

1 AN ACT relating to unemployment insurance.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) Any person suspected of fraudulently obtaining or attempting to obtain any
6 benefit under this chapter, or under any unemployment insurance law of any
7 other state or the federal government, shall be referred by the cabinet to the
8 United States Department of Justice, the Kentucky Justice and Public Safety
9 Cabinet, and if applicable, the appropriate county attorney or Commonwealth's
10 attorney. The referral shall include:

11 (a) The name of the applicable employer, employee, claimant, and name used
12 in the suspected fraud;

13 (b) Any contact information the cabinet possesses for the suspected fraudulent
14 actor; and

15 (c) Any information filed with or reported to the cabinet regarding the
16 suspected fraud.

17 (2) The cabinet shall make the referral under subsection (1) of this section no later
18 than thirty (30) days after determining suspected fraud has occurred.

19 (3) Notwithstanding KRS Chapter 16 and 18A, if the cabinet determines that a public
20 employee or contractor has collected or attempted to collect unemployment
21 benefits while employed by or under contract with a public agency, as defined in
22 KRS 61.870, the public agency shall immediately terminate the individual's
23 employment or contract. An employee or contractor may appeal the
24 determination in accordance with KRS 341.420. An employee or contractor shall
25 also be subject to penalties under KRS 341.990.

26 (4) A legal disposition finding the employee or contractor guilty is not required to
27 terminate employment under this section.

(5) Collecting or attempting to collect unemployment benefits while employed by or under contract with the cabinet shall be considered a breach of any collective bargaining agreement, civil service process, or contract.

➔Section 2. KRS 341.370 is amended to read as follows:

(1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:

(a) He or she has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary, to accept an interview from a prospective employer offering suitable work, or to accept suitable work when offered him or her, or to return to his or her customary self-employment when so directed by the secretary;

(b) He or she has been discharged for misconduct or dishonesty connected with his or her most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his or her most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct;

(c) He or she has left his or her most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his or her most recent work voluntarily without good cause attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for:

1. Leaving his or her next most recent suitable work which was concurrent with his or her most recent work;
2. Leaving work which is one hundred (100) road miles or more, as measured on a one (1) way basis, from his or her home to accept work which is less than one hundred (100) road miles from his or her home;
3. Accepting work which is a bona fide job offer with a reasonable

1 expectation of continued employment; or

2 4. Leaving work to accompany the worker's spouse to a different state,
3 military base of assignment, or duty station that is one hundred (100)
4 road miles or more, as measured on a one (1) way basis, from the
5 worker's home when the spouse is reassigned by the military; or

6 (d) He or she fails to act in good faith to secure suitable work.

7 (2) A worker shall be disqualified from receiving benefits for any week with respect to
8 which he or she knowingly made a false statement to establish his or her right to or
9 the amount of his or her benefits, and, within the succeeding twenty-four (24)
10 months, for the additional weeks immediately following the date of discovery, not
11 to exceed a total of fifty-two (52), as may be determined by the secretary.

12 **(3) A worker shall be disqualified from receiving benefits for any week that he or she**
13 **is under investigation for knowingly making a false statement or representation**
14 **of material fact to obtain or increase his or her benefits. The disqualification**
15 **shall remain in effect until the cabinet or a law enforcement agency determines**
16 **that a fraudulent act did not occur.**

17 ~~(4)~~⁽³⁾ No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of
18 this section unless the employer, within a reasonable time as prescribed by
19 regulations promulgated by the secretary, notifies the cabinet and the worker in
20 writing of the alleged voluntary quitting or the discharge for misconduct. Nothing
21 in this subsection shall restrict the right of the secretary to disqualify a worker
22 whose employer has refused or failed to notify the Education and Labor Cabinet of
23 the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary
24 quitting or discharge for misconduct is known to the secretary prior to the time
25 benefits are paid to the worker. The exercise of the right by the secretary, in the
26 absence of timely notice from the employer, shall not relieve the employer's reserve
27 account or reimbursing employer's account of benefit charges under the provisions

1 of subsection (3) of KRS 341.530.

2 ~~(5)~~~~(4)~~ As used in this section and in subsection (3) of KRS 341.530, "most recent"
3 work shall be construed as that work which occurred after the first day of the
4 worker's base period and which last preceded the week of unemployment with
5 respect to which benefits are claimed; except that, if the work last preceding the
6 week of unemployment was seasonal, intermittent, or temporary in nature, most
7 recent work may be construed as that work last preceding the seasonal, intermittent,
8 or temporary work.

9 ~~(6)~~~~(5)~~ No worker shall be disqualified or held ineligible under the provisions of this
10 section or KRS 341.350, who is separated from employment pursuant to a labor
11 management contract or agreement, or pursuant to an established employer plan,
12 program, or policy, which permits the employer to close the plant or facility for
13 purposes of vacation or maintenance.

14 ~~(7)~~~~(6)~~ "Discharge for misconduct" as used in this section shall include but not be
15 limited to, separation initiated by an employer for falsification of an employment
16 application to obtain employment through subterfuge; knowing violation of a
17 reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if
18 the worker cannot show good cause for absences or tardiness; damaging the
19 employer's property through gross negligence; refusing to obey reasonable
20 instructions; reporting to work under the influence of alcohol or drugs or consuming
21 alcohol or drugs on employer's premises during working hours; conduct
22 endangering safety of self or co-workers; and incarceration in jail following
23 conviction of a misdemeanor or felony by a court of competent jurisdiction, which
24 results in missing at least five (5) days work.

25 ~~(8)~~~~(7)~~ "Duration of any period of unemployment," as that term is used in this
26 section, shall be the period of time beginning with the worker's discharge, voluntary
27 quitting, or failure to apply for or accept suitable work and running until the worker

1 has worked in each of ten (10) weeks, whether or not consecutive, and has earned
2 ten (10) times his or her weekly benefit rate in employment covered under the
3 provisions of this chapter or a similar law of another state or of the United States.

4 ➔Section 3. 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 to leave or lose his employment is in active progress in the establishment
8 in which he is or was employed, except that benefits may be paid unless the
9 employer notifies the Office of Unemployment Insurance in writing within
10 seven (7) days after the beginning of such alleged strike or labor dispute of the
11 alleged existence of such strike or labor dispute. For the purpose of this
12 subsection, a lockout shall not be deemed to be a strike or a bona fide labor
13 dispute and no worker shall be denied benefits by reason of a lockout;

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

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

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

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

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

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

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

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

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

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

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