

1 LABOR CABINET

2 Department of Workplace Standards

3 (Amendment)

4 803 KAR 1:080. Board, lodging, gratuities and other allowances.

5 RELATES TO: KRS 337.275, 337.285

6 STATUTORY AUTHORITY: KRS 337.295

7 NECESSITY, FUNCTION, AND CONFORMITY: The statutory definition for "wages"
8 when used in the statutes[Aet] includes any compensation due to an employee by reason of his or
9 her employment, including salaries, commissions, vested vacation pay, overtime pay, severance
10 or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the
11 employer and the employee or provided to employees as an established policy. The wages shall
12 be payable in legal tender of the United States, [ø] checks on banks, direct deposits, or payroll
13 card accounts convertible into cash on demand at full face value, subject to [sueh] allowances
14 made in the statutes[Aet]. An employee may not be charged an activation fee and the payroll
15 card account shall provide the employee with the ability, without charge, to make at least one
16 (1) withdrawal per pay period for any amount up to and including the full account balance.
17 KRS 337.295 authorizes the commissioner[executive-director] to promulgate administrative
18 regulations permitting allowances as part of the wage rates applicable under the statutes for board,

1 lodging, gratuities, and other facilities. The function of this administrative regulation is to
2 set forth what allowances may be credited toward the payment of wages as required by the
3 statutes[Act].

4 Section 1. Board, Lodging, and Other Facilities. (1) An employer may be permitted to
5 include as wages paid to an employee, as required by KRS 337.275 and 337.285, the reasonable
6 cost of furnishing an employee with board, lodging, or other facilities if they[such] are customarily
7 furnished by the[such] employer to [his] employees. Reasonable cost shall not include a profit to
8 the employer or to any affiliated person. This section does not prohibit payment of wages in
9 facilities furnished either as additions to a stipulated wage or as items for which deductions from
10 the stipulated wage will be made. The reasonable cost of board, lodging, or other facilities may be
11 considered as part of the wage paid an employee only where customarily furnished to the
12 employee. Not only shall[must] the employee receive the benefits of the facility for which the
13 employee[he] is charged, but it is essential that the[his] acceptance of the facility be voluntary and
14 uncoerced.

15 (2) Customarily furnished. The reasonable cost of board, lodging, or other facilities may
16 be considered as part of the wage paid an employee only where customarily furnished to the
17 employee. Where the[such] facilities are furnished to the employee, it shall[will] be considered a
18 sufficient satisfaction of this requirement if the facilities are furnished regularly by the employer
19 to [his] employees or if the same or similar facilities are customarily furnished by other employers
20 engaged in the same or similar trade, business, or occupation in the same or similar communities.

21 (3) Other facilities.

22 (a) “Other facilities,” as used in this administrative regulation, shall[must] be something
23 like board or lodging. The following items are deemed to be within the meaning of the term: meals

1 furnished at company restaurants or cafeterias or by hospitals, hotels, or restaurants to their
2 employees; meals, dormitory rooms, and tuition furnished by a college to its student employees;
3 housing furnished for dwelling purposes; general merchandise furnished at company stores and
4 commissaries (including articles of food, clothing, and household effects), fuel, electricity, water,
5 and gas furnished for the noncommercial personal use of the employee; transportation furnished
6 employees between their house and work where the travel time does not constitute hours worked
7 and the transportation is not an incident of and necessary to the employment.

8 (b) The cost of furnishing facilities which are primarily for the benefit or convenience of
9 the employer shall~~[will]~~ not be recognized as reasonable and shall~~[may]~~ not therefore be included
10 in computing wages. The following examples of facilities to be primarily for the benefit or
11 convenience of the employer is meant as illustrative rather than exclusive: tools of the trade and
12 other materials and services incidental to carrying on the employer's business; the cost of any
13 construction by or for the employer; the cost of uniforms and of their laundering, where the nature
14 of the business requires the employees to wear a uniform.

15 (4) Free and clear payment; kickbacks. Whether in cash or in facilities, "wages" shall
16 not~~[cannot]~~ be considered to have been paid by the employer and received by the employee unless
17 they are paid finally and unconditionally or "free and clear." The wage requirements of the
18 statutes~~[Act]~~ are~~[will]~~ not ~~[be]~~ met where the employee kicks back directly or indirectly to the
19 employer or to another person for the employer's benefit the whole or part of the wage delivered
20 to the employee. This is true whether the kickback is made in cash or in other than cash. For
21 example, if it is a requirement of the employer that the employee shall~~[must]~~ provide a uniform
22 which will be used in, or is specifically required for, the performance of the employer's particular
23 work, there would be a violation of the statutes~~[Act]~~ in any workweek when the cost of furnishing

1 and maintaining the uniform by the employee cuts into the minimum or overtime wages required
2 to be paid [him] under the statutes[Act].

3 (5) Non-overtime workweeks. When no overtime is worked by the employee, this
4 administrative regulation shall[will] apply only to the applicable minimum wage for all hours
5 worked. To illustrate, where an employee works forty (40) hours a week at a cash wage rate of at
6 least the applicable minimum wage[one (1) dollar and sixty (60) cents an hour in a situation when
7 that rate is the applicable minimum wage] and is paid that amount[sixty four (64) dollars] in cash
8 free and clear at the end of the workweek, and in addition is furnished facilities [valued at four (4)
9 dollars], no consideration need be given to the question of whether the[such] facilities meet the
10 requirements of this administrative regulation, since the employee has received in cash the
11 applicable minimum wage for all hours worked. Similarly where an employee is employed at a
12 rate in excess of the applicable minimum wage[of one (1) dollar and eighty (80) cents an hour]
13 and during a particular workweek works forty (40) hours for which the employee receives at least
14 minimum wage free and clear[he is paid sixty four (64) dollars in cash], the employer having
15 deducted [eight (8) dollars] from the employee's[his] wages for facilities furnished, whether
16 the[such] deduction meets the requirements of this administrative regulation need not be
17 considered, since the employee is still receiving, after the deduction has been made, a cash wage
18 of at least the applicable minimum wage for each hour worked. Deductions for board, lodging,
19 or other facilities may be made in non-overtime workweeks even if they reduce the cash wage
20 below the applicable minimum wage, provided the prices charged do not exceed the reasonable
21 cost of the[such] facilities. When the[such] items are furnished to the employee at a profit, the
22 deductions from wages in weeks in which no overtime is worked are considered to be illegal only
23 to the extent that the profit reduces the wage below the required minimum wage. Deductions for

1 articles which do not constitute board, lodging, or other facilities may likewise be made in non-
2 overtime workweeks if the employee receives the required minimum wage in cash free and clear;
3 but to the extent that they reduce the wages of the employee in any [~~such~~] workweek below the
4 minimum wage required by the statute, they are illegal.

5 (6) Overtime workweeks.

6 (a) KRS 337.285 requires that the employee receive compensation for overtime hours at a
7 rate of not less than one and one-half (1 1/2) times the rate at which the employee[~~he~~] is employed.

8 When overtime is worked by an employee who receives the whole or part of [~~his~~] wage in facilities
9 and it becomes necessary to determine the portion of [~~his~~] wages represented by facilities, all of
10 the[~~such~~] facilities shall[~~must~~] be measured by the requirements of this administrative regulation.

11 Deductions may be made, however, on the same basis in an overtime workweek as in non-overtime
12 workweeks, if their purpose and effect are not to evade the overtime requirements of KRS 337.285;
13 provided, the amount deducted does not exceed the amount which could be deducted if the

14 employee had only worked the maximum number of straight-time hours during the workweek. For
15 example, in a situation where seven (7) dollars and twenty-five (25) cents[~~one (1) dollar and sixty~~
16 (~~60) cents~~] is the applicable minimum wage, if an employee is employed at a rate of seven (7)

17 dollars and thirty (30) cents[~~one (1) dollar and sixty five (65) cents~~] an hour (five (5) cents in
18 excess of the minimum wage) the maximum amount which may be deducted from ~~the~~
19 **employee's**[~~his~~] wages in a forty (40) hour workweek which are not facilities within the meaning

20 of this administrative regulation, is forty (40) times five (5) cents or two (2) dollars. Deductions in
21 excess of this amount for the[~~such~~] items are illegal in overtime workweeks as well as in non-
22 overtime workweeks. There is no limit on the amount which may be deducted for board, lodging,

23 or other facilities in overtime workweeks (as in workweeks when no overtime is worked), provided

1 that these deductions are made only for the reasonable cost of the items furnished. When ~~the~~^[such]
2 items are furnished at a profit, the amount of the profit (plus the full amount of any deductions for
3 items which are not facilities) ~~shall~~^[may] not exceed two (2) dollars in the example heretofore
4 used in this paragraph.

5 (b) Where deductions are made from the stipulated wage of an employee, the regular rate
6 of pay is arrived at on the basis of the stipulated wage before any deductions have been made.
7 Where board, lodging, or other facilities are customarily furnished as addition to a cash wage, the
8 reasonable cost of the facilities to the employer ~~shall~~^[must] be considered as part of the employee's
9 regular rate of pay. Thus, suppose an employee employed at a cash rate of **seven (7) dollars and**
10 **twenty-five (25) cents**~~[two (2) dollars]~~ an hour, whose maximum non-overtime workweek under
11 KRS 337.285 is forty (40) hours, works forty-four (44) hours during a particular workweek. If, in
12 addition, ~~the employee~~ ^[he] is furnished board, lodging, or other facilities valued at sixteen (16)
13 dollars, but whose reasonable cost is eleven (11) dollars, the eleven (11) dollars ~~shall~~^[must] be
14 added to ~~the~~^[his] cash straight-time pay of **\$319**~~[eighty-eight (88) dollars]~~ in determining the
15 regular rate of pay on which ^[his] overtime compensation is to be calculated. The regular rate then
16 becomes **seven (7) dollars and fifty (50) cents**~~[two (2) dollars and twenty-five (25) cents]~~ an hour.
17 The employee is thus entitled to receive a total of **\$345.00**~~[\$103.50]~~ for the week. In addition to
18 the straight-time pay of **\$319**~~[eighty-eight (88) dollars]~~ in cash and eleven (11) dollars in facilities,
19 extra compensation of **fifteen (15) dollars**~~[four (4) dollars and fifty (50) cents]~~ in cash for the four
20 (4) overtime hours ~~shall~~^[must], therefore, be paid by the employer.

21 Section 2. Payment Made to Person Other than Employee. (1) Amounts deducted for taxes.
22 Taxes which are assessed against the employee and which are collected by the employer and
23 forwarded to the appropriate governmental agency may be included as wages. This principle is

1 applicable to the employee's share of Social Security, as well as other federal, state, or local taxes.
2 No deduction shall~~may~~ be made for any tax or share of a tax which the law requires to be borne
3 by the employer.

4 (2) Payments to third persons pursuant to court order. Where an employer is legally
5 obliged, as by order of a court of competent and appropriate jurisdiction, to pay a sum for the
6 benefit or credit of the employee to a creditor of the employee, trustee, or other third party, under
7 garnishment, wage attachment, trustee process, or bankruptcy proceeding, deduction from wages
8 of the actual sum so paid is not prohibited; provided, that neither the employer nor any person
9 acting in the employer's~~his~~ behalf or interest derives any profit or benefit from the transaction.

10 (3) Payments to employee's assignee.

11 (a) Where an employer is directed by a voluntary assignment or order of an~~his~~ employee
12 to pay a sum for the benefit of the employee to a creditor, donee, or other third party, deductions
13 from wages of the actual sum so paid is not prohibited, provided, that neither the employer nor any
14 person acting in the employer's~~his~~ behalf or interest, directly or indirectly, derives any profit or
15 benefit from the transaction.

16 (b) No payment by the employer to a third party shall~~will~~ be recognized as a valid
17 payment of compensation required under the statutes~~Aet~~ where it appears that the~~such~~ payment
18 was part of a plan or arrangement to evade or circumvent the requirements of the statutes~~Aet~~.
19 For the protection of both employer and employee, it is suggested that full and adequate record of
20 all assignments and orders be kept and preserved.

21 (c) Under the principles stated in paragraphs (a) and (b) of this subsection, employers
22 shall~~will~~ be permitted to treat as payments to employees for purposes of the statutes~~Aet~~ sums
23 paid at the employees' direction to third persons for the following purposes: sums~~Sums~~ paid, as

1 authorized by the employee, for the purchase [~~in his behalf~~] of United States Savings Bonds; union
2 dues paid pursuant to a collective bargaining agreement with bona fide representatives of the
3 employees; employees' accounts with merchants independent of the employer; insurance
4 premiums; voluntary contributions to churches and charitable, fraternal, athletic, and social
5 organizations or societies from which the employer receives no profit or benefit directly or
6 indirectly.

7 Section 3. Payment of Wages to Tipped Employees. (1) Conditions for taking tip credits in
8 making wage payments. The wage credit permitted on account of tips under KRS 337.275(2) may
9 be taken only with respect to wage payments made under the statutes[~~Act~~] to those employees
10 whose occupations in the workweeks for which the[~~such~~] payments are made are those of "tipped
11 employees" as defined in KRS 337.010(2)(d). To determine whether a tip credit may be taken in
12 paying wages to a particular employee it is necessary to know what payments constitute tips,
13 whether the employee receives more than thirty (30)[~~twenty (20)~~] dollars a month in [~~such~~]
14 payments in the occupation in which the employee[~~he~~] is engaged, and whether in the[~~such~~]
15 occupation the employee[~~he~~] receives these payments in that[~~such~~] amount customarily and
16 regularly.

17 (2) General characteristics of tips. A tip is a sum presented by a customer as a gift or
18 gratuity in recognition of some service performed [~~for him~~]. It is to be distinguished from payment
19 of a charge made for the service. Whether a tip is to be given, and its amount, are matters
20 determined solely by the customer, and who[~~he~~] has the right to determine who shall be the
21 recipient of the[~~his~~] gratuity. In the absence of an agreement to the contrary between the recipient
22 and a third party, a tip becomes the property of the person in recognition of whose service it is
23 presented by the customer. Only tips actually received by an employee as money belonging to the

1 employee[him] which [he] may be used [use] as the employee[he] chooses free of any control by
2 the employer, may be counted in determining whether the employee[he] is a tipped employee
3 within the meaning of the statutes[Act] and in applying the provisions of KRS 337.275(2) which
4 govern wage credits for tips.

5 (3) Examples of amounts not considered as tips. A compulsory charge for service, such as
6 fifteen (15)[ten (10)] percent of the amount of the bill, imposed on a customer by an employer's
7 establishment, is not a tip and, even if distributed by the employer to [his] employees, cannot be
8 counted as a tip received by an employee. Similarly, where negotiations between an employer and
9 a customer for banquet facilities include amounts for distribution to employees, the amounts so
10 distributed are not counted as tips received. Likewise, where the employment agreement is such
11 that amounts presented by customers as tips belong to the employer and shall[must] be credited or
12 turned over to the employer[him], the employee is in effect collecting for his or her employer
13 additional income from the operations of the employer's establishment. Even though the[such]
14 amounts are not collected by imposition of any compulsory charge on the customer, plainly the
15 employee is not receiving tips within the meaning of the statutes[Act]. The amounts received from
16 customers are the employer's property, not the employee's[his], and do not constitute tip income
17 to the employee.

18 (4) More than thirty (30)[twenty (20)] dollars a month in tips. An employee who receives
19 tips shall[must] receive more than thirty (30)[twenty (20)] dollars a month in the occupation in
20 which the employee[he] is engaged. An employee engaged in an occupation in which the tips [he]
21 received[receives] meet this minimum standard is a tipped employee for whom the wage credit
22 provided by KRS 337.275(2) may be taken in computing the compensation due the employee[him]
23 under the statutes[Act] for employment in that[such] occupation, whether the employee[he] is

1 employed in it full time or part time. An employee employed full time or part time in an occupation
2 in which the employee[he] does not receive more than thirty (30)[twenty (20)] dollars a month in
3 tips customarily and regularly is not a tipped employee within the meaning of the statutes[Act]
4 and shall[must] receive the full compensation required by the statutes[Act] in cash or allowable
5 facilities without any credit for tips received.

6 (a) The definition of tipped employee does not require that the calendar month be used in
7 determining whether more than thirty (30)[twenty (20)] dollars a month is customarily and
8 regularly received as tips. Any appropriate recurring monthly period beginning on the same day
9 of the calendar month may be used.

10 (b) An employee shall[must] [himself] customarily and regularly receive more than thirty
11 (30)[twenty (20)] dollars a month in tips in order to qualify as a tipped employee. The fact that an
12 employee[he] is part of a group which has a record of receiving more than thirty (30)[twenty (20)]
13 dollars a month in tips shall[will] not qualify the employee[him].

14 (5) Receiving the minimum amount customarily and regularly. The employee shall[must]
15 receive more than thirty (30)[twenty (20)] dollars a month in tips customarily and regularly to
16 qualify as a tipped employee. If it is known that the employee[he] always receives more than the
17 stipulated amount each month, as may be the case with many employees in occupations such as
18 those of waiters, bellhops, and taxi cab drivers, the employee will qualify and the tip credit may
19 be applied. On the other hand, an employee who only occasionally or sporadically receives tips
20 totaling more than thirty (30)[twenty (20)] dollars a month, shall[will] not be deemed a tipped
21 employee. The phrase "customarily and regularly" signifies a frequency which shall[must] be
22 greater than occasional, but which may be less than constant. If an employee is in an occupation
23 in which the employee[he] normally and recurrently receives more than thirty (30)[twenty (20)]

1 dollars a month in tips, the employee~~[he]~~ shall~~[will]~~ be considered a tipped employee even though
2 occasionally, because of sickness, vacation or the like, the employee~~[he]~~ fails to receive more than
3 thirty (30)~~[twenty (20)]~~ dollars in tips in a particular month.

4 (6) Initial and terminal months. An exception to the requirement that an employee, whether
5 full time, part time, permanent or temporary, shall~~[will]~~ qualify as a tipped employee only if the
6 employee~~[he]~~ customarily and regularly receives more than thirty (30)~~[twenty (20)]~~ dollars a
7 month in tips is made in the case of initial and terminal months of employment. In those~~[such]~~
8 months the purpose of the provision for tipped employees would seem fulfilled if qualification as
9 a tipped employee is based on ~~his~~ receipt of tips in the particular week or weeks of the~~[such]~~ month
10 at a rate in excess of thirty (30)~~[twenty (20)]~~ dollars a month, where the employee has worked less
11 than a month because they~~[he]~~ started or terminated employment during the month.

12 (7) The tip wage credit. In determining compliance with the wage payment requirements
13 of the statutes~~[Act]~~, under the provisions of KRS 337.275(2) the amount paid to a tipped employee
14 by an employer is deemed to be increased on account of tips by an amount equal to the formula
15 set forth in statute provided that the employer satisfies all the requirements~~[which cannot exceed~~
16 ~~fifty (50) percent of the minimum wage applicable to such employee]~~ in the workweek for which
17 the wage payment is made. This credit is in addition to any credit for board, lodging, or other
18 facilities which may be allowable under this administrative regulation. ~~[The credit allowed on~~
19 ~~account of tips may be less than fifty (50) percent of the applicable minimum wage; it cannot be~~
20 ~~more.]~~ The actual amount is left by the statute to determination by the employer on the basis of
21 the employer's~~[his]~~ information taken from his or her records concerning the tipping practices and
22 receipts in the~~[his]~~ establishment. In order for an employer to take the maximum credit allowed
23 by this special provision, the tipped employee shall~~[must]~~ receive the maximum in actual tips. If

1 the employee is receiving less than the amount credited, the employer is required to pay the balance
2 so that the employee receives at least the minimum wage with the combination of wages and tips.
3 The tip credit shall~~may~~ be taken only for hours worked by the employee in an occupation in
4 which the employee~~he~~ qualifies as a tipped employee. An employer shall not use any part of an
5 employee's tips to pay the minimum wage to any employee; but may only apply credit toward the
6 payment of the minimum wage to the employee who actually received the tip. Under employment
7 agreements requiring tips to be turned over or credited to the employer to be treated ~~[by him]~~ as
8 part of the employer's~~his~~ gross receipts, the employer shall~~must~~ pay the employee the full
9 minimum hourly wage.

10 (8) Overtime payments. When overtime is worked by a tipped employee who is subject to
11 the overtime pay provisions of KRS 337.285, the~~his~~ regular rate of pay is determined by dividing
12 the employee's~~his~~ total remuneration for employment in any workweek by the total number of
13 hours actually worked ~~[by him]~~ in that workweek for which the~~such~~ compensation was paid. A
14 tipped employee's regular rate of pay includes the amount of tip credit taken by the employer (not
15 in excess of the formula set forth in statute~~[fifty (50) percent of the applicable minimum wage]~~),
16 the reasonable cost of any facilities furnished the employee~~him~~ by the employer, and the cash
17 wages including commissions and bonuses paid by the employer. Any tips received by the
18 employee in excess of the tip credit need not be included in the regular rate. The~~Such~~ tips are not
19 payments made by the employer to the employee as remuneration for employment.

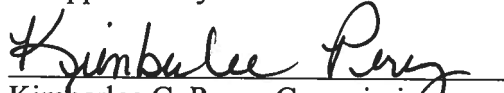
20 (9) Tip pooling. The statute permits employees to enter into an agreement to divide tips
21 among themselves. Where employees enter into this type of agreement, as where waiters give a
22 portion of their tips to the bussers~~busboys~~, both the amounts retained by the waiters and those
23 given to the bussers~~busboys~~ are considered tips of the individuals who retain them, in applying

1 the provisions of KRS 337.275(2) and this administrative regulation. Where an employer requires
2 [his] employees to pool tips, no credit shall[may] be taken and the employer shall[must] pay the
3 employee the full minimum wage.

4 Section 4. Records. Where an employer uses the reasonable cost of furnishing an employee
5 with board, lodging, or other facilities in meeting the requirements of KRS 337.275 and 337.285,
6 it shall[will] be necessary to keep the following records, in addition to those required by KRS
7 337.320:

- 8 (1) The facility being provided by the employer to the employee; and
- 9 (2) The cost being charged for the[such] facility by the employer.

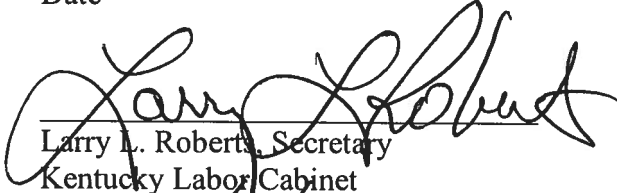
As approved by



Kimberlee C. Perry, Commissioner
Department of Workplace Standards

6.14.21

Date



Larry L. Roberts, Secretary
Kentucky Labor Cabinet

6/14/21

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 23, 2021 at 2:00pm (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://us02web.zoom.us/j/83102207739?pwd=dUFjQzE0ZnJjdkpwME5lZWtQdUlydz09>, password 265686 or by telephone at (713) 353-0212 or 888-822-7517 (toll free), conference code 278497.

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 August 31, 2021. 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: Erin Bravo, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 3rd Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-1554, Facsimile: (502) 564-5484, Email: erin.bravo@ky.gov

REGULATORY IMPACT AND TIERING STATEMENT

Regulation Number 803 KAR 1:080

Contact Person: Erin Bravo, Telephone: (502) 564-1554, Facsimile: (502) 564-5484,
Email: erin.bravo@ky.gov

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation clarifies what allowances may be credited toward the payment of wages as required in KRS 337.275 and 337.285.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary to clarify what allowances may be credited toward the payment of wages as required in the statutes.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 337.295 authorizes the commissioner to promulgate administrative regulations permitting allowances as part of the wages rate applicable under the statutes for board, lodging , gratuities, and other facilities.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides guidance on what allowances may be credited toward payment of wages to ensure that employees receive proper wages.

- (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: The amendment updates the administrative regulation to match the current language and examples that are utilized by the department, including updating dollar amounts in examples to more accurately reflect current minimum wage standards.
 - (b) The necessity of the amendment to this administrative regulation: This amendment updates language to ensure compliance with KRS Chapter 13A and ensures effective guidance for the statutory provisions under KRS 337.275 and 337.285.
 - (c) How the amendment 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. This amendment updates the administrative regulation to match current language utilized by the department.
 - (d) How the amendment will assist in the effective administration of the statutes: This amendment updates language to clarify the guidance provided in the administrative regulation.

- (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 amendment.
 - (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 amendment.
 - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection and guidance for what employers on wage allowances.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
- (a) Initially: This administrative regulation, as amended, is not anticipated to generate any new or additional costs.
 - (b) On a continuing basis: This administrative regulation, as amended, is not anticipated to generate any new or additional costs.
- (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, as amended, is not anticipated to generate any increase in fees or funding.
- (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.
- (9) TIERING: Is tiering applied? Tiering is not applied. All employers and employees covered by KRS Chapter 337 are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number 803 KAR 1:080

Contact Person: Erin Bravo, Telephone: (502) 564-1554, Facsimile: (502) 564-5484,
Email: erin.bravo@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 amendment.
 - d. How much will it cost to administer this program for subsequent years? There is no cost to this amendment.

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 amendment does not impose any additional requirements or expenditures.