

1 AN ACT relating to short-time compensation.

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) The Kentucky Short-Time Compensation Program is hereby created, under*  
6 *which the secretary shall:*

7 *(a) Develop the requirements of the program in order to reduce unemployment*  
8 *and stabilize the state's workforce; and*

9 *(b) Promulgate administrative regulations in accordance with KRS Chapter*  
10 *13A to effectuate the provisions of this section.*

11 *(2) Upon approval, the secretary shall allow employers to participate in the program*  
12 *regardless of the account balance, reserve ratio, or experience rating of the*  
13 *employer.*

14 *(3) The secretary shall not approve an employer application that reduces employee*  
15 *work hours by less than ten percent (10%) or more than sixty percent (60%).*

16 *(4) To participate in the program, an employer shall do the following:*

17 *(a) Submit an application to the secretary for approval;*

18 *(b) Submit the collective bargaining agent's written approval of the application,*  
19 *if the affected employees are covered by a collective bargaining agreement;*  
20 *and*

21 *(c) Provide affected employees advanced notice of the impact the employer's*  
22 *participation in the program will have on employees, if feasible.*

23 *(5) The secretary shall develop an employer application form and subsequent*  
24 *requirements for approval. Applications shall include, at minimum, the*  
25 *following:*

26 *(a) The employer's unemployment tax account number;*

27 *(b) A description of the employer's proposed work plan that shall include the*

1 following:

2 1. A description of the employer's current financial burden;

3 2. A proposed schedule with the specified employees' reduced work  
4 hours;

5 3. Identification of the effective date and duration of the plan, which  
6 shall expire not later than one (1) year after the effective date;

7 4. The projected positive fiscal impacts the work plan will have on the  
8 employer; and

9 5. An estimated number of employees that will be laid off in the absence  
10 of the employer's participation in the program;

11 (c) A description of the employees affected by the plan, including the following:

12 1. The anticipated number of full-time or part-time employees affected;

13 2. The percentage of employees the employer intends to include in the  
14 implementation of the employer's work plan;

15 3. The identification of each affected employee by name, date of birth,  
16 and last four (4) digits of his or her Social Security number; and

17 4. Any other information required by administrative regulation to  
18 identify plan participants;

19 (d) A description of how affected employees will be notified of the employer's  
20 participation in the program in advance of the employer's implementation  
21 of the work plan, including the following:

22 1. The employer's notification method for employees in a collective  
23 bargaining unit; and

24 2. The employer's notification method for employees who are not in a  
25 collective bargaining unit;

26 (e) Any reasons why advanced notice to affected employees, as described under  
27 subsections (4)(c) and (5)(d) of this section, is not feasible;

1           (f) Identification of the following:

2           1. The specific percentage by which employee hours will be reduced  
3           during all calendar weeks;

4           2. The usual weekly place of work and duties the affected employees will  
5           still be required to perform; and

6           3. Any business day or days that the employer traditionally does not  
7           provide an employee with work that should be incorporated into the  
8           participation of the program, including, without limitation, the  
9           following:

10           a. National, state, or office holidays; or

11           b. Plant closing days;

12           (g) Certification of the following:

13           1. Employees that participate in the program will continue to receive  
14           health and retirement benefits under the same terms and conditions as  
15           the employee was receiving previously which will be determined by  
16           administrative regulation;

17           2. That the aggregate reduction in employee work hours is in lieu of  
18           temporary or permanent layoffs, or both;

19           3. Participation in the program is consistent with the employer's  
20           obligations under applicable federal and state laws; and

21           4. The plan shall not serve as a subsidy of seasonal employment during  
22           the season, nor as a subsidy of temporary part-time or intermittent  
23           employment;

24           (h) Declarations of agreement to perform the following:

25           1. Furnish any reports required by the secretary relating to the  
26           employer's participation in the program and execution of the  
27           employer's approved work plan;

- 1           2. Allow the secretary or the secretary's authorized representatives access  
2           to all records necessary to evaluate the application;
- 3           3. Monitor, evaluate, and report to the secretary the effectiveness of the  
4           plan upon approval and implementation; and
- 5           4. Follow any other directive the secretary deems necessary to implement  
6           the plan that is consistent with the employer's obligations under  
7           federal and state laws.
- 8   (6) For employers that offer employees defined benefit retirement plans, the hours  
9   that are reduced according to the employer's application shall be credited for  
10   purposes of participation, vesting, and accrual of benefits as though the usual  
11   weekly hours of work had not been reduced. The dollar amount of employer  
12   contributions to a defined contribution plan that are based on a percentage of  
13   compensation may be less, due to the reduction in the employee's compensation.
- 14   (7) Notwithstanding subsection (5)(g)1. of this section, an application contains the  
15   necessary certification when a reduction in health and retirement benefits is  
16   scheduled to occur prior to the submission of the employer's application and is  
17   equally applicable to all employees regardless of whether they are affected by the  
18   employer's participation in the program.
- 19   (8) Notwithstanding any other provision of this chapter, an individual is unemployed  
20   for the purposes of this section in a week in which the individual works according  
21   to an employer's work plan, pursuant to subsection (5)(b) of this section, in effect  
22   for that week for less than the individual's normal weekly hours of work.
- 23   (9) For the purposes of this program, an unemployed individual is eligible to receive  
24   short-time compensation for a week in which:
- 25           (a) The individual is an affected employee subject to the employer's approved  
26           application and employer's work plan;
- 27           (b) The individual is able to work and is available for additional hours of work

- 1                   or for full-time work with the participating employer; and  
2                   (c) The individual's normal weekly hours of work have been reduced by at least  
3                   ten percent (10%) but not more than sixty percent (60%), with a  
4                   corresponding reduction in wages.  
5                   (10) An individual who is eligible for short-time compensation benefits shall be paid  
6                   weekly in an amount equal to the individual's regular weekly amount for a period  
7                   of total unemployment multiplied by the nearest full percentage of reduction of  
8                   the individual's wages under the employer's shared work plan.  
9                   (11) The short-time compensation benefits the employee receives pursuant to this  
10                   section shall be subject to federal and state income tax.