

# WAGE DISCRIMINATION BECAUSE OF SEX



## DEFINITIONS

(KRS 337.420 to 337.433 and KRS 337.990 (11))

### EMPLOYEE

Any individual employed by any employer, including but not limited to individuals employed by the State or any of its political subdivisions, instrumentalities, or instrumentalities of political subdivisions.

### EMPLOYER

A person who has two or more employees within the State in each of twenty or more calendar weeks in the current or preceding calendar year and an agent of such a person.

### WAGE RATE

All compensation for employment, including payment in kind and amounts paid by employers for employee benefits, as defined by the Commissioner in regulations issued under KRS 337.425.

### PROHIBITION OF THE PAYMENT OF WAGES BASED ON SEX:

The employer is prohibited from discriminating between employees of opposite sexes in the same establishment by paying different wage rates for comparable work on jobs which have comparable requirements. This prohibition covers any employee in any occupation in Kentucky. Any employer in violation shall not reduce the wages of any employee in order to comply with KRS 337.420 – 337.433.

No employer can discharge or discriminate against any employee for the reason that the employee sought to invoke or assist in the enforcement of KRS 337.423.

### EXEMPTIONS FROM COVERAGE:

A differential paid through an established seniority system or merit increase system is permitted by KRS 337.423 if it does not discriminate on the basis of sex.

Employers subject to the Fair Labor Standards Act of 1938, as amended, are excluded “when that act imposes comparable or greater requirements than contained” in KRS 337.420 – 337.433. However, to be excluded, the employer must file with the Commissioner of the Kentucky Office of Workplace Standards a statement that he is covered by the Fair Labor Standards Act of 1938, as amended.

### ENFORCEMENT OF LAW AND POWER TO INSPECT:

The Commissioner or his authorized agent has the power to enter the employer’s premises to inspect records, compare character of work and operations of employees, question employees, and to obtain any information necessary to administer and enforce KRS 337.420 – 337.433. The Commissioner or his authorized representative may examine witnesses under oath, and require by subpoena the attendance and testimony of witnesses and the production of any documentary evidence relating to the subject matter of any investigation undertaken pursuant to KRS 337.425. If a person fails to obey a subpoena, the Circuit Court of the Judicial District wherein the hearing is being held may issue an order requiring the subpoena to be obeyed. Failure to obey the court order may be punished as contempt of that court.

### COLLECTION OF UNPAID WAGES:

Any employer who discriminates based on sex is liable to the employee or employees affected in the amount of the unpaid wages. If the employer is in willful violation, he is liable for an additional equal amount as liquidated damages. The court may order other appropriate action, including reinstatement of employees discharged in violation of KRS 337.420 – 337.433.

The employee or employees affected may maintain an action to collect the amount due. At the written request of any employee, the Commissioner may bring any legal action necessary to collect the claim for unpaid wages in behalf of the employee.

An agreement between an employer and employee to work for less than the wage to which such employee is entitled will not bar any legal action or voluntary wage restitution.

### STATUTE OF LIMITATIONS:

Court action may be commenced no later than six months after the cause of action occurs.

### POSTING OF LAW:

All employers shall post this abstract in a conspicuous place in or about the premises wherein any employee is employed.

### PENALTIES:

Any person who discharges or in any other manner discriminates against an employee because such employee has:

- made any complaint to his employer, the Commissioner or any other person, or
- instituted or caused to be instituted any proceeding under or related to KRS 337.420 – 337.433, or
- testified or is about to testify in any such proceedings, shall be assessed a civil penalty of not less than \$100 nor more than \$1,000.

### FOR FURTHER INFORMATION CONTACT:

Education and Labor Cabinet  
Division of Wages and Hours  
Mayo-Underwood Building  
500 Mero Street, 3<sup>rd</sup> Floor  
Frankfort, Kentucky 40601  
Phone: (502) 564-3534  
[www.elc.ky.gov](http://www.elc.ky.gov)

“No individual in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, be excluded from participation in, or denied the benefits of, or be subjected to discrimination under any program or activity under the jurisdiction of the Education and Labor Cabinet.”

POST THIS ORDER WHERE ALL EMPLOYEES MAY READ