

# **STATE EMPLOYMENT REGULATIONS FOR KENTUCKY**

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# **STATE EMPLOYMENT REGULATIONS FOR KENTUCKY**

## **What's New**

- 050806 – Kentucky now requires that employees who are volunteer firefighters, emergency medical responders, part of a search and rescue team or law enforcement agency not be terminated for being absent for injuries obtained in the line of duty.
- 070108 – Kentucky minimum wage is now \$6.55 effective July 1, 2008 (it will rise again to \$7.25 per hour on July 1, 2009).
- 070109 – Kentucky minimum wage is now \$7.25 effective July 1, 2009.
- 120212 - Changes were made to the following sections: Military Leave, Jury Duty, Discrimination, Payment of Wages, Child Labor and Minimum Wage. The following sections were added: Breast Feeding, New Hire Reporting and Job Reference Liability.
- 041013 - Changes were made to the following section: State Continuation of Benefits.

# STATE EMPLOYMENT REGULATIONS FOR KENTUCKY

## Introduction

Employment laws vary from state to state with some being more employee-friendly than others. Federal regulations set minimum standards of worker protections that all employers of a given size must meet. Individual states, however, are free to grant workers additional or expanded rights or protections above this federal minimum.

Virtually all employers in the U.S. are subject to federal employment regulations. Only the smallest, strictly local employers are not subject to federal regulations. If an employer does any of the following, they are participating in interstate commerce and are subject to federal employment regulations:

- Production of goods for commerce, such as transportation or communication
- Use of mail over state lines
- Interstate communications using the telephone
- Use of the Internet over state lines
- Interstate communications using electronic mail
- Make purchases from out-of-state vendors
- Sell to customers in other states

This summary of employment regulations does not include information for those few employers not subject to the federal minimum employment regulations.

Many states have regulations for public employers that are different than those for employers in the private sector. This document also does not include information on regulations (federal and state) that apply only to public sector employers.

In this document we summarize the workplace regulations and worker protections available in Kentucky. Although not an exhaustive list, it covers the major topics small to mid-sized employers must deal with on a regular basis. Covered areas include:

- Wage, hour and overtime rules (including child labor and break rules);
- Leaves of absence (family leaves, voting time and jury duty);
- Discrimination and harassment regulations; and
- State rules on continuation of benefits.

The federally mandated, but state run new-hire reporting requirements are covered under a separate document, available for download from Libretto or from the Agent 77 store.

The following Quick View table summarizes these regulations. This is followed by a more detailed description of these regulations. Please be sure to read both carefully to understand your responsibilities under Kentucky and federal law. Also, see the resources section below for reference websites and Libretto tools that can help you comply with these regulations.

## QUICK VIEW OF STATE EMPLOYMENT REGULATIONS FOR KENTUCKY

<b>Topic</b>	<b>Kentucky Regulation</b>
Minimum Wage	<ul style="list-style-type: none"> <li>• \$7.25 / hour</li> <li>• Tipped employees may be paid a minimum of \$2.13</li> </ul>
Overtime	<ul style="list-style-type: none"> <li>• Non-exempt employees must be paid at least 1.5 times their regular rate for hours worked over 40 in a given week</li> <li>• On a 7<sup>th</sup> consecutive day of work, non-exempt employees must be paid 1.5 times their pay for all hours worked</li> </ul>
Payment of Wages	<ul style="list-style-type: none"> <li>• Employees must be paid at least semi-monthly, no more than 18 days after the close of the period.</li> <li>• Final paychecks must be delivered no later than the following payday or 14 days after termination whichever is later.</li> <li>• Wages includes vested vacation pay.</li> </ul>
Work Hours and Breaks	<ul style="list-style-type: none"> <li>• Employees reasonable time for a meal break close to the middle of their shift, but no earlier than 3 hours after starting or later than 5 hours after starting work.</li> <li>• Employees must be given a 10-minute rest break for each 4 hours worked.</li> <li>• Minors must be provided a 30 minute break after five (5) or more hours of work.</li> </ul>
Child Labor	<ul style="list-style-type: none"> <li>• Employers employing minors under 18 must keep proof of age on file</li> <li>• Required 30-minute break for every 5 hours worked</li> <li>• Federal and Kentucky law prohibit minors in certain occupations. See the U.S. Department of Labor and the Kentucky Department of Labor for information on these prohibitions (contact information is in the reference section).</li> <li>• See the details section below for restrictions on hours minors may work.</li> <li>• Posting and record-keeping provisions apply.</li> </ul>
Jury Duty	<ul style="list-style-type: none"> <li>• Leave is required, but is unpaid</li> <li>• Employee must be reinstated to same position after completion of jury duty</li> </ul>
Voting Time	<ul style="list-style-type: none"> <li>• Up to 4 hours for any election where employee is qualified to vote</li> <li>• Request must be made prior to Election Day</li> <li>• Employer can specify times for leave</li> <li>• Pay may not be deducted</li> <li>• Up to a day of leave for employees acting as election judges</li> </ul>

## QUICK VIEW OF STATE EMPLOYMENT REGULATIONS FOR KENTUCKY

Family Leave	<ul style="list-style-type: none"> <li>• Employers must grant up to 6 weeks of personal leave for the adoption of a child under 7 years old</li> <li>• In addition, employers with 50 or more employees:             <ul style="list-style-type: none"> <li>o Must grant up to 12 weeks of unpaid family medical leave to employees who have completed a year of service or 1250 hours</li> <li>o Leave must be granted for birth or adoption of a child, serious medical condition of the employee, to care for a family member with a serious medical condition, qualifying exigency for military leave and illness/injury of covered service member for military leave.</li> <li>o Employee must be reinstated to same or equivalent position after completion of leave</li> <li>o Benefits must be maintained during leave</li> </ul> </li> <li>• Certain provisions apply to women affected by pregnancy, childbirth or related conditions.</li> </ul>
Military Leave	<p>The Federal Law is outlined below:</p> <ul style="list-style-type: none"> <li>• Employers must grant up to 5 years of military leave</li> <li>• Employee must be reinstated to same or equivalent position after completion of military leave</li> <li>• Employers may not terminate or threaten to terminate any employee called to military service</li> <li>• Special benefit rules apply for military leave</li> <li>• Kentucky also protects employees who are volunteer firefighters, emergency medical responders, part of a search and rescue team or law enforcement agency not be terminated for being absent from work due to injuries obtained in the line of duty.</li> <li>• Kentucky also provides for leave for employees who are members of the National Guard.</li> </ul>
Breast Feeding	<ul style="list-style-type: none"> <li>• A woman may breast feed her child or express breast milk in any location where she is authorized to be present.</li> </ul>
New Hire Reporting	<ul style="list-style-type: none"> <li>• Employers are required to report information about new hires/rehires within 20 days of hire.</li> </ul>
Job Reference Liability	<ul style="list-style-type: none"> <li>• Employers are generally immune from civil liability for disclosing truthful information about an employee.</li> </ul>
Discrimination and Harassment	<ul style="list-style-type: none"> <li>• Kentucky prohibits employers from discriminating based on national origin, race or color, religion, age (over 40), HIV or AIDS status, physical or mental disability, military service, sex (including sexual harassment, pregnancy, childbirth, and other pregnancy-related conditions) or smoking off-site during non-working hours</li> <li>• Testing for AIDS is prohibited as a condition of employment.</li> </ul>
Continuation of Benefits	<ul style="list-style-type: none"> <li>• Details and contact information are detailed below.</li> </ul>

# **STATE EMPLOYMENT REGULATIONS FOR KENTUCKY**

## **Wage, Hour and Overtime Rules**

Employers are subject to the federal minimum wage, hour and overtime rules through the Fair Labor Standards Act. This act specifies that businesses that do at least \$500,000 in gross revenue, as well as all health care facilities and schools are subject to the federal rules. Also, employers involved in interstate commerce are subject to the federal rules.

### **Minimum Wage**

Kentucky minimum wage is \$7.25 per hour. Employers may pay tipped employees a minimum of \$2.13 per hour, provided that the total wages plus tips come to at least the minimum of \$7.25 per hour.

Finally, both federal and Kentucky regulations allow employers to apply for licenses to pay sub-minimum wages to certain disabled persons. Please contact the U.S. Department of Labor or the Kentucky Department of Labor for more information on applying for these licenses. (Contact information for both are listed in the reference section below.)

### **Overtime**

Overtime in Kentucky states that any hours worked over 40 in a given week, non-exempt employees must be paid at least one and one-half times their regular pay.

Non-employees who work on a 7<sup>th</sup> consecutive workday must be paid at one and one-half times their regular pay for all hours worked on that day unless the employee works no more than 40 hours in that week.

Kentucky exempts certain employees from minimum wage and overtime rules. Excluded employee classes include: executive, administrative, professional, outside salespeople and computer professionals. (Use Libretto's FLSA Resource Package for help in determining whether a given employee is exempt). Kentucky also permits exemptions for certain small employers not involved in interstate commerce. See the Kentucky Department of Labor web site for a list of these exemptions.

### **Payment of Wages**

Kentucky law requires that employees be paid at least semi-monthly, and payment must be made no more than 18 days after the close of that period. These regular pay periods must be established and published for all employees.

Final paychecks must be delivered no later than the following payday or 14 days after termination, whichever comes later. Deductions from the final paycheck may not be made without the employee's written consent, unless required by law.

Wages include vested vacation pay agreed upon by the employers and the employee or provided to the employees under an established policy.

### **Work Hours and Breaks**

Kentucky also requires employees to be given a reasonable meal break close to the middle of their work day, no sooner than 3 hours after starting work nor later than 5 hours after starting work (unless otherwise established through a collective bargaining agreement).

Kentucky also requires that employees have a 10-minute paid rest break for every 4 hours worked.

Minors must be provided a 30 minute break after five (5) or more hours of work.

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## **Child Labor**

No minor under 14 years of age may be employed in a gainful occupation at any time, except for employment in connection with an employment program supervised and sponsored by the school or school district the child attends, which program has been approved by the Department of Education.

Kentucky child labor law requires all employers employing minors under the age of 18 to have proof of age on file.

Employers who employ minors between the ages of 14 and 18 years of age are subject to strict limits for hours worked per day and per week for their minor employees:

1. When school is in session, they may NOT work:
  - More than 8 hours per day on a non-school day, and
  - During regular school hours unless the school authorities have made arrangements for the minor to attend school at other than the regular hours or the minor has graduated from high school.
  - When school is in session, minors ages 16 - 18 may not be employed after 10:30 PM on the day preceding a school day and may not work more than 30 hours a week; such minors may work 40 hours a week with written permission of a parent or guardian and school certification of having obtained at least a 2.0 grade point average.

Employers must post and keep conspicuously posted in the establishment in which any minor is employed, a printed abstract of the child labor law and a list of the occupations prohibited to such minors, together with a notice stating the working hours per day for each day in the week required of them.

Employers must also keep records regarding hours worked and a separate register containing the names, ages and addresses of minor employees.

Both federal and Kentucky law prohibits minors from working in hazardous or certain other occupations. Please contact the U.S. Department of Labor or the Kentucky Department of Labor for more information on restricted occupations for minor employees.

Kentucky law also requires that any minor working 5 or more continuous hours in a day be given a 30-minute break.

## **Leaves of Absence**

### **Family Leave**

Employers with 50 or more employees must grant up to 12 weeks of unpaid family medical leave to employees who have completed a year of service or 1250 hours. This leave must be granted for the birth or adoption of a child, serious medical condition of the employee, to care for a family member with a serious medical condition qualifying exigency for military leave and illness/injury of covered service member for military leave.

After completion of the leave the employee must be reinstated to the same or an equivalent position (as regards to salary, benefits and seniority). Also, benefits, such as health care coverage and retirement benefits, must be maintained during leave.

Kentucky law also requires employers to grant employees up to 6 weeks of personal leave for the adoption of a child under 7 years old, when a request is made in writing.

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Women affected by pregnancy, childbirth or related medical conditions must be treated the same as others with similar ability/inability to work as it regards disability leave.

## **Military Leave**

Federal law provides that employees must be granted up to 5 years of military leave and must be restored to their position (or an equivalent position) within the company as if they had been on furlough. Also, employers may not terminate or threaten to terminate any employee called to military service, Please see Libretto's White Paper on USERRA for more details on military leave.

Employees who are volunteer firefighters, emergency medical responders, part of a search and rescue team, law enforcement agency or emergency management agency may not be terminated for being absent due to injury obtained in the line of duty. The employer may request specific information about the employee's injury from the appropriate agency and physicians. Employers may charge time away from work to respond to an emergency against the employee's regular pay.

Employers must grant leaves of absence to perform active duty or training in the National Guard. Employers are not required to grant an employee a leave of absence with pay. Employees must be restored to their former position with the seniority, status, pay and any other rights or benefits they would have had if not absent.

## **Jury Duty**

Employers must provide leave for jury duty, but need not pay for the leave. Also, employers may not terminate or threaten to terminate any employee called to jury duty, and employees must be restored to their position within the company as if they had been on furlough.

Employees covered by FLSA exemptions serving on a jury must be paid their full salary (minus jury stipend) or risk losing their exemption status.

## **Voting Time**

Employees must be granted up to 4 hours paid time off to vote in any election in which they are eligible to vote, provided a request is made prior to Election Day. The employer may specify the hours during which an employee may vote. Employers must also allow up to a full day off for employees to act as election judges. Employees must not be penalized for taking time off to vote.

## **Other Employment Regulations**

### **Breast Feeding**

A woman may breast feed her child or express breast milk in any location, public or private, where she is authorized to be present.

### **New Hire Reporting**

Employers are required to report to the state a new hire or rehire's name, address, SSN as well as the employer's name, address and FEIN within 20 days of hire/rehire on a federal for W-4 or equivalent. The reports are provided to the Kentucky New Hire Reporting Center.

### **Job Reference Liability**

An employer is generally immune from civil liability for disclosing information about a current/former employee unless the information was known to be false.



# **STATE EMPLOYMENT REGULATIONS FOR KENTUCKY**

## **Discrimination and Harassment**

Kentucky prohibits discrimination or harassment based on:

- National origin
- Race or color
- Religion
- Age (over 40)
- Mental or physical disability
- HIV or AIDS status
- Military Service
- Sex (including sexual harassment, pregnancy, childbirth, and other pregnancy-related conditions), or
- Smoking off-site during non-working hours
- Testing for AIDS is prohibited as a condition of employment

Employers with more than 15 employees are also subject to GINA which prohibits discrimination based on genetic testing.

Although Kentucky has not specific provisions regarding sexual harassment, employers with 15 or more employees are subject to Title VII of the Civil Rights Act, as amended, which prohibits sexual harassment.

Whistleblowing is also protected.

Employers must post EEO notices that are easily apparent to applicants/employees.

## **State Continuation of Benefits**

Continuation of benefits change. Currently coverage requirements apply to employers that provide group health insurance to employees. Eligible employees have the right to continue coverage for up to 18 month.

The following link will provide more information about the state and federal regulations:

[www.cobrahealthinsurance.com/Resource/Kentucky\\_state\\_continuation.pdf/](http://www.cobrahealthinsurance.com/Resource/Kentucky_state_continuation.pdf/)

## **Resources/Posters**

**Kentucky Department of Labor**

<http://www.kylabor.net/>

**United States Department of Labor**

<http://www.dol.gov/>

**Kentucky New Hire Reporting**

[www.kynewhirereporting.com/](http://www.kynewhirereporting.com/)

**Commission on Human Rights**

[www.kchr.ky.gov/](http://www.kchr.ky.gov/)

# **STATE EMPLOYMENT REGULATIONS FOR KENTUCKY**

## **Related Libretto Products**

FLSA Resource Package (for help in determining overtime exempt / non-exempt status of employees)

Overtime Guidelines

Break Period Guidelines

Family Medical Leave of Absence Policy

Military Leave of Absence Policy

Jury Duty-Witness Leave Policy

Voting Time Policy

Prohibited Harassment and Nondiscrimination Policy & Employee Acknowledgement

COBRA Continuation Coverage Policy

General Notice of COBRA Continuation Coverage Rights

COBRA Continuation Coverage Election Information: Notice And Form

New Hire Reporting for Kentucky