

1 AN ACT relating to privacy protection.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO
4 READ AS FOLLOWS:

5 **(1) As used in this section:**

6 **(a) "Automated license plate reader" or "ALPR" means a system of one (1) or**
7 **more mobile or fixed high-speed cameras combined with computer**
8 **algorithms to convert images of license plates into data that is readable by a**
9 **computer system; and**

10 **(b) "Entity" means any law enforcement agency, unit of local government, or**
11 **homeowners' association that deploys and maintains ALPRs.**

12 **(2) An entity shall not retain license plate data captured by an ALPR for more than**
13 **sixty (60) days unless the data:**

14 **(a) Is being used as evidence in a criminal or insurance claim investigation;**

15 **(b) Has become subject to a subpoena duces tecum or preservation of evidence**
16 **notification; or**

17 **(c) Is being used for toll collection activities on highways and bridges.**

18 **(3) An entity shall not sell or make available any recorded images or data captured**
19 **by an ALPR for any purpose except:**

20 **(a) To a law enforcement officer or agency;**

21 **(b) In response to a subpoena duces tecum; or**

22 **(c) To the National Insurance Crime Bureau or its successor organization.**

23 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
24 READ AS FOLLOWS:

25 **(1) As used in this section:**

26 **(a) "Identification device" means any item, application, or product that is**
27 **passively or actively capable of transmitting personal information, including**

1 but not limited to devices using radio frequency technology or any
2 electronic device used to track or harass a person, or download personal
3 information without permission;

4 (b) "Introduction" means subcutaneous injection, inhalation, ingestion, or
5 placement on or within the human body by other means;

6 (c) "Personal information" means any of the following data elements that can
7 identify an individual, whether alone or in conjunction with any other
8 information:

9 1. Email, internet protocol, or website address;

10 2. Date of birth;

11 3. Operator's license number or personal identification card number;

12 4. Any unique personal identifier number contained or encoded in an
13 operator's license or personal identification card issued;

14 5. Bank, credit card, or other financial institution account number;

15 6. Any unique personal identifier contained or encoded in a health
16 insurance, health benefit, or benefit card, or record issued in
17 conjunction with any government-supported aid program;

18 7. Religion;

19 8. Ethnicity or nationality;

20 9. Photograph;

21 10. Fingerprint or other biometric identifier;

22 11. Social Security number;

23 12. Name; or

24 13. Any other unique personal identifier;

25 (d) "Require, coerce, or compel" means to use any physical violence, threat,
26 intimidation, or retaliation, or to condition the receipt of any private or
27 public benefit or care on consent to implantation, including employment,

1 promotion, or other employment benefit, or any means that cause a
2 reasonable person of ordinary susceptibilities to acquiesce to implantation
3 when he or she otherwise would not, but does not include legitimate medical
4 uses for which the patient or his or her guardian or parent has consented;
5 and

6 (e) "Subcutaneous" means located, administered, or introduced under the skin.

7 (2) No person shall:

8 (a) Require, coerce, or compel any other individual to undergo the introduction
9 of an identification device; or

10 (b) Introduce an identification device without the consent of the person to
11 whom the identification device is introduced.

12 (3) A person to whom an identification device is introduced in violation of subsection
13 (2) of this section may bring a civil action in a court of competent jurisdiction for:

14 (a) Actual damages;

15 (b) Compensatory damages;

16 (c) Punitive damages;

17 (d) Injunctive relief;

18 (e) Reasonable attorney's fees;

19 (f) Litigation costs, including but not limited to expert witness fees and
20 expenses; and

21 (g) Any other appropriate relief.

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO
23 READ AS FOLLOWS:

24 An action filed pursuant to Section 2 of this Act shall be commenced within seven (7)
25 years after the cause of action accrued.

26 ➔Section 4. KRS 508.152 is amended to read as follows:

27 (1) As used in this section:

- 1 (a) "Motor vehicle" has the same meaning as "vehicle" in KRS 186.010(8)(a);
2 (b) "Protective order" has the same meaning as in KRS 508.130; and
3 (c) "Tracking device" means an electronic or mechanical device that is designed
4 or intended to allow a person to remotely determine or track the position or
5 movement of another person or an object, regardless of whether that
6 information is recorded.

7 (2) A person is guilty of unlawful use of a tracking device when he or she intentionally:

- 8 (a) Installs or places a tracking device, or causes a tracking device to be installed
9 or placed;~~[-]~~

10 1. In or on a motor vehicle without the knowledge and consent of the
11 owner of the motor vehicle;~~[- or,]~~

12 2. ~~If the motor vehicle is leased, -~~**In or on a leased motor vehicle without**
13 **the knowledge and consent of either** the lessee or authorized operator
14 of the motor vehicle;or

15 3. **On the person or property of another without his or her knowledge**
16 **and consent;**

17 (b) **Using a tracking device,** tracks the location of:

18 1. A motor vehicle ~~[with a tracking device -]~~without the knowledge and
19 consent of either the owner or~~[- the]~~ authorized operator of the motor
20 vehicle;~~[- or,]~~

21 2. ~~If the motor vehicle is leased, -~~**A leased motor vehicle without the**
22 **knowledge and consent of** either the lessee or authorized operator of the
23 motor vehicle;or

24 3. **Another person without the other person's knowledge and consent;**

25 (c) While being the restrained party under a protective order, uses a tracking
26 device to track the location of a motor vehicle operated or occupied by an
27 individual protected under the order;~~[- or]~~

- 1 (d) While on probation or parole for a crime defined in KRS Chapter 508, uses a
2 tracking device to track the location of a motor vehicle operated or occupied
3 by a victim of the crime or by a family member of the victim of the crime
4 without the knowledge and consent of the victim or family member;
- 5 **(e) Installs or places a tracking device, or causes a tracking device to be**
6 **installed or placed, on the person or property of another without the other**
7 **person's knowledge and consent; or**
- 8 **(f) Tracks the location of another person with a tracking device without the**
9 **other person's knowledge and consent.**
- 10 (3) Unlawful use of a tracking device is a Class A misdemeanor.
- 11 (4) Subsection (2) of this section does not apply to the installation or use of any:
- 12 (a) Device providing vehicle tracking for purposes of providing mechanical,
13 operational, directional, navigation, weather, or traffic information to the
14 operator of the vehicle;
- 15 (b) Device for providing emergency assistance to the operator or passengers of
16 the vehicle under the terms and conditions of a subscription service, including
17 any trial period of that subscription service;
- 18 (c) Device for providing missing vehicle assistance for the benefit of the owner or
19 operator of the vehicle;
- 20 (d) Device providing diagnostic services regarding the mechanical operation of a
21 vehicle under the terms and conditions of a subscription service, including any
22 trial period of the subscription service;
- 23 (e) Device or service providing the lessee of the vehicle with clear notice that the
24 vehicle may be tracked. For a lessor who installs a tracking device subsequent
25 to the original vehicle manufacture, the notice shall be provided in writing
26 with an acknowledgment signed by the lessee, regardless of whether the
27 tracking device is original equipment, a retrofit, or an aftermarket product.

- 1 The requirement for written acknowledgment placed upon the lessor is not
2 imposed upon the manufacturer of the tracking device or the manufacturer of
3 the vehicle;
- 4 (f) Tracking device by the parent or guardian of a minor on any vehicle owned or
5 leased by that parent or guardian of the minor, and operated by the minor;~~{or}~~
- 6 (g) Tracking device by a police officer while lawfully performing his or her
7 duties as a police officer;or
- 8 (h) Tracking device by the parent or guardian of a minor on the person or
9 property of the minor.