

## KENTUCKY — State Laws by Topic

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### ➤ AGE ◀

It is an unlawful employment practice, under the Kentucky Civil Rights Act, for an employer to fail or refuse to hire; terminate; limit, segregate, or classify; deny training opportunities to; or otherwise discriminate against an individual with respect to compensation or terms, conditions, or privileges of employment based on age.

For the purposes of the Act, age is defined as 40 years old and over, and an employer is defined as a person who has eight or more employees within Kentucky in each of 20 or more calendar weeks in the current or preceding calendar year, or any agent of an employer.

### ➤ AIDS ◀

*Discrimination:* Under the Kentucky Equal Opportunity Act, individuals with AIDS, an AIDS-related condition, and HIV have the same protections against employment discrimination as are available to persons with disabilities. In addition, employers may not refuse to hire, discharge, or otherwise discriminate against licensed health care professionals because they treat HIV-positive patients.

*Testing:* Employers are prohibited from making consent to an HIV-related test a condition of hiring, promotion, or continued employment, unless it can establish that the absence of AIDS is a *bona fide* occupational qualification for the job in question.

### ➤ ARRESTS/CONVICTIONS ◀

No general provision prohibiting an employer's collection and use of arrest or conviction records. An inquiry into criminal records information may be invalidated, however, if it adversely affects members of a protected class, unless the employer can prove that the inquiry is related to job performance.

### ➤ BREAKS ◀

A reasonable meal break must be provided to employees. Breaks must be scheduled between three and five hours after employees' shifts begin. For each four-hour period worked, employees are also entitled to a 10-minute break. *Exceptions:* Meal breaks set by union contracts override the law. *Minors:* Minors must be provided with a 30-minute meal break after five or more hours of work.

### ➤ 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.

➤ **CHILD LABOR** ◀

To access the Kentucky Labor Cabinet's child labor law home page, click on [https://labor.ky.gov/standards/Pages/Wages-and-Hours.aspx#Kentucky\\_Child\\_Labor\\_Law](https://labor.ky.gov/standards/Pages/Wages-and-Hours.aspx#Kentucky_Child_Labor_Law).

➤ **CHILD SUPPORT** ◀

Employers served with a child support order must begin withholding immediately. Amounts withheld are remitted on the date specified in the order. Notify the state promptly if the employee-obligor terminates. Employers with at least 20 employees must notify the state child support agency in writing 45 days before making a lump sum payment of \$150 or more to an employee whose wages are subject to a child support withholding order. After notifying the state, employers must hold the payment for 30 days after the date it would otherwise be paid to the employee. If ordered, the payment must be turned over to the state.

➤ **COURT ATTENDANCE** ◀

Employers may not discharge employees for taking time off to appear in court or at an administrative tribunal hearing. Employees must give notice by presenting the employer a copy of the court or administrative certificate.

➤ **DISABILITIES** ◀

It is an unlawful employment practice for an employer to fail or refuse to hire; terminate; limit, segregate, or classify; deny training opportunities to; or otherwise discriminate against a qualified individual with respect to compensation or terms, conditions, or privileges of employment based on disability.

It is also an unlawful employment practice for an employer to print or publish a notice or advertisement relating to employment indicating any preference, limitation, specification, or discrimination based on an individual being a qualified person with a disability.

State law does not require employers to grant preferential treatment to an individual because the person is a qualified individual with a disability, on account of an imbalance that may exist with respect to the total number or percentage of persons who are qualified individuals with disabilities and who are employed by the employer, in comparison with the total number of qualified individuals with disabilities in the state or area.

An employer is permitted to make a pre-employment inquiry about the existence of an applicant's disability and about the extent to which that disability has been overcome by treatment, medication, or other rehabilitation. Employers are permitted to deny employment to an applicant on the basis of:

1. a physical disability that interferes with the applicant's ability to adequately perform assigned job duties;
2. any disability that is not demonstrable by medically accepted clinical or laboratory diagnostic techniques, including, but not limited to, alcoholism, drug addiction, and obesity; or

3. any communicable disease, either carried by or afflicting the applicant.

For purposes of determining discrimination based on disability, an employer is defined to include any individual engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year.

#### ➤ DRUG TESTING ◀

Kentucky does not have a general drug testing law, but employers that implement a drug-free workplace program in compliance with state regulations may be eligible for a discount on Workers' Compensation premiums.

#### ➤ FAMILIAL/MARITAL STATUS ◀

No provisions specified in the general employment context.

#### ➤ FAMILY/MEDICAL LEAVE ◀

*Coverage:* State employers.

*Length of leave:* State employees are entitled to 12 weeks of unpaid family and medical leave for the birth, placement, or adoption of a child. If both parents are state employees, each parent is entitled to 12 weeks of unpaid leave.

Employers must also grant personal leave of up to six weeks to employees who adopt a child under seven, if employees submit a written request.

*Paid leave:* If the employee qualifies for family and medical leave but has an annual sick leave balance, the employee may reserve 10 days of accumulated sick leave and be placed on FMLA leave, or use accrued paid sick leave concurrently with FMLA leave.

*Benefits:* Employers must maintain the state contribution for health and life insurance while employees are on family leave.

#### ➤ GENETIC TESTING ◀

No provisions specified in the general employment context.

#### ➤ HEALTH CARE CONTINUATION COVERAGE ◀

Continuation coverage requirements generally apply to employers that provide group health insurance to employees. Eligible employees have the right to continue coverage for up to 18 months.

Click on <https://apps.legislature.ky.gov/law/kar/803/025/290.pdf> to access the law.

➤ **JURY DUTY** ◀

Employers may not discriminate against employees who receive and respond to summonses and serve as jurors.

➤ **LIFESTYLE DISCRIMINATION** ◀

Employers cannot require, as a condition of employment, that employees or prospective employees abstain from smoking or using tobacco products outside the course of employment. Employers are also prohibited from otherwise discriminating against an individual based on the use of tobacco products during non-working hours.

➤ **MASS LAYOFF NOTIFICATION** ◀

No state-specific notification provision.

➤ **MEDICAL DONATION LEAVE** ◀

State employees who donate blood at a licensed blood center during working hours are entitled to receive four hours of paid leave time.

➤ **MILITARY LEAVE** ◀

Employees must be granted leaves of absence to perform active duty or training in the Kentucky National Guard or the National Guard of any other state. Employers are not required to grant an employee a leave of absence with pay.

*Reinstatement:* 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.

➤ **MINIMUM WAGE** ◀

*Minimum hourly wage/overtime rate:* \$7.25/\$10.88.

*Basis for overtime:* Over 40 hours/week.

*Opportunity wage for under 20-year-olds:* None.

➤ **NATIONAL ORIGIN** ◀

It is an unlawful employment practice, under the Kentucky Civil Rights Act, for an employer to fail or refuse to hire; terminate; limit, segregate, or classify; deny training opportunities to; or otherwise discriminate against an individual with respect to compensation or terms, conditions, or privileges of employment based on national origin.

For the purposes of the Act, an employer is defined as a person who has eight or more employees within Kentucky in each of 20 or more calendar weeks in the current or preceding calendar year, or any agent of an employer.

➤ **NEW-HIRE REPORTING** ◀

*Data to be reported:* Employee's name, address, SSN; employer's name, address, federal and state EINs.

*Reporting deadline/form:* Within 20 days of hire or rehire; on W-4s or through the state's website.

➤ **OVERTIME** ◀

*Basis for overtime:* Over 40 hours in a workweek.

In-home companions to sick, convalescing, or elderly persons who are employed by third-party employers or agencies are exempt from the state's overtime law. The state has clarified that it follows the revised federal white collar regulations on who is considered an exempt employee.

➤ **PAY STATEMENTS** ◀

*Information required:* Amount/purpose of deductions.

*Electronic statements:* Employers may provide employees with electronic pay stubs, provided employees have access to a computer and printer where they may review and print their statements.

➤ **PERSONNEL FILES** ◀

Public employers only. Individuals have the right to inspect any records that relate to them or contain their name, excluding employment examination materials or records relating to ongoing criminal or administrative investigations.

➤ **POLYGRAPH TESTING** ◀

No provisions specified in the general employment context.

➤ **POSTING REQUIREMENTS** ◀

Unemployment Insurance (English & Spanish) — All employers

Child Labor Law (English & Spanish) — All employers who employ youth under 18

Safety & Health Protection on the Job (English & Spanish) — All employers

Equal Employment Opportunity — All employers

Wage Discrimination Because of Sex (English & Spanish) — All employers of 2 or more employees

Workers' Compensation Notice — All employers

Wage & Hour Laws (English & Spanish) — All employers

Fair Housing — Recommended for lenders and businesses where housing financing transactions are negotiated

Fair Housing — Plain Language (English & Spanish) — Recommended for lenders and businesses where housing financing transactions are negotiated

Public Accommodations — All employers

### ➤ PREGNANCY ◀

*General rule:* Prohibited discrimination because of sex or on the basis of sex includes, but is not limited to, discrimination because of or on the basis of pregnancy, childbirth, or related medical conditions. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work.

See also family/medical leave.

### ➤ RACE ◀

It is an unlawful employment practice, under the Kentucky Civil Rights Act, for an employer to fail or refuse to hire; terminate; limit, segregate, or classify; deny training opportunities to; or otherwise discriminate against an individual with respect to compensation or terms, conditions, or privileges of employment based on race or color.

For the purposes of the Act, an employer is defined as a person who has eight or more employees within Kentucky in each of 20 or more calendar weeks in the current or preceding calendar year, or any agent of an employer.

### ➤ REFERENCES ◀

*References:* An employer is generally immune from liability if, on request by a prospective employer or a current/former employee, the employer discloses information about the employee's job performance.

### ➤ RELIGION ◀

It is an unlawful employment practice, under the Kentucky Civil Rights Act, for an employer to fail or refuse to hire; terminate; limit, segregate, or classify; deny training opportunities to; or otherwise discriminate against an individual with respect to compensation or terms, conditions, or privileges of employment based on religion.

For the purposes of the Act, religion means all aspects of religious observance, as well as belief, unless an employer demonstrates it is unable to reasonably accommodate an employee's or applicant's religious observance or practice without creating an undue hardship. An employer is defined as a person who has eight or more employees within Kentucky in each of 20 or more calendar weeks in the current or preceding calendar year, or any agent of an employer.

➤ **REPORTING PAY** ◀

No provision.

➤ **SAFETY** ◀

Click on <https://labor.ky.gov/standards/Pages/Occupational-Safety-and-Health.aspx> to access Kentucky's Office of Occupational Safety and Health home page, which provides you with an overview of Kentucky's occupational safety and health program.

➤ **SCHOOL VISITATION LEAVE** ◀

No provision.

➤ **SEX DISCRIMINATION** ◀

It is an unlawful employment practice, under the Kentucky Civil Rights Act, for an employer to fail or refuse to hire; terminate; limit, segregate, or classify; deny training opportunities to; or otherwise discriminate against an individual with respect to compensation or terms, conditions, or privileges of employment based on sex.

For the purposes of the Act, an employer is defined as a person who has eight or more employees within Kentucky in each of 20 or more calendar weeks in the current or preceding calendar year, or any agent of an employer.

➤ **SEXUAL HARASSMENT** ◀

No general provision.

➤ **SEXUAL ORIENTATION DISCRIMINATION** ◀

An executive order prohibits state employers from discriminating against individuals based on sexual orientation or gender identity.

➤ **SMOKING** ◀

An executive order bans smoking in state offices and common areas occupied by the executive branch of government.

See also lifestyle discrimination.

➤ **SOCIAL SECURITY NUMBER PRIVACY** ◀

Employers that own or license computerized data that includes employees' personal information (i.e., employees' first and last names in combination with their Social Security numbers; drivers' license numbers; or account numbers, credit or debit card numbers, in combination with any

required security code, access code, password, or biometric data) must implement and maintain reasonable security procedures that are appropriate to the nature of the information required to be protected. Employers must also take reasonable steps to destroy or arrange for the destruction of records that include employees' PII (e.g., shredding, erasing, or otherwise modifying the records so that they are unreadable).

Data breaches must be reported within 60 days, unless the employer has been advised to the contrary by law enforcement. Reporting is also unnecessary if, after a reasonable investigation, employers determine that there is no reasonable likelihood of hardship to employees. Employers must retain a written determination supporting their decisions for five years. If the breach covers more than 1,000 employees, employers must notify all consumer reporting agencies and credit bureaus without unreasonable delay.

### ➤ UNEMPLOYMENT INSURANCE ◀

Click on [www.oet.ky.gov/des/ui/ui.htm](http://www.oet.ky.gov/des/ui/ui.htm) to access the Kentucky Office of Employment and Training unemployment insurance home page. For an employer's guide to unemployment insurance, click on <https://kcc.ky.gov/employer/Pages/Unemployment-Insurance.aspx>.

### ➤ VACATION PAY UPON TERMINATION ◀

Wages include vested vacation pay and any other similar advantages agreed upon by the employer and employee or provided to employees under an established policy.

### ➤ VIOLENCE ◀

*Concealed weapons:* No employer that is the owner, lessee, or occupant of real property may prohibit any person, who is legally entitled to possess a firearm, from possessing a firearm, part of a firearm, ammunition, or ammunition component in a vehicle on the property.

Employers may not fire, discipline, demote, or otherwise punish an employee who is lawfully exercising a right guaranteed by these provisions.

### ➤ VOTING ◀

Employees are entitled to take reasonable time off to vote, but not less than four hours while polls are open. Individuals who take a reasonable amount of time may not be penalized unless they take time off to vote and then do not cast a vote. Employers may specify the hours during which employees may be absent to vote.

*Notification:* Employees must request time off to vote prior to Election Day.

### ➤ WAGE DEDUCTIONS ◀

Deductions authorized by state or federal law or in writing by employees are permitted, as are deductions authorized by the employee in writing to cover insurance premiums, hospital and



medical dues, or other deductions not amounting to a deduction from standard wage arrived at by collective bargaining or pursuant to wage agreement or statute.

*Union dues:* Employers must obtain written or electronic permission to withhold union dues or other fees from employees who are union members and from employees who aren't union members. *Exceptions:* This provision doesn't apply to employees who are subject to the National Labor Relations Act or the Federal Railway Labor Act. This provision also doesn't apply to agreements entered into before January 9, 2017, but will apply to new or renewed agreements entered into after that date.

### ➤ WAGE GARNISHMENT ◀

The lesser of 25% of disposable weekly pay, or the amount by which disposable weekly pay exceeds 30 times the federal minimum wage in effect during the week the garnishment is to occur, may be withheld. Employers may not discharge an employee for any one indebtedness.

### ➤ WAGE PAYMENT ON TERMINATION ◀

*Employee who quits:* Later of next payday or 14 days.

*Employee who's fired:* Later of next payday or 14 days.

### ➤ WAGE PAYMENTS ◀

*Payday requirements:* At least semimonthly.

*Direct deposit:* Mandatory, if employee gets pay statement, incurs no expense.

### ➤ WHISTLEBLOWING ◀

The state's whistleblower laws protect conduct associated with the reporting of actual or suspected violations of certain state laws. These protections generally apply to the regulation of public and employee safety and health, and to acts of economic waste or fraud by both public and private persons. In addition, the statutes usually prohibit any form of retaliation against an employee who exercises a right provided by a particular act or who files a charge, testifies, or assists or participates in any manner in an investigation, proceeding, hearing, or private civil action authorized by the associated act.

### ➤ WORK AUTHORIZATION ◀

No general provision.

### ➤ WORKERS' COMPENSATION ◀

Click on <https://labor.ky.gov/comp/Pages/default.aspx> to access the Kentucky Department of Workers' Claims home page.