

AN ACT relating to drone surveillance.

WHEREAS, the great and essential principles of liberty and free government are a cornerstone of the Commonwealth; and

WHEREAS, those values are enshrined in the Constitution of the Commonwealth of Kentucky; and

WHEREAS, Section 2 of the Kentucky Constitution establishes that absolute and arbitrary power over life, liberty, and property exists nowhere in a republic; and

WHEREAS, Section 10 of the Kentucky Constitution protects the people in their persons, houses, papers, and possessions from unreasonable searches and seizures; and

WHEREAS, Section 11 of the Kentucky Constitution guarantees the rights to a fair trial and to due process; and

WHEREAS, the development of highly capable unmanned aerial vehicles for surveillance does not alter the expectations of privacy which the Commonwealth recognizes as reasonable;

NOW, THEREFORE,

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 500 IS CREATED TO READ AS FOLLOWS:

*(1) As used in this section, "drone" means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.*

*(2) Except for drones operated by the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army National Guard or Air Force National Guard, drones may not be equipped with a lethal payload.*

*(3) Any business entity doing business lawfully within this state may use a drone for business purposes.*

*(4) Any institution of higher education may use a drone for educational, research, or*

testing purposes.

(5) No law enforcement agency, or agent thereof, shall use a drone to gather evidence or other information, or utilize, disclose, or receive information acquired in violation of this section unless:

(a) The law enforcement agency first obtained a search warrant signed by a judge authorizing the limited use of a drone, and the drone is used only to obtain evidence concerning the particular person or location named in the warrant. If an emergency situation exists, an application for a search warrant approving such operation may be made within forty-eight (48) hours after the operation begins. If the warrant is denied, any information collected shall be considered to have been collected under paragraph (b) of this subsection; or

(b) No part of any information and no evidence derived from the operation is used by the Commonwealth in any trial, hearing, or other proceeding in or before any court, grand jury, or for any intelligence purpose.

(6) When a drone is used pursuant to subsection (5) of this section, it shall be operated in a manner to collect data only on the target and minimize data collection on individuals, homes, or areas other than the target. Neither facial recognition nor other biometric matching technology may be used on nontarget data collected by a drone. This data shall be confidential and is not subject to disclosure except by order of a court of competent jurisdiction.

(7) No evidence obtained or collected as the result of the use of a drone shall be admissible as evidence in any civil, criminal, or administrative proceeding within this state for the purpose of enforcing state or local law except for:

(a) Evidence collected as permitted by subsection (5)(a) of this section; or

(b) Evidence which is offered against the owner or operator of a drone to show misconduct.

(8) No law enforcement agency shall be required to operate drones.

(9) This section may be cited as the "Citizens' Freedom from Unwarranted Surveillance Act."