

CHAPTER 126

(HB 144)

AN ACT relating to privacy.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, unless the context otherwise requires:*
- (a) *"Officer" means any local, state, or federal officer who is employed or contracted by a governmental agency in Kentucky and includes:*
 - 1. *Law enforcement officer as defined in KRS 15.310;*
 - 2. *Peace officer as defined in KRS 446.010; and*
 - 3. *Police officer as defined in KRS 15.420;*
 - (b) *"Private open land" means land, including open fields, but excluding any homes or buildings and the curtilage around them, that is owned, leased, used, or lawfully occupied by a person or a nongovernmental entity; and*
 - (c) *"Search warrant" means a warrant that is supported by individualized probable cause and issued by a court of competent jurisdiction.*
- (2) *An officer shall not enter or access private open land for any covert surveillance or installation of surveillance devices without a search warrant unless the officer:*
- (a) *Has received the permission of the property owner, lessee, or lawful occupant;*
 - (b) *Upon probable cause, is responding to an exigent circumstance, including a life-threatening emergency or another immediate threat to public safety that was either reported to or personally observed by the officer;*
 - (c) *Is dispatching crippled, distressed, dangerous, or invasive wildlife that the officer has personally observed; or*
 - (d) *Is unable to reasonably identify the unmarked and unfenced boundaries and ownership of unimproved, uninhabited rural land.*
- (3) (a) *Upon entering private open land, the officer shall immediately notify the landowner, lessee, or lawful occupant, if notice can reasonably be made, unless the officer is in possession of a search warrant allowing surveillance or surveillance-related activities.*
- (b) *If an officer is equipped with a body-worn camera or other audio-visual or audio recording device while entering private open land, the body-worn camera or other audio visual or audio recording device shall be activated and recording in accordance with the standard policy of the officer's agency.*
- (4) *Subsections (2) and (3) of this section do not apply to a conservation officer executing duties described in KRS 150.090, who shall have the authority to enter upon, cross over, be upon, or access private open lands for the purpose of conducting compliance checks or surveillance based upon a reasonable suspicion, and shall not be required to notify the landowner, lessee, or lawful occupant.*

➔Section 2. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Became law without Governor's signature March 29, 2023.