

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.