

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 acquiesce to introduction of an identification device when he or she otherwise would not, including but not limited to:
 - 10 a. The use of any physical violence, threat, intimidation, or retaliation; or
 - 11 b. Conditioning the receipt of any private or public benefit or care on consent to introduction of an identification device, including employment, promotion, or other employment benefit; and
 - 12 2. Does not include legitimate medical uses for which a patient or his or her parent or guardian has consented; and
- 13 (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 an identification device; or
- 22 (b) Introduce an identification device without the consent of the person to whom the identification device is introduced.

23 (3) A person to whom an identification device is introduced in violation of subsection

24 (2) of this section may bring a civil action in a court of competent jurisdiction for:

25 (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~~ motor vehicle is leased, either the lessee or authorized operator of the
6 motor vehicle;

7

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;~~for~~

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.