CHAPTER 42

(SB 64)

AN ACT relating to key infrastructure assets and declaring an emergency.

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

➔Section 1. KRS 511.100 is amended to read as follows:

(1) As used in this section:

(a) "Key infrastructure assets" means:

1. Any critical node of a system used in the production or generation of electrical energy;

2. A petroleum refinery;

3. A rubber or hazardous chemical manufacturing facility;

4. A petroleum or hazardous chemical storage facility or terminal;

5. Natural gas processing, fractionation, stabilization, and compressor station facilities, as well as above-ground natural gas or petroleum pipelines and related facilities;

6. Railroad yards and railroad tunnel portals;

7. A drinking water collection, treatment, or storage facility;

8. Grounds or property of a state prison, juvenile justice facility, jail, or other facility for the detention of persons charged with or convicted of crimes;

9. A facility used for research, development, design, production, delivery, or maintenance of military weapons systems, subsystems, and components or parts to meet military requirements of the United States;

10. A wireless communications facility, including the tower, antennae, support structures and all associated ground-based equipment, and a telecommunications central switching office;

11. A ***facility, equipment, or communication line used in the delivery of*** cable television***, telephony, or broadband service***~~[headend]~~;

12. A commercial food manufacturing or processing facility in which food is manufactured, processed, or packaged, commercially, for human consumption, but not including retail food establishments, home-based processors, or home-based microprocessors as those terms are defined in KRS 217.015;

13. An animal feeding operation as defined in 40 C.F.R. sec. 122.23;~~[or]~~

14. A concentrated animal feeding operation as defined in 40 C.F.R. sec. 122.23; ***or***

15. Electrical highway infrastructure; and

(b) "Unmanned aircraft system" means an aircraft that is operated without the possibility of direct human interaction from within or on the aircraft and includes everything that is on board or otherwise attached to the aircraft and all associated elements, including communication links and the components that control the small unmanned aircraft, that are required for the safe and efficient operation of the unmanned aircraft in the national airspace system.

(2) (a) A person commits the offense of trespass upon key infrastructure assets if he or she knowingly enters or remains unlawfully in or upon real property on which key infrastructure assets are located.

(b) A person commits the offense of trespass upon key infrastructure assets if he or she knowingly uses, or retains or authorizes a person to use, an unmanned aircraft system to fly above real property on which key infrastructure assets are located with the intent to cause harm or damage to or conduct surveillance of the key infrastructure asset without the prior consent of the owner, tenant, or lessee of the real property.

(c) A person commits the offense of trespass upon key infrastructure assets if he or she knowingly, without consent of the owner or authorized representative:

1. Operates an unmanned aircraft system, video recording device, audio recording device, or photography equipment on or above property containing a key infrastructure asset referenced in subsection (1)(a)12., 13., or 14. of this section; or

2. Records or distributes, photographically, electronically, or otherwise, any part, procedure, or action of a key infrastructure asset referenced in subsection (1)(a)12., 13., or 14. of this section.

(3) Trespass upon key infrastructure assets is a Class B misdemeanor for the first offense, and a Class A misdemeanor for a second or subsequent offense.

(4) This section does not apply to:

(a) An unmanned aircraft system used by the federal government or by the Commonwealth, or by a person acting pursuant to a contract with the federal government or the Commonwealth;

(b) An unmanned aircraft system used by:

1. The owner of the real property or key infrastructure asset;

2. A person under a valid lease, servitude, right-of-way, right of use, permit, license, or other right granted by the owner of the real property or key infrastructure asset; or

3. A third party who is retained or authorized by a person specified in subparagraph 1. or 2. of this paragraph;

(c) An unmanned aircraft system used by a law enforcement agency, emergency medical service agency, hazardous material response team, disaster management agency, or other emergency management agency for the purpose of incident command, area reconnaissance, personnel and equipment deployment monitoring, training, or a related purpose;

(d) Operation of an unmanned aircraft system by a person or entity for a commercial purpose in compliance with applicable Federal Aviation Administration authorization, regulations, or exemptions;

(e) A satellite orbiting the earth;

(f) An unmanned aircraft system used by an insurance company or a person acting on behalf of an insurance company for purposes of underwriting an insurance risk or investigating damage to insured property;

(g) An unmanned aircraft system used strictly in accordance with an order of a court of competent jurisdiction;

(h) Any electric, water, or natural gas utility company or a person acting on behalf of any electric, water, or natural gas utility company for legitimate business purposes; or

(i) Any federal, state, or local government law enforcement or regulatory officer or employee while the officer or employee is engaged in the performance of his or her official duties.

➔Section 2. KRS 512.020 is amended to read as follows:

(1) A person is guilty of criminal mischief in the first degree when, having no right to do so or any reasonable ground to believe that he or she has such right, he or she intentionally or wantonly:

(a) Defaces, destroys, or damages any property causing pecuniary loss of five hundred dollars ($500) or more;

(b) ***Damages, possesses, or*** tampers with the operations of a key infrastructure asset, as defined in KRS 511.100, in a manner that renders the ***asset inoperable, in whole or in part, or renders the operation of the asset***~~[operations]~~ harmful or dangerous; or

(c) As a tenant, intentionally or wantonly defaces, destroys, or damages residential rental property causing pecuniary loss of five hundred dollars ($500) or more.

(2) Criminal mischief in the first degree is a Class D felony, unless:

(a) The offense occurs during a declared emergency as defined by KRS 39A.020 arising from a natural or man-made disaster, within the area covered by the emergency declaration, and within the area impacted by the disaster, in which case it is a Class C felony;

(b) For the first offense, if the defendant at any time prior to trial effects repair or replacement of the defaced, destroyed, or damaged property, makes complete restitution in the amount of the damage, or performs community service as required by the court, in which case it is a Class B misdemeanor. The court shall determine the number of hours of community service commensurate with the total amount of monetary damage caused by or incidental to the commission of the crime, of not less than sixty (60) hours; or

(c) For the second or subsequent offense, if the defendant at any time prior to trial effects repair or replacement of the defaced, destroyed, or damaged property, makes complete restitution in the amount of the damage, or performs community service as required by the court, in which case it is a Class A misdemeanor. The court shall determine the number of hours of community service commensurate with the total amount of monetary damage caused by or incidental to the commission of the crime, of not less than sixty (60) hours.

➔Section 3. Whereas threats to key infrastructure assets represent an ongoing danger to communities in the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 19, 2025.