

2SHB 1491 - S COMM AMD
By Committee on Ways & Means

ADOPTED 04/11/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 49.44
4 RCW to read as follows:

5 (1) Except as provided in subsection (2) of this section:

6 (a) An employer or an employer's agent may not search the
7 privately owned vehicles of employees located on the employer's
8 parking lots or garages or located on the access road to the
9 employer's parking lots or garages.

10 (b) An employee may possess any of the employee's private
11 property within the employee's vehicle, unless possession of such
12 property is otherwise prohibited by law.

13 (c) An employer must not require, as a condition of employment,
14 that an employee or prospective employee waive the protections of (a)
15 or (b) of this subsection.

16 (2) This section does not apply:

17 (a) To vehicles owned or leased by an employer;

18 (b) To lawful searches by law enforcement officers;

19 (c) When the employer requires or authorizes the employee to use
20 the employee's personal vehicle for work-related activities and the
21 employer needs to inspect the vehicle to ensure the vehicle is suited
22 to conduct the work-related activities;

23 (d) When a reasonable person would believe that accessing
24 vehicles of an employee is necessary to prevent an immediate threat
25 to human health, life, or safety;

26 (e) When an employee consents to a search of his or her privately
27 owned vehicle by the business owner, owner's agent, or a licensed
28 private security guard based on probable cause that the employee
29 unlawfully possesses: (i) Employer property; or (ii) a controlled
30 substance in violation of both federal law and the employer's written
31 policy prohibiting drug use. The employee's consent must be given
32 immediately prior to the search, and the employer may not require

1 that the employee waive consent as a condition of employment. Upon
2 consent, the employee has the right to select a witness to be present
3 for the search;

4 (f) To security inspections of vehicles on state and federal
5 military installations and facilities;

6 (g) To vehicles located on the premises of a state correctional
7 institution, as defined in RCW 9.94.049; or

8 (h) To specific employer areas subject to searches under state or
9 federal law.

10 (3) For purposes of this section, the terms "probable cause" and
11 "private property" have their usual meaning under state and federal
12 law.

13 (4) An employer may not take any adverse action against an
14 employee for exercising any right under this section. An adverse
15 action means any action taken or threatened by an employer against an
16 employee for exercising the employee's rights under this section, and
17 may include, but are not limited to:

18 (a) Denying the use of, or delaying, wages or other amounts owed
19 to the employee;

20 (b) Terminating, suspending, demoting, or denying a promotion;

21 (c) Reducing the number of work hours for which the employee is
22 scheduled;

23 (d) Altering the employee's preexisting work schedule;

24 (e) Reducing the employee's rate of pay; and

25 (f) Threatening to take, or taking, action based upon the
26 immigration status of an employee or an employee's family member."

2SHB 1491 - S COMM AMD

By Committee on Ways & Means

ADOPTED 04/11/2023

27 On page 1, line 2 of the title, after "vehicles;" strike the
28 remainder of the title and insert "and adding a new section to
29 chapter 49.44 RCW."

EFFECT: Codifies provisions prohibiting an employer from
searching an employee's vehicle in the employer's parking areas in
chapter 49.44 RCW, relating to prohibited labor practices, instead of
in the Industrial Welfare Act. Removes provisions relating to the
Department of Labor and Industries (L&I) defining certain terms in

rules, L&I enforcement and penalties, and the July 1, 2024, effective date.

--- END ---