

Kentucky

SEARCH WARRANT GUIDE

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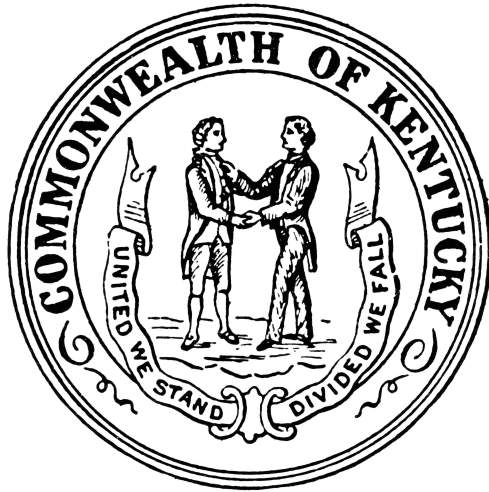
*Fourth Amendment
The people to be secure in
their persons, papers, and effects against
unreasonable searches and seizures, shall not
be compelled to give testimony against themselves*



Blue to Gold

Kentucky Search Warrant Guide

A REFERENCE FOR LAW ENFORCEMENT



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SPOKANE, WASHINGTON

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— Anthony Bandiero

TABLE OF CONTENTS



PART I
Common Search Warrant Questions

Application Procedure 1

The Search Warrant 3

Execution of Search Warrant 3

Return and Records Procedure 7



PART II
Ky. Rev. Stat. Rules Related to Arrest and Search Warrants

150.120. Seizure and sale of contraband..... 13

242.370. Search and seizure..... 15

436.605. Animal control officers and humane agents have powers of peace officers..... 16



PART II
Kentucky Rules of Criminal Procedure Related to Arrest and Search Warrants

Rule 13.10. Search warrant; who may issue..... 19



PART I

Common Search Warrant Questions

Application Procedure

1) Who may apply?	<p>Alcoholic beverages— Officer or reputable citizen (§ 242.370(1))</p> <p>Any peace officer, animal control officer or officers or agents of cruelty prevention societies working for government (§ 436.605(2))</p>
2) Who has the authority to issue?	<p>A judge or other officer authorized by statute (Ky. R. Crim. P. 13.10)</p> <p>Alcoholic beverages— Any circuit or district judge (§ 242.370(1))</p> <p>Any district judge (§ 436.605(2))</p> <p>Wildlife— Any court having jurisdiction (§ 150.120(1))</p> <p>Note: A judge shall carefully review any application for a no-knock warrant as a neutral and detached magistrate. Failure to act as a neutral and detached</p>

Kentucky Search Warrant Guide

	magistrate may be referred to the Judicial Conduct Commission. (2021 KY Sen. Bill 4, enacted April 9, 2021)
3) Is an affidavit necessary?	Yes (Ky. R. Crim. P. 13.10(1))
4) Can sworn oral testimony replace an affidavit?	No express provision
5) Are there special provisions for obtaining a warrant by telephone?	Electronic application and issuance permitted (§ 455.170)
6) What property can be seized?	—Alcoholic beverages (§ 242.370 et seq.) —Animals (§ 436.605) —Furs, wildlife, guns, dogs, instruments, boats, or devices taken or used in violation of fish and wildlife laws (§ 150.120(1))
7) Contents of application	
a) Who or what is to be searched?	No express provision
b) State the items being sought?	No express provision
c) State the basis for probable cause?	Required in warrants for: Alcoholic beverages (§ 242.370(1)) Animals or wildlife (§§ 150.120(1), 436.605)
d) Are there additional	Affidavit (Ky. R. Crim. P.

Kentucky Search Warrant Guide

requirements?	13.10(1))
The Search Warrant	
1) Does it require a standard format?	No
2) Required contents	—Place to be searched —Person/thing to be seized (Ky. Const. § 10)
Execution of Search Warrant	
1) How soon must search warrant be executed?	Alcoholic beverages—on the day warrant is received by executing officer (§ 242.370(2))
2) Who may execute?	Alcoholic beverages— any officer receiving the warrant (§ 242.370(2)) Wildlife— the commission, the commissioners appointees, any conservation officer or peace officer (§ 150.120(1)) Animals— any peace officer, animal control officer or officers or agents of cruelty prevention societies working for government (§ 436.605(2))
3) Where is the search warrant applicable?	No express provision
4) When may warrant be executed?	

Kentucky Search Warrant Guide

a) Is execution limited during daytime?	No express provision
b) Is execution limited during nighttime?	No express provision
5) Is forced or unannounced entry allowed under the warrant?	No no-knock warrant may be issued unless court finds by clear and convincing evidence that: crime involves violent offender; giving notice prior to entry will endanger life or safety of persons or result in loss or destruction of evidence that may give rise to charge of crime that would qualify a person as a violent offender; officer seeking warrant has obtained approval of supervising officer or approval of highest ranking officer in law enforcement agency; officer seeking warrant has consulted with Commonwealth's attorney or county attorney or assistant Commonwealth's attorney or assistant county attorney; officer discloses to judge any other attempt to obtain warrant authorizing entry without notice for same premises; warrant authorizes entry without notice only between 6 a.m. and 10 p.m., except in exigent circumstances and court finds by clear and convincing



PART II

Ky. Rev. Stat. Ann. Chs. 150.120 Seizure and sale of contraband.

- 1) The commissioner, all game wardens, persons appointed by the commissioner, and all peace officers and their deputies shall seize and take possession of any and all furs, wildlife, guns, dogs, instruments, boats, or devices which have been taken, used, transported, or possessed contrary to any law or regulation adopted under this chapter. Upon complaint showing probable cause for believing that any of the wildlife protected by any law or regulation are illegally kept in any building, car, or receptacle, any court having jurisdiction may issue a search warrant and cause the same to be searched. Any wildlife, furs, guns, dogs, instruments, or devices seized in accordance with this section shall be impounded by the arresting officer and shall be taken before the court trying the person arrested.
- Subd. 2. Application. Unless otherwise indicated, the provisions of this chapter apply to any person who drives, operates, or is in physical control of a motor vehicle within this state or on any boundary water of this state. The provisions of this chapter are applicable and uniform throughout the state and in all its political subdivisions and municipalities.

2) Upon conviction, the court trying the case shall have the discretion of determining whether or not any of the things seized under the provisions of subsection (1) of this section shall be declared contraband. Any wildlife, fur or dog taken, and any device used or possessed contrary to the provisions of this chapter, or any regulations adopted hereunder, is subject to being declared contraband. When any such item is declared contraband, the court shall enter an order accordingly. A copy of the order shall be forwarded to the commissioner and the contraband shall be placed in the custody of the arresting officer, to be delivered to the commissioner.

3) The commissioner may sell to the residents of this state, at the highest market price obtainable, with the approval of the commission all contraband which comes to his or her possession under the order of any court, or which has been seized under this chapter and declared to be contraband under any law relating to fish or wildlife. All proceeds arising from the sale of contraband articles shall be paid into the game and fish fund, and shall be subject to audit by the Auditor of Public Accounts under KRS 150.152. A record of the sale, including the name of the purchaser and the price paid, shall be kept by the commissioner.

4) Any device or contrivance, the use of which is not expressly recognized and sanctioned by the provisions of this chapter for the taking of wildlife, is hereby declared to be an illegal device. No person shall have in his or her possession any illegal device or other thing prohibited by law or by any regulation adopted under this chapter for the taking of wildlife.

Ky. Rev. Stat. Ann. Chs. 242.370
Search and seizure.

1) When an officer or any reputable citizen files an affidavit with any Circuit or District Judge, describing premises or a vehicle, where alcoholic beverages are sold, disposed of or possessed in violation of this chapter, the judge shall by his warrant cause the premises or vehicle to be searched for the detection of any alcoholic beverages which are possessed, or kept for disposition, in violation of this chapter.

2) Any officer receiving such a warrant shall immediately execute it on the day it is received.

3) If admission is not given on demand, the officers enforcing the warrant shall force an entrance into the premises or vehicle. If the officer finds that alcoholic beverages are being illegally sold, disposed of or possessed, he shall seize the alcoholic beverages, arrest the keeper or person in charge of the premises, vehicle or alcoholic beverages and carry the person arrested and the alcoholic beverages before the judge that has issued the warrant.

4) No search warrant as provided for in this section shall be quashed if it and the affidavit on which it is based are sufficient on the face. If the search warrant is quashed no property taken by virtue of it shall be ordered returned unless the person from whose possession the property was taken both alleges and proves that he was in lawful possession of the property.

Ky. Rev. Stat. Ann. Chs. 436.605

Animal control officers and humane agents have powers of peace officers, except power of arrest -- Search warrants -- Execution of search warrants -- Arrest by peace officer.

1) Animal control officers and officers and agents of humane societies who are employed by, appointed by, or have contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services shall have the powers of peace officers, except for the power of arrest, for the purpose of enforcing the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, sexual crimes against, or torture of animals, provided they possess the qualifications required under KRS 61.300.

2) When any peace officer, animal control officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth who is employed by, appointed by, or has contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services makes an oath before any judge of a District Court that he has reasons to believe or does believe that an act of cruelty, mistreatment, sexual crimes against, or torture of animals is being committed in a building, barn, or other enclosure, the judge shall issue a search warrant directed to the peace officer, animal control officer, or officer or agent of the society or association for the prevention of cruelty to animals to search the premises. If a peace officer finds that an act of cruelty, mistreatment, sexual crimes against, or torture of animals is being perpetrated, the offender or offenders shall be immediately arrested by the peace officer and brought before the court for trial. If an animal control officer or an officer or agent of a society or association for the



PART III

Kentucky Rules of Criminal Procedure (RCr) Rule 13.10 **Search warrant; who may issue**

(1) Upon affidavit sufficient under Section 10 of the Kentucky Constitution and sworn, either in the presence of or through reliable electronic means, before an official authorized to administer oaths as provided in Rule 2.02 for the swearing of complaints, a search warrant may be issued by a judge, trial commissioner, or other official authorized by statute to issue search warrants.

(2) Where a reliable electronic means is being used in lieu of actual presence before an official authorized to administer oaths, the official administering the oath must be in oral communication with the person completing the affidavit, so that the official administering the oath may comply with the requirements for administering oaths. The official administering the oath shall certify on the affidavit or an accompanying document that the oath was taken while in oral communication, and shall state the name and title of the official administering the oath and the time the affidavit was sworn.

(3) A copy of the search warrant and supporting affidavit shall be retained by the judge or other official issuing the warrant and promptly filed with the clerk of the court to which the warrant is returnable.

(4) The officer authorized to execute a search warrant shall make return thereof to the appropriate court within a reasonable time of its execution. The return shall show the date and hour of service.



ABOUT THE AUTHOR

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Anthony is an attorney and retired law enforcement officer with experience as both a municipal police officer and sergeant with a state police agency. Anthony has studied constitutional law for over twenty years and has trained countless police officers around the nation in search and seizure.

View his bio at BlueToGold.com/about

Kentucky SEARCH WARRANT GUIDE

This booklet is a straightforward and essential resource for anyone involved in writing or executing search warrants in Kentucky. Consolidating relevant statutes and procedural rules and offering clear answers to common questions and addressing real-world challenges.

Designed to be a quick reference, this booklet covers key topics such as warrant application, execution, and return procedures, as well as critical provisions from the Kentucky Code and Kentucky Rules of Criminal Procedure. Whether clarifying authority to issue warrants, addressing defects, or ensuring compliance with execution and return requirements, this guide provides the tools you need for accuracy and legal compliance.



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