

## ● CIVIL RIGHTS LAW

*STATUTORY CITATION:* Ky. Rev. Stat. §§ 344.010 – 344.990

*GENERAL SUMMARY:* The Kentucky civil rights law seeks to safeguard individuals in the state against discrimination because of race, color, religion, national origin, sex, age, disability, and smoking status. The law's anti-discrimination provisions apply to both agricultural and non-agricultural employment.

### *SPECIFIC TERMS AND CONDITIONS*

**UNLAWFUL EMPLOYMENT PRACTICES** — It is illegal for any employer who has 8 or more employees in Kentucky in each of 20 or more calendar weeks in the current or preceding calendar year, to refuse to hire a job applicant, to discharge an employee, or to otherwise discriminate against an individual with respect to compensation or other terms, conditions or privileges of employment, because of the individual's race, color, religion, national origin, sex, or age (over 40), or because the individual is a smoker or non-smoker.

Similar discriminatory practices against a worker based on the worker's disability are unlawful when committed by an employer who is engaged in any industry affecting commerce and who has 15 or more employees for each working day in 20 or more calendar weeks in the current or preceding calendar year.

Comparable discriminatory acts by employment agencies and labor organizations are likewise prohibited.

**EXCEPTIONS** — The law does not preclude certain job referral, hiring, employment or membership practices by employers, employment agencies or labor organizations which make distinctions on the basis of religion or national origin in those certain instances where religion or national origin is a bona fide occupational qualification necessary to the normal operation of the particular business or enterprise. Similarly, it is not unlawful to apply different standards of compensation, or different terms or conditions of employment, pursuant to a bona fide seniority or merit system, or any other personnel system, as long as such differences are not intended to discriminate on the basis of race, color, religion, national origin, sex, age or disability.

**COMPLAINTS** — Anyone claiming to have been subjected to a discriminatory employment practice may file a written complaint with the state enforcement agency, at any time within 180 days after the occurrence of the alleged unlawful practice. If the state agency staff finds probable cause to believe the complaint is valid, the staff must attempt to reach an agreement with the offending party to eliminate the practice through conciliation. If no such agreement is reached within 60 days of the filing of the complaint, the state agency may summon the respondent to a hearing to answer the allegation, and if the hearing confirms a violation of the civil rights law, the agency may issue an order for corrective action. The agency's order may include restitution, in the form of hiring, reinstatement or promotion, with or without back pay, as well as payment of damages to the complainant.

### *SPECIAL NOTES OR ADVISORIES*

**PREEMPTION OF JURISDICTION** — The Commission is barred from taking jurisdiction over any claim of discrimination under the state civil rights law while a claim by the same person seeking relief for the same grievance is pending in state circuit court. Conversely, a state court may not consider any claim of an unlawful practice under the civil rights law while a claim by the same person seeking relief for the same grievance is pending before the Commission. A final determination by a state court or the Commission precludes any other action or proceeding brought by the same person based on the same grievance.

### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** — *Enforcement Branch, Kentucky Commission on Human Rights, Louisville, Kentucky 40202 (502-595-4024; toll-free 800-292-5566).* For the purpose of enforcing compliance with the state civil rights law, representatives of the Commission have authority to enter places of employment, review personnel records, interview employees, hold hearings, and take sworn testimony.

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** — *None.*

**PRIVATE CIVIL ACTION** — Except as limited by the preemption provision noted above, a worker aggrieved by an unlawful act of employment discrimination by an employer subject to these provisions may take civil court action against the alleged violator directly, by consulting a private attorney or public legal service provider.