

1 AN ACT relating to workers' compensation.

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

3 ➔Section 1. KRS 342.610 is amended to read as follows:

- 4 (1) Every employer subject to this chapter shall be liable for compensation for injury,
5 occupational disease, or death without regard to fault as a cause of the injury,
6 occupational disease, or death.
- 7 (2) A contractor who subcontracts all or any part of a contract and his or her carrier
8 shall be liable for the payment of compensation to the employees of the
9 subcontractor unless the subcontractor primarily liable for the payment of such
10 compensation has secured the payment of compensation as provided for in this
11 chapter. Any contractor or his or her carrier who shall become liable for such
12 compensation may recover the amount of such compensation paid and necessary
13 expenses from the subcontractor primarily liable therefor. A person who contracts
14 with another:
- 15 (a) To have work performed consisting of the removal, excavation, or drilling of
16 soil, rock, or mineral, or the cutting or removal of timber from land; or
- 17 (b) To have work performed of a kind which is a regular or recurrent part of the
18 work of the trade, business, occupation, or profession of such person
19 shall for the purposes of this section be deemed a contractor, and such other person
20 a subcontractor. This subsection shall not apply to the owner or lessee of land
21 principally used for agriculture.
- 22 (3) Liability for compensation shall not apply to injury, occupational disease, or death
23 to the employee if the employee willfully intended to injure or kill himself, herself,
24 or another.
- 25 (4) If an employee voluntarily introduced an illegal, nonprescribed substance or
26 substances or a prescribed substance or substances in amounts in excess of
27 prescribed amounts into his or her body detected in the blood, as measured by a

1 scientifically reliable test, that could cause a disturbance of mental or physical
2 capacities, it shall be presumed that the illegal, nonprescribed substance or
3 substances or the prescribed substance or substances in amounts in excess of
4 prescribed amounts caused the injury, occupational disease, or death of the
5 employee and liability for compensation shall not apply to the injury, occupational
6 disease, or death to the employee. However, if a scientifically reliable test reveals
7 that the employee had a level of five (5) nanograms or more of delta-9-
8 tetrahydrocannabinol per milliliter, and no other unprescribed substance or
9 prescribed substance in amounts in excess of prescribed amounts is found
10 through scientifically reliable testing, there shall not be a presumption that the
11 introduction of the delta-9-tetrahydrocannabinol into the employee's body caused
12 the injury, occupational disease, or death of the employee, and the employer shall
13 have the burden of proving the injury, occupational disease, or death was
14 proximately caused by the introduction of delta-9-tetrahydrocannabinol into the
15 employee's body. If a scientifically reliable test reveals that the employee had a
16 level of less than five (5) nanograms of delta-9-tetrahydrocannabinol per
17 milliliter, and no other unprescribed substance or prescribed substance in
18 amounts in excess of prescribed amounts is found through scientifically reliable
19 testing, there shall be an irrebutible presumption that the introduction of the
20 delta-9-tetrahydrocannabinol into the employee's body did not cause the injury,
21 occupational disease, or death of the employee.

22 (5) If injury or death results to an employee through the deliberate intention of his or
23 her employer to produce such injury or death, the employee or the employee's
24 dependent as herein defined shall receive the amount provided in this chapter in a
25 lump sum to be used, if desired, to prosecute the employer. The dependents may
26 bring suit against the employer for any amount they desire. If injury or death results
27 to an employee through the deliberate intention of his or her employer to produce

1 such injury or death, the employee or the employee's dependents may take under
2 this chapter, or in lieu thereof, have a cause of action at law against the employer as
3 if this chapter had not been passed, for such damage so sustained by the employee,
4 his dependents or personal representatives as is recoverable at law. If a suit is
5 brought under this subsection, all right to compensation under this chapter shall
6 thereby be waived as to all persons. If a claim is made for the payment of
7 compensation or any other benefit provided by this chapter, all rights to sue the
8 employer for damages on account of such injury or death shall be waived as to all
9 persons.

10 (6) Prior to issuing any building permit pursuant to KRS 198B.060(10), every local
11 building official shall require proof of workers' compensation coverage from the
12 builder before a permit is issued. A person who is exempt under the exception
13 contained in KRS 342.650(2), and any contractor otherwise exempt from this
14 chapter, shall so certify to the local building official, in writing and on a form
15 prescribed by the commissioner, in lieu of providing proof of workers'
16 compensation coverage.

17 (7) Every employer subject to this chapter, at its principal office and such other
18 locations where employees customarily report for payroll and personnel matters,
19 shall post a notice stating the name of its workers' compensation insurance carrier
20 and policy number, setting forth the means to access medical care for injuries, the
21 employee's obligation to give notice of accidents, and such other matters concerning
22 the employee's rights under this chapter as may be required by the commissioner so
23 as to afford every employee the opportunity to become informed about the
24 employer's workers' compensation program. The format and contents of the notice
25 shall be established by the commissioner through administrative regulation, and
26 copies shall be provided to the employer by its insurance carrier.