

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 is amended to read as follows:

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

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

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

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

22 2. For the purposes of calculating hourly wage rates for scheduled overtime  
23 for professional firefighters, as defined in KRS 95A.210(5), "wages"  
24 shall not include the distribution to qualified professional firefighters by  
25 local governments of supplements received from the Firefighters  
26 Foundation Program Fund. For the purposes of calculating hourly wage  
27 rates for unscheduled overtime for professional firefighters, as defined in

1           KRS 95A.210(6), "wages" shall include the distribution to qualified  
2           professional firefighters by local governments of supplements received  
3           from the Firefighters Foundation Program Fund;

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

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

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

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

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

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

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

24       1. Any individual employed in agriculture;

25       2. Any individual employed in a bona fide executive, administrative,  
26       supervisory, or professional capacity, or in the capacity of outside  
27       salesman, or as an outside collector as the terms are defined by

- 1 administrative regulations of the commissioner;
- 2 3. Any individual employed by the United States;
- 3 4. Any individual employed in domestic service in or about a private home.
- 4 The provisions of this section shall include individuals employed in
- 5 domestic service in or about the home of an employer where there is
- 6 more than one (1) domestic servant regularly employed;
- 7 5. Any individual classified and given a certificate by the commissioner
- 8 showing a status of learner, apprentice, worker with a disability,
- 9 sheltered workshop employee, and student under administrative
- 10 procedures and administrative regulations prescribed and promulgated
- 11 by the commissioner. This certificate shall authorize employment at the
- 12 wages, less than the established fixed minimum fair wage rates, and for
- 13 the period of time fixed by the commissioner and stated in the certificate
- 14 issued to the person;
- 15 6. Employees of retail stores, service industries, hotels, motels, and
- 16 restaurant operations whose average annual gross volume of sales made
- 17 for business done is less than five hundred thousand dollars
- 18 (\$500,000)~~[ninety-five thousand dollars (\$95,000)]~~ for the five (5)
- 19 preceding years exclusive of excise taxes at the retail level or if the
- 20 employee is the parent, spouse, child, or other member of his or her
- 21 employer's immediate family;
- 22 7. Any individual employed as a baby-sitter in an employer's home, or an
- 23 individual employed as a companion by a sick, convalescing, or elderly
- 24 person or by the person's immediate family, to care for that sick,
- 25 convalescing, or elderly person and whose principal duties do not
- 26 include housekeeping;
- 27 8. Any individual engaged in the delivery of newspapers to the consumer;

- 1           9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A,  
2           30A, and 18A provided that the secretary of the Personnel Cabinet shall  
3           have the authority to prescribe by administrative regulation those  
4           emergency employees, or others, who shall receive overtime pay rates  
5           necessary for the efficient operation of government and the protection of  
6           affected employees;
- 7           10. Any employee employed by an establishment which is an organized  
8           nonprofit camp, religious, or nonprofit educational conference center, if  
9           it does not operate for more than two hundred ten (210) days in any  
10          calendar year;
- 11          11. Any employee whose function is to provide twenty-four (24) hour  
12          residential care on the employer's premises in a parental role to children  
13          who are primarily dependent, neglected, and abused and who are in the  
14          care of private, nonprofit childcaring facilities licensed by the Cabinet  
15          for Health and Family Services under KRS 199.640 to 199.670; or
- 16          12. Any individual whose function is to provide twenty-four (24) hour  
17          residential care in his or her own home as a family caregiver and who is  
18          approved to provide family caregiver services to an adult with a  
19          disability through a contractual relationship with a community board for  
20          mental health or individuals with an intellectual disability established  
21          under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet  
22          for Health and Family Services to provide adult foster care;
- 23          (b) "Agriculture" means farming in all its branches, including cultivation and  
24          tillage of the soil; dairying; production, cultivation, growing, and harvesting of  
25          any agricultural or horticultural commodity; raising of livestock, bees,  
26          furbearing animals, or poultry; and any practice, including any forestry or  
27          lumbering operations, performed on a farm in conjunction with farming

1 operations, including preparation and delivery of produce to storage, to  
 2 market, or to carriers for transportation to market;

3 (c) "Gratuity" means voluntary monetary contribution received by an employee  
 4 from a guest, patron, or customer for services rendered;

5 (d) "Tipped employee" means any employee engaged in an occupation in which  
 6 he or she customarily and regularly receives more than thirty dollars (\$30) per  
 7 month in tips; and

8 (e) "U.S.C." means the United States Code.

9 ➔Section 2. KRS 337.275 is amended to read as follows:

10 (1) Except as may otherwise be provided by this chapter, every employer shall pay to  
 11 each of his ***or her*** employees wages at a rate of not less than ~~five dollars and~~  
 12 ~~eighty five cents (\$5.85) an hour beginning on June 26, 2007, not less than six~~  
 13 ~~dollars and fifty five cents (\$6.55) an hour beginning July 1, 2008, and not less than~~  
 14 ~~seven dollars and twenty-five cents (\$7.25) an hour beginning July 1, 2009, not~~  
 15 ~~less than eight dollars and twenty cents (\$8.20) an hour beginning on July 1,~~  
 16 ~~2019, not less than nine dollars and fifteen cents (\$9.15) an hour beginning on~~  
 17 ~~July 1, 2020, not less than ten dollars and ten cents (\$10.10) an hour beginning~~  
 18 ~~on July 1, 2021, not less than eleven dollars (\$11) an hour beginning on July 1,~~  
 19 ~~2022, not less than twelve dollars and five cents (\$12.05) an hour on July 1, 2023,~~  
 20 ~~not less than thirteen dollars and ten cents (\$13.10) an hour on July 1, 2024, not~~  
 21 ~~less than thirteen dollars and ninety-five cents (\$13.95) an hour on July 1, 2025,~~  
 22 ~~and not less than fifteen dollars (\$15) an hour on July 1, 2026.~~ If the federal  
 23 minimum hourly wage as prescribed by 29 U.S.C. sec. 206(a)(1) is increased in  
 24 excess of the minimum hourly wage in effect under this subsection, the minimum  
 25 hourly wage under this subsection shall be increased to the same amount, effective  
 26 on the same date as the federal minimum hourly wage rate. If the state minimum  
 27 hourly wage is increased to the federal minimum hourly wage, it shall include only

1 the federal minimum hourly rate prescribed in 29 U.S.C. sec. 206(a)(1) and shall not  
 2 include other wage rates or conditions, exclusions, or exceptions to the federal  
 3 minimum hourly wage rate. In addition, the increase to the federal minimum hourly  
 4 wage rate does not extend or modify the scope or coverage of the minimum wage  
 5 rate required under this chapter.

6 (2) Notwithstanding the provisions of subsection (1) of this section, for any employee  
 7 engaged in an occupation in which he or she customarily and regularly receives  
 8 more than thirty dollars (\$30) per month in tips from patrons or others, the employer  
 9 may pay as a minimum not less than two dollars and thirteen cents (\$2.13) an hour  
 10 beginning on the effective date of this Act, not less than three dollars and  
 11 cents (\$3.05) an hour beginning on July 1, 2020, not less than three dollars and  
 12 ninety-five cents (\$3.95) an hour beginning on July 1, 2021, and not less than  
 13 four dollars and ninety cents (\$4.90) an hour beginning in July 1, 2022. If the  
 14 hourly wage rate required to be paid a tipped employee under the federal minimum  
 15 hourly wage law as prescribed by 29 U.S.C. sec. 203 is increased in excess of the  
 16 minimum hourly wage in effect under this subsection, the minimum hourly wage  
 17 under this subsection shall be increased to the same amount, effective on the  
 18 same date as the federal minimum hourly wage rate. The employer shall establish  
 19 by his or her records that for each week where credit is taken, when adding tips  
 20 received to wages paid, not less than the minimum rate prescribed in subsection (1)  
 21 of this section~~[29 U.S.C. sec. 203]~~ was received by the employee. No employer  
 22 shall use all or part of any tips or gratuities received by employees toward the  
 23 payment of the statutory minimum hourly wage as required by subsection (1) of this  
 24 section~~[29 U.S.C. sec. 203]~~. Nothing, however, shall prevent employees from  
 25 entering into an agreement to divide tips or gratuities among themselves.

26 (3) Nothing in this chapter shall be construed to restrict the power of any city,  
 27 county, urban-county government, charter county government, consolidated local

1 government, or unified local government to adopt and enforce minimum wage  
2 rate ordinances in excess of the requirements of this section so long as they  
3 comply with at least the minimum applicable standards set forth in this section.  
4 In the case of a consolidated local government, the governing body of the  
5 consolidated local government is the only local governing body that may establish  
6 a minimum wage under this subsection, and the minimum wage set by that  
7 governing body shall apply countywide.