

AN ACT relating to the use of drones.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

(1) "Critical infrastructure" means:

(a) Any part of a system used in the production, generation, control, transformation, transportation, transmission, or distribution of electric energy;

(b) A petroleum refinery;

(c) A chemical or rubber manufacturing facility;

(d) A petroleum or chemical storage facility;

(e) Pipelines and related facilities identified in the National Pipeline Mapping System administered by the Pipeline and Hazardous Materials Safety Administration;

(f) Railroad yards, railroad bridges, and railroad tunnel ports; or

(g) A drinking water collection, treatment, storage, or distribution facility; and

(2) "Drone" means any unmanned aircraft:

(a) For which registration with the Federal Aviation Administration is required pursuant to 14 C.F.R. secs. 48.1 et seq.; and

(b) That is labeled or should be labeled with an N-number or other unique identifying number issued by the Federal Aviation Administration pursuant to the requirements of 14 C.F.R. sec. 48.205.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

(1) A person commits the offense of unlawful use of a drone if he or she:

(a) Knowingly uses a drone to conduct surveillance of, gather evidence or

collect information about, or photographically or electronically record critical infrastructure without the prior written consent of the owner of the critical infrastructure;

(b) Uses a drone:

1. To engage in harassing conduct prohibited by KRS 525.070;
2. To commit an act of voyeurism prohibited by KRS 531.090;
3. To commit an act of video voyeurism prohibited by KRS 531.100;
4. In the commission of an act of burglary or trespass prohibited by KRS Chapter 511; or
5. In the commission of an act of theft by unlawful taking or disposition prohibited by KRS 514.030; or

(c) Equips a drone with a lethal payload, except for drones operated by the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or a reserve component thereof, or the Army National Guard or Air Force National Guard.

(2) (a) A violation of subsection (1)(a) of this section shall be a Class B misdemeanor for the first offense, and a Class A misdemeanor for a second or subsequent offense;

- (b) 1. A violation of subsection (1)(b) of this section shall be a Class B misdemeanor; and
2. The provisions of subsection (1)(b) of this section are intended to be a separate offense and shall be punished in addition to the underlying offense occurring during the same course of conduct; or

(c) A violation of subsection (1)(c) of this section shall be a Class A misdemeanor.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 4 of this Act shall not apply to:

- (1) A drone used to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record critical infrastructure when the drone is used by an owner or lessee of the critical infrastructure, or a third party specifically authorized by the owner or lessee of the critical infrastructure;
- (2) A drone used by the federal government or by the Commonwealth, or a person acting pursuant to a contract with the federal government or the Commonwealth, to conduct surveillance of specific critical infrastructure;
- (3) A drone used to examine or record real property when the drone is used by:
 - (a) The owner of the real property;
 - (b) 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
 - (c) A third party who is retained or authorized in writing by the owner of the real property;
- (4) A drone used pursuant to prior written authorization of the Kentucky Division of Emergency Management;
- (5) Except as provided in Section 4 of this Act, a drone 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;
- (6) A satellite orbiting the earth;
- (7) A drone 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;
- (8) A drone used strictly in accordance with an order of a court of competent jurisdiction, or in accordance with a search warrant obtained under Section 4 of

this Act; or

(9) A drone used by an institute of higher education for educational, research, or testing purposes.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

(1) No law enforcement agency, or agent thereof, shall use a drone to conduct a search unless:

(a) The law enforcement agency first obtained a search warrant signed by a judge authorizing the limited use of a drone, and the drone is used only to obtain evidence concerning the particular person or location named in the warrant; or

(b) Exigent circumstances exist.

(2) When a drone is used pursuant to subsection (1) of this section, it shall be operated in a manner to collect data only on the target and minimize data collection on individuals, homes, or areas other than the target. Neither facial recognition nor other biometric matching technology may be used on nontarget data collected by a drone. This data shall be confidential and is not subject to disclosure, except by order of a court of competent jurisdiction.

(3) No evidence obtained or collected as the result of the use of a drone shall be admissible as evidence in any civil, criminal, or administrative proceeding within this state for the purpose of enforcing state or local law, except for:

(a) Evidence collected as permitted by subsection (1) of this section; or

(b) Evidence which is offered against the owner or operator of a drone to show misconduct.

(4) No law enforcement agency shall be required to operate drones.

(5) This section may be cited as the Citizens' Freedom from Unwarranted Surveillance Act.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

The Kentucky Office of Homeland Security shall promulgate administrative regulations for the control of drones, as defined in Section 1 of this Act, on, over, and across state-owned property, including but not limited to the grounds appurtenant to any building or other facility owned by the state or any state agency.