

AN ACT relating to the protection of critical infrastructure.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 1 to 3 of this Act:*

*(1) "Critical infrastructure" means:*

*(a) Any part of a system used in the production, generation, control, transformation, transportation, transmission, or distribution of electric energy;*

*(b) A petroleum refinery;*

*(c) A chemical or rubber manufacturing facility;*

*(d) A petroleum or chemical storage facility;*

*(e) Pipelines and related facilities identified in the National Pipeline Mapping System administered by the Pipeline and Hazardous Materials Safety Administration;*

*(f) Railroad yards, railroad bridges, and railroad tunnel ports; and*

*(g) A drinking water collection, treatment, storage, or distribution facility;*

*(2) "Unmanned aircraft" means an aircraft that is operated without the possibility of direct human interaction from within or on the aircraft; and*

*(3) "Unmanned aircraft system" means an unmanned aircraft and associated elements, including communication links and the components that control the unmanned aircraft, that are required for the pilot in command to operate safely and efficiently in the national airspace system, but does not include:*

*(a) A satellite orbiting the earth;*

*(b) An unmanned aircraft system used by the federal government or a person acting pursuant to a contract with the federal government to conduct surveillance of specific critical infrastructure;*

- (c) An unmanned aircraft system used by the Commonwealth after consultation with the Governor or a person who is acting under contract with the Commonwealth to conduct surveillance of specific critical infrastructure;
- (d) An unmanned aircraft system used pursuant to prior written authorization of the Kentucky Division of Emergency Management;
- (e) An unmanned aircraft system or small unmanned aircraft that has a certificate of authorization, certificate of waiver, airworthiness certificate, or grant of authority from the Federal Aviation Administration, when conducted in accordance with the granted authority;
- (f) An unmanned aircraft used by a law enforcement agency, emergency medical service agency, hazardous material response team, disaster management agency, or other emergency management agency for the purpose of incident command, area reconnaissance, personnel and equipment deployment monitoring, training, or a related purpose; or
- (g) An unmanned aircraft used by an owner of critical infrastructure to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record the critical infrastructure of the owner.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

- (1) A person commits the offense of unlawful use of an unmanned aircraft system if he or she knowingly uses an unmanned aircraft system to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record the critical infrastructure without the prior written consent of the owner of the critical infrastructure.
- (2) This section shall not prohibit:

(a) A person from using an unmanned aircraft system to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record his or her own property that is:

1. Located on his or her own immovable property; or
2. Located on immovable property owned by another person under a valid lease, servitude, right-of-way, right of use, permit, license, or other right;

(b) A third person from using an unmanned aircraft system who is retained by the owner of the property to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record the property; or

(c) An insurance company or a person acting on behalf of an insurance company from using an unmanned aircraft system for purposes of underwriting an insurance risk or investigating damage to insured property.

(3) Unlawful use of an unmanned aircraft system is:

- (a) A Class B misdemeanor for a first offense; and
- (b) A Class A misdemeanor for a second or subsequent offense.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

A person who violates Section 2 of this Act shall be liable to the owner of the critical infrastructure that is the subject of the violation for:

- (1) Any actual damages sustained as a result of the violation or ten thousand dollars (\$10,000), whichever is greater;
- (2) If the violation resulted in profit or monetary gain to the violator, three (3) times the actual profit or monetary gain, or ten thousand dollars (\$10,000), whichever is greater; and
- (3) The costs of an action brought under this section, together with reasonable

*attorney's fees as determined by the court.*