

1 AN ACT relating to privacy protection.

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

3 ➔ Section 1. KRS 500.130 is amended to read as follows:

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

5 **(a) "Communications service" means a cable, broadband, streaming, or**
6 **telecommunications service; and**

7 **(b) "Surveillance" means:**

8 **1. With respect to an owner, tenant, occupant, invitee, or licensee of**
9 **privately owned real property, the observation of such persons with**
10 **sufficient visual clarity to be able to obtain information about their**
11 **identity, habits, conduct, movements, or location; or**

12 **2. With respect to privately owned real property, the observation of such**
13 **property's physical improvements with sufficient visual clarity to be**
14 **able to determine unique identifying features or its occupancy by one**
15 **(1) or more persons.**

16 **(2)** Except for unmanned aircraft systems operated by the United States Army, Navy,
17 Marine Corps, Air Force, **Space Force**, or Coast Guard, or a reserve component
18 thereof, or by the Army National Guard or Air National Guard, unmanned aircraft
19 systems may not be equipped with a lethal payload.

20 **(3) [(2)] Except as provided in subsection (12) of this section,** any business entity
21 doing business lawfully within this state may use an unmanned aircraft system for
22 business purposes, in compliance with 14 C.F.R. pt. 107. **Business entities**
23 **operating an unmanned aircraft system pursuant to this subsection may include**
24 **but are not limited to:**

25 **(a) A property appraiser, assessing property for ad valorem taxation with the**
26 **express, prior, written permission of the owner, tenant, occupant, invitee, or**
27 **licensee of the privately owned real property;**

1 (b) A utility or communications service;

2 (c) An entity conducting aerial mapping;

3 (d) An entity conducting cargo;

4 (e) An insurance company or a person acting on behalf of an insurance
5 company for purposes of underwriting an insurance risk or investigating
6 damage to insured property; or

7 (f) An entity conducting images necessary for the safe operation or navigation
8 of an unmanned aircraft system that is being used for a purpose allowed
9 under federal or Kentucky law.

10 ~~(4)(3)~~ Any recreational user may operate an unmanned aircraft system within this
11 state, in compliance with 14 C.F.R. pt. 101.

12 ~~(5)(4)~~ Any institution of higher education, or school district, may use an unmanned
13 aircraft system for educational, research, or testing purposes.

14 ~~(6)(5)~~ No law enforcement agency, or agent thereof, shall use an unmanned aircraft
15 system to conduct a search unless authorized under the Fourth Amendment to the
16 United States Constitution and Section 10 of the Kentucky Constitution. If the
17 search is conducted pursuant to a warrant, the warrant shall specifically authorize
18 the use of an unmanned aircraft system.

19 ~~(7)(6)~~ Except as limited by subsection ~~(6)(5)~~ of this section, any government
20 agency, including a law enforcement agency, may use an unmanned aircraft system
21 for legitimate governmental purposes.

22 ~~(8)(7)~~ When an unmanned aircraft system is used by law enforcement pursuant to
23 subsections ~~(6)(5)~~ and ~~(7)(6)~~ of this section, it shall be operated in a lawful
24 manner and shall minimize data collection on nonsuspects. Disclosure of such data
25 shall be prohibited except by order of a court of competent jurisdiction.

26 ~~(9)(8)~~ No evidence obtained or collected as the result of the use of an unmanned
27 aircraft system shall be admissible as evidence in any civil, criminal, or

1 administrative proceeding within this state for the purpose of enforcing state or
2 local law, except for:

3 (a) Evidence collected as permitted by subsections ~~(3)(2)~~ to ~~(7)(6)~~ of this
4 section; or

5 (b) Evidence which is offered against the owner or operator of an unmanned
6 aircraft system to show misconduct.

7 ~~(10)(9)~~ No law enforcement agency shall be required to operate unmanned aircraft
8 systems.

9 ~~(11)(10)~~ Operation of an unmanned aircraft system in violation of subsection ~~(3)(2)~~
10 or ~~(4)(3)~~ of this section shall be a violation for the first offense and a Class B
11 misdemeanor for the second or subsequent offense.

12 **(12) A person operating an unmanned aircraft system pursuant to subsections (3) to**
13 **(5) of this section shall not use an unmanned aircraft system to record an image**
14 **of privately owned real property or of the owner, tenant, occupant, invitee, or**
15 **licensee of such property with the intent to conduct surveillance on, or publish**
16 **unauthorized images of, the individual or property captured in the image in**
17 **violation of the person's reasonable expectation of privacy. For purposes of this**
18 **subsection, a person is presumed to have a reasonable expectation of privacy on**
19 **his or her privately owned real property if he or she is not observable by persons**
20 **located at ground level in a place where they have a legal right to be, regardless**
21 **of whether he or she is observable from the air with the use of an unmanned**
22 **aircraft system.**~~[(11) This section may be cited as the "Citizens' Freedom from~~
23 ~~Unwarranted Surveillance Act."}]~~

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

26 **The owner, tenant, occupant, invitee, or licensee of privately owned real property may**
27 **initiate a civil action in a court of competent jurisdiction against any person, agency,**

1 or political subdivision that violates subsection (12) of Section 1 of this Act and may
2 seek:

3 (1) Appropriate injunctive relief;

4 (2) Actual damages;

5 (3) Punitive damages;

6 (4) Court costs; and

7 (5) Reasonable attorney's fees.

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

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