

1 AN ACT relating to wages and hours.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
4 READ AS FOLLOWS:

5 *The minimum wage and overtime compensation requirements under KRS 337.275 and*  
6 *337.285 shall not apply to:*

- 7 *(1) Any individual employed in agriculture;*
- 8 *(2) Any individual employed in a bona fide executive, administrative, supervisory, or*  
9 *professional capacity, or in the capacity of outside salesman, or as an outside*  
10 *collector as the terms are defined by administrative regulations of the*  
11 *commissioner;*
- 12 *(3) Any individual employed by the United States;*
- 13 *(4) Any individual employed in domestic service in or about a private home. The*  
14 *provisions of this section shall include individuals employed in domestic service*  
15 *in or about the home of an employer where there is more than one (1) domestic*  
16 *servant regularly employed;*
- 17 *(5) Any individual classified and given a certificate by the commissioner showing a*  
18 *status of learner, apprentice, worker with a disability, sheltered workshop*  
19 *employee, and student under administrative procedures and administrative*  
20 *regulations prescribed and promulgated by the commissioner. This certificate*  
21 *shall authorize employment at the wages, less than the established fixed*  
22 *minimum fair wage rates, and for the period of time fixed by the commissioner*  
23 *and stated in the certificate issued to the person;*
- 24 *(6) Employees of retail stores, service industries, hotels, motels, and restaurant*  
25 *operations whose average annual gross volume of sales made for business done is*  
26 *less than ninety-five thousand dollars (\$95,000) for the five (5) preceding years*  
27 *exclusive of excise taxes at the retail level or if the employee is the parent, spouse,*

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

1 care;

2 (13) A direct seller as defined in the Internal Revenue Code of 1986, 26 U.S.C. sec.

3 3508(b)(2); or

4 (14) Any individual whose function is to provide behavior support services, behavior

5 programming services, case management services, community living support

6 services, positive behavior support services, or respite services through a

7 contractual relationship with a certified waiver provider, as defined in 907 KAR

8 7:005 sec. 1(5), pursuant to a 1915(c) home and community based services waiver

9 program, as defined in 907 KAR 7:005 sec. 1(2).

10 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
11 READ AS FOLLOWS:

12 (1) Except as provided in subsection (3) of this section, no employer shall be subject

13 to any liability or punishment under this chapter for failure to pay an employee

14 minimum wages, or to pay an employee overtime compensation for or on account

15 of any of the following:

16 (a) Traveling to and from the actual place of performance of the principal

17 activity or activities which an employee is employed to perform; and

18 (b) Activities which are preliminary to or subsequent to said principal activity

19 or activities, which occur either prior to the time on any particular workday

20 at which an employee commences, or subsequent to the time on any

21 particular workday at which he or she ceases, such principal activity or

22 activities.

23 (2) The use of an employer's vehicle by an employee for travel and activities

24 performed by an employee which are incidental to the use of such vehicle for

25 commuting shall not be considered part of the employee's principal activities if:

26 (a) The travel is within the normal commuting area for the employer's business

27 or establishment; and

1       **(b) The use of the employer's vehicle is subject to an agreement on the part of**  
2       **the employer and the employee or representative of the employee.**

3       **(3) Notwithstanding subsection (1) of this section, the employer may be liable if the**  
4       **activity is compensable by either:**

5       **(a) An express provision of a written or nonwritten contract in effect at the time**  
6       **of the activity between the employee, his or her agent, or collective-**  
7       **bargaining representative and his or her employer; or**

8       **(b) A custom or practice in effect at the time of the activity at the employer's**  
9       **establishment or other place where the employee is employed which covers**  
10       **an activity not inconsistent with a written or nonwritten contract in effect at**  
11       **the time of the activity between the employee, his or her agent or collective**  
12       **bargaining representative, and his or her employer.**

13       **(4) For the purposes of subsection (3) of this section, an activity shall be considered**  
14       **compensable under the contract provision or the custom or practice only when it**  
15       **is engaged in during the portion of the day with respect to which it is so made**  
16       **compensable.**

17       **(5) In the application of the minimum wage and overtime compensation provisions of**  
18       **this chapter, in determining the time for which an employer employs an employee**  
19       **with respect to traveling or other preliminary or subsequent activities described in**  
20       **subsection (1) of this section, there shall be counted all that time, but only that**  
21       **time, during which the employee engages in any such activity which is**  
22       **compensable within the meaning of subsections (2) and (3) of this section.**

23       ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
24 READ AS FOLLOWS:

25       **(1) As used in this section, "bona fide meal period" means a time when an employee**  
26       **is completely relieved from any duties for the purposes of eating a meal. The**  
27       **employee is not completely relieved if he or she is required to perform any duties,**

1 whether active or inactive, while eating.

2 (2) Employers shall pay employees for time spent eating food during a work shift  
 3 unless the employer provides a bona fide meal period.

4 (3) No payment shall be owed to an employee for time spent eating during a work-  
 5 shift if the employer provides a bona fide meal period.

6 →Section 4. KRS 337.010 is amended to read as follows:

7 ~~[(1)]~~As used in this chapter, unless the context requires otherwise:

8 (1)~~[(a)]~~ "Commissioner" means the commissioner of the Department of Workplace  
 9 Standards under the direction and supervision of the secretary of the Education and  
 10 Labor Cabinet;

11 (2)~~[(b)]~~ "Department" means the Department of Workplace Standards in the  
 12 Education and Labor Cabinet;

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

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

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

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

10   ~~(5)(e)~~ "Employee" is any person employed by or suffered or permitted to work for  
 11           an employer, except that:

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

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

20                   For purposes of this paragraph, "franchisee" and "franchisor" have the  
 21                   same meanings as in 16 C.F.R. sec. 436.1~~f~~.

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

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

- 26           ~~1. Any individual employed in agriculture;~~
- 27           ~~2. Any individual employed in a bona fide executive, administrative,~~

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

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



1 Code of 1986; or

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

9 ~~(6)(b)~~ "Agriculture" means farming in all its branches, including ***but not limited to***  
 10 cultivation and tillage of the soil; dairying; production, cultivation, growing, and  
 11 harvesting of any agricultural or horticultural ***commodities***~~[commodity]; ***the***~~ raising  
 12 of livestock, bees, furbearing animals, or poultry; and any practice, including any  
 13 forestry or lumbering operations, performed ***by a farmer or*** on a farm in  
 14 conjunction with ***the*** farming operations, including preparation ***for market,***~~[and]~~  
 15 delivery~~[of produce]~~ to storage ***or,***~~[,]~~ to market~~[,]~~ or to carriers for transportation to  
 16 market;

17 ~~(7)(e)~~ "Gratuity" means voluntary monetary contribution received by an employee  
 18 from a guest, patron, or customer for services rendered;

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

22 ~~(9)(e)~~ "U.S.C." means the United States Code.

23 ➔Section 5. KRS 337.385 is amended to read as follows:

24 (1) Except as provided in subsection (3) of this section, any employer who pays any  
 25 employee less than wages and overtime compensation to which such employee is  
 26 entitled under or by virtue of KRS 337.020 to 337.285 shall be liable to such  
 27 employee affected for the full amount of such wages and overtime compensation,

1 less any amount actually paid to such employee by the employer, for an additional  
2 equal amount as liquidated damages, and for costs and such reasonable attorney's  
3 fees as may be allowed by the court.

4 (2) If, in any action commenced to recover such unpaid wages or liquidated damages,  
5 the employer shows to the satisfaction of the court that the act or omission giving  
6 rise to such action was in good faith and that he or she had reasonable grounds for  
7 believing that his or her act or omission was not a violation of KRS 337.020 to  
8 337.285, the court may, in its sound discretion, award no liquidated damages, or  
9 award any amount thereof not to exceed the amount specified in this section. Any  
10 agreement between such employee and the employer to work for less than the  
11 applicable wage rate shall be no defense to such action. Such action may be  
12 maintained in any court of competent jurisdiction by any one (1) or more  
13 employees for and in behalf of himself, herself, or themselves.

14 (3) If the court finds that the employer has subjected the employee to forced labor or  
15 services as defined in KRS 529.010, the court shall award the employee punitive  
16 damages not less than three (3) times the full amount of the wages and overtime  
17 compensation due, less any amount actually paid to such employee by the  
18 employer, and for costs and such reasonable attorney's fees as may be allowed by  
19 the court, including interest thereon.

20 (4) At the written request of any employee paid less than the amount to which he or she  
21 is entitled under the provisions of KRS 337.020 to 337.285, the commissioner may  
22 take an assignment of such wage claim in trust for the assigning employee and may  
23 bring any legal action necessary to collect such claim, and the employer shall be  
24 required to pay the costs and such reasonable attorney's fees as may be allowed by  
25 the court. The commissioner in case of suit shall have power to join various  
26 claimants against the same employer in one (1) action.

27 **(5) An employer shall not discharge or in any other manner discriminate against any**

1 employee who:

2 (a) Made any complaint to his or her employer, to the commissioner, or to the  
 3 commissioner's authorized representative that he or she has not been paid  
 4 wages in accordance with KRS 337.275 and 337.285 or administrative  
 5 regulations issued thereunder;

6 (b) Caused to be instituted or is about to cause to be instituted any proceeding  
 7 under or related to KRS 337.385; or

8 (c) Testified or is about to testify in any proceeding.

9 (6) Any employer who violates subsection (5) of this section shall be liable to the  
 10 employee for his or her lost wages and overtime compensation, less any amount  
 11 actually paid to the employee, for an equal amount as liquidated damages, and  
 12 for costs and reasonable attorney fees, and any other relief ordered by the court  
 13 for any action initiated under this section.

14 (7) Except as provided in Section 13 of this Act, any action to enforce any provision  
 15 of KRS Chapter 337 may be commenced within two (2) years after the cause of  
 16 action accrued. Any action initiated under this section shall be forever barred  
 17 unless commenced within two (2) years after the cause of action accrued, except  
 18 that a cause of action arising out of a willful violation may be commenced within  
 19 three (3) years after the cause of action accrued.

20 (8) Relief awarded in any claim to enforce any provision of KRS Chapter 337 shall  
 21 not include an award of punitive damages or an award of damages for emotional  
 22 distress, humiliation, or embarrassment.

23 ➔Section 6. KRS 337.990 is amended to read as follows:

24 The following civil penalties shall be imposed by the Education and Labor Cabinet, in  
 25 accordance with the provisions in KRS 336.985, for violations of the provisions of this  
 26 chapter:

27 (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be

1           assessed a civil penalty of not less than one hundred dollars (\$100) nor more than  
2           one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the  
3           wages when due him under KRS 337.020 shall constitute a separate offense.

4   ~~[(2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not~~  
5   ~~less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).]~~

6   (2)~~[(3)]~~   Any employer who violates KRS 337.055 shall be assessed a civil penalty of  
7           not less than one hundred dollars (\$100) nor more than one thousand dollars  
8           (\$1,000) for each offense and shall make full payment to the employee by reason of  
9           the violation. Each failure to pay an employee the wages as required by KRS  
10          337.055 shall constitute a separate offense.

11   (3)~~[(4)]~~   Any employer who violates KRS 337.060 shall be assessed a civil penalty of  
12          not less than one hundred dollars (\$100) nor more than one thousand dollars  
13          (\$1,000) and shall also be liable to the affected employee for the amount withheld,  
14          plus interest at the rate of ten percent (10%) per annum.

15   (4)~~[(5)]~~   Any employer who violates the provisions of KRS 337.065 shall be assessed a  
16          civil penalty of not less than one hundred dollars (\$100) nor more than one  
17          thousand dollars (\$1,000) for each offense and shall make full payment to the  
18          employee by reason of the violation.

19   (5)~~[(6)]~~   Any person who fails to comply with KRS 337.070 shall be assessed a civil  
20          penalty of not less than one hundred dollars (\$100) nor more than one thousand  
21          dollars (\$1,000) for each offense and each day that the failure continues shall be  
22          deemed a separate offense.

23   (6)~~[(7)]~~   Any employer who violates any provision of KRS 337.275 to 337.325, KRS  
24          337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the  
25          commissioner or the commissioner's authorized representative in the performance  
26          of his or her duties under KRS 337.295, or fails to keep and preserve any records as  
27          required under KRS 337.320 and 337.325, or falsifies any record, or refuses to

1 make any record or transcription thereof accessible to the commissioner or the  
2 commissioner's authorized representative shall be assessed a civil penalty of not  
3 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).  
4 A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for  
5 any subsequent violation of KRS 337.285(4) to (9) and each day the employer  
6 violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.

7 ~~(7)~~<sup>(8)</sup> Any employer who pays or agrees to pay wages at a rate less than the rate  
8 applicable under KRS 337.275 and 337.285, or any wage order issued pursuant  
9 thereto shall be assessed a civil penalty of not less than one hundred dollars (\$100)  
10 nor more than one thousand dollars (\$1,000).

11 ~~(8)~~<sup>(9)</sup> Any employer who discharges or in any other manner discriminates against  
12 any employee because the employee has made any complaint to his or her  
13 employer, to the commissioner, or to the commissioner's authorized representative  
14 that he or she has not been paid wages in accordance with KRS 337.275 and  
15 337.285 or regulations issued thereunder, or because the employee has caused to be  
16 instituted or is about to cause to be instituted any proceeding under or related to  
17 KRS 337.385, or because the employee has testified or is about to testify in any  
18 such proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS  
19 337.345, and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not  
20 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

21 ~~[(10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not  
22 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).]~~

23 ~~(9)~~<sup>(11)</sup> A person shall be assessed a civil penalty of not less than one hundred dollars  
24 (\$100) nor more than one thousand dollars (\$1,000) when that person discharges or  
25 in any other manner discriminates against an employee because the employee has:

26 (a) Made any complaint to his or her employer, the commissioner, or any other  
27 person; or

1 (b) Instituted, or caused to be instituted, any proceeding under or related to KRS  
2 337.420 to 337.433; or

3 (c) Testified, or is about to testify, in any such proceedings.

4 ➔Section 7. KRS 95A.250 is amended to read as follows:

5 (1) (a) An eligible local government shall be entitled to receive an annual supplement  
6 of three thousand dollars (\$3,000) and, beginning July 1, 2018, an annual  
7 supplement of four thousand dollars (\$4,000) for each qualified professional  
8 firefighter it employs, plus an amount equal to the required employer's  
9 contribution on the supplement to the defined benefit pension plan, or to a  
10 plan qualified under Section 401(a) or Section 457 of the Internal Revenue  
11 Code of 1954 as amended.

12 (b) The employer's contribution to any of these plans on the supplement shall not  
13 exceed the required employer's contribution to the County Employees  
14 Retirement System pursuant to KRS Chapter 78 for the hazardous duty  
15 category. The pension contribution on the supplement shall be paid whether  
16 the professional firefighter entered the system under hazardous duty coverage  
17 or nonhazardous coverage.

18 (c) The local unit of government shall pay the amount received for retirement  
19 coverage to the appropriate retirement system to cover the required employer  
20 contribution on the supplement.

21 (d) Should the foundation program funds be insufficient to pay employer  
22 contributions to the system, then the total amount available for pension  
23 payments shall be prorated to each eligible government so that each receives  
24 the same percentage of required pension costs attributable to the supplement.

25 (e) 1. In addition to the payments received under paragraphs (a) and (b) of this  
26 subsection, but only if sufficient funds are available to fully reimburse  
27 each eligible local government for the employer contributions to the

1 pension system, each local government shall receive an administrative  
2 expense reimbursement in an amount equal to seven and sixty-five one-  
3 hundredths percent (7.65%) of the total annual supplement received  
4 greater than three thousand one hundred dollars (\$3,100) for each  
5 qualified professional firefighter it employs, subject to the cap  
6 established by subparagraph 3. of this paragraph.

7 2. The local government may use the moneys received under this  
8 paragraph in any manner it deems necessary to partially cover the costs  
9 of administering the payments received under paragraph (a) of this  
10 subsection.

11 3. The total amount distributed under this paragraph shall not exceed the  
12 total sum of two hundred fifty thousand dollars (\$250,000) for each  
13 fiscal year. If there are insufficient funds to provide for full  
14 reimbursement as provided in subparagraph 1. of this paragraph, then  
15 the amount shall be distributed pro rata to each eligible local  
16 government so that each receives the same percentage attributable to its  
17 total receipt of the cash salary supplement.

18 (2) (a) Each qualified professional firefighter, whose local government receives a  
19 supplement pursuant to subsection (1)(a) of this section due to employment of  
20 the firefighter, shall receive distribution of the supplement from that local  
21 government in twelve (12) equal monthly installments with his or her pay for  
22 the last pay period of each month. The monthly distribution shall be  
23 calculated by dividing the supplement amount established in subsection (1)(a)  
24 of this section by twelve (12).

25 (b) The supplement disbursed to a qualified professional firefighter pursuant to  
26 this section shall not be considered "wages" as defined by KRS  
27 337.010(3)(a)~~[337.010(1)(c)1.]~~ and shall not be included in the hourly wage

1 rate for calculation of overtime pursuant to KRS 337.285 for scheduled  
2 overtime. The supplement shall be included in the hourly wage rates for  
3 calculation of overtime for unscheduled overtime pursuant to KRS 337.285.

4 (c) To determine the addition to the hourly wage rate for calculation of overtime  
5 on unscheduled overtime, the annual supplement shall be divided by two  
6 thousand eighty (2,080). The overtime rate for unscheduled overtime shall be  
7 calculated by adding the quotient, which is the amount of the annual  
8 supplement divided by two thousand eighty (2,080), to the hourly wage rate  
9 and multiplying the total by one and one-half (1.5). The enhanced overtime  
10 rate shall be paid only for unscheduled overtime. Scheduled overtime shall be  
11 paid at one and one-half (1.5) times the regular hourly wage rate, excluding  
12 the supplement.

13 (3) (a) The Kentucky Community and Technical College System shall be entitled to  
14 receive annually a supplement equal to the amount determined in subsection  
15 (1) of this section for each Kentucky fire and rescue training coordinator  
16 employed by the Kentucky Community and Technical College System who  
17 meets the qualifications for individual firefighters required in KRS 95A.230,  
18 plus an amount equal to the required employer's contribution on the  
19 supplement to the defined benefit pension plan.

20 (b) The Department of Military Affairs shall be entitled to receive annually a  
21 supplement equal to the amount determined in subsection (1) of this section  
22 for each civilian firefighter employed by the Department of Military Affairs  
23 who meets the qualifications for individual firefighters required in KRS  
24 95A.230, plus an amount equal to the required employer's contribution on the  
25 supplement to the defined benefit pension plan.

26 (c) Each fire and rescue training coordinator employed by the Kentucky  
27 Community and Technical College System and each civilian firefighter



1 employed by the Department of Military Affairs, whose employer receives a  
2 supplement pursuant to this subsection, shall receive distribution from that  
3 employer of the supplement which his or her qualifications brought to the  
4 employer. The supplement distributed shall be in addition to his or her regular  
5 salary.

6 ➔Section 8. KRS 337.020 is amended to read as follows:

7 Every employer doing business in this state shall, as often as semimonthly, pay to each of  
8 its employees all wages or salary earned to a day not more than eighteen (18) days prior  
9 to the date of that payment. Any employee who is absent at the time fixed for payment, or  
10 who, for any other reason, is not paid at that time, shall be paid thereafter at any time  
11 upon six (6) days' demand. No employer subject to this section shall, by any means,  
12 secure exemption from it. Every such employee shall have a right of action against any  
13 such employer for the full amount of his wages due on each regular pay day. The  
14 provisions of this section do not apply to those individuals defined in subsection (2) of  
15 Section 1 of this Act~~[KRS 337.010(2)(a)2]~~.

16 ➔Section 9. KRS 337.420 is amended to read as follows:

17 (1) "Employee" means any individual employed by any employer, including but not  
18 limited to individuals employed by the state or any of its political subdivisions,  
19 instrumentalities, or instrumentalities of political subdivisions.

20 (2) "Employer" means a person who has two (2) or more employees within the state in  
21 each of twenty (20) or more calendar weeks in the current or preceding calendar  
22 year and an agent of such a person.

23 (3) "Wage rate" means all compensation for employment, including payment in kind  
24 and amounts paid by employers for employee benefits, as defined by the  
25 commissioner in regulations issued under KRS 337.420 to 337.433 and  
26 337.990(9)~~[337.990(11)]~~.

27 (4) "Employ" includes to suffer or permit to work.

1 (5) "Occupation" includes any industry, trade, business, or branch thereof, or any  
2 employment or class of employment.

3 (6) "Commissioner" means the commissioner of the Department of Workplace  
4 Standards under the direction and supervision of the secretary of the Education and  
5 Labor Cabinet.

6 (7) "Person" includes one (1) or more individuals, partnerships, corporations, legal  
7 representatives, trustees, trustees in bankruptcy, or voluntary associations.

8 ➔Section 10. KRS 337.423 is amended to read as follows:

9 (1) No employer shall discriminate between employees in the same establishment on  
10 the basis of sex, by paying wages to any employee in any occupation in this state at  
11 a rate less than the rate at which he or she pays any employee of the opposite sex  
12 for comparable work on jobs which have comparable requirements relating to skill,  
13 effort and responsibility. Differentials which are paid pursuant to established  
14 seniority systems or merit increase systems, which do not discriminate on the basis  
15 of sex, shall not be included within this prohibition. Nothing in KRS 337.420 to  
16 337.433 and 337.990(9)~~[337.990(11)]~~ shall apply to any employer who is subject to  
17 the federal Fair Labor Standards Act of 1938, as amended, when that act imposes  
18 comparable or greater requirements than contained in KRS 337.420 to 337.433 and  
19 337.990(9)~~[337.990(11)]~~ and when the employer files with the commissioner of the  
20 Department of Workplace Standards a statement that the employer is covered by the  
21 federal Fair Labor Standards Act of 1938, as amended.

22 (2) An employer who is paying a wage differential in violation of KRS 337.420 to  
23 337.433 and 337.990(9)~~[337.990(11)]~~ shall not, in order to comply with it, reduce  
24 the wage rates of any employee.

25 (3) No person shall cause or attempt to cause an employer to discriminate against any  
26 employee in violation of KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~.

27 (4) No employer may discharge or discriminate against any employee by reason of any

1 action taken by such employee to invoke or assist in any manner the enforcement of  
2 KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~.

3 ➔Section 11. KRS 337.425 is amended to read as follows:

- 4 (1) For this purpose, the commissioner, or the commissioner's authorized  
5 representative, may enter the place of employment of any employer to inspect and  
6 copy payrolls and other employment records, to compare character of work and  
7 operations on which persons employed by him or her are engaged, to question such  
8 persons, and to obtain other information necessary to the administration and  
9 enforcement of KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~.
- 10 (2) The commissioner or the commissioner's authorized representative may examine  
11 witnesses under oath, and require by subpoena the attendance and testimony of  
12 witnesses and the production of any documentary evidence relating to the subject  
13 matter of any investigation undertaken pursuant to KRS 337.420 to 337.433 and  
14 337.990(9)~~[337.990(11)]~~. If a person fails to attend, testify or produce documents  
15 under or in response to a subpoena, the Circuit Court in the judicial circuit where  
16 the hearing is being held, on application of the commissioner or the commissioner's  
17 representative, may issue an order requiring the person to appear before the  
18 commissioner or the commissioner's authorized representative, or to produce  
19 documentary evidence, and any failure to obey the order of the court may be  
20 punished by the court as contempt.
- 21 (3) The commissioner may endeavor to eliminate pay practices unlawful under KRS  
22 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~ by informal methods of  
23 conference, conciliation and persuasion, and supervise the payment of wages owing  
24 to any employee under KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~.
- 25 (4) The commissioner may issue regulations not inconsistent with the purpose of KRS  
26 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~, necessary or appropriate to carry  
27 out its provisions.

1        ➔Section 12. KRS 337.427 is amended to read as follows:

- 2        (1) Any employer who violates the provisions of KRS 337.423 shall be liable to the  
3        employee or employees affected in the amount of their unpaid wages, and in  
4        instances of willful violation in employee suits under subsection (2) of this section,  
5        up to an additional equal amount as liquidated damages.
- 6        (2) Action to recover the liability may be maintained in any court of competent  
7        jurisdiction by any one (1) or more employees for and in behalf of himself, herself,  
8        or themselves and other employees similarly situated. The court in the action shall,  
9        in cases of violation in addition to any judgment awarded to the plaintiff or  
10       plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of  
11       the action.
- 12       (3) An agreement by any employee to work for less than the wage to which the  
13       employee is entitled under KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~  
14       shall not be a bar to any such action, or to a voluntary wage restitution of the full  
15       amount due under KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~.
- 16       (4) At the written request of any employee claiming to have been paid less than the  
17       wage to which he may be entitled under KRS 337.420 to 337.433 and  
18       337.990(9)~~[337.990(11)]~~, the commissioner may bring any legal action necessary in  
19       behalf of the employee to collect the claim for unpaid wages. The commissioner  
20       shall not be required to pay the filing fee, or other costs, in connection with the  
21       action. The commissioner shall have power to join various claims against the  
22       employer in one (1) cause of action.
- 23       (5) In proceedings under this section, the court may order other affirmative action as  
24       appropriate, including reinstatement of employees discharged in violation of KRS  
25       337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~.
- 26       (6) The commissioner may on his or her own motion petition any court of competent  
27       jurisdiction to restrain violations of KRS 337.423, and petition for such affirmative

1 relief as the court may deem appropriate, including restoration of unpaid wages and  
2 reinstatement of employees, consistent with the purpose of KRS 337.420 to 337.433  
3 and 337.990(9)~~[337.990(11)]~~.

4 ➔Section 13. KRS 337.430 is amended to read as follows:

5 Court action under KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~ may be  
6 commenced no later than six (6) months after the cause of action occurs.

7 ➔Section 14. KRS 337.433 is amended to read as follows:

8 Every person subject to KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~ shall keep  
9 an abstract or copy of KRS 337.420 to 337.433 and 337.990(9)~~[337.990(11)]~~ posted in a  
10 conspicuous place in or about the premises where any employee is employed. Employers  
11 shall be furnished copies or abstracts of KRS 337.420 to 337.433 and  
12 337.990(9)~~[337.990(11)]~~ by the state on request without charge.

13 ➔Section 15. The following KRS sections are repealed:

14 337.050 Time and a half for work done on seventh day of week -- Exceptions.

15 337.355 Lunch period requirements.

16 337.365 Rest periods for employees.