

1 AN ACT relating to fish and wildlife law enforcement.

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

3 ➔Section 1. KRS 15.519 is amended to read as follows:

4 (1) As used in this section, unless the context otherwise requires:

5 (a) "Officer" means any local, state, or federal officer who is employed or  
6 contracted by a governmental agency in Kentucky and includes:

7 1. Law enforcement officer as defined in KRS 15.310;

8 2. Peace officer as defined in KRS 446.010;~~and~~

9 3. Police officer as defined in KRS 15.420; ***and***

10 ***4. Game warden as defined in KRS 150.010;***

11 (b) "Private open land" means land, including open fields, but excluding any  
12 homes or buildings and the curtilage around them, that is owned, leased, used,  
13 or lawfully occupied by a person or a nongovernmental entity; and

14 (c) "Search warrant" means a warrant that is supported by individualized  
15 probable cause and issued by a court of competent jurisdiction.

16 (2) An officer shall not enter or access private open land for any covert surveillance or  
17 installation of surveillance devices without a search warrant unless the officer:

18 (a) Has received the permission of the property owner, lessee, or lawful occupant;

19 (b) Upon probable cause, is responding to an exigent circumstance, including a  
20 life-threatening emergency or another immediate threat to public safety that  
21 was either reported to or personally observed by the officer;

22 (c) Is dispatching crippled, distressed, dangerous, or invasive wildlife that the  
23 officer has personally observed; or

24 (d) Is unable to reasonably identify the unmarked and unfenced boundaries and  
25 ownership of unimproved, uninhabited rural land.

26 (3) (a) Upon entering private open land, the officer shall immediately notify the  
27 landowner, lessee, or lawful occupant, if notice can reasonably be made,

1 unless the officer is in possession of a search warrant allowing surveillance or  
2 surveillance-related activities.

3 (b) If an officer is equipped with a body-worn camera or other audio-visual or  
4 audio recording device while entering private open land, the body-worn  
5 camera or other audio-visual or audio recording device shall be activated and  
6 recording in accordance with the standard policy of the officer's agency.

7 ~~[(4) Subsections (2) and (3) of this section do not apply to a game warden executing~~  
8 ~~duties described in KRS 150.090, who shall have the authority to enter upon, cross~~  
9 ~~over, be upon, or access private open lands for the purpose of conducting~~  
10 ~~compliance checks or surveillance based upon a reasonable suspicion, and shall not~~  
11 ~~be required to notify the landowner, lessee, or lawful occupant.]~~

12 ➔Section 2. KRS 150.090 is amended to read as follows:

13 (1) The commissioner shall appoint, promote, or take other employment actions to the  
14 ranks, grades, and positions of the department game wardens who are considered by  
15 the commissioner to be necessary for the efficient administration of the department.

16 (2) Game wardens appointed by the commissioner shall have full powers as peace  
17 officers for the enforcement of all of the laws of the Commonwealth, including the  
18 administrative regulations promulgated pursuant to KRS Chapters 150 and 235 and  
19 to serve process.

20 (3) Each game warden is individually vested with the powers of a peace officer and  
21 shall have in all parts of the state the same powers with respect to criminal matters  
22 and enforcement of the laws relating thereto as sheriffs, constables, and police  
23 officers in their respective jurisdictions, and shall possess all the immunities and  
24 matters of defense now available or hereafter made available to sheriffs, constables,  
25 and police officers in any suit brought against them in consequence of acts done in  
26 the course of their employment and within the scope of their duties. Any warrant of  
27 arrest may be executed by any officer of the department.

- 1 (4) Game wardens charged with the enforcement of this chapter and the administrative  
2 regulations issued thereunder ~~may~~~~[shall have the right to]~~ go upon public~~[the]~~ land  
3 and, subject to the requirements of Section 1 of this Act, the private land of any  
4 person or persons~~[whether private or public]~~ for the purpose of the enforcement of  
5 laws or orders of the department relating to game or fish~~[, while in the normal,~~  
6 ~~lawful and peaceful pursuit of such investigation or work or enforcement, may enter~~  
7 ~~upon, cross over, be upon, and remain upon privately owned lands for such~~  
8 ~~purposes, and shall not be subject to arrest for trespass while so engaged or for such~~  
9 ~~cause thereafter]~~. They may arrest on sight, without warrant, any person detected by  
10 them in the act of violating any of the provisions of this chapter. They shall have  
11 the same rights as sheriffs to require aid in arresting with or without process any  
12 person found by them violating any of the provisions of this chapter and may seize  
13 without process anything declared by this chapter to be contraband. No liability  
14 shall be incurred by any person charged or directed in the enforcement of this  
15 chapter.
- 16 (5) Game wardens and other officers charged with the enforcement of this chapter,  
17 shall have the authority to call for and inspect the license or tag, bag or creel of any  
18 person engaged in any activity for the performance of which a license is required  
19 under this chapter, and shall also have the authority to take proper identification of  
20 any person, or hunter, or fisherman who is actually engaged in any of these  
21 activities, and to call for and inspect any and all firearms and any other device that  
22 may be used in taking wildlife and is in the possession of any person so engaged.
- 23 (6) No person shall resist, obstruct, interfere with or threaten or attempt to intimidate or  
24 in any other manner interfere with any officer in the discharge of his duties under  
25 the provisions of this chapter. This subsection shall not apply to a criminal  
26 homicide or an assault upon such officer. An assault upon such officer shall be  
27 deemed an offense under KRS Chapter 507 or 508, as appropriate.

1 (7) The commissioner may, as a condition of employment, require a newly appointed  
2 department game warden to enter into an employment contract for a period of no  
3 longer than five (5) years from the date of appointment. If a department game  
4 warden who entered into a contract authorized under this subsection accepts  
5 employment as a peace officer with another law enforcement agency, that law  
6 enforcement agency shall reimburse the department for the actual costs incurred  
7 and expended by the department that are associated with the initial hiring of that  
8 department game warden, including but not limited to the application process,  
9 training costs, equipment costs, salary, and fringe benefits. The department shall be  
10 reimbursed for the costs from the time of department game warden initial  
11 application until appointment.

12 ➔Section 3. KRS 235.310 is amended to read as follows:

13 (1) The commissioner of the Department of Fish and Wildlife Resources shall  
14 designate officers and employees of the department to enforce the provisions of this  
15 chapter, and these officers when duly authorized by the commissioner shall have  
16 the general powers of a peace officer for the enforcement of other offenses against  
17 the Commonwealth. In enforcing the provisions of this chapter, these officers and  
18 all other peace officers of the Commonwealth and its subdivisions shall have the  
19 right to enter upon all waters of this state, either private or public, for the purpose of  
20 inspecting certificate of registration and boat numbering, but shall only have the  
21 right to stop or enter upon boats on such waters if the officer has a reasonable and  
22 articulable suspicion based upon specific and articulable facts which, taken together  
23 with rational inferences from those facts, demonstrate that a violation of the  
24 Kentucky Revised Statutes or an administrative regulation promulgated under this  
25 chapter has occurred, with any subsequent search of the boat or persons on it being  
26 authorized only if supported by probable cause. The provisions of this section shall  
27 not apply to license inspections under KRS 150.090(5), but only as to those licenses

1 and items specified in that section. They may arrest on sight, without warrant, any  
2 person detected by them in the act of violating any of the provisions of this chapter.  
3 They shall have the same rights as sheriffs to require aid in arresting, with or  
4 without process, any person found by them violating any of the provisions of this  
5 chapter or other offenses against the Commonwealth.

6 (2) The officers designated in subsection (1) of this section shall be authorized to  
7 possess and use radio communication equipment capable of receiving and  
8 transmitting on state police radio frequency. The Department of Kentucky State  
9 Police shall cooperate with the department for the purpose of radio communication  
10 of these officers when any assistance is necessary.

11 (3) The department may conduct periodic inspections of marine sanitation devices  
12 according to a regular inspection schedule to be determined by the department. To  
13 conduct the marine sanitation device inspection, the department officers and  
14 employees may require a motorboat owner to flush a dye through the marine toilet  
15 in the presence of the department officers or employees or use other appropriate  
16 measures to inspect the device.

17 (4) An officer or employee of the department in the course of enforcing the  
18 provisions of this chapter or the administrative regulations promulgated  
19 thereunder shall only enter or access private open land in accordance with  
20 Section 1 of this Act.