

**422.350 Admissibility of photographic evidence in prosecution of offense defined in KRS Chapter 514 or 515 -- Return of photographed property to owner by law enforcement agency -- Exception.**

- (1) In a prosecution for any offense defined in KRS Chapter 514 or 515 the court shall receive, as competent evidence, a photograph of property over which the accused is alleged to have exerted unauthorized control or to have otherwise obtained unlawfully, if the photograph:
  - (a) Will serve the purpose of demonstrating the nature and identity of the property; and
  - (b) Is otherwise admissible into evidence under all other rules of law governing the admissibility of photographs into evidence.

The fact that it is impractical to introduce into evidence the actual property for any reason including its size, weight, or unavailability, need not be established for the court to find a photograph of that property to be competent evidence. If a photograph is found to be competent evidence under this section, it is admissible into evidence in place of the property and to the same extent as the property itself.

- (2) A law enforcement agency that is holding as evidence property over which a person is alleged to have exerted unauthorized control or to have otherwise obtained unlawfully shall return that property to its owner if:
  - (a) The property has been photographed in a manner that will serve the purpose of demonstrating the nature and identity of the property, and if these photographs are filed with or retained by the law enforcement agency in place of the property;
  - (b) Receipt for the property is obtained from the owner upon delivery by the law enforcement agency;
  - (c) The prosecuting attorney who is prosecuting a case that involves the property has not requested the law enforcement agency to decline requests for return of the property to its owner; and
  - (d) The property may be lawfully possessed by the owner.
- (3) Notwithstanding the provisions of subsection (2) of this section, a court may, if a motion so requesting is filed by a defendant within twenty (20) days of arrest, order the law enforcement agency to hold such property as evidence pending completion of the trial. However, the court may, for good cause, extend the time allowed for the defendant to file a motion to have the property held.

**Effective:** July 13, 1984

**History:** Created 1984 Ky. Acts ch. 125, sec. 1, effective July 13, 1984.