

New Jersey: Notice to Employees Required Before Using Tracking Devices on Vehicles Used by Employees

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Meet the Authors

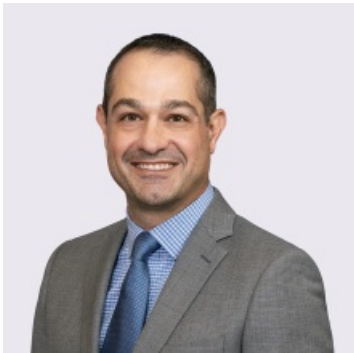


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New Jersey Governor Phil Murphy has signed into law a bill that requires employers to provide employees written notice before using tracking devices on any vehicle used by an employee.

Overview

The [new law](#), codified as *N.J.S.A. § 34:6B-22*, went into effect on April 18, 2022. Under the law, an employer that:

knowingly makes use of a tracking device in a vehicle used by an employee without providing written notice to the employee shall be subject to a civil penalty in an amount not to exceed \$1,000 for the first violation and not to exceed \$2,500 for each subsequent violation.

The law applies to all private and public employers, regardless of size. It also applies to an employer's agent, representative, or designee.

The law does not apply to the Department of Corrections, State Parole Board, county correctional facilities, any state or local government entity, or any public transportation system, including, but not limited to, scheduled or charter bus transportation.

A tracking device is defined as "an electronic or mechanical device which is designed or intended to be used for the *sole* purpose of tracking the movement of a vehicle, person, or device." The law does not apply to devices used for the purpose of documenting employee expense reimbursement, such as a mileage counter or odometer.

Enforcement

The law states that any penalty will be collectible by the commissioner of Labor and Workforce Development in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L. 1999, c.274. Under the Penalty Enforcement Law of 1999, an action to enforce a civil penalty under a statute like the new law may be brought in Superior Court. Once an action is brought, the court will decide the case in a summary manner without a jury. This will include the court hearing testimony on any factual issues and, if it finds the violation occurred, imposing a penalty on the employer.

Exception for Electronic Communications Devices

The law states that it does not supersede regulations governing interstate commerce. This includes the usage of electronic communications devices as mandated by the Federal Motor Carrier Safety Administration. The law defines an electronic communications device as any device that uses electronic signals to create, transmit, and receive information, including computers, telephones, and personal digital assistants.

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Notice

The law does not specify what type of language must be included in the notice. However, the notice must be written; verbal notice will not be sufficient to comply with the law.

Next Steps

Any employer that wishes to use a tracking device on a vehicle used by an employee, including vehicles owned or leased by the employer, should update its policies and procedures to comply with the required notice. This includes providing employees who potentially may be subject to tracking a separate, written form and possibly including space for an employee to acknowledge receipt of the notice. Within this notice, the employer should inform the employee of the existence and use of the tracking device and that the notice is meant to comply with the requirements of the law.

Similar notice laws exist in other jurisdictions throughout the country. Therefore, any employer with operations in multiple jurisdictions should assess and address any potential notice obligations that may exist prior to implementing such technologies.

If you are interested in learning more or have any questions, please contact your Jackson Lewis attorney or our Privacy, Data and Cybersecurity group.

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