

341.070 Subject employer.

As used in this chapter, unless the context clearly requires otherwise, "subject employer" means:

- (1) Any employing unit which in any calendar quarter in either the current or preceding calendar year paid for service in covered employment wages of fifteen hundred dollars (\$1,500) or more.
- (2) Any employing unit which for some portion of a day in each of twenty (20) different calendar weeks, whether or not such weeks are consecutive, in either the current or the preceding calendar year, had in covered employment at least one (1) worker (irrespective of whether the same worker was in employment in each such day).
- (3) Any employing unit for which service in covered employment, as defined in paragraph (d) of subsection (1) of KRS 341.050, is performed.
- (4) Any employing unit for which service in covered employment, as defined in paragraph (e) or (h) of subsection (1) of KRS 341.050, is performed.
- (5) Any employing unit for which service in covered employment, as defined in paragraph (f) or (h) of subsection (1) of KRS 341.050, is performed.
- (6) Any employing unit for which service in covered employment, as defined in paragraph (g) or (h) of subsection (1) of KRS 341.050, is performed.
- (7)
 - (a) Any employing unit that is the transferee of all or part of an employing unit that is or has been a subject employer at the time of the transfer; or
 - (b) Any employing unit that at the time of acquisition of all or part of a trade or business of a subject employer is not or has not previously been a subject employer.
- (8) Any employing unit for which service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or which, as a condition for approval of this chapter for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such act, to be a "subject employer" under this chapter.
- (9) Any employing unit which has elected to become subject to this chapter, pursuant to subsection (3) of KRS 341.250.
- (10) For purposes of subsections (1) through (6) of this section, covered employment shall include service which would constitute covered employment but for the fact that such service is deemed to be performed entirely within another state pursuant to an election under an arrangement entered into (in accordance with KRS 341.145) by the secretary and an agency charged with the administration of any other state or federal unemployment compensation law.
- (11) Any employing unit which, having become a subject employer under subsections (1) through (9) of this section, has not ceased to be a subject employer under KRS 341.250.
- (12) For purposes of subsections (2), (4), and (5) of this section, if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one (1) calendar week and the days beginning

January 1 another week.

- (13) Notwithstanding the provisions of this section or any other provision of this chapter, no employing unit shall be initially determined a subject employer on the basis of covered employment performed more than five (5) calendar years prior to the year in which such determination is made, unless the secretary can show that the records of such employment experience were fraudulently concealed or withheld for the purpose of escaping liability under this chapter.
- (14) (a) Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisee, neither a franchisee nor a franchisee's employee shall be deemed to be an employee of the franchisor for any purpose under this chapter.
- (b) Notwithstanding any voluntary agreement entered into between the United States Department of Labor and a franchisor, neither a franchisor nor a franchisor's employee shall be deemed to be an employee of the franchisee for any purpose under this chapter.
- (c) For purposes of this subsection, "franchisee" and "franchisor" have the same meanings as in 16 C.F.R. sec. 436.1.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 24, sec. 3, effective June 29, 2017; and ch. 133, sec. 1, effective June 29, 2017. -- Amended 1978 Ky. Acts ch. 389, sec. 9, effective July 1, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(21). -- Amended 1972 Ky. Acts ch. 21, sec. 5. -- Amended 1960 Ky. Acts ch. 111, sec. 1. -- Amended 1958 Ky. Acts ch. 4, sec. 5. -- Amended 1950 Ky. Acts ch. 206, sec. 1. -- Amended 1948 Ky. Acts ch. 216, sec. 2. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4748g-3.

Legislative Research Commission Note (6/29/2017). This statute was amended by 2017 Ky. Acts chs. 24 and 133, which do not appear to be in conflict and have been codified together.