

1 LABOR CABINET

2 Office of Unemployment Insurance

3 (Amendment)

4 787 KAR 1:080. Labor dispute or strike; notification.

5 RELATES TO: KRS 341.360

6 STATUTORY AUTHORITY: KRS 336.015, 336.050 [~~151B.020~~], 341.115, 2021 Ky Acts

7 ch. 169 Part 1(D)(7)

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.115(1) authorizes the
9 secretary to promulgate administrative regulations necessary to administer KRS Chapter 341. This
10 administrative regulation establishes reporting requirements for an employer to notify the
11 office[~~division~~] when a labor dispute or strike begins and ends.

12 Section 1. (1) If an initial claim for benefits or a reopened claim for benefits is filed by a
13 claimant, the Office[~~Division~~] of Unemployment Insurance shall immediately notify the claimant's
14 most recent employer of the filing.

15 (2) If the claimant is unemployed because of a strike or other bona fide labor dispute, the
16 employer, in addition to the notice required under KRS 341.360(1), shall:

17 (a) Indicate on [the] form UI-412A, incorporated by reference in 787 KAR 1:010, the
18 reason for the claimant's unemployment; and

1 (b) Return the form to the office[~~division~~] within ten (10) days after the date appearing on
2 the form as the date of mailing.

3 (3) In computing the ten (10) day period:

4 (a) The day following the date of mailing of the notice shall be considered the first day;
5 and

6 (b) if the tenth day falls on a day during which the [~~division's~~] office is closed, the next day
7 thereafter on which the office is open shall be considered the tenth day.

8 Section 2. Within ten (10) days after the termination of an alleged strike or labor dispute,
9 the employer shall notify the office[~~division~~] in writing of the termination. In computing the ten
10 (10) day period:

11 (1) The day following the termination of the alleged strike or labor dispute shall be
12 considered the first day; and

13 (2) If the tenth day falls on a day during which the [~~division's~~] office is closed, the next day
14 thereafter on which the office is open shall be considered the tenth day.

As approved by

Buddy Hoskinson
Buddy Hoskinson, Executive Director
Office of Unemployment Insurance

4/21/2021
Date

Larry L. Roberts
Larry L. Roberts, Secretary
Kentucky Labor Cabinet

6/21/2021
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 27, 2021 at 2:00 (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/88991458931?pwd=eTZYMEo0V3Qydnk0alB3MFFyYmZVUT09>, password 358248 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 September 30, 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: Buddy Hoskinson, Labor Cabinet, Mayo-Underwood Building, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-2199, Facsimile: (502) 564-7850, Email: buddy.hoskinson@ky.gov.

REGULATORY IMPACT AND TIERING STATEMENT

Regulation Number 787 KAR 1:080

Contact Person: Buddy Hoskinson, Telephone: (502) 564-2199, Facsimile: (502) 564-7850,
Email: buddy.hoskinson@ky.gov.

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes a reporting requirement for subject employers to notify the office when a labor dispute or strike begins.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary for the office to make accurate determinations of worker eligibility for unemployment insurance benefits, because within the time duration of a strike, a worker is not considered unemployed.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 341.115(1) authorizes the secretary to adopt regulations deemed necessary or suitable for the proper administration of KRS Chapter 341. KRS 341.360(1)(a) states that no worker may be paid benefits for any week of unemployment is caused by a strike or other bona fide labor dispute which causes him to leave or lose his employment while it is in progress. This administrative regulation makes it possible for the office to determine the duration of the strike or labor dispute.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures that the office will have timely and accurate information regarding strikes or labor disputes and will thus be able to make accurate determinations of worker eligibility.

- (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: This amendment updates terminology utilized by the office and clarifies reference to form UI-412A. Further, it updates the statutory authority to reflect that the Office of Unemployment Insurance is now within the Labor Cabinet pursuant to 2021 Ky Acts ch. 169 Part 1(I)(7).
 - (b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update the statutory authority and language to what is currently utilized by the office and to clarify the form referenced in the administrative regulation.
 - (c) How the amendment conforms to the content of the authorizing statutes: KRS 341.115(1) authorizes the secretary to amend regulations deemed necessary or suitable for the proper administration of KRS Chapter 341. KRS 341.360(1)(a) states that no worker may be paid benefits for any week of unemployment is caused by a strike or other bona fide labor dispute which causes him to leave or lose his employment while it is in progress. This administrative regulation makes it possible for the office to determine the duration of the strike or labor dispute.

- (d) How the amendment will assist in the effective administration of the statutes: This amendment ensures that the office will have timely and accurate information regarding strikes or labor disputes and will thus be able to make accurate determinations of worker eligibility.
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation potentially affects operating union shops in Kentucky.
- (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): Subject employers and claimants will have claims benefits determined accurately.
- (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: KRS 341.240 provides for the establishment of the unemployment compensation administration fund and establishes that all of the money in this fund shall be expended solely to defray the cost of the administration of this chapter.
- (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 applied in that the administrative regulation applies only to union employers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number 787 KAR 1:080

Contact Person: Buddy Hoskinson, Telephone: (502) 564-2199, Facsimile: (502) 564-7850,
Email: buddy.hoskinson@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 unemployment insurance coverage. A small number of governmental entities recognize employee unions and thus could be potentially affected by this administrative regulation.
2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 336.015, 336.050, 341.115, KRS 341.360, and 2021 Ky Act ch. 169 Part 1(I)(7).
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 to subject employers.