

1 LABOR CABINET

2 Department of Workplace Standards

3 (New Administrative Regulation)

4 803 KAR 1:067. Hours worked.

5 RELATES TO: KRS 337.275, 337.285

6 STATUTORY AUTHORITY: KRS 337.295

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 337.295 authorizes the

8 commissioner to issue administrative regulations to carry out the provisions of KRS 337.275-

9 337.325, 337.345 and 337.385-337.405. The function of this administrative regulation is to

10 define the principals involved in determining what constitutes working time pursuant to KRS

11 337.275 and 337.285.

12 Section 1. Definition. "Employee" is defined by KRS 337.010(1)(e) and (2)(a).

13 Section 2. Employees suffered or permitted to work. The criteria for "suffered or

14 permitted to work" applicable to KRS 337.275 and 337.285 are as established in 29 C.F.R.

15 785.11 through 785.13.

16 Section 3. Waiting Time. The criteria for "waiting time" applicable to KRS 337.275 and

17 337.285 shall be as established in 29 C.F.R. 785.14 through 785.17.

18 Section 4. Rest and meal periods. The criteria for rest and meal periods applicable to

19 KRS 337.275 and 337.285 are as established in 29 C.F.R. 785.18 and 785.19.

1 Section 5. Sleeping time and certain other activities. The requirements for sleeping time
2 and certain other activities applicable to KRS 337.275 and 337.285 are as established in 29
3 C.F.R. 785.20, 785.21, and 785.23.

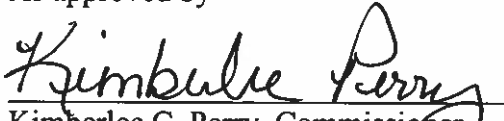
4 Section 6. Lectures, Meetings and Training Programs. The requirements for lectures,
5 meetings, and training programs applicable to KRS 337.275 and 337.285 are as established in 29
6 C.F.R. 785.27 through 785.32.

7 Section 7. Travel time. The requirements for travel time applicable to KRS 337.275 and
8 337.285 are as established in 29 C.F.R. 785.33, 785.35, 785.38, and 785.39.

9 Section 8. Recording work time. (1) In accordance with KRS 337.320, there is no
10 particular method of keeping a time record worked by an employee. Recordkeeping requirements
11 are set out in 803 KAR 1:068.

12 (2) Criteria for the use of time clocks applicable to KRS 337.275 and 337.285 are as
13 established in 29 C.F.R. 785.48.

As approved by



Kimberlee C. Perry, Commissioner
Department of Workplace Standards

01/03/2022

Date



Jamie Link, Secretary
Kentucky Labor Cabinet

01/03/2022

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 28, 2022 at 1:00pm (ET). This hearing will be conducted by live videoconference (ZOOM) pursuant to Senate Bill 150, Section 1, subparagraph 8(b) (R.S. 2020) and the continuing state of emergency due to the novel coronavirus pandemic. Public access to the meeting will be available at <https://us06web.zoom.us/j/88108844438>, or by telephone at (713) 353-0212 or 888-822-7517 (toll free), conference code 786462.

Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2022. Send notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Duane Hammons, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-1507, Facsimile: (502) 564-5484, Email: Kenneth.hammons@ky.gov

REGULATORY IMPACT AND TIERING STATEMENT

Regulation Number 803 KAR 1:067

Contact Person: Duane Hammons, Telephone: (502) 564-1507, Facsimile: (502) 564-5484,

Email: kenneth.hammons@ky.gov

(1) Provide a brief summary of:

- (a) What this administrative regulation does: This administrative regulation provides guidance for determining what constitutes working time pursuant to KRS 337.275 and 337.285.
- (b) The necessity of this administrative regulation: This administrative regulation is necessary to clarify the meaning of working time pursuant to KRS 338.275 and 337.285 in order to help determine hours worked.
- (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 337.295 authorizes the commissioner to promulgate administrative regulations under KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides guidance that will help determine working time requirements pursuant to KRS 337.275 and 337.285.

(2) If this is an amendment to an existing regulation, provide a brief summary of:

- (a) How this amendment will change this existing administrative regulation:
- (b) The necessity of the amendment to this administrative regulation:
- (c) How the amendment conforms to the content of the authorizing statutes:
- (d) How the amendment will assist in the effective administration of the statutes:

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all subject employers who employ employees in the Commonwealth subject to KRS Chapter 337, as well as their employees.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional compliance duties are required by this administrative regulation as it is replacing 803 KAR 1:065.
- (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost associated with this administrative regulation as it is replacing 803 KAR 1:065.

- (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection and guidance for employers for what constitutes working time.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
 - (a) Initially: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:065.
 - (b) On a continuing basis: This administrative regulation is not anticipated to generate any new or additional costs as it is replacing 803 KAR 1:065.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state funding.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: This administrative regulation is not anticipated to generate any increase in fees or funding as it is replacing 803 KAR 1:065.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees associated with this administrative regulation as it is replacing 803 KAR 1:065.
- (9) TIERING: Is tiering applied? Tiering is not applied. All subject employers and employees covered by KRS Chapter 337 are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number 803 KAR 1:067

Contact Person: Duane Hammons, Telephone: (502) 564-1507, Facsimile: (502) 564-5484,
Email: kenneth.hammons@ky.gov

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Most state and local governmental entities are subject to KRS Chapter 337.
2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 337.295.
3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
 - a. How much revenue will the administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue.
 - b. How much revenue will the administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue.
 - c. How much will it cost to administer this program for the first year? There is no cost to this administrative regulation as it is replacing 803 KAR 1:065.
 - d. How much will it cost to administer this program for subsequent years? There is no cost to this administrative regulation as it is replacing 803 KAR 1:065.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Unknown

Expenditures (+/-): Unknown

Other explanations: This administrative regulation does not impose any additional requirements or expenditures as it is replacing 803 KAR 1:065.