

1 AN ACT relating to employment discrimination.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 344.040 is amended to read as follows:

- 4 (1) It is an unlawful practice for an employer:
- 5 (a) To fail or refuse to hire, or to discharge any individual, or otherwise to
6 discriminate against an individual with respect to compensation, terms,
7 conditions, or privileges of employment, because of the individual's race,
8 color, religion, national origin, sex, age forty (40) and over, because the
9 person is a qualified individual with a disability, or because the individual is a
10 smoker or nonsmoker, as long as the person complies with any workplace
11 policy concerning smoking;
- 12 (b) To limit, segregate, or classify employees in any way which would deprive or
13 tend to deprive an individual of employment opportunities or otherwise
14 adversely affect status as an employee, because of the individual's race, color,
15 religion, national origin, sex, or age forty (40) and over, because the person is
16 a qualified individual with a disability, or because the individual is a smoker
17 or nonsmoker, as long as the person complies with any workplace policy
18 concerning smoking; or
- 19 (c) To require as a condition of employment that any employee or applicant for
20 employment abstain from smoking or using tobacco products outside the
21 course of employment, as long as the person complies with any workplace
22 policy concerning smoking.
- 23 (2) (a) A difference in employee contribution rates for smokers and nonsmokers in
24 relation to an employer-sponsored health plan shall not be deemed to be an
25 unlawful practice in violation of this section.
- 26 (b) The offering of incentives or benefits offered by an employer to employees
27 who participate in a smoking cessation program shall not be deemed to be an

1 unlawful practice in violation of this section.

2 **(3) Nothing in this section or KRS 344.050, 344.060, 344.070, 344.080, and 344.280**
3 **shall apply to any employer who is subject to a federal law relating to**
4 **discrimination or retaliation when the federal law imposes comparable or greater**
5 **requirements than stated in this section and the statutes cited in this subsection**
6 **and the employer files with the commissioner of the Kentucky Commission on**
7 **Human Rights a statement that the employer is covered by such laws.**