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Employers Are Required to Provide Written Notice of Tracking Devices in Vehicles Used by Their Employees

Employers like to know that their employees are where they are supposed to be when they are supposed to be there and doing what they are supposed to be doing. Therefore, many employers use various devices to monitor their employees' activities. Effective April 18, however, a new law requires New Jersey employers to notify employees of devices used for the purpose of tracking the movement of a person, device or vehicle, whether the vehicle is owned by the company or the employee.

The law defines a "tracking device" 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." Thus, tracking devices subject to the new law could include applications on cellphones, physical tracking devices in vehicles and other electronic GPS devices. It remains unclear whether devices that track movement, which also have other purposes, would be subject to the new law. The definition of "tracking device," however, specifically excludes devices used for the purpose of documenting employee expense reimbursement. The law does not supersede regulations governing interstate commerce, including but not limited to the use of electronic communications devices as mandated by the Federal Motor Carrier Safety Administration.

Employers that violate the law are subject to civil penalties of \$1,000 for the first violation and \$2,500 for each subsequent violation.

To ensure compliance with this law, employers must provide a written notice to employees informing them of the use of any tracking devices, and should have employees return a signed acknowledgment of receipt of that notice. In addition, employers should consider drafting or revising applicable policies regarding the use of tracking devices.

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