

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, 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 1. For operations and maintenance of utility or communications service
3 facilities, including facilities used in the generation, transmission, or
4 distribution of electricity, water, telecommunications, or natural gas,
5 for the purpose of maintaining utility or communications service
6 system reliability and integrity;

7 2. For inspecting utility or communications service facilities, including
8 pipelines, to determine construction, repair, maintenance, or
9 replacement needs before, during, and after construction of such
10 facilities;

11 3. For assessing vegetation growth for the purpose of maintaining
12 clearances on utility rights-of-way;

13 4. For utility or communications service routing, siting, and permitting
14 for the purpose of constructing facilities or providing service; or

15 5. For conducting environmental monitoring, as provided by federal,
16 state, or local law, rule, or permit;

17 (c) An entity conducting aerial mapping;

18 (d) An entity conducting cargo;

19 (e) An insurance company or a person acting on behalf of an insurance
20 company for purposes of underwriting an insurance risk or investigating
21 damage to insured property; or

22 (f) An entity conducting images necessary for the safe operation or navigation
23 of an unmanned aircraft system that is being used for a purpose allowed
24 under federal or Kentucky law.

25 ~~(4)~~~~(3)~~ Any recreational user may operate an unmanned aircraft system within this
26 state, in compliance with 14 C.F.R. pt. 101.

27 ~~(5)~~~~(4)~~ Any institution of higher education, or school district, may use an unmanned

1 aircraft system for educational, research, or testing purposes.

2 ~~(6)(5)~~ No law enforcement agency, or agent thereof, shall use an unmanned aircraft
3 system to conduct a search unless authorized under the Fourth Amendment to the
4 United States Constitution and Section 10 of the Kentucky Constitution. If the
5 search is conducted pursuant to a warrant, the warrant shall specifically authorize
6 the use of an unmanned aircraft system.

7 ~~(7)(6)~~ Except as limited by subsection ~~(6)(5)~~ of this section, any government
8 agency, including a law enforcement agency, may use an unmanned aircraft system
9 for legitimate governmental purposes.

10 ~~(8)(7)~~ When an unmanned aircraft system is used by law enforcement pursuant to
11 subsections ~~(6)(5)~~ and ~~(7)(6)~~ of this section, it shall be operated in a lawful
12 manner and shall minimize data collection on nonsuspects. Disclosure of such data
13 shall be prohibited except by order of a court of competent jurisdiction.

14 ~~(9)(8)~~ No evidence obtained or collected as the result of the use of an unmanned
15 aircraft system shall be admissible as evidence in any civil, criminal, or
16 administrative proceeding within this state for the purpose of enforcing state or
17 local law, except for:

18 (a) Evidence collected as permitted by subsections ~~(3)(2)~~ to ~~(7)(6)~~ of this
19 section; or

20 (b) Evidence which is offered against the owner or operator of an unmanned
21 aircraft system to show misconduct.

22 ~~(10)(9)~~ No law enforcement agency shall be required to operate unmanned aircraft
23 systems.

24 ~~(11)(10)~~ Operation of an unmanned aircraft system in violation of subsection ~~(3)(2)~~
25 or ~~(4)(3)~~ of this section shall be a violation for the first offense and a Class B
26 misdemeanor for the second or subsequent offense.

27 **(12) A person operating an unmanned aircraft system pursuant to subsections (3) to**

1 (5) of this section shall not use an unmanned aircraft system to record an image
2 of privately owned real property or of the owner, tenant, occupant, invitee, or
3 licensee of such property with the intent to conduct surveillance on, or publish
4 unauthorized images of, the individual or property captured in the image in
5 violation of the person's reasonable expectation of privacy. For purposes of this
6 subsection, a person is presumed to have a reasonable expectation of privacy on
7 his or her privately owned real property if he or she is not observable by persons
8 located at ground level in a place where they have a legal right to be, regardless
9 of whether he or she is observable from the air with the use of an unmanned
10 aircraft system.~~[(11) This section may be cited as the "Citizens' Freedom from~~
11 ~~Unwarranted Surveillance Act."]~~

12 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
13 READ AS FOLLOWS:

14 The owner, tenant, occupant, invitee, or licensee of privately owned real property may
15 initiate a civil action in a court of competent jurisdiction against any person, agency,
16 or political subdivision that violates Section 1 of this Act and may seek:

17 (1) Appropriate injunctive relief;

18 (2) Actual damages;

19 (3) Punitive damages;

20 (4) Court costs; and

21 (5) Reasonable attorney's fees.

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO
23 READ AS FOLLOWS:

24 An action filed pursuant to Section 2 of this Act shall be commenced within seven (7)
25 years after the cause of action accrued.