
25 Workers' Claims in the Labor Cabinet in setting such criteria. A drug-free
26 workplace credit under this subsection shall not be available to employers
27 who receive a credit under KRS 304.13-412 or KRS Chapter 351.

1 ➔Section 4. This Act may be cited as Shauna's Law.