

AN ACT relating to unmanned aerial vehicles.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) A person shall not weaponize an unmanned aerial vehicle or operate a weaponized unmanned aerial vehicle.

(2) Except as otherwise provided in subsection (3) of this section, violation of subsection (1) of this section is a Class D felony.

(3) A person who weaponizes an unmanned aerial vehicle in violation of subsection (1) of this section and who discharges the weapon is guilty of a Class C felony.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, a person who owns or lawfully occupies real property in this state may bring an action for trespass against the owner or operator of an unmanned aerial vehicle that is flown at a height of less than two hundred fifty (250) feet over the property if:

(a) The owner or operator of the unmanned aerial vehicle has flown the unmanned aerial vehicle over the property at a height of less than two hundred fifty (250) feet on at least one (1) previous occasion; and

(b) The person who owns or occupies the real property notified the owner or operator of the unmanned aerial vehicle that the person did not authorize the flight. Notice may be given by posting in a conspicuous manner.

(2) A person may not bring an action pursuant to subsection (1) of this section if:

(a) The unmanned aerial vehicle is lawfully in the flight path for landing at an airport, airfield, or runway;

(b) The unmanned aerial vehicle is in the process of taking off or landing;

(c) The unmanned aerial vehicle was under the lawful operation of:

1. A law enforcement agency in accordance with Section 3 of this Act; or
 2. A public agency in accordance with Section 5 of this Act; or
- (d) The unmanned aerial vehicle was under the lawful operation of a business licensed in this state or a land surveyor if:
1. The operator is licensed or otherwise approved to operate the unmanned aerial vehicle by the Federal Aviation Administration;
 2. The unmanned aerial vehicle is being operated within the scope of the lawful activities of the business or surveyor; and
 3. The operation of the unmanned aerial vehicle does not unreasonably interfere with the existing use of the real property.
- (3) A plaintiff who prevails in an action for trespass brought pursuant to subsection (1) of this section is entitled to recover treble damages for any injury to the person or the real property as the result of the trespass. In addition to the recovery of damages pursuant to this subsection, a plaintiff may be awarded reasonable attorney's fees and costs and injunctive relief.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

- (1) Except as otherwise provided in this section, nothing in this section shall be deemed to otherwise prohibit the operation of an unmanned aerial vehicle by a law enforcement agency for any lawful purpose in this state.
- (2) Except as otherwise provided in subsection (3) of this section, a law enforcement agency shall not operate an unmanned aerial vehicle for the purpose of gathering evidence or other information within the curtilage of a residence or at any other location or upon any property in this state at which a person has a reasonable expectation of privacy, unless the law enforcement agency first obtains a warrant from a court of competent jurisdiction authorizing the use of the unmanned aerial vehicle for that purpose. A warrant authorizing the use of an unmanned

aerial vehicle shall specify the period for which operation of the unmanned aerial vehicle is authorized. A warrant shall not authorize the use of an unmanned aerial vehicle for a period of more than ten (10) days. Upon motion and a showing of probable cause, a court may renew a warrant after the expiration of the period for which the warrant was initially issued.

(3) A law enforcement agency may operate an unmanned aerial vehicle without obtaining a warrant issued pursuant to subsection (2) of this section:

(a) If the law enforcement agency has probable cause to believe that a person has committed a crime, is committing a crime, or is about to commit a crime, and exigent circumstances exist that make it unreasonable for the law enforcement agency to obtain a warrant authorizing the use of the unmanned aerial vehicle;

(b) If a person provides written consent to the law enforcement agency authorizing the law enforcement agency to acquire information about the person or the real or personal property of the person. The written consent shall specify the information to be gathered and the time, place, and manner in which the information is to be gathered by the law enforcement agency;

(c) For the purpose of conducting search and rescue operations for persons and property in distress;

(d) Under circumstances in which the law enforcement agency believes that an imminent threat exists to the life and safety of an individual person or to the public at large, including but not limited to the threat of an act of terrorism. A law enforcement agency that operates an unmanned aerial vehicle pursuant to this paragraph shall document the factual basis for its belief that an imminent threat exists and shall, not later than two (2) business days after initiating operation, file a sworn statement with a court of

competent jurisdiction describing the nature of the imminent threat and the need for the operation of the unmanned aerial vehicle; or

(e) Upon the declaration of a state of emergency or disaster by the Governor. A law enforcement agency that operates an unmanned aerial vehicle pursuant to this paragraph shall not use the unmanned aerial vehicle outside of the geographic area specified in the declaration or for any purpose other than the preservation of public safety, the protection of property, or the assessment and evaluation of environmental or weather-related damage, erosion, or contamination.

(4) Any photograph, image, recording, or other information that is acquired by a law enforcement agency through the operation of an unmanned aerial vehicle in violation of this section, or that is acquired from any other person or governmental entity, including but not limited to a public agency and any department or agency of the federal government, that obtained the photograph, image, recording, or other information in a manner inconsistent with the requirements of this section, and any evidence that is derived therefrom:

(a) Is not admissible in and shall not be disclosed in a judicial, administrative, or other adjudicatory proceeding; and

(b) Shall not be used to establish reasonable suspicion or probable cause as the basis for investigating or prosecuting a crime or offense.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall, to the extent that money is available for this purpose, establish and maintain a registry of unmanned aerial vehicles that are operated by public agencies in this state. The cabinet shall include on its Internet Web site the information that is maintained in the registry.

(2) A public agency shall, for each unmanned aerial vehicle the public agency

intends to operate, submit to the cabinet on a form provided by the cabinet for inclusion in the registry:

(a) The name of the public agency;

(b) The name and contact information of each operator of the unmanned aerial vehicle;

(c) Sufficient information to identify the unmanned aerial vehicle; and

(d) A statement describing the use of the unmanned aerial vehicle by the public agency.

(3) The cabinet shall, on or before November 1 of each year, prepare and submit to the Legislative Research Commission a report outlining the activities of public agencies with respect to the operation of unmanned aerial vehicles in the Commonwealth.

(4) The cabinet shall promulgate administrative regulations prescribing the public purposes for which a public agency may operate an unmanned aerial vehicle, including but not limited to:

(a) The provision of fire services;

(b) The provision of emergency medical services;

(c) The protection of a critical facility that is public property; and

(d) Search and rescue operations conducted for persons and property in distress.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

(1) A public agency:

(a) May operate an unmanned aerial vehicle only if:

1. Before the operation of the unmanned aerial vehicle, the public agency registers the unmanned aerial vehicle with the Justice and Public Safety Cabinet pursuant to subsection (2) of Section 4 of this

Act; and

2. The public agency operates the unmanned aerial vehicle in accordance with the administrative regulations promulgated by the Justice and Public Safety Cabinet pursuant to subsection (4) of Section 4 of this Act; and

(b) Shall not operate an unmanned aerial vehicle for the purposes of assisting a law enforcement agency with law enforcement or conducting a criminal prosecution.

(2) Any photograph, image, recording, or other information that is acquired by a public agency through the operation of an unmanned aerial vehicle in violation of this section, and any evidence that is derived therefrom:

(a) Is not admissible in, and shall not be disclosed in, a judicial, administrative, or other adjudicatory proceeding; and

(b) Shall not be used to establish reasonable suspicion or probable cause as the basis for investigating or prosecuting a crime or offense.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "critical facility" means a petroleum refinery; a petroleum or chemical production, transportation, storage, or processing facility; a chemical manufacturing facility; a pipeline and any appurtenance thereto; a wastewater treatment facility; a water treatment facility; a mine; a power-generating station, plant, or substation and any appurtenances thereto; any transmission line that is owned in whole or in part by an electric utility; or a correctional facility. The term "critical facility" does not include any facility or infrastructure of a utility that is located underground.

(2) A person shall not operate an unmanned aerial vehicle within:

(a) A horizontal distance of five hundred (500) feet or a vertical distance of two

hundred fifty (250) feet from a critical facility without the written consent of the owner of the critical facility; or

(b) Except as otherwise provided in subsection (3) of this section, five (5) miles of an airport.

(3) A person may operate an unmanned aerial vehicle within five (5) miles of an airport only if the person obtains the consent of the airport authority or the operator of the airport, or if the person has otherwise obtained a waiver, exemption, or other authorization for the operation pursuant to any rule or regulation of the Federal Aviation Administration. A person who is authorized to operate an unmanned aerial vehicle within five (5) miles of an airport pursuant to this subsection shall, at all times during the operation, maintain on his or her person documentation of any waiver, exemption, authorization, or consent permitting such operation.

(4) A person who violates this section is guilty of a Class A misdemeanor.

➔Section 7. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

- (1) "Action" includes all proceedings in any court of this state;
- (2) "Animal" includes every warm-blooded living creature except a human being;
- (3) "Attorney" means attorney-at-law;
- (4) "Bequeath" and "devise" mean the same thing;
- (5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;
- (6) "Business trust" includes, except when utilized in KRS Chapter 386, a "statutory trust" as organized under KRS Chapter 386A;
- (7) "Case plan" means an individualized accountability and behavior change strategy for supervised individuals that:
 - (a) Targets and prioritizes the specific criminal risk factors of the individual

- based upon his or her assessment results;
- (b) Matches the type and intensity of supervision and treatment conditions to the individual's level of risk, criminal risk factors, and individual characteristics, such as gender, culture, motivational stage, developmental stage, and learning style;
 - (c) Establishes a timetable for achieving specific behavioral goals, including a schedule for payment of victim restitution, child support, and other financial obligations; and
 - (d) Specifies positive and negative actions that will be taken in response to the supervised individual's behaviors;
- (8) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;
- (9) "Certified mail" means any method of governmental, commercial, or electronic delivery that allows a document or package to have proof of:
- (a) Sending the document or package;
 - (b) The date the document or package was delivered or delivery was attempted; and
 - (c) The signature of the receipt of the document or package;
- (10) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;
- (11) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;
- (12) "Criminal risk factors" are characteristics and behaviors that, when addressed or changed, affect a person's risk for committing crimes. The characteristics may include but are not limited to the following risk and criminogenic need factors: antisocial behavior; antisocial personality; criminal thinking; criminal associates; dysfunctional family; low levels of employment or education; poor use of leisure and recreation; and substance abuse;

- (13) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;
- (14) "Directors," when applied to corporations, includes managers or trustees;
- (15) "Domestic," when applied to a corporation, partnership, business trust, or limited liability company, means all those incorporated or formed by authority of this state;
- (16) "Domestic animal" means any animal converted to domestic habitat;
- (17) "Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism when implemented competently;
- (18) "Federal" refers to the United States;
- (19) "Foreign," when applied to a corporation, partnership, limited partnership, business trust, statutory trust, or limited liability company, includes all those incorporated or formed by authority of any other state;
- (20) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;
- (21) "Graduated sanction" means any of a wide range of accountability measures and programs for supervised individuals, including but not limited to electronic monitoring; drug and alcohol testing or monitoring; day or evening reporting centers; restitution centers; disallowance of future earned compliance credits; rehabilitative interventions such as substance abuse or mental health treatment; reporting requirements to probation and parole officers; community service or work crews; secure or unsecure residential treatment facilities or halfway houses; and short-term or intermittent incarceration;
- (22) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals,"

- means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;
- (23) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;
- (24) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;
- (25) "Legatee" and "devisee" convey the same idea;
- (26) "May" is permissive;
- (27) "Month" means calendar month;
- (28) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;
- (29) "Owner" when applied to any animal, means any person having a property interest in such animal;
- (30) "Partnership" includes both general and limited partnerships;
- (31) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;
- (32) "Penitentiary" includes all of the state penal institutions except the houses of reform;
- (33) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, joint stock companies, and limited liability companies;
- (34) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;
- (35) "Pretrial risk assessment" means an objective, research-based, validated assessment tool that measures a defendant's risk of flight and risk of anticipated criminal conduct while on pretrial release pending adjudication;

- (36) "Registered mail" means any governmental, commercial, or electronic method of delivery that allows a document or package to have:
- (a) Its chain of custody recorded in a register to enable its location to be tracked;
 - (b) Insurance available to cover its loss; and
 - (c) The signature of the recipient of the document or package available to the sender;
- (37) "Regular election" means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;
- (38) "Risk and needs assessment" or "validated risk and needs assessment" means an actuarial tool scientifically proven to determine a person's risk to reoffend and criminal risk factors, that when properly addressed, can reduce that person's likelihood of committing future criminal behavior;
- (39) "Shall" is mandatory;
- (40) "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;
- (41) "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605,

and 42.615;

- (42) "Supervised individual" means an individual placed on probation by a court or serving a period of parole or post-release supervision from prison or jail;
- (43) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;
- (44) "Treatment" when used in a criminal justice context, means targeted interventions that focus on criminal risk factors in order to reduce the likelihood of criminal behavior. Treatment options may include but shall not be limited to community-based programs that are consistent with evidence-based practices; cognitive-behavioral programs; faith-based programs; inpatient and outpatient substance abuse or mental health programs; and other available prevention and intervention programs that have been scientifically proven to produce reductions in recidivism when implemented competently. "Treatment" does not include medical services;
- (45) "United States" includes territories, outlying possessions, and the District of Columbia;
- (46) *"Unmanned aerial vehicle" means a powered aircraft of any size without a human operator aboard the vehicle and that is operated remotely or autonomously;*
- (47) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;
- (48)~~(47)~~ "Violate" includes failure to comply with;
- (49)~~(48)~~ "Will" includes codicils; "last will" means last will and testament;
- (50)~~(49)~~ "Year" means calendar year;

~~(51)~~~~(50)~~ "City" includes town;

~~(52)~~~~(51)~~ Appropriation-related terms are defined as follows:

- (a) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in KRS Chapter 48;
- (b) "Appropriation provision" means a section of any enactment by the General Assembly which is not provided for by KRS Chapter 48 and which authorizes the expenditure of public funds other than by a general appropriation bill;
- (c) "General appropriation bill" means an enactment by the General Assembly that authorizes the expenditure of public funds in a branch budget bill as provided for in KRS Chapter 48;

~~(53)~~~~(52)~~ "Mediation" means a nonadversarial process in which a neutral third party encourages and helps disputing parties reach a mutually acceptable agreement. Recommendations by mediators are not binding on the parties unless the parties enter into a settlement agreement incorporating the recommendations;

~~(54)~~~~(53)~~ "Biennium" means the two (2) year period commencing on July 1 in each even-numbered year and ending on June 30 in the ensuing even-numbered year;

~~(55)~~~~(54)~~ "Branch budget bill" or "branch budget" means an enactment by the General Assembly which provides appropriations and establishes fiscal policies and conditions for the biennial financial plan for the judicial branch, the legislative branch, and the executive branch, which shall include a separate budget bill for the Transportation Cabinet;

~~(56)~~~~(55)~~ "AVIS" means the automated vehicle information system established and maintained by the Transportation Cabinet to collect titling and registration information on vehicles and boats and information on holders of motor vehicle operator's licenses and personal identification cards; and

~~(57)~~~~(56)~~ "Cooperative," except in KRS Chapter 272, includes a limited cooperative association.