

1 AN ACT relating to identification devices.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Identification device" means any item, application, or product that, using
7 radio frequency technology or any other electronic medium, is:

8 1. Passively or actively capable of transmitting personal information;

9 and

10 2. Used to:

11 a. Track or harass a person; or

12 b. Download personal information without permission;

13 (b) "Introduction" means subcutaneous injection, inhalation, ingestion, or any
14 other means of placement on or within the human body;

15 (c) "Personal information" means any of the following data elements that can
16 identify an individual, whether alone or in conjunction with any other
17 information:

18 1. Email, internet protocol, or website address;

19 2. Date of birth;

20 3. Motor vehicle operator's license number or personal identification
21 card number;

22 4. Any unique personal identifier number contained or encoded in a
23 motor vehicle operator's license or personal identification card issued;

24 5. Bank, credit card, or other financial institution account number;

25 6. Any unique personal identifier contained or encoded in a health
26 insurance, health benefit, or benefit card, or record issued in
27 conjunction with any government-supported aid program;

1 7. Religion;

2 8. Ethnicity or nationality;

3 9. Photograph;

4 10. Fingerprint or other biometric identifier;

5 11. Social Security number;

6 12. Name; or

7 13. Any other unique personal identifier;

8 (d) "Require, coerce, or compel":

9 1. Means to cause a reasonable person of ordinary susceptibilities to
10 acquiesce to introduction of an identification device when he or she
11 otherwise would not, including but not limited to:

12 a. The use of any physical violence, threat, intimidation, or
13 retaliation; or

14 b. Conditioning the receipt of any private or public benefit or care
15 on consent to introduction of an identification device, including
16 employment, promotion, or other employment benefit; and

17 2. Does not include legitimate medical uses for which a patient or his or
18 her parent or guardian has consented; and

19 (e) "Subcutaneous" means located, administered, or introduced under the skin.

20 (2) A person shall not:

21 (a) Require, coerce, or compel any other person to undergo the introduction of
22 an identification device; or

23 (b) Introduce an identification device without the consent of the person to
24 whom the identification device is introduced.

25 (3) A person to whom an identification device is introduced in violation of subsection
26 (2) of this section may bring a civil action in a court of competent jurisdiction for:

27 (a) Actual damages;

1 **(b) Compensatory damages;**

2 **(c) Punitive damages;**

3 **(d) Injunctive relief;**

4 **(e) Reasonable attorney's fees;**

5 **(f) Litigation costs, including but not limited to expert witness fees and**
6 **expenses; and**

7 **(g) Any other appropriate relief.**

8 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO
9 READ AS FOLLOWS:

10 **An action filed pursuant to Section 1 of this Act shall be commenced within seven (7)**
11 **years after the cause of action accrued.**

12 ➔Section 3. KRS 508.152 is amended to read as follows:

13 (1) As used in this section:

14 (a) "Motor vehicle" has the same meaning as "vehicle" in KRS 186.010(8)(a);

15 (b) "Protective order" has the same meaning as in KRS 508.130; and

16 (c) "Tracking device" means an electronic or mechanical device that is designed
17 or intended to allow a person to remotely determine or track the position or
18 movement of another person or an object, regardless of whether that
19 information is recorded.

20 (2) A person is guilty of unlawful use of a tracking device when he or she intentionally:

21 (a) Installs or places a tracking device, or causes a tracking device to be installed
22 or placed;~~;~~

23 **1.** In or on a motor vehicle without the knowledge and consent of the
24 owner of the motor vehicle;~~;~~ or~~;~~

25 **2. In or on a leased motor vehicle without the knowledge and consent of**
26 **either**~~if the motor vehicle is leased,]~~ the lessee or authorized operator
27 of the motor vehicle;

- 1 (b) Using a tracking device, tracks the location of:
- 2 1. A motor vehicle ~~[with a tracking device]~~ without the knowledge and
- 3 consent of either the owner or ~~[the]~~ authorized operator of the motor
- 4 vehicle; ~~or~~;
- 5 2. A leased motor vehicle without the knowledge and consent of ~~[if the~~
- 6 ~~motor vehicle is leased,~~] either the lessee or authorized operator of the
- 7 motor vehicle;
- 8 (c) While being the restrained party under a protective order, uses a tracking
- 9 device to track the location of a motor vehicle operated or occupied by an
- 10 individual protected under the order; ~~or~~
- 11 (d) While on probation or parole for a crime defined in KRS Chapter 508, uses a
- 12 tracking device to track the location of a motor vehicle operated or occupied
- 13 by a victim of the crime or by a family member of the victim of the crime
- 14 without the knowledge and consent of the victim or family member;
- 15 (e) Installs or places a tracking device, or causes a tracking device to be
- 16 installed or placed, on the person or property of another without the other
- 17 person's knowledge and consent; or
- 18 (f) Using a tracking device, tracks the location of another person without the
- 19 other person's knowledge and consent.
- 20 (3) Unlawful use of a tracking device is a Class A misdemeanor.
- 21 (4) Subsection (2) of this section does not apply to the installation or use of any:
- 22 (a) Device providing vehicle tracking for purposes of providing mechanical,
- 23 operational, directional, navigation, weather, or traffic information to the
- 24 operator of the vehicle;
- 25 (b) Device for providing emergency assistance to the operator or passengers of
- 26 the vehicle under the terms and conditions of a subscription service, including
- 27 any trial period of that subscription service;

- 1 (c) Device for providing missing vehicle assistance for the benefit of the owner or
2 operator of the vehicle;
- 3 (d) Device providing diagnostic services regarding the mechanical operation of a
4 vehicle under the terms and conditions of a subscription service, including any
5 trial period of the subscription service;
- 6 (e) Device or service providing the lessee of the vehicle with clear notice that the
7 vehicle may be tracked. For a lessor who installs a tracking device subsequent
8 to the original vehicle manufacture, the notice shall be provided in writing
9 with an acknowledgment signed by the lessee, regardless of whether the
10 tracking device is original equipment, a retrofit, or an aftermarket product.
11 The requirement for written acknowledgment placed upon the lessor is not
12 imposed upon the manufacturer of the tracking device or the manufacturer of
13 the vehicle;
- 14 (f) Tracking device by the parent or guardian of a minor:
- 15 1. On any vehicle owned or leased by that parent or guardian of the minor,
16 and operated by the minor; or
- 17 2. *On the person or property of the minor; or*
- 18 (g) Tracking device by a police officer while lawfully performing his or her
19 duties as a police officer.