

Are You Ready for District of Columbia's Transportation Benefits Equity Law (Parking Cash Out Law)?

By Teresa Burke Wright, Kellie M. Thomas, Bria M. Cochran &

November 9, 2022

Meet the Authors



Teresa Burke Wright

(She/Her)

Principal

(703) 483-8310

Teresa.Wright@jacksonlewis.com



Kellie M. Thomas

(She/Her)

Principal

410-415-2029

Kellie.Thomas@jacksonlewis.com



Beginning as early as January 15, 2023, certain employers will need to ensure they are complying with the District of Columbia's Transportation Benefits Equity Amendment Act of 2020, also known as the "Parking Cash Out Law."

Parking Cash Out Options

By January 15, 2023, or the end of their parking lease, whichever is later, "Covered Employers" with at least 20 D.C. employees that offer free or subsidized leased parking benefits must comply with the law by adopting one of the following "Parking Cash Out Options":

1. *Offer a Clean Air Transportation Fringe Benefit*

Covered Employers may choose to comply by offering a "Clean Air Transportation Fringe Benefit" in exchange for the employee declining the Covered Employer's free or subsidized leased parking benefit.

Employees may use Clean Air Transportation Fringe Benefit amounts for (1) transportation in a commuter highway vehicle, (2) a transit pass, (3) a qualified bicycle commuting reimbursement, or (4) keeping the amounts and walking or bicycling to work. These amounts may not be used for ride share platforms.

The amount of the Clean Air Transportation Fringe Benefit offered must be of equal or greater value than the market value of the parking benefit. Market value is the average price of private parking facilities within ¼ of a mile of the Covered Employer's workplace. If such rates are not available, the Covered Employer should use an alternative D.C.-approved method for calculating the amount of the Clean Air Transportation Fringe Benefit.

If an employee does not use the full amount of their Clean Air Transportation Fringe Benefit, then the Covered Employer must provide payments to the employee in the amount of the differential. Such payments may be in the form of increased compensation, a contribution toward the employee's health insurance premiums, or a combination of both.

2. *Transportation Demand Management Plan*

Covered Employers also may choose to comply by developing a "Transportation Demand Management Plan" (TDM). The TDM must require the Covered Employer to implement a plan designed to reduce commutes by car by 10% annually, until 25% or less of the Covered Employer's employees commute to the city by car. Each TDM is subject to review and must be approved by the District's Department of Transportation (DDOT). Covered Employers that choose to develop a TDM are required to provide DDOT with annual



Bria M. Cochran

Associate

Bria.Cochran@jacksonlewis.com

Related Services

Employee Benefits

ERISA Complex Litigation

Wellness Programs

reporting metrics, in accordance with D.C. Code § 32-152.01 (d)(3)(A).

3. *Clean Air Compliance Fee*

Finally, Covered Employers may choose to comply by paying a “Clean Air Compliance Fee” of \$100 per month for each D.C. employee offered a parking benefit.

Reporting Requirements

Under the Parking Cash Out Law, all Covered Employers, regardless of which option selected, must submit a report to the DDOT that includes:

1. The total number of D.C. employees
2. The number of D.C. employees:
 - a. Offered a parking benefit
 - b. Using a parking benefit
 - c. Offered a Clean Air Transportation Fringe Benefit
 - d. Using a Clean Air Transportation Fringe Benefit
 - e. For whom the Covered Employer is paying to DDOT the \$100 Clean Air Compliance Fee

Employers that are not Covered Employers must report the basis for their exemption to DDOT.

The report is due every two years. The first report must be submitted by January 15, 2023.

Exemptions

The following employers are exempt from adopting one of the three Parking Cash Out Options outlined above (but they still must comply with the Parking Cash Out Law’s reporting requirements):

- Employers of at least 20 D.C. employees that owned the parking spaces used by employees prior to October 1, 2020, and that continue to own those parking spaces
- Employers of at least 20 D.C. employees that leased the parking spaces used by employees prior to October 1, 2020, have a temporary exemption until the later of (1) the end of the current lease term and (2) January 15, 2023
- Employers of at least 20 D.C. employees that were subject to a TDM (reviewed by DDOT) prior to October 1, 2020, are exempt until the end of the current term of the TDM or after five years, whichever is earlier
- Employers of at least 20 D.C. employees that were subject to a [Campus Plan](#) (applicable to large institutions, such as colleges and universities) prior to October 1, 2020, are exempt until the end of the current term of the Campus Plan

Additionally, parking offered to an employee who is required to use a personal vehicle in the regular performance of their work is not considered a parking benefit.

Now is the time for D.C. employers to review their commuter benefits and ensure they have a compliant plan. Jackson Lewis attorneys are available to answer any questions and assist with this and any other workplace issues.

©2022 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 1000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.